PLANNING AND ENVIRONMENTAL QUALITY COMMISSION

Regular PEQC Meeting Notice and Agenda

Website: www.cityofgardena.org

Tuesday, September 5, 2023 – 7:00 PM

1700 W. 162nd Street, Gardena, California

If you would like to participate in this meeting, you can participate via the following options:

1. **PARTICIPATE BEFORE THE MEETING** by emailing the Gardena Board/Commission/Committee at publiccomment@cityofgardena.org two (2) hours before the meeting starts on the day of the meeting and write "Public Comment" in the subject line.

2. **ATTEND THE MEETING IN PERSON**

   PUBLIC COMMENT: The Gardena Board/Commission/Committee will hear from the public on any item on the agenda or any item of interest that is not on the agenda at the following times:

   - Agenda Items: At the time the Board/Commission/Committee considers the item or during Public Comment
   - If you wish to address the Gardena Board/Commission/Committee, please complete a "Speaker Request" form and present it to staff. You will be called upon when it is your turn to address the Board/Commission/Committee. The Board/Commission/Committee cannot legally take action on any item not scheduled on the Agenda. Such items may be referred for administrative action or scheduled on a future Agenda. Members of the public wishing to address the Board/Commission/Committee will be given three (3) minutes to speak.

The City of Gardena, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access, attend and/or participate in the City meeting due to disability, to please contact the City Clerk's Office by phone (310) 217-9565 or email cityclerk@cityofgardena.org at least 24 hours prior to the scheduled general meeting to ensure assistance is provided. Assistive listening devices are available.

STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS

- Treat everyone **courteously**;
- Listen to others **respectfully**;
- Exercise **self-control**;
- Give **open-minded** consideration to all viewpoints;
- Focus on the issues and **avoid personalizing debate**; and
- **Embrace respectful disagreement** and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions.

Thank you for your attendance and cooperation.

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1. **CALL MEETING TO ORDER**

2. **ROLL CALL**
   1. Steve Sherman
   2. Deryl Henderson
   3. Stephen Langley
   4. Jules Kanhan
   5. Ronald Wright-Scherr

3. **PLEDGE OF ALLEGIANCE**

4. APPROVAL OF MINUTES

5. **ORAL COMMUNICATIONS**
   This is the time where the public may address the Planning and Environmental Quality Commission's jurisdiction. Comments should be limited to three minutes.

6. OTHER MATTERS

   6.A **PUBLIC CONVENIENCE OR NECESSITY DETERMINATION FOR CONDITIONAL USE PERMIT #5-22**

   For a determination of Public Convenience or Necessity to allow the on-site sale and consumption of beer and wine ancillary to a new karaoke bar business at 15210 Western Avenue, pursuant to a Type-42 On-Sale General license with the California Department of Alcoholic Beverage Control (ABC) and determination that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301 and Section 15061(b)(3).

   Project Location: 15210 S Western Ave
   Applicant: Kyeang Linda Jo (DBA Sul Bar)
   Staff Report PCN for Sul Bar.pdf
   Attachment A - ABC Form 245.pdf
   Attachment B - Staff Report for CUP #5-22.pdf
   Attachment C - Resolution No. PC 16-23 Sul Bar FINAL.pdf

7. PUBLIC HEARING ITEMS

   7.A **CONDITIONAL USE PERMIT #6-23**
   A request for a conditional use permit, per section 18.32.030.B of the Gardena Municipal Code, to allow the on-site sale and consumption of beer and wine in an existing restaurant located in the General Commercial (C-3) zone and determination that the project qualifies for a Class 1 categorical exemption as an existing facilities project, and exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act.

Project Location: 1845 W Redondo Beach Blvd.
Applicant: Sun Ja Lee
Staff Report (CUP #6-23).pdf
Resolution (CUP #6-23).pdf
Exhibit A: COA (CUP #6-23).pdf
Exhibit B: Project Plan (CUP #6-23).pdf

7.B **MODIFICATION OF CONDITIONAL USE PERMIT #13-17**
Continuation to a later Planning Commission meeting.
Project Location: 1650 W 130th St.
Applicant: Antonio Valenzuela
Continuation Memo CUP #7-23

7.C **ZONE TEXT AMENDMENT #4-23**
Reconsideration of an Ordinance Amending Chapter 18.13 of the Gardena Municipal Code relating to Accessory Dwelling Units and making a determination that the Ordinance is exempt from CEQA pursuant to the Public Resources Code Section 21080.17. The Planning Commission is being asked to reconsider additional changes to the draft Ordinance and to make a recommendation to the City Council.
Project Location: Citywide
Staff Report (ADU Recondsideration).pdf
Attachment A - Resolution PC No. 17-23 (ADUs).pdf
Draft Ordinance No. 1856 (ADU2-).pdf
Attachment B - Public Hearing Notice.pdf
Attachment C - Previous Public Comment.pdf

8. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

9. **PLANNING & ENVIRONMENTAL QUALITY COMMISSIONERS' REPORTS**

10. **ADJOURNMENT**
The Planning and Environmental Quality Commission will adjourn to the next meeting at 7:00pm on September 19, 2023.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted in the City Hall lobby not less than 72 hours prior to the meeting. A copy of said Agenda is available on our website at www.CityofGardena.org.

Dated this September 1, 2023

/s/ GREG TSUJIUCHI
Greg Tsujiuchi, Secretary
Planning and Environmental Quality Commission

CITY OF GARDENA
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STAFF REPORT

RESOLUTION NO. PC 16-23
PUBLIC CONVENIENCE OR NECESSITY REQUEST FOR SUL BAR
AGENDA ITEM #7.A

DATE: September 5, 2023

TO: Chair Henderson and Members of the Planning and Environmental Quality Commission

FROM: Greg Tsujiuchi, Community Development Director

PREPARED BY: Kevin La, Planning Assistant

APPLICANT: Kyeang Linda Jo (DBA Sul Bar)

LOCATION: 15210 Western Avenue (APN: 6103-018-025)

REQUEST: For a determination of Public Convenience or Necessity to allow the on-site sale and consumption of beer and wine ancillary to a new karaoke bar business at 15210 Western Avenue, pursuant to a Type-42 On-Sale General license with the California Department of Alcoholic Beverage Control (ABC)

BACKGROUND

On July 19, 2022, the Planning and Environmental Quality Commission approved an application for Conditional Use Permit #5-22 (CUP #5-22) to allow the on-site sale and consumption of beer and wine ancillary to a new karaoke bar business, known as Sul Bar. The establishment is located in the Seoul Plaza shopping center at 15210 Western Avenue, within an existing 1,270-square-foot (-sf) tenant space. A Type 42 license from the California Department of Alcoholic Beverage Control (ABC) was required to be obtained in addition to the CUP and entertainment permit from the City.

While the Planning Commission has already approved CUP #5-22, in accordance with Section 23958 of the Business and Professions Code, when there is an over concentration of alcohol license in a given census tract, or the establishment is located in a high crime reporting district, a determination of public convenience or necessity must be made to allow additional licenses to be issued. While the project site is not located in a high crime reporting area, ABC has determined the census tract is within the definition of an undue concentration area (Attachment A).

Therefore, the applicant is now requesting that the Planning Commission make a determination for a Public Convenience or Necessity (PCN), to allow the on-site sale and consumption of beer and wine ancillary to a new karaoke bar business.

ANALYSIS

The applicant is applying for a Type 42 license type that would allow serving and selling of beer and wine only for on-site consumption where minors are not allowed to enter or remain in the tenant space. As mentioned above, the business is a new karaoke bar that will have an open stage, offer prepackaged foods, and will operate from 12:00 pm to 1:30 am daily. There are currently 35 businesses within the respective census tract with an approved alcohol license for on-site sale. The majority of the licenses held in the census tract are Type 41, which allow on-site sale of beer and wine ancillary to a restaurant. There is currently one other Type 42 licenses issued within the census tract, however, there are currently none located in the Seoul Plaza shopping center.

In order to make a determination of public convenience or necessity it must be shown that the issuance of an additional license would not be detriment to the surrounding community. As shown in staff's report for CUP #5-22 (Attachment B), the on-site sale of beer and wine in conjunction with an karaoke bar would not adversely affect the surrounding land uses and the growth and development of the area in which it is proposed to be located because the sale of alcoholic beverages would be compatible with the surrounding area. Further, the business would bring a different business type within the area that would allow the shopping center to continue maintaining a sound tax base for the City.

ENVIRONMENTAL IMPLICATIONS

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, as the business is located in an existing building, and Section 15061(b)(3), which exempts projects where it can be seen with certainty that the activity in question does not have a significant effect on the environment.

The project is not subject to any of the exceptions to the exemptions under Section 15300.2 of the California Environmental Quality Act.

Therefore, the proposed project is categorically exempt from CEQA.

RECOMMENDATION

Staff recommends the Planning and Environmental Quality Commission to:

1) Adopt Resolution PC 16-23 making a determination of Public Convenience or
2) Necessity for Sul Bar located 15120 Western Avenue.

ATTACHMENTS

Attachment A – ABC-245 Form

Attachment B – Staff Report for CUP #5-22

Attachment C – Resolution No. PC 16-23

Department of Alcoholic Beverage Control

State of California
Gavin Newsom, Governor

INFORMATION AND INSTRUCTIONS - SECTION 23958.4 B&P

Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.

- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
- Part 2 is to be completed by the applicant, and returned to ABC.
- Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME: Linda Jo Barboza

2. PREMISES ADDRESS (Street number and name, city, zip code): 15210 S Western Ave, Gardena, CA 90249

3. LICENSE TYPE: 42

4. TYPE OF BUSINESS

☐ Full Service Restaurant	☐ Hofbrau/Cafeteria	☐ Cocktail Lounge	☐ Private Club
☐ Deli or Specialty Restaurant	☐ Comedy Club	☐ Night Club	☐ Veterans Club
☐ Cafe/Coffee Shop	☐ Brew Pub	☐ Tavern: Beer	☐ Fraternal Club
☐ Bed & Breakfast:	☐ Theater	☑ Tavern: Beer & Wine	☐ Wine Tasting Room
☐ Wine only ☐ All			
☐ Supermarket	☐ Membership Store	☐ Service Station	☐ Swap Meet/Flea Market
☐ Liquor Store	☐ Department Store	☐ Convenience Market	☐ Drive-in Dairy
☐ Drug/Variety Store	☐ Florist/Gift Shop	☐ Convenience Market w/Gasoline	
☐ Other - describe:			

5. COUNTY POPULATION	6. TOTAL NUMBER OF LICENSES IN COUNTY	7. RATIO OF LICENSES TO POPULATION IN COUNTY
10,044,458	2272 ☑ On-Sale ☐ Off-Sale	9414 ☑ On-Sale ☐ Off-Sale
8. CENSUS TRACT NUMBER	**9. NO. OF LICENSES ALLOWED IN CENSUS TRACT**	**10. NO. OF LICENSES EXISTING IN CENSUS TRACT**
6030.06	2 ☑ On-Sale ☐ Off-Sale	35 ☑ On-Sale ☐ Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

☑ Yes, the number of existing licenses exceeds the number allowed

☐ No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

☑ Yes (Go to Item #13) ☐ No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER	14. TOTAL NUMBER OF REPORTING DISTRICTS	15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS
33	51	4243
16. AVERAGE NO. OF OFFENSES PER DISTRICT	**17. 120% OF AVERAGE NUMBER OF OFFENSES**	**18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT**
83	100	30

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

☐ Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17

☑ No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

☐ a. If "*No*" is checked in both item #11 *and* item #19, *Section 23958.4 B&P does not apply* to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.

☑ b. If "*Yes*" is checked in either item #11 *or* item #19, *and* the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjuction with a beer manufacturer's license, or winegrower's license, advise the *applicant to complete Section 2* and bring the completed form to ABC when filing the application or as soon as possible thereafter.

☐ c. If "*Yes*" is checked in either item #11 *or* item #19, *and* the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the *applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3*. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name: _____

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee): S. Harden

CITY OF GARDENA
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STAFF REPORT

RESOLUTION NO. PC 10-22
CONDITIONAL USE PERMIT #5-22
AGENDA ITEM #5.A

DATE: July 19, 2022

TO: Chair Langley and Members of the Planning and Environmental Quality Commission

FROM: Greg Tsujiuchi, Community Development Director

PREPARED BY: Kevin La, Planning Assistant

APPLICANT: Kyeang Linda Jo (DBA Sul Bar)

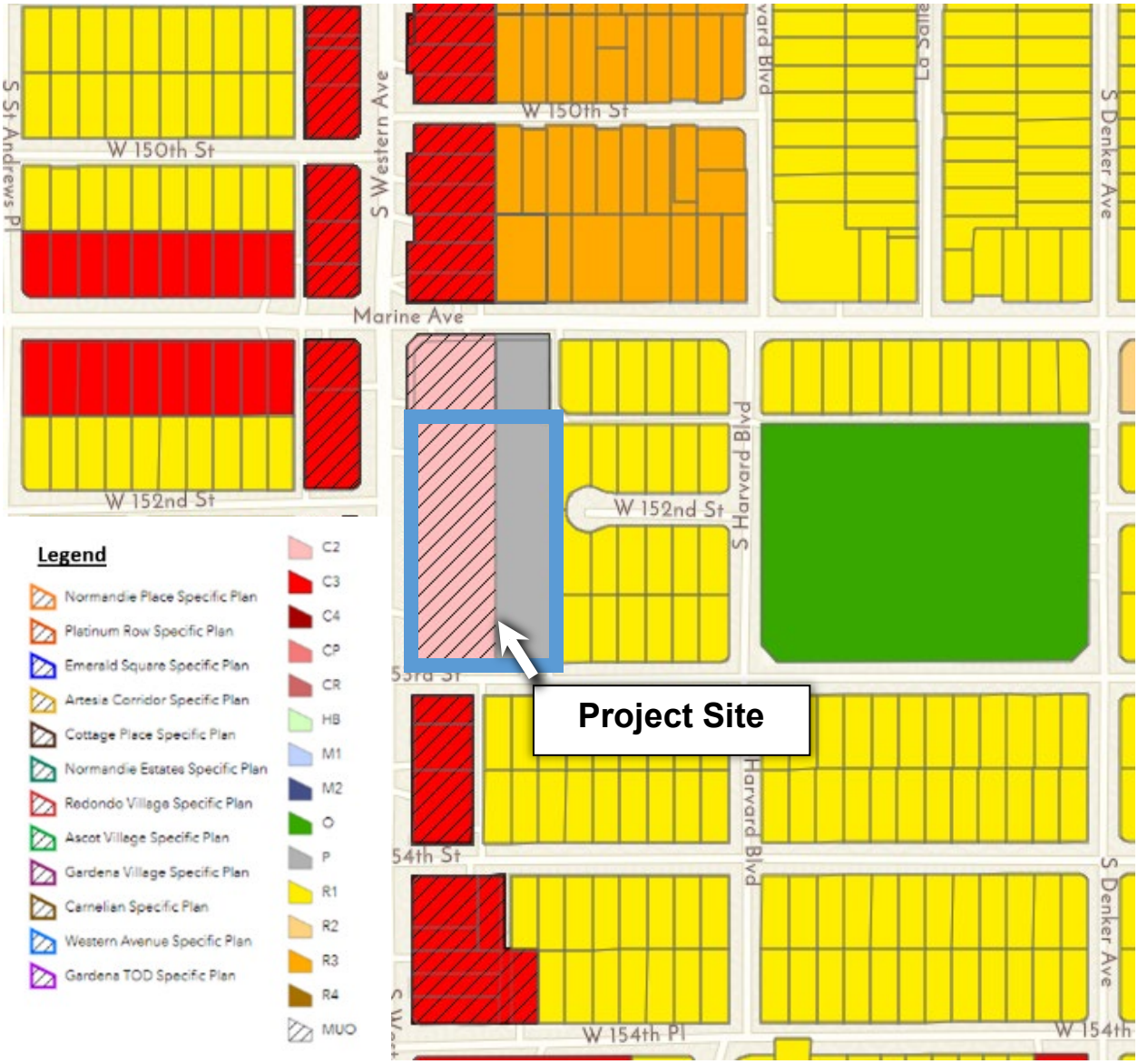
LOCATION: 15210 Western Avenue (APN: 6103-018-025)

REQUEST: A request for a conditional use permit, per section 18.30.030.A of the Gardena Municipal Code, to allow the on-site sale and consumption of beer and wine in a new karaoke bar located in the General Commercial (C-2) and Parking (P) zone with a Mixed-Use Overlay (MUO) and direct staff to file a Notice of Exemption as an existing facilities project.

BACKGROUND/SETTING

On May 17, 2022, an application for a conditional use permit (CUP) was submitted to allow the on-site sale and consumption of beer and wine for a new karaoke bar business that will be known as Sul Bar. The proposed bar is located at the Seoul Plaza shopping center at 15210 Western Avenue (Figure 1: Vicinity/Zoning Map), within an existing 1,270 square foot tenant space. The karaoke bar will need to obtain approval of an entertainment permit from City Council before the business can be open to the public, per Chapter 5.32 of the Gardena Municipal Code (GMC). A Type 42 license from the California Department of Alcoholic Beverage Control (ABC) will be required in addition to the CUP and entertainment permit from the City.

Figure 1: Vicinity/Zoning Map



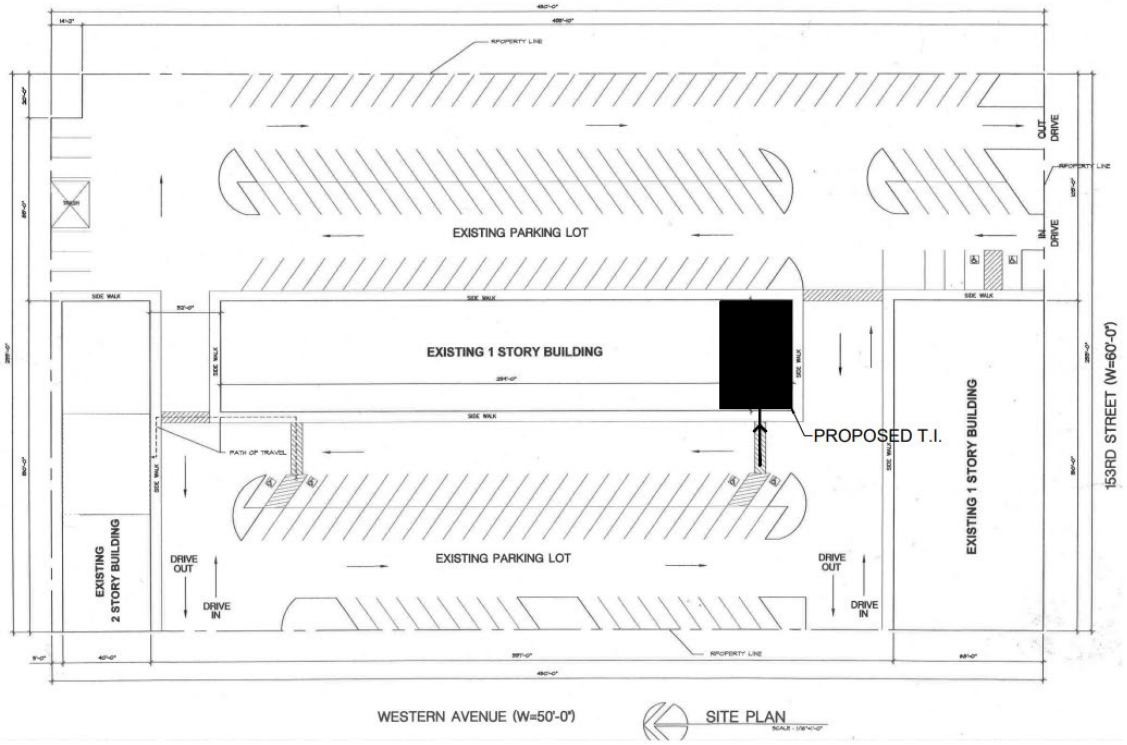
As shown in Figure 1, the Subject Property is zoned Commercial (C-2) and Parking (P) with a Mixed-Use Overlay (MUO). The site is bounded by a vacant auto-repair business where 7 Leaves was approved and an apartment building to the north, (C-2/P/MUO), West 153rd Street to the south, Western Avenue to the west, and single-family homes (R-1) to the east as similarly shown on Table 1.

Table 1: Surrounding Uses

Direction	Zone:	Uses:
North	C-2/MUO/P	Auto-repair business and apartment building
South	N/A	West 153rd Street
West	N/A	Western Avenue
East	R-1	Single-family homes (R-1)

The subject property is located within a 2.78-acre parcel that contains an existing shopping center know as Seoul Plaza. Seoul Plaza is composed of three different structures: one two-story building located to the north end of the property, and two one-story buildings located in the center and south end. The site consist of two parking lots: one located on the west side of the property with access from Western Avenue, and the second located to the eastern side with access from West 153rd Street. Seoul Plaza includes a mix of salons, restaurants, retail, and entertainment businesses. The proposed karaoke bar will occupy an existing tenant space within the strip commercial building in the middle of Seoul Plaza that was previously occupied by a vape retail shop (Figure 2: Site Plan).

Figure 2: Site Plan

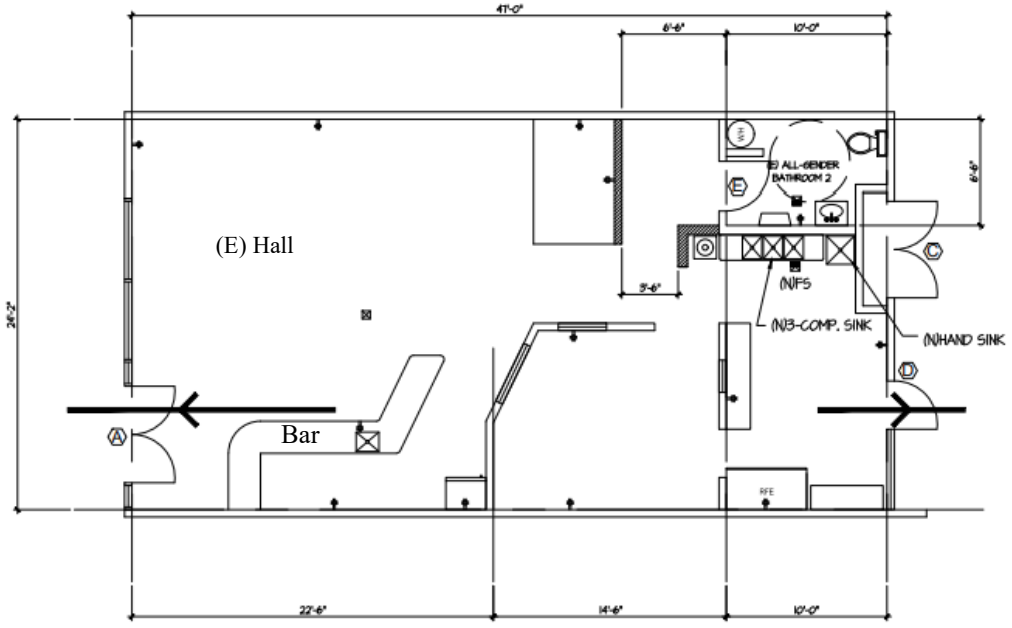


PROJECT DESCRIPTION

The applicant will occupy the tenant space as a karaoke bar and is requesting approval of a conditional use permit for the sale of beer and wine for on-site consumption. If the conditional use permit is approved the applicant will then apply for a Type 42, On-Sale Beer and Wine license, with the State Alcoholic Beverage Control (ABC) Board. This type of license is for businesses serving and selling only beer and wine for on-site consumption where minors are not allowed to enter or remain in the tenant space. The business will also offer prepackaged foods and will operate from 12:00 pm to 1:30 am daily. As seen

in the Figure 3, the applicant is proposing minor tenant improvements to include a bar counter, sink and refrigerated appliances. In total, there will be 28 seats available for patrons. Of those 28 seats, twenty seats are spread across five tables in the hall and eight seats will be located at the bar area.

Figure 3: Establishment's Floor Plan



ANALYSIS

CONDITIONAL USE PERMIT

Pursuant to section 18.32.030.B of the Gardena Municipal Code, a conditional use permit is required for any establishment selling or serving alcoholic beverages in the C-2 zone. Therefore, the application for a conditional use permit is deemed proper and if approved, will allow the applicant to sell and serve beer and wine at the subject property and is subject to ABC's regulations for Type 42 licenses.

DEVELOPMENT STANDARDS

The karaoke establishment is located in an existing commercial strip within a larger shopping center, Seoul Plaza, which was developed in 1955 and expanded in 1956. The applicant's request for on-site sale and consumption of beer and wine does not include any type of exterior improvements that will alter the existing building footprint nor the exterior facade. The applicant however, will change the building wall sign to the new business name, which will be subject to be meeting the minimum requirements of GMC Chapter 18.58 (Sign Code) and obtaining a building permit. The tenant improvements to

operate a karaoke bar does not cause a need for site alteration for the existing shopping center.

ABC CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

The subject property is located within Los Angeles County Census Tract 6030.06 which is bounded by Marine Avenue to the north, West 158th Street to the south, Western Avenue to the west and Normandie Avenue to the east. According to the California Department of Alcoholic Beverage Control (ABC), there are currently 34 businesses within the respective census tract with an approved alcohol license for on-site sale and consumption as outlined below and displayed in Figure 3. These licenses include:

- 29 Type 41 licenses (on-site sale of beer and wine for bona fide public eating place)
- One Type 42 license (on-site sale beer and wine for bar or tavern)
- Three Type 47 licenses (on-site sale general for bona fide public eating place)
- One Type 48 license (on-site sale of general for bar)

Figure 3: Census Tract 6030.06, Concentration of ABC Licenses

The following four restaurants in the shopping center currently have an active on-site Type 41 alcohol license and a conditional use permit: Dong Nea Gil, Pho Daily, Tofu Village, and Hwang's Restaurant.

The applicant will need to submit a "Public Necessity or Convenience" application to the Department of ABC that will be reviewed prior to obtaining an alcohol license. The applicant is utilized in cases where there is a concentrated amount of liquor licenses within a geographic area; the applicant must demonstrate how the business operations will benefit the surrounding community. This is not a determination for the City.

SENSITIVE RECEPTORS

The subject property abuts single family residential dwellings on the east. Figure 4 identifies other nearby sensitive receptors to the subject property, and Table 2 provides the proximity of the nearest sensitive receptors to the property. Staff does not foresee any compatibility issues with the surrounding community.

Figure 4: Sensitive Land Use

Table 2: Proximity of Sensitive Uses

Sensitive Use	Address	Proximity
Single Family Dwelling	1723 W 153rd St, Gardena, CA 90247	100 Feet
153rd St Elementary School	1605 W 153rd St, Gardena, CA 90247	470 Feet
LA Korean Presbyterian Bible Church	1655 Marine Ave, Gardena, CA 90247	770 Feet
Doulos Community Church	1925 Marine Ave #3803, Gardena, CA 90249	1,260 Feet
Tenrikyo Gardena Church	1920 W 150th St, Gardena, CA 90249	1,340 Feet
Chapman Elementary School	1947 Marine Ave, Gardena, CA 90249	1,360 Feet

PARKING AND NEIGHBORHOOD CIRCULATION

As mentioned above, the property is located within an existing shopping center, Seoul Plaza, that includes various commercial retail and service businesses. Seoul Plaza has two parking lot areas that are shared between the businesses as shown on Figure 2. One parking lot abuts Western Avenue and is located towards the center of the property. The rear parking lot is located to the east side of the property and is intended for employee and customer parking. The rear parking lot is in the Parking zone, which serves to provide a buffer commercial center and the abutting single-family residential dwellings. A condition has been added to require the rear (east) door of the proposed business to remain closed at all times, except to allow employee ingress/egress. The change in tenant from a Vape shop to a karaoke bar does not change the land use of Seoul Plaza as a shopping center and no new parking requirements are triggered.

Pedestrian access to the property is provided by sidewalks along Western Avenue and 153rd Street. Vehicle access to the property is provided by two driveway entrances on Western Avenue as well as one driveway entrance on 153rd Street.

The Circulation Plan, which is part of the Community Development Element of the Gardena General Plan designates Western Avenue as an arterial roadway. Arterial roadways are designed to carry larger volumes of traffic and serve as the principle urban thoroughfares connecting activity centers with adjacent communities, as described in the Circulation Plan. 153rd Street is designated as a local street that is intended to provide vehicular, pedestrian and bicycle access to individual parcels. The applicant's request to sell and serve alcohol as part of a karaoke bar within the commercial shopping center is not expected to attract excess traffic that would ultimately affect the circulation in the area as the alcohol service will be complimentary to the entertainment use. In addition, the applicant is not proposing any expansion of the property's footprint; therefore, the site will continue to meet the parking requirements, as previously approved. Staff does not foresee any adverse traffic impacts.

GENERAL PLAN AND ZONING CONSISTENCY

The proposed project is consistent with the economic development goal and policy set forth in the Gardena General Plan. The General Plan designates the subject property as a Neighborhood Commercial land use, which covers a wide variety of land uses and is implemented by the Commercial (C-2), Parking (P), and Mixed-Use Overlay (MUO) zones. Karaoke bars are allowed uses in the C-2 zone with the approval of a conditional use permit for the sale of alcohol. The additional entertainment permit that is required is a regulatory permit that is approved by the City Council and has nothing to do with the zoning. The proposed project is consistent with the C-2 zone and the Neighborhood Commercial land use with the approval of the CUP. The proposed project is consistent with Economic Development Goal 1 of the Community Development Element:

Promote a growing and diverse business community that provides jobs, goods, and services for the local and regional market and maintains a sound tax base for the City, encourages diversification of businesses to support the local economy, and provides a stable revenue stream. Allowing the conditional use permit will allow for a different business type within the area and allow the shopping center to continue maintaining a sound tax base for the City.

ENVIRONMENTAL IMPLICATIONS

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities, which exempts negligible expansions of use in existing facilities from the provisions of CEQA. The building in which the project is proposed already exists. The project will not include any alterations to the existing building footprint nor the exterior facade as previously approved. Seoul Plaza remains a shopping center and this is merely the substitution of one tenant for another. Therefore, the sale of beer and wine for on-site consumption is seen as a negligible expansion of use.

The project is also categorically exempt from the provisions of CEQA pursuant to Guideline Section 15061(b)(3), which exempts projects where it can be seen with certainty that the activity in question does not have a significant effect on the environment. As stated above, the sale of beer and wine consumed on site is not an expansion of the use and will not create any environmental effects.

The project is not subject to any of the exceptions to the exemptions under Section 15300.2 of the California Environmental Quality Act. The cumulative impact of the sale of alcoholic beverages incidental to an entertainment establishment is not considered significant. The project is not located along any state designated scenic highway nor within any designated hazardous waste site. The building where the sale of alcohol is taking place is not considered a significant historical structure by any governmental body.

Staff does not expect any significant impacts or unusual circumstances related to the approval of this project.

Therefore, the proposed project is categorically exempt from CEQA.

NOTICING

The notice of public hearing for Conditional Use Permit #5-22 was published in the Gardena Valley News and mailed first class to owners and occupants within a 300-foot radius of the site on July 8, 2022. A copy of Proof of Publication and Affidavit of Mailing are on file in the office of the Community Development Department Room 101, City Hall and are considered part of the administrative record.

RECOMMENDATION

Staff recommends the Planning and Environmental Quality Commission to:

1) Open the public hearing;
2) Receive testimony from the public; and
3) Adopt Resolution PC 10-22 approving Conditional Use Permit #5-22 subject to the attached Conditions of Approval and directing staff to file a Notice of Exemption.

ATTACHMENTS

Resolution No. PC 10-22
Exhibit A: Draft Conditions of Approval
Exhibit B: Project Plans

RESOLUTION NO. PC 16-23

A RESOLUTION OF THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, MAKING A FINDING OF CONVENIENCE AND NECESSITY FOR APPROVING THE SALE OF ALCOHOL BEVERAGES FOR ON-PREMISE CONSUMPTION AT SUL BAR LOCATED AT 15210 WESTERN AVENUE

THE PLANNING COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. RECITALS.

A. On July 19, 2022, the Planning and Environmental Quality Commission approved an application for Conditional Use Permit #5-22 to allow the on-site sale and consumption of beer and wine ancillary to a new karaoke bar business, known as Sul Bar located at 15210 Western Avenue (the "Subject Property");

B. The site is located in an area that has been determined to have an undue concentration of on-sale retail licenses by the California Department of Alcohol and Beverage Control;

C. On, August 10, 2023, the applicant submitted a request for a Determination for Public Convenience And Necessity (the "Project");

D. On September 5, 2022, the Planning and Environmental Quality Commission considered the applicants request for a determination of public convenience and necessity; and

E. In making the various findings set forth herein, the Planning and Environmental Quality Commission has considered all of the evidence presented by staff, the applicant, and the public, whether written or oral, and has considered the procedures and the standards required by the Gardena Municipal Code.

SECTION 2. PUBLIC CONVENIENCE AND NECESSITY

The Planning Commission finds that it is the public convenience and necessity for the Department of Alcohol and Beverage Control to issue the requested ABC license. The Project would not adversely affect the surrounding land uses and the growth and development of the area in which it is proposed to be located because the sale of alcoholic beverages would be compatible with the surrounding area. Further, the business would bring a different business type within the area that would allow the shopping center to continue maintaining a sound tax base for the City.

SECTION 3. CALIFORNIA ENVIROMENTAL QUALITY ACT FINDINGS

The Project is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to the following exemption:

A. Class 1—Section 15301 - Existing Facilities - the building in which the Project will be operating in already exists. The Project will not include any alterations to the existing building footprint nor the exterior facade as previously approved. Therefore, the sale of beer and wine for on-site consumption is seen as a negligible expansion of use.

B. Guidelines Section 15061(b)(3) – CEQA does not apply where it can be seen with certainty that the project will not have any significant effect on the environment. The sale of beer and wine consumed on site is not an expansion of the use and will not create any environmental effects.

C. The Project is not subject to any of the exceptions to the exemptions under Section 15300.2 of the California Environmental Quality Act. The cumulative impact of the sale of alcoholic beverages incidental to an entertainment establishment is not considered significant. The Project is not located along any state designated scenic highway nor within any designated hazardous waste site. The building where the sale of alcohol is taking place is not considered a significant historical structure by any governmental body. Staff does not expect any significant impacts or unusual circumstances related to the approval of the Project.

Staff is hereby directed to file a Notice of Exemption

SECTION 4. APPEAL.

The approvals granted by this Resolution may be appealed within 10 calendar days from adoption of this resolution. All appeals must be in writing and filed with the City Clerk within this time period with the appropriate fee. Failure to file a timely written appeal will constitute a waiver of any right of appeal. The City Council may also call this matter for review within the same time period.

SECTION 5. RECORD.

Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Project. All summaries of information in the findings which precede this section are based on the entire record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 6. CUSTODIAN OF RECORD.

The Custodian of Record for the proceedings relating to the Project is Greg Tsujiuchi, Community Development Director, City of Gardena, 1700 West 162nd Street, Gardena, California 90247. Mr. Tsujiuchi's email is gtsujiuchi@cityofgardena.org and his phone number is (310) 217-9530.

SECTION 7. EFFECTIVE DATE.

This Resolution shall take effect immediately.

SECTION 8. CERTIFICATION.

The Secretary shall certify the passage of this resolution.

PASSED, APPROVED, AND ADOPTED this 5th day of September 2023.

_____
DERYL HENDERSON, CHAIR
PLANNING AND ENVIRONMENTAL
QUALITY COMMISSION

ATTEST:

_____
GREG TSUJIUCHI, SECRETARY
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF GARDENA

I, Greg Tsujiuchi, Planning and Environmental Quality Commission Secretary of the City of Gardena, do hereby certify the following:

1. That a copy of this Resolution will be sent to the applicant and to the City Council as a report of the findings and action of the Planning and Environmental Quality Commission; and

2. That the foregoing Resolution was duly adopted by the Planning and Environmental Quality Commission of the City of Gardena at a regular meeting thereof, held the 5th day of September 2023, by the following vote of the Planning and Environmental Quality Commission:

AYES:
NOES:
ABSENT:

CITY OF GARDENA
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STAFF REPORT

CONDITIONAL USE PERMIT #6-23
AGENDA ITEM #7.A

DATE: September 5, 2023

TO: Chair Henderson and Members of the Planning and Environmental Quality Commission

FROM: Greg Tsujiuchi, Community Development Director

PREPARED BY: Kevin La, Planning Assistant

APPLICANT: Sun Ja Lee (Jun Ju Shul Lung Tang Restaurant)

LOCATION: 1845 W Redondo Beach Blvd.;
APN: (4063-018-036)

REQUEST: A request for a conditional use permit, per section 18.32.030.B of the Gardena Municipal Code, to allow the on-site sale and consumption of beer and wine in an existing restaurant located in the General Commercial (C-3) zone and direct staff to file a Notice of Exemption as an existing facilities project.

BACKGROUND/SETTING

On July 7, 2023, an application for a conditional use permit (CUP) was submitted to allow the on-site sale and consumption of beer and wine ancillary to an existing restaurant operating since 2011, located within Republic Plaza, at 1845 West Redondo Beach Blvd. (Figure 1: Vicinity/Zoning Map). The subject property is a 0.94-acre parcel with multi-tenant shopping center, that contains the 1,025-square-foot restaurant tenant space. The property is located north of W. Redondo Beach Boulevard and east of S. Manhattan Place.

As shown in Figure 1, the subject property is zoned General Commercial (C-3). The site is bounded by General Commercial (C-3) properties to the east, W. Redondo Beach Boulevard to the south, S. Manhattan Place to the west, and W. 157th Street to the north, as shown in Table 1.

Gardena Municipal Code section 18.32.030.B requires “establishments selling or serving alcoholic beverages for consumption on or off the premises” in the C-3 zone to obtain a

CUP from the City. Additionally, a Type 41 license from the California Department of Alcoholic Beverage Control (ABC) will be required.

Figure 1: Vicinity/Zoning Map

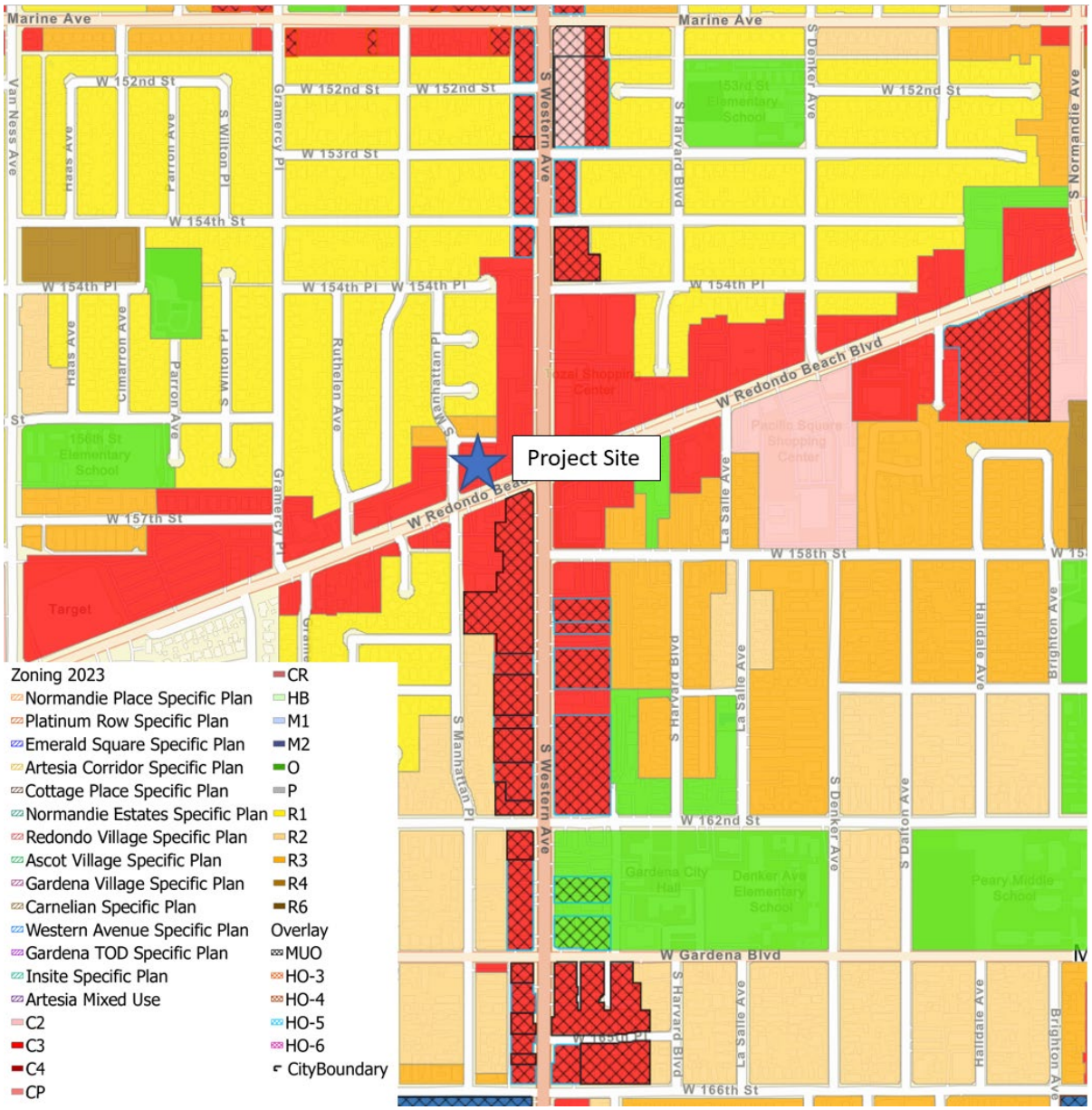
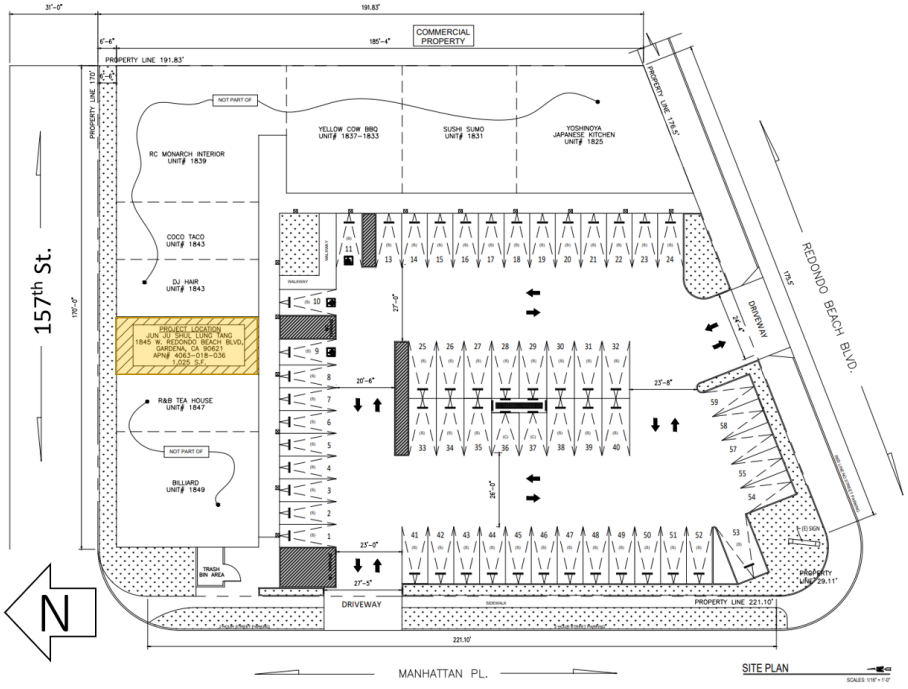


Table 1: Surrounding Uses

	Zoning Designation	General Plan Land Use Designation	Existing Land Use
Project Site	C-3	Commercial	Commercial Plaza
North	R-3	Medium Density Residential	Multi-family residential (across W. 157th Street)
South	C-3	Commercial	Auto repair (across W. Redondo Beach Blvd.)
East	C-3	Commercial	Honda Car Dealership
West	N/A	N/A	S Manhattan Pl.

The subject property is located within a larger existing shopping center known as Republic Plaza. The subject tenant space is located in an existing one-story building that contains nine tenant spaces totaling 14,278 square feet. The Republic Plaza provides 59 common parking spaces for the shopping center patrons where there is a mix of uses such as a beauty salon, billiards club, furniture repair service, and other eating establishments. The subject restaurant occupies one of the tenant spaces closest to W. 157th Street and S. Manhattan Pl. (Figure 2: Site Plan).

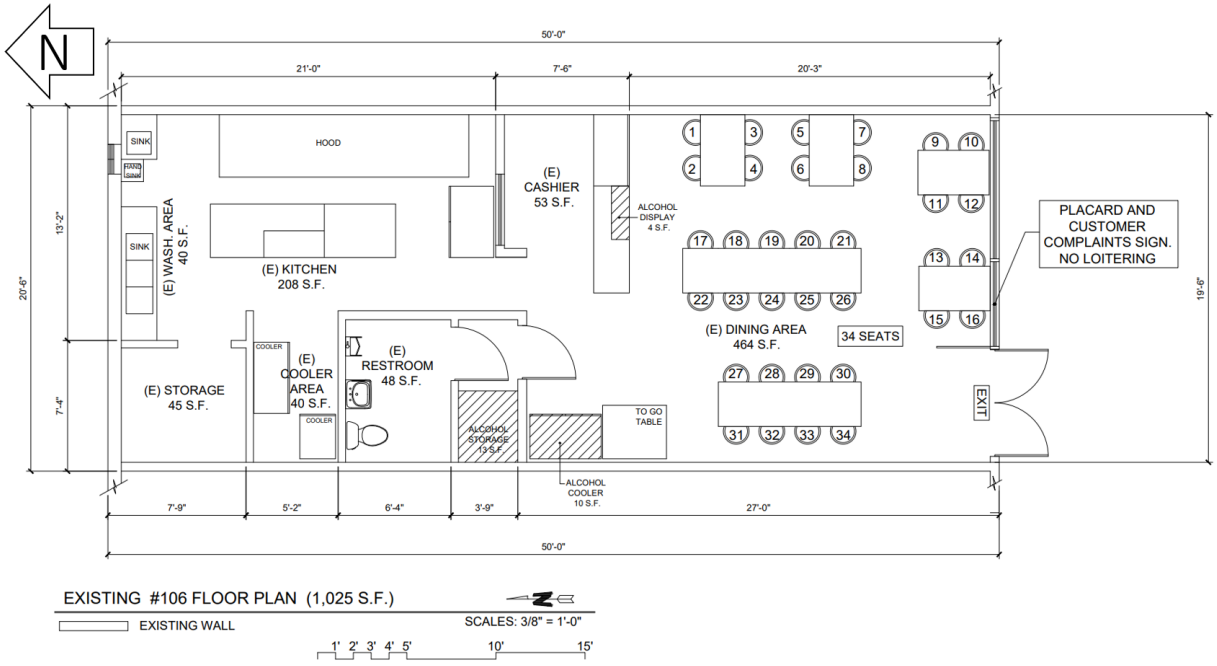
Figure 2: Site Plan



PROJECT DESCRIPTION

The applicant occupies the tenant space as a restaurant establishment and is requesting approval of a conditional use permit for the sale of beer and wine for on-site consumption. If the conditional use permit is approved the applicant will then apply for a Type 41, On-Sale Beer and Wine license, with the State Alcoholic Beverage Control (ABC) Board. This type of license is for businesses serving and selling only beer and wine for on-site consumption at a *bona fide* eating place. The business operates all days of the week from 8:00 AM to 11:00 PM. The current restaurant is utilizing the existing floor plan as shown in Figure 3. The establishment furnishes the tenant space with 6 tables totaling 34 seats available for patrons.

Figure 3: Floor Plan



ANALYSIS

Pursuant to section 18.32.030.B of the Gardena Municipal Code, a conditional use permit is required for any establishment selling or serving alcoholic beverages in the C-3 zone. Therefore, the application for a conditional use permit is deemed proper and if approved, will allow the applicant to sell and serve beer and wine at the subject property and subjects the business to ABC's regulations for Type 41 licenses.

CONDITIONAL USE PERMIT

In accordance with GMC Section 18.46.040.F, when granting a conditional use permit, the Planning Commission must make the following findings:

1. **That the use is one for which a conditional use permit is authorized.**

   Pursuant to section 18.32.030.B of the Gardena Municipal Code, a conditional use permit is required for any establishment selling or serving alcoholic beverages for on- or off-premises consumption in the General Commercial (C-3) zone. The request for a Type 41 license from the Department of Alcohol Beverage Control (ABC), will allow the sale of beer and wine for on-site consumption at a *bona fide* eating place. The subject property is zoned C-3; therefore, the application for a conditional use permit is deemed proper and will authorize the applicant to sell and serve beer and wine at the subject property, subject to obtaining the Type 41 license from ABC.

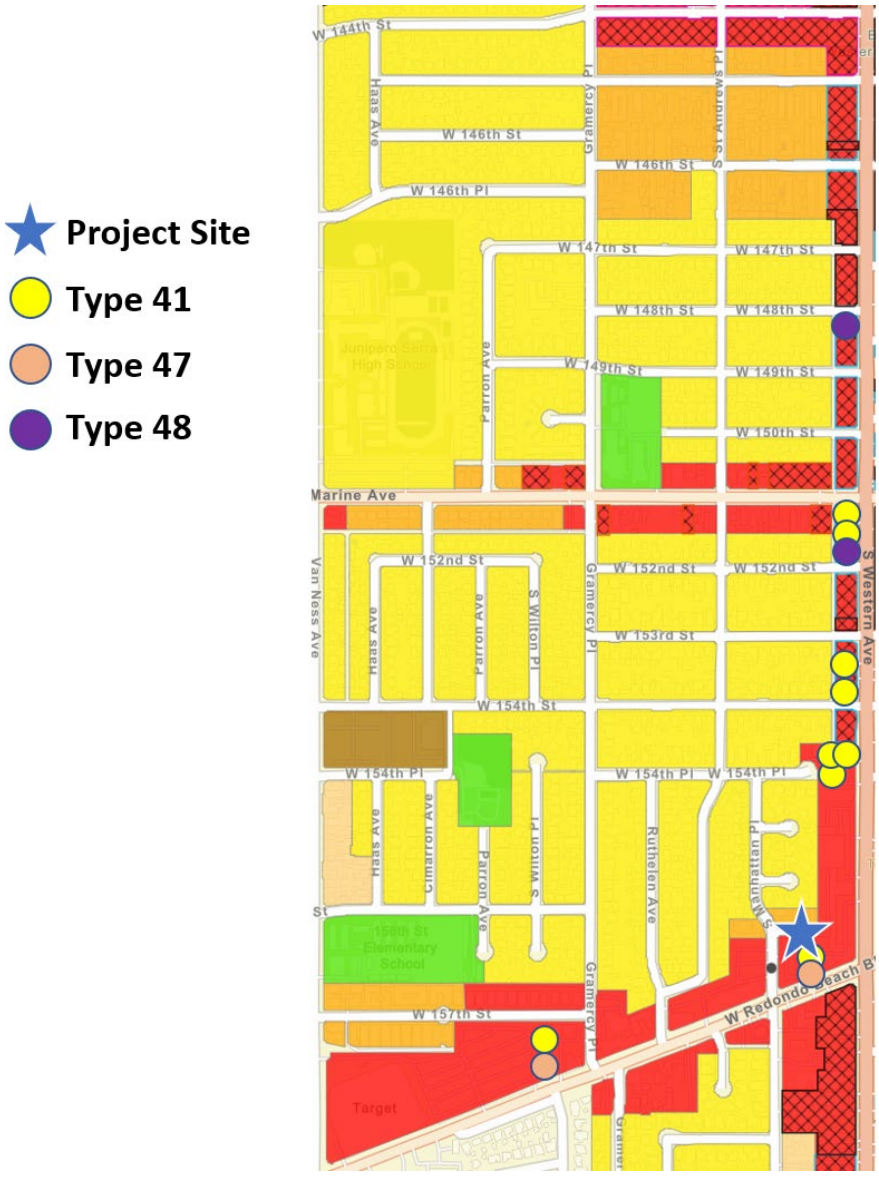
2. **That such use is necessary or desirable for the development of the community and is compatible with the surrounding uses; is in harmony with the general plan; is not detrimental to the surrounding properties, existing uses or to uses specifically permitted in the zone in which the proposed use is to be located; and will not be detrimental to the public health, safety, or welfare.**

   ABC CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

   The subject property is located within Los Angeles County Census Tract 6034 which is bounded by W. 144th St. and W. 146th St. to the north, W. Redondo Beach Blvd. to the south, Van Ness Ave. to the west, and S. Western Ave. to the east. According to the California Department of Alcoholic Beverage Control (ABC), there are currently 14 businesses within the respective census tract with an approved alcohol license for on-site or off-site sale and consumption as outlined below and displayed in Figure 4 (Census Tract License Types). These licenses include:

   - Ten (10) Type 41 licenses (on-site sale of beer and wine at *bona fide* public eating place)
   - Two (2) Type 47 licenses (on-site sale of beer, wine, and distilled spirits at a *bona fide* public eating place)
   - Two (2) Type 48 licenses (on-site sale of beer, wine, and distilled spirits for consumption where sold - such as a bar)

Figure 4: Census Tract License Types



Currently, there are two other restaurants within the Republic Plaza that hold an ABC license or Conditional Use Permit for the sale and serving of alcohol, Type 41 for Yellow Cow Korean BBQ and Type 47 for Sushi Sumo.

The applicant will need to submit a "Public Convenience or Necessity" application to the Department of ABC for review prior to obtaining an alcohol license. The application is needed when there is a concentrated amount of liquor licenses within a geographic area; the applicant must demonstrate how the business operations will benefit the surrounding community. This is not a determination for the city to make.

SENSITIVE RECEPTORS

Table 2 provides the proximity to the nearest sensitive receptors to the subject property and Figure 5 identifies other nearby sensitive receptors to the subject property. Although there are multi-family residential properties across 157th St. north of the subject site, there is an existing 16-foot landscaped wall creating a barrier to separate the multi-family residential from the subject site. Additionally, the business entrances of the building are facing S. Manhattan Pl. or W. Redondo Beach Blvd., away from residential uses, and the existing windows of the building are placed in a manner that will not view the residential buildings at any point. Staff do not foresee any compatibility issues with the surrounding community.

Table 2: Proximity of Sensitive Uses

Sensitive Use	Address	Proximity
Multi-family Residential	15616 S. Manhattan Pl., Gardena, CA 90249	35 Feet
Single-family Residential	15611 S. Manhattan Pl., Gardena, CA 90249	131 Feet
First Presbyterian Church	1957 W. Redondo Beach Blvd., Gardena, CA 90247	600 Feet
Co-op Apartments	1715 W. 158th St., Gardena, CA 90247	680 Feet

Figure 5: Sensitive Receptors

GENERAL PLAN AND ZONING CONSISTENCY

The proposed project is consistent with the economic development goal and policy set forth in the Republic General Plan. The General Plan designates the subject property as a Commercial land use, which covers a wide variety of land uses and is implemented by the General Commercial (C-3) zone. The existing restaurant is a use allowed by right in the C-3 zone per GMC.18.32.020.A. and with the approval of a CUP, the sale of beer and wine would be allowed on the premises per GMC.18.32.030.B, and thus, consistent with the C-3 zone and the Commercial land use. The proposed project is consistent with Economic Development Goal 1 of the Community Development Element:

Promote a growing and diverse business community that provides jobs, goods, and services for the local and regional market and maintains a sound tax base for the City, encourages diversification of businesses to support the local economy, and provides a stable revenue stream.

Allowing the restaurant to serve beer and wine would enable the business to improve its revenue stream which, in turn, allows the business to continue supporting the City's sales tax revenue.

3. **That the site for the intended use is adequate in size and shape to accommodate such use and all of the yards, setbacks, walls, fences, landscaping and other features required in order to adjust such use to those existing or permitted future uses on land in the neighborhood.**

The restaurant establishment is in an existing commercial building within Republic Plaza, a larger shopping center developed circa 1979. However, the tenant space where the restaurant is located started operations circa 2011. The applicant's request for on-site sale and consumption of beer and wine does not include any type of exterior improvements that will alter the existing building footprint nor the exterior façade. The addition of alcohol service to the existing restaurant does not cause a need for site alteration for the existing shopping center, therefore the site is already adequate in size and shape to accommodate the on-site sale and consumption of beer and wine.

4. **That the site for the proposed use relates to streets and highways properly designed and improved so as to carry the type and quantity of traffic generated or to be generated by the proposed use; and**

   As mentioned above, the subject property is located within an existing shopping center, Republic Plaza, that includes various commercial retail and service businesses, including a beauty salon, billiards hall, furniture repair service, and various eating establishments. Republic Plaza has a parking lot area within the shopping plaza that is shared between the businesses as shown in Figure 2. The plaza has 59 parking spaces in total for its patrons to use. The applicant's proposal to sell beer and wine for on-site consumption in conjunction with a *bona fide* restaurant does not change the land use of Republic Plaza as a commercial shopping center. As there is no change in land use or increase to the building footprint, the existing parking is considered adequate and shall continue to accommodate all uses within the shopping center. Pedestrian access to the subject property is provided by sidewalks along W. Redondo Beach Boulevard and S. Manhattan Place. Vehicle access to the subject property is by two (2) driveway entrances: one (1) driveway along W Redondo Beach Blvd. and one (1) driveway along S. Manhattan Place.

   The Circulation Plan, which is part of the Community Development Element of the Gardena General Plan designates W. Redondo Beach Boulevard as an arterial roadway. Arterial roadways are designed to carry larger volumes of traffic and serve as the principal urban thoroughfares connecting activity centers with adjacent communities, as described in the Circulation Plan. S Manhattan Place and W. 157th Street are designated as local streets that are designed to provide vehicular, pedestrian, and bicycle access to individual parcels throughout the city. They are intended to carry low volumes of traffic and allow unrestricted parking. The applicant's request to sell and serve alcohol as part of an existing restaurant establishment within the commercial shopping center is not expected to attract excess traffic that would ultimately affect the circulation in the area as the alcohol service will be complimentary to the primary restaurant use. Staff does not foresee any adverse traffic impacts to the subject property.

5. **That the conditions stated in the decision are deemed necessary to protect the public health, safety and general welfare.**

   The conditions of approval for Conditional Use Permit #6-23 will ensure that the operations of the restaurant with the sale of beer and wine will be compatible with, and not detrimental to, ensuring the public health, safety, and general welfare of the surrounding uses, residents, and businesses in the vicinity.

ENVIRONMENTAL ASSESSMENT

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities, which exempts negligible or no expansions of use in existing facilities from the provisions of CEQA. The building in which the project is proposed already exists. The project will not include any alterations to the existing building footprint nor the exterior façade as previously approved. Republic Plaza remains a shopping center and this is merely the inclusion of ancillary sales of beer and wine to an existing restaurant. Therefore, the sale of beer and wine for on-site consumption is seen as a negligible expansion of use.

The project is also categorically exempt from the provisions of CEQA pursuant to Guideline Section 15061(b)(3), which exempts projects where it can be seen with certainty that the activity in question does not have a significant effect on the environment. As stated above, the sale of beer and wine consumed on-site is not an expansion of the existing use and will not create any environmental effects.

The project is not subject to any of the exceptions to the exemptions under Section 15300.2 of the California Environmental Quality Act. The cumulative impact of the sale of alcoholic beverages incidental to a *bona fide* restaurant establishment is not considered significant. The project is not located along any state-designated scenic highway nor within any designated hazardous waste site. The building where the sale of alcohol is taking place is not considered a significant historical structure by any governmental body. Staff does not expect any significant impacts or unusual circumstances related to the approval of this project.

Therefore, the proposed project is categorically exempt from CEQA.

NOTICING

The public hearing notice for Conditional Use Permit #6-23 was published in the Gardena Valley News and mailed first class to owners and occupants within a 300-foot radius of the site on August 24, 2023. A copy of Proof of Publication and Affidavit of Mailing are on file in the office of the Community Development Department Room 101, City Hall and are considered part of the administrative record.

PUBLIC COMMENT

As of September 1, 2023, there have been no public comments received by Planning Staff.

RECOMMENDATION

Staff recommends the Planning and Environmental Quality Commission to:

1) Conduct the public hearing;
2) Receive testimony from the public; and
3) Adopt Resolution PC 14-23 making the necessary findings and approving Conditional Use Permit #6-23 subject to the attached Conditions of Approval and directing staff to file a Notice of Exemption.

ATTACHMENTS

Resolution No. PC 14-23
Exhibit A: Draft Conditions of Approval
Exhibit B: Project Plans

RESOLUTION NO. PC 14-23

A RESOLUTION OF THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT #6-23 TO ALLOW THE ON-SITE SALE AND CONSUMPTION OF BEER AND WINE IN A NEW RESTAURANT LOCATED IN THE GENERAL COMMERCIAL (C-3) ZONE AND DIRECTING STAFF TO FILE A NOTICE OF EXEMPTION

1845 WEST REDONDO BEACH BOULEVARD
(APN: 4063-018-036)

THE PLANNING COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. RECITALS.

A. On July 7, 2023, an application for a conditional use permit was submitted to allow the on-site sale and consumption of beer and wine in an existing restaurant, (the "Project"), Sun Ja Lee, doing business as Jun Ju Shul Lung Tang Restaurant, located at 1845 West Redondo Beach Boulevard (the "Subject Property").

B. The General Plan Land Use Plan designation of the Subject Property is Commercial, and the zoning is General Commercial (C-3).

C. The Subject Property is bounded by West 157th Street to the north, General Commercial to the east, West Redondo Beach Boulevard to the south, and South Manhattan Place to the west.

D. On August 24, 2023, a public hearing was duly noticed for a Planning and Environmental Quality Commission meeting for September 5, 2023, at 7 PM.

E. On September 5, 2023, the Planning and Environmental Quality Commission held a public hearing at which time it considered all material and evidence, whether written or oral.

F. In making the various findings set forth herein, the Planning and Environmental Quality Commission has considered all the evidence presented by staff, the applicant, and the public, whether written or oral, and has considered the procedures and the standards required by the Gardena Municipal Code.

NOW, THEREFORE, THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 2. CONDITIONAL USE PERMIT #6-23

Conditional Use Permit #6-23 to allow the on-site sale and consumption of beer and wine at the existing restaurant located in the General Commercial (C-3) zone as shown on the plans presented to the Planning Commission on September 5, 2023, attached hereto as Exhibit B, is hereby approved based on the following findings and is subject to the conditions attached hereto as Exhibit A.

A. The use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this chapter.

Pursuant to section 18.32.030.B of the Gardena Municipal Code, a conditional use permit is required for any establishment selling or serving alcoholic beverages for on- or off-premises consumption in the General Commercial (C-3) zone. The request for a Type 41 license from the Department of Alcohol Beverage Control (ABC), will allow the sale of beer and wine for on-site consumption at a *bona fide* eating place. The Subject Property is zoned C-3; therefore, the application for a conditional use permit is deemed proper and will authorize the applicant to sell and serve beer and wine at the subject property, subject to obtaining the Type 41 license from ABC.

B. Such use is necessary or desirable for the development of the community and is compatible with the surrounding uses, is in harmony with the general plan, is not detrimental to the surrounding properties, existing uses, or to uses specifically permitted in the zone in which the proposed use is to be located, and will not be detrimental to the public health, safety, or welfare.

The Project is compatible with the surrounding uses as the alcohol sales are ancillary to the continued restaurant use. The conditions of approval will ensure that the operations of the restaurant use will be compatible with, and not detrimental to, the surrounding land uses.

The Project is consistent with the following General Plan Goal:

- Economic Development Plan ED Goal 1: Promote a growing and diverse business community that provides jobs, goods, and services for the local and regional market and maintains a sound tax base for the City, encourages diversification of businesses to support the local economy, and provides a stable revenue stream.

The sale of beer and wine in an existing restaurant allows the shopping center to continue contributing to a sound tax base for the City. The applicant shall adhere to all conditions of approval including the State of California Alcoholic Beverage Control operating conditions and will ensure that the use will not adversely affect surrounding land uses.

C. The site for the intended use is adequate in size and shape to accommodate such use and all of the yards, setbacks, walls, fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses on land in the neighborhood.

The restaurant establishment is in an existing commercial building within Republic Plana, a larger shopping center developed circa 1979 However, the tenant space where the restaurant is located, started operations circa 2011. The applicant's request for on-site sale and consumption of beer and wine does not include any type of exterior improvements that will alter the existing building footprint nor the exterior façade. The addition of an alcohol service to the existing restaurant does not cause a need for site alteration for the existing shopping center therefore the site is already adequate in size and shape to accommodate the on-site sale and consumption of beer and wine.

D. The site for the proposed use relates to streets and highways properly designed and improved so as to carry the type of quantity of traffic generated or to be generated by the proposed use;

As mentioned above, the Subject Property is located within an existing shopping center, Republic Plaza, that includes various commercial retail and service businesses, including a beauty salon, billiards hall, furniture repair service, and various eating establishments. Republic Plaza has a parking lot area within the shopping plaza that is shared between the businesses as shown in Figure 2. The plaza has 59 parking spaces in total for its patrons to use. The applicant's proposal to sell beer and wine for on-site consumption in conjunction with a *bona fide* restaurant does not change the land use of Republic Plaza as a commercial shopping center. As there is no change in land use or increase to the building footprint, the existing parking is considered adequate and shall continue to accommodate all uses within the shopping center. Pedestrian access to the subject property is provided by sidewalks along W. Redondo Beach Blvd and S. Manhattan Pl. Vehicle access to the subject property is by two (2) driveway entrances: one (1) driveway along W. Redondo Beach Blvd. and one (1) driveway along S. Manhattan Pl.

The Circulation Plan, which is part of the Community Development Element of the Gardena General Plan designates W. Redondo Beach Blvd. as an arterial roadway. Arterial roadways are designed to carry larger volumes of traffic and serve as the principal urban thoroughfares connecting activity centers with adjacent communities, as described in the Circulation Plan. S. Manhattan Pl. and W. 157th St. are designated as local streets that are designed to provide vehicular, pedestrian, and bicycle access to individual parcels throughout the city. They are

intended to carry low volumes of traffic and allow unrestricted parking. The applicant's request to sell and serve alcohol as part of an existing restaurant establishment within the commercial shopping center is not expected to attract excess traffic that would ultimately affect the circulation in the area as the alcohol service will be complimentary to the primary restaurant use. Staff does not foresee any adverse traffic impacts to the subject property.

E. The conditions stated in the decision are deemed necessary to protect the public health, safety and general welfare.;

The conditions of approval for Conditional Use Permit #6-23 will ensure that the operations of the restaurant with the sale of beer and wine will be compatible with, and not detrimental to, ensuring the public health, safety, and general welfare of the surrounding uses, residents, and businesses in the vicinity.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

The Project is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to the following exemption:

A. Class 1—Section 15301 - Existing Facilities - the building in which the restaurant establishment will be operating in already exists. The Project will not include any alterations to the existing building footprint nor the exterior façade as previously approved. Therefore, the sale of beer and wine for on-site consumption is seen as a negligible expansion of use.

B. Guidelines Section 15061(b)(3) – CEQA does not apply where it can be seen with certainty that the project will not have any significant effect on the environment. The sale of beer and wine consumed on site is not an expansion of the existing use and will not create any environmental effects

C. The Project is not subject to any of the exceptions to the exemptions under Section 15300.2 of the California Environmental Quality Act. The cumulative impact of the sale of alcoholic beverages incidental to a restaurant establishment is not considered significant. The Project is not located along any state-designated scenic highway nor within any designated hazardous waste site. The building where the sale of alcohol is taking place is not considered a significant historical structure by any governmental body. Staff does not expect any significant impacts or unusual circumstances related to the approval of the Project.

Staff is hereby directed to file a Notice of Exemption.

SECTION 4. APPEAL.

The approvals granted by this Resolution may be appealed within 10 calendar days from the adoption of this resolution. All appeals must be in writing and filed with the City Clerk within this time period with the appropriate fee. Failure to file a timely written appeal will constitute a waiver of any right of appeal. The City Council may also call this matter for review within the same time period.

SECTION 5. RECORD.

Each and every one of the findings and determinations in this Resolution is based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Project. All summaries of information in the findings which precede this section are based on the entire record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 6. CUSTODIAN OF RECORD.

The Custodian of Record for the proceedings relating to the Project is Greg Tsujiuchi, Community Development Director, City of Gardena, 1700 West 162nd Street, Gardena, California 90247. Mr. Tsujiuchi's email is gtsujiuchi@cityofgardena.org and his phone number is (310) 217-9530.

SECTION 7. EFFECTIVE DATE.

This Resolution shall take effect immediately

SECTION 8. CERTIFICATION.

The Secretary shall certify the passage of this resolution.

PASSED, APPROVED, AND ADOPTED this 5th day of September 2023.

_____
DERYL HENDERSON, CHAIR
PLANNING AND ENVIRONMENTAL
QUALITY COMMISSION

ATTEST:

_____
GREG TSUJIUCHI, SECRETARY
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF GARDENA

I, Greg Tsujiuchi, Planning and Environmental Quality Commission Secretary of the City of Gardena, do hereby certify the following:

1. That a copy of this Resolution and the Conditions of Approval (Exhibit A) will be sent to the applicant and to the City Council as a report of the findings and action of the Planning and Environmental Quality Commission; and

2. That the foregoing Resolution was duly adopted by the Planning and Environmental Quality Commission of the City of Gardena at a regular meeting thereof, held the 5th day of September 2023, by the following vote of the Planning and Environmental Quality Commission:

AYES:
NOES:
ABSENT:

Attachments:

- Exhibit A: Conditions of Approval
- Exhibit B: Project Plans

EXHIBIT A

CITY OF GARDENA

CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #6-23

GENERAL CONDITIONS

GC 1. The applicant accepts all of the conditions of approval set forth in this document and shall sign the acknowledgment.

GC 2. The applicant shall comply with all written policies, resolutions, ordinances, and all applicable laws in effect at the time of approval. The conditions of approval shall supersede all conflicting notations, specifications, and dimensions which may be shown on the project development plans.

GC 3. The floor plan layout shall be in accordance with the plans approved by the Commission and modified by these conditions of approval. The final completed project shall be in substantial compliance with the plans upon which the Commission based its decision, as modified by such decision.

GC 4. The applicant shall reimburse the City for all attorney's fees spent in processing the project application, including a review of all documents required by these conditions of approval prior to the issuance of a final building permit.

GC 5. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any claims, actions or proceedings, damages, costs (including without limitation attorneys' fees), injuries, or liabilities against the City or its agents, officers, or employees arising out of the City's approval of the Notice of Exemption and Conditional Use Permit. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Although the applicant is the real party in interest in the action, the City may, at its sole discretion, participate in the defense of any action with the attorneys of its own choosing, but such participation shall not relieve the applicant of any obligation under this condition, including the payment of attorneys' fees.

CONDITIONAL USE PERMIT

CUP1. Conditional Use Permit #6-23 shall be utilized within a period not to exceed twelve (12) months from the date of approval unless an extension is granted in accordance with Section 18.46.040 of the Gardena Municipal Code (GMC). Utilization shall mean the issuance of an Alcoholic Beverage License by the California Department of Alcoholic Beverage Control.

PLANNING

PL1. The applicant is permitted to sell and serve beer and wine as part of its restaurant operations with the condition that it will obtain State of California Alcoholic Beverage Control License Type 41 for on-site consumption as part of a meal service. Should the applicant cease to operate as a restaurant with ancillary sale and service of beer and wine, or should the applicant cease to hold a valid Type 41 license, the applicant shall submit an application for a modification of Conditional Use Permit #6-23.

PL2. The applicant shall provide a copy of this conditional use permit to the local office of the Department of Alcoholic Beverage Control and obtain the appropriate license referenced in this permit.

PL3. The applicant shall submit a Public Convenience or Necessity application to the Department of Alcoholic Beverage Control and obtain any necessary approvals therefrom.

PL4. The applicant shall comply with all operating conditions of the California Department of Alcoholic Beverage Control. Any violation of the regulations of the Department of Alcoholic Beverage Control, as they pertain to the sale of alcoholic beverages, may result in the revocation of this conditional use permit.

PL5. The applicant shall provide a full menu to business patrons during all business hours.

PL6. The service of alcohol shall be permitted during the hours the restaurant is also serving food and shall not extend beyond the dining hours for the establishment.

PL7. Alcohol sales shall not exceed forty percent of total gross revenue per year. The business shall maintain records of gross revenue sources which shall be available for inspection by City staff or the California Department of Alcoholic Beverage Control.

PL8. The applicant/owner shall prohibit its patrons from loitering outside of the restaurant and shall control noisy patrons leaving the restaurant.

PL9. The applicant shall ensure all alcohol consumption is confined within the business building area. Alcohol consumption outside the building area is prohibited. The applicant shall post a sign at the exit(s) of the restaurant notifying business patrons that the consumption of alcoholic beverages outside is prohibited.

PL10. The applicant shall not display advertising or signage that promotes the sale of alcohol at the site.

BUILDING

BS1. The Project shall comply with all applicable portions of the City adopted version of the California Building Code (Title 24, California Code of Regulations).

BS2. The applicant shall comply with all conditions set forth by other departments and agencies including but not limited to the California Department of Alcohol Beverage Control (ABC), Los Angeles County Health Department, Los Angeles County Fire Department, Planning, and Public Works.

BS3. The applicant shall comply with both State and City recycling programs. The applicant shall indicate where the recycling waste bin is located as well as the storage of empty kegs if used. Compliance forms must be filled out prior to final approval.

BS4. The applicant shall provide adequate storage for alcoholic beverages. The alcoholic storage shall not be located within the same space as the food and dry-goods storage areas as required by the health department. The alcoholic storage needs a minimum of 96 linear feet of 18-inch-deep shelving.

BS5. The applicant shall provide adequate supervision of individuals or minors under the legal drinking age who are partaking in the storage and sale of alcohol.

BS6. The applicant shall ensure that all the employees selling alcoholic beverages must enroll in, and complete, a certified training program approved by the California Department of Alcohol Beverage.

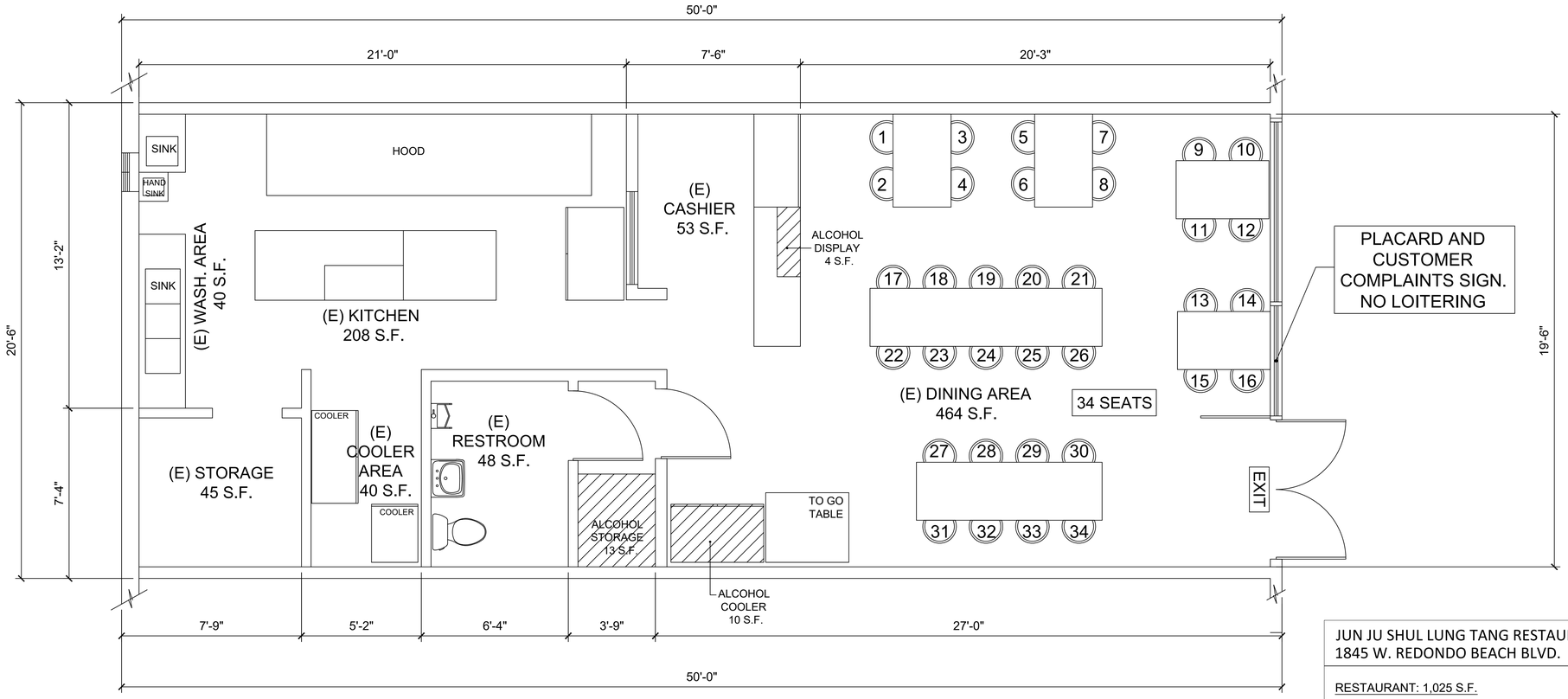
BS7. The approval of plans and specifications does not permit the violation of any section of the Building Code, City Ordinances, or any State or Federal law.

Jun Ju Shul Lung Tang Restaurant certifies that he/she/it has read, understood, and agrees to the Project Conditions listed herein.

Jun Ju Shul Lung Tang Restaurant, Representative

_____ _____

By Date



EXISTING #106 FLOOR PLAN (1,025 S.F.)

EXISTING WALL

SCALES: 3/8" = 1'-0"

1' 2' 3' 4' 5' 10' 15'

JUN JU SHUL LUNG TANG RESTAURANT
1845 W. REDONDO BEACH BLVD.

RESTAURANT: 1,025 S.F.

DINING AREA:	464 S.F.
CASHIER:	53 S.F.
KITCHEN:	208 S.F.
STORAGE:	45 S.F.
HALLWAY:	40 S.F.
COOLER AREA	48 S.F.
WASH AREA:	40 S.F.
STORAGE:	45 S.F.
ALCOHOL DISPLAY:	4 S.F.
ALCOHOL COOLER:	10 S.F.
ALCOHOL STORAGE:	13 S.F.
OTHERS:	55 S.F.
TOTAL:	1,025 S.F.

INDOOR SEATING:	34 SEATS
TOTAL:	34 SEATS

PARKING STALLS:

STANDARD PARKING:	54 PARKING
COMPACT PARKING:	2 PARKING
H.C. PARKING:	3 PARKING
TOTAL:	59 PARKING

REVISIONS	BY

GSD PARTNERS, INC.
2404 WILSHIRE BLVD.
LOS ANGELES, CA 90057
TEL: 213-538-8787

OWNER INFORMATION:
JUN JU SHUL LUNG TANG
1845 W. REDINDI BEACH BLVD.
GARDENA, CA 90247

PROJECT INFORMATION:
JUN JU SHUL LUNG TANG
1845 W. REDONDO BEACH BLVD.
GARDENA, CA 90247
APN# 4063-018-036

DATE 6-11-2023
SCALE 3/8 "= 1'-0"
DRAWN
JOB
SHEET A-2

MEMORANDUM

DEPARTMENT of COMMUNITY DEVELOPMENT

TO: Planning and Environmental Quality Commission

DATE: September 1, 2023

FROM: Kevin La, Planning Assistant

REF:

SUBJ: Continuation of Conditional Use Permit #6-23

CC: Amanda Acuna, Greg Tsujiuchi

Conditional Use Permit #6-23, for the property located at 1650 W 130th St., will be continued to a Planning and Environmental Quality Commission meeting at a later date and will be re-noticed to the public, as requested by the applicant.

CITY OF GARDENA
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION

STAFF REPORT
ZONE TEXT AMENDMENT #4-23
RESOLUTION NO. PC 17-23
AGENDA ITEM # 6.C

DATE:	September 5, 2023
TO:	Chair Henderson and Members of the Planning and Environmental Quality Commission
FROM:	Greg Tsujiuchi, Community Development Director
PREPARED BY:	Amanda Acuna, Senior Planner
APPLICANT:	City of Gardena
LOCATION:	Citywide
REQUEST:	Reconsideration of a recommendation to the City Council on Ordinance No. 1856 making amendments to Chapter 18.13 of the Gardena Municipal Code relating to accessory dwelling units and making a determination that the Ordinance is exempt from CEQA pursuant to Public Resources Code Section 21080.17

BACKGROUND/ ANALYSIS

On July 18, 2023, the Planning Commission considered a recommendation to a draft ordinance to amend Chapter 18.13, involving modifications to the statewide regulations for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). At that time the Planning Commission adopted Resolution No. PC 11-23, recommending the City Council adopt the ordinance, with a modification to include a discretionary review process to allow an ADU to be increased to 1,200 square feet (-sf) in size.

After reviewing the revisions to the ordinance, staff determined that this type of discretionary process to allow an ADU to increase to 1,200-sf would ultimately be the equivalent to a second unit allowed under Senate Bill 9 (SB 9). Pursuant to SB 9, a local agency is required to ministerially approve a housing development of no more than 2 residential units (either 2 new or 1 new in addition to an existing unit) within a single-family residential zone without discretionary review or a hearing when the proposed development meets all the listed requirements. The primary differences between the two being that fire sprinklers cannot be required in an ADU if they were not in the main structure and the design/colors in an SB 9 unit cannot be made to match.

If the Commission wished, the draft ordinance could allow a discretionary review process to allow for ADUs larger than 1,000-sf in the multi-family zones. However, staff would note that this is not a requirement made by the State. Further, staff would not make a recommendation to allow for this amendment as it could lead to further parking issues within the residential areas. At this time, staff has prepared a revised draft ordinance that includes the following changes:

- The ordinance goes back to the original language set forth in section 18.13.030 and allows an ADU to be built where there is an existing or proposed unit in any zone where residential is allowed.

- The ordinance does not make any changes to allow ADUs larger than 1,000 sf.

- The ordinance adds a specification that the mandatory detached ADUs are subject to an 800-sf limit in size.

The Planning Commission is being asked to reconsider the draft ordinance and make a recommendation to the City Council on these proposed amendments to the development standards for ADUs.

NOTICING

The public hearing notice was published in the Gardena Valley News on August 24, 2023 (Attachment B). A copy of Proof of Publication and Affidavit of Mailing are on file in the office of the Community Development Department Room 101, City Hall and are considered part of the record.

The public comment received for the July 18, 2023, Planning Commission meeting is attached for the Commission's consideration.

RECOMMENDATION

Staff recommends the Planning and Environmental Quality Commission to:

1) Conduct the public hearing;
2) Receive testimony from the public; and
3) Adopt Resolution PC 11-23 recommending that the City Council adopt Ordinance No. 1856 with input on the size of ADUs.

ATTACHMENTS

A – Planning Commission Resolution No. PC #17-23

Exhibit A – Draft Ordinance No. 1856

B – Public Hearing Notice

C – Previous Public Comment

RESOLUTION NO. PC 17-23

A RESOLUTION OF THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE ORDINANCE NO. 1856 AMENDING CHAPTER 18.13 OF THE GARDENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS

THE PLANNING COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. RECITALS.

A. State law regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) has been continually amended by the State legislature.

B. The City of Gardena wishes to amend its provisions on ADUs and JADUs to be compliant with State law.

C. Updating the city's ADU laws was a program in the 6th Cycle Housing Element.

D. A public hearing was duly noticed for the Planning Commission on June 20, 2023, at which time the hearing was continued.

E. On July 18, 2023, the Planning Commission of the City of Gardena held a duly noticed public hearing and adopted Ordinance No. PC 11-23, recommending the City Council adopt the ordinance, with a modification to include a discretionary review process to allow an ADU to be increased to 1,200 square feet (-sf) in size.

F. On September 5, 2023, staff returned the item to the Planning Commission for an additional duly, noticed public hearing due to further clarification on State mandated process for housing units which necessitated revisions to the Ordinance.

NOW, THEREFORE, THE PLANNING AND ENVIRONMENTAL QUALITY CONTROL COMMISSION OF THE CITY OF GARDENA DOES HEREBY RESOLVE AS FOLLOWS:

The Planning Commission hereby recommends that the City Council adopt the Ordinance attached hereto as Exhibit A making changes to amend Chapter 18.13 of the Gardena Municipal Code relating to accessory dwelling units. For all of the reasons set forth in the reasoning provided by staff, the Planning Commission believes that these changes represent good land use practices which are required by public necessity, convenience and the general welfare.

PASSED, APPROVED, AND ADOPTED this 5th day of July 2023.

_____

DERYL HENDERSON, CHAIR
PLANNING AND ENVIRONMENTAL
QUALITY COMMISSION

ATTEST:

_____

GREG TSUJIUCHI, SECRETARY
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF GARDENA

I, Greg Tsujiuchi, Planning and Environmental Quality Commission Secretary of the City of Gardena, do hereby certify that the foregoing Resolution was duly adopted by the Planning and Environmental Quality Commission of the City of Gardena at a regular meeting thereof, held the 5th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:

Attachments:

Exhibit A –Ordinance No. 1856

ORDINANCE NO. 1856

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AMENDING CHAPTERS 18.04 AND 18.13 OF THE GARDENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND MAKING A DETERMINATION THAT THE ORDINANCE IS EXEMPT FROM CEQA PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.17

WHEREAS, State law regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) has been continually amended by the State legislature; and

WHEREAS, the City of Gardena wishes to amend its provisions on ADUs and JADUs to be compliant with State law; and

WHEREAS, updating the city's ADU laws was a program in the 6th Cycle Housing Element; and

WHEREAS, a public hearing was duly noticed for the Planning Commission on June 20, 2023, at which time the hearing was continued; and

WHEREAS, a new public hearing was noticed for July 18, 2023 before the Planning Commission; and

WHEREAS, on July 18, 2023 the Planning Commission held a duly noticed public hearing at which time it considered all evidence presented, both written and oral; and

WHEREAS, at the close of the public hearing the Planning Commission adopted a resolution recommending that the City Council adopt this Ordinance; and

WHEREAS, on XXX, 2023, the City Council held a duly noticed public hearing at which time it considered all evidence presented, both written and oral;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 18.04 of the Gardena Municipal Code is hereby amended to read as follows:

Chapter 18.04 Definitions

J Definitions.

"Junior accessory dwelling unit" shall mean a unit that is no more than five hundred square feet and contained entirely within a single-family dwelling, ~~not~~ including an attached garage or other attached accessory structure.

SECTION 2. Chapter 18.13 of the Gardena Municipal Code is hereby amended to read as follows:

CHAPTER 18.13

ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

18.13.010 Purpose.

A. In enacting this section, it is the intent of the city to encourage the provision of accessory dwelling units to meet a variety of economic needs within the city and to implement the goals, objectives, and policies of the housing element of the general plan. Accessory dwelling units provide housing for extended family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create accessory dwelling units can benefit from added income, and an increased sense of security. Allowing accessory dwelling units in zones allowing residential uses~~zones~~ provides needed additional rental housing. This ~~section~~ chapter provides the requirements for the establishment of accessory dwelling units consistent with California Government Code Sections 65852.2 and 65852.22 ~~65852.2 and 65852.22~~.

B. For purposes of this chapter, "primary dwelling" shall mean as follows:

1. In the case of a single-family residential zone, the ~~an~~ existing single-family ~~residential~~ dwelling, or the larger of two proposed units., ~~is considered to be the "primary residence."~~

2. In the case of any other residential or mixed-use zone in which a single-family dwelling exists on the property, the existing dwelling.

3. In the case of multi-family or mixed-use zone which allows a residential use, the existing or proposed multi-family units.

C. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this chapter is in conflict with state law, the mandatory requirement of state law shall control, but only to the extent legally required.

18.13.020 Applications – Junior and accessory dwelling units.

A. Applications for junior and accessory dwelling units shall be ministerially approved or denied ~~processed~~ within ~~sixty~~ 60 days of receipt of a complete application and approved if they meet the requirements of this chapter.

1. If the application is submitted in conjunction with an application for a new single-family or multi-family dwelling, the application for the junior or accessory dwelling unit shall not be acted upon until the application for the new single-family or multi-family dwelling is approved, but thereafter shall be ministerially approved if it meets all requirements within ~~sixty~~ 60 days or denied within that same time period.

2. If the application is denied, the c~~C~~ity shall return a full set of comments in writing to the applicant with a list of items that are defective or deficient with a description of how the application can be remedied by the applicant. These comments shall be provided to the applicant within 60 days of a complete application.

3. If a detached garage is to be replaced with an accessory dwelling unit, the demolition permit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.

4~~2~~. The city shall grant a delay if requested by the applicant.

B. All applications for junior and accessory dwelling units shall be accompanied by an application fee.

C. Junior and accessory dwelling units shall be subject to applicable inspection and permit fees.

D. Neither an application for a junior nor an accessory dwelling unit shall be denied due to the need to correct nonconforming zoning conditions, building code violations, or unpermitted structures that do no present a threat to public health and safety and are not affected by the construction of the unit.

18.13.030 Zones/Locations allowed.

A. Accessory dwelling units shall be allowed on all legally existing residentially zoned lots where a single-family dwelling exists or has been proposed.

B. Accessory dwelling units shall be allowed on all legally existing residentially zoned lots where an existing multifamily structure exists or has been proposed.

C. Accessory dwelling units shall be allowed on all legally existing mixed-use zoned lots where an existing single-family or multifamily dwelling exists or has been proposed.

D. Nothing herein is meant to override the provisions of conditions, covenants, and restrictions for a housing development project relating to accessory dwelling units to the extent such restrictions comply with state law.

E. An accessory dwelling unit may be constructed in an attached or detached garage.

18.13.040 General requirements.

A. Number. Unless otherwise allowed by Section 18.13.060(A), only one accessory dwelling unit may be allowed per residential lot.

B. Accessory dwelling units shall not be sold separately from the ~~primary residence~~primary dwelling, except to the extent that the sale meets the requirements of Government Code section 65852.26 with regard to a qualified nonprofit corporation.

C. Neither the accessory dwelling unit nor any other residence located on the property~~t~~, nor any part thereof, ~~he primary residence~~ shall be rented out for less than ~~thirty-one~~31 consecutive calendar days. ~~A covenant shall be recorded to this effect in a form approved by the city attorney.~~

D. Owner/Occupancy. Accessory dwelling units may be rented independently of the ~~primary residence~~primary dwelling. However, in the R-1 zone, the owner of the property must be an occupant of either the ~~primary residence~~primary dwelling or the accessory dwelling unit in order for one of the two units to be rented and a covenant shall be recorded to this effect in a form approved by the city attorney. Notwithstanding the foregoing, the owner may rent both the ~~primary residence~~primary dwelling and accessory dwelling unit to one party with a restriction in the lease that such party may not further sublease any unit or portion thereof. The owner-occupancy requirement shall not be imposed on any accessory dwelling unit before January 1, 2025 or on any accessory dwelling unit approved between January 1, 2020, and January 1, 2025.

E. Impact Fees.

1. No impact fee shall be imposed on any accessory dwelling unit less than 750 ~~seven hundred fifty~~ square feet in size.

2. For accessory dwelling units 750 ~~seven hundred fifty~~ square feet or greater, impact fees shall be charged proportionately in relation to the square footage of the ~~primary residence~~primary dwelling.

3. All applicable public service and applicable recreation impact fees shall be paid prior to occupancy in accordance with Government Code Sections 66000 et seq. and 66012 et seq.

4. For purposes of this section, "impact fee" shall have the same meaning as set forth in Government Code Section 65852.2(f).

F. Accessory dwelling units shall not count in determining density or lot coverage and are considered a residential use consistent with the existing general plan and zoning designation for the lot.

G. Enforcement. Until January 1, 2030, the city shall issue a statement along with a notice to correct a violation of any provision of any building standard relating to an accessory dwelling unit that provides substantially as follows:

> You have been issued an order to correct violations or abate nuisances relating to your accessory dwelling unit. If you believe that this correction or abatement is not necessary to protect the public health and safety you may file an application with the Community Development Director. If the City determines that enforcement is not required to protect the health and safety, enforcement shall be delayed for a period of five years from the date of the original notice.

This subsection G. only applies to accessory dwelling units built before January ~~28~~1, 2020.

H. A deed restriction shall be required to be recorded against the property on which an accessory dwelling unit is constructed, which restriction shall run with the land. The deed restriction shall provide for the following:

1. A prohibition on the sale of accessory dwelling unit separate from the sale of the primary dwelling(s), except as provided in Government Code section 65852.26;

2. A restriction that prohibits the accessory dwelling unit from being enlarged beyond that which is permitted by Chapter 18.13 of the Gardena Municipal Code;

3. A restriction from renting either the accessory dwelling unit or the primary dwelling(s) or any portions thereof for less than thirty-one consecutive, calendar days;

4. A statement that the deed restrictions may be enforced against future purchasers.

5. A statement that the City shall be entitled to all legal and equitable remedies available under the law upon the default of any covenant in the deed restriction.

6. A statement that the prevailing party shall be entitled to reimbursement of its reasonable attorneys' fees and costs.

18.13.050 Development regulations.

A. Accessory dwelling units shall be required to comply with the objective development standards of the underlying zoning district and the applicable provisions of Chapter 18.42 unless superseded by a provision of this chapter or if such regulation prohibits the construction of an accessory dwelling unit of at least 800 square feet.

~~An attached or detached accessory dwelling unit shall be located behind the front yard setback, unless the accessory dwelling unit is being constructed in the exact location and to the same dimensions as a previously existing approved accessory structure, including an attached or detached garage.~~

~~B~~. ~~Design.~~

~~1. An accessory dwelling unit, whether attached or detached, shall be consistent in architectural style, materials, colors, and appearances with the existing or proposed dwelling and the quality of the materials shall be the same or exceed that of the primary residence.~~

~~2. Window placement shall be sensitive to maintaining privacy between the accessory dwelling unit and the primary residence and neighboring residences.~~

B. ~~3.~~ An accessory dwelling unit shall have a separate entrance from the ~~primary residence~~primary dwelling which shall be located on a different plane than the entrance for the ~~primary residence~~primary dwelling in the case of a single-family dwelling.

~~4. To the maximum extent feasible, the accessory dwelling unit shall not alter the appearance of the single-family dwelling.~~

C. No passageway as defined in Government Code Section 65852.2(i) shall be required for the construction of an accessory dwelling unit.

D. Accessory dwelling units shall comply with all applicable building code requirements with the exception that fire sprinklers shall not be required in an accessory dwelling unit if they are not required for the ~~primary residence~~primary dwelling and the construction of an accessory dwelling unit shall not trigger a requirement for sprinklers to be installed in the primary dwelling.

E. Size.

1. The floor area of an attached or detached accessory dwelling unit shall not exceed ~~eight hundred fifty~~850 square feet for a studio or one bedroom or ~~one thousand~~ 1,000 square feet for a unit that contains more than one bedroom.

2. The minimum size of an accessory dwelling unit is one hundred fifty square feet.

3. ~~Except for front yard setback requirements, T~~he development standards of this section shall be waived in order to allow an accessory dwelling unit that is 800 ~~eight hundred~~ square feet, does not exceed the height requirements set forth in subsection F. below, and ~~at least sixteen feet in height with~~ has a minimum of four-foot side and rear yard setbacks.

F. Setbacks. Except as specified below, an accessory dwelling unit shall be required to comply with the setback requirements of the zone in which the unit is to be located.

1. No setback shall be required for an existing living area, or a legally existing accessory structure, including a garage, that is converted to an accessory dwelling unit or a new accessory dwelling unit constructed in the same location and built to the same dimensions as the existing structure.

2. No setback greater than four feet shall be required for side and rear yard setbacks for all other accessory dwelling units not covered by subsection (F)(1) of this section.

3. An attached or detached accessory dwelling unit shall be at least six feet from all other buildings on the lot or on any adjacent lot.

4. An attached or detached accessory dwelling unit shall be located behind the front yard setback, unless the accessory dwelling unit is being constructed in the exact location and to the same dimensions as a previously existing approved accessory structure, including an attached or detached garage. This requirement shall be waived to the extent that it prohibits an accessory dwelling unit of 800 square feet from being built with four foot side and rear yard setbacks in compliance with all other development standards.

5. No portion of an accessory dwelling unit may encroach into any public or private easement such as a utility easement unless the easement holder has provided written permission to construct the accessory dwelling unit in the manner proposed. To establish a rebuttable presumption of compliance with this requirement, the applicant may provide a written declaration under penalty of perjury affirming compliance with this requirement. The declaration shall be in a form acceptable to the City Attorney.

G. Height. ~~Unless an accessory dwelling unit is being built above a garage or attached to a single-family dwelling, the height of an attached or detached accessory dwelling unit~~

~~shall not be any higher than the primary residence and in no event shall the height exceed twenty-five feet.~~ The height of an accessory dwelling unit shall be as follows:

~~———~~1. A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

~~———~~2. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within ½ mile walking distance of a major transit stop or a high-quality transit corridor. An additional 2 feet shall be allowed if required to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

~~———~~3. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

~~———~~4. A height of 25 feet or the height limit of the applicable zone that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling unit or built above an existing garage. In no event shall the accessory dwelling unit exceed 2 stories.

5. An accessory dwelling unit may be built on top of a garage provided that the garage is maintained for parking and the total height of the structure does not exceed 25 feet. If an accessory dwelling unit is built pursuant to this provision, a declaration shall be recorded that the garage must be maintained for parking.

H. Parking.

1. Parking shall be required at the rate of one space for each accessory dwelling unit. No parking spaces shall be required for an accessory dwelling unit created within an existing living space.

2. Parking spaces may be provided through tandem parking on an existing driveway; provided, that such parking does not encroach into the public sidewalk.

3. Parking spaces for accessory dwelling units may be provided in paved portions of setback areas; provided, that the amount of paving does not exceed the total amount of paving and hardscaped areas that are otherwise allowed by this title.

4. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, such parking spaces need not be replaced.

5. Tandem parking and parking in setback areas shall not be allowed if the community development director makes specific findings that such parking is not feasible based upon specific site or regional topographical, or fire and life safety conditions.

6. Notwithstanding any other provision of this subsection H of this section, no parking shall be required for the accessory dwelling unit if any of the following conditions apply:

a. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop;

b. The accessory dwelling unit is located within an architecturally and historically significant district;

c. The accessory dwelling unit is part of the existing ~~primary residence~~primary dwelling or an existing accessory structure;

d. When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; ~~or~~

e. When there is a car share vehicle located within one block of the accessory dwelling unit; or

f. When a permit application for an accessory dwelling unit is submitted with a permit application~~s~~ to create a new single- or multi-family dwelling on the same lot, provided the ADU or parcel satisfies any other criteria listed in this paragraph.

I. Utilities.

1. All utility installations shall be placed underground.

2. For an accessory dwelling unit contained within an existing single-family dwelling, or an existing accessory structure meeting the requirements of Section 18.13.060(A)(1), the city shall not require the installation of a new or separate utility connection between the accessory dwelling unit and the utility or impose a connection fee or capacity charge. Such requirements and charges may be imposed when the accessory dwelling unit is being proposed within a new single-family dwelling.

3. For all other accessory dwelling units other than those described in subsection (I)(2) of this section, the city shall require a new or separate utility connection

between the accessory dwelling unit and the utility and shall charge a connection fee or capacity charge that is proportionate to the burden of the proposed accessory dwelling unit based on the size or number of plumbing fixtures.

J. The number of curb cuts allowed shall be governed by the underlying zoning regulations.

K. An applicant may ~~apply for an administrative site plan review by the community development director pursuant to Sections~~ 18.44.020~~(C) and (D) in order to~~ turn an existing single-family dwelling into the accessory dwelling unit and develop a new primary residence elsewhere on the lot if both structures meet ~~. In such case the existing single-family dwelling must meet~~ all requirements of this chapter and the R-1 zone~~relating to accessory dwelling units~~, including size limitations.

L. Affordability information (RHNA). Applicants shall provide the city with all information reasonably requested by the city to allow the city to classify the ADU by income category for the city's annual housing report.

18.13.060 Mandatory approvals.

A. Notwithstanding any other provision of this chapter, the city shall ministerially approve an application for any of the following accessory dwelling units within a residential or mixed-use zone. ~~For new construction, if the unit is attached or detached, it shall be located behind the front yard setback line in a single-family zone:~~

1. One accessory dwelling unit and one ~~A~~ junior ~~or~~ accessory dwelling unit within the existing or proposed space of a single-family dwelling or accessory structure.

a. An expansion of up to ~~one hundred fifty~~150 square feet shall be allowed in an accessory structure solely for the purposes of accommodating ingress and egress.

b. The junior or accessory dwelling unit shall have exterior access separate from the existing or proposed single-family dwelling.

c. The side and rear setbacks shall be sufficient for fire and safety.

d. If the unit is a junior accessory dwelling unit, it shall comply with the requirements of Section 18.13.070.

2. One new detached accessory dwelling unit with minimum four-foot side and rear yard setbacks on a lot with an existing or proposed single-family dwelling; provided,

that the unit shall not be more than ~~eight hundred~~800 square feet and shall not exceed ~~sixteen feet in height~~ the height requirements set forth in section 18.13.050.G.1 -3, above.

a. A junior accessory dwelling unit may be developed in conjunction with this type of detached accessory dwelling unit, provided it complies with the requirements of subsection A.1, above ~~of this section~~.

3. On a lot with a multifamily dwelling structure, up to ~~twenty-five~~25 percent of the total multifamily dwelling units, but no less than one unit, shall be allowed within the portions of the existing structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that each unit complies with state building standards for dwellings.

4. On a lot with a multifamily dwelling structure, up to two detached units of not more than 800 square feet each; provided, that neither unit exceeds the height requirements set forth in section 18.13.050.G.1 -3, above, ~~is greater than sixteen feet in height~~ and has at least four-foot side and rear yard setbacks.

B. For those junior/or accessory dwelling units which require mandatory approval, the city shall not require the correction of legal, nonconforming zoning conditions.

C. The deed restriction requirements of Section 18.13.040~~.D~~ shall apply to units approved under this section.

18.13.070 Junior accessory dwelling units.

A. One junior accessory dwelling unit shall be allowed in an existing or proposed single-family dwelling, including in an attached garage. A junior accessory dwelling unit may be allowed on the same lot as a detached accessory dwelling unit where the detached accessory dwelling unit is no larger than ~~eight hundred~~800 square feet and no taller than ~~sixteen feet~~the height allowed pursuant to section 18.13.060F.1-3.

B. The junior accessory dwelling unit shall be required to contain at least an efficiency kitchen which includes a sink, cooking appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.

C. The junior accessory dwelling unit shall be required to have a separate entrance from the ~~primary residence~~primary dwelling which shall be located on a different side of the home than the front door of the ~~primary residence~~primary dwelling.

D. The junior accessory dwelling unit may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the junior accessory dwelling unit shall share sanitation facilities with the single-family residence and shall have direct access to the single-family residence from the interior of the dwelling unit.

E. No additional parking shall be required for a junior accessory dwelling unit.

F. Junior accessory dwelling units shall be required to comply with applicable building standards, except that fire sprinklers shall not be required if they were not required for the single-family residence.

G. The city shall not require the correction of a legal nonconforming zoning condition as a requirement for the junior accessory dwelling unit.

H. A deed restriction shall be required to be recorded on the ~~The owner of~~ property on which a junior accessory dwelling unit is constructed, which ~~shall be required to record a~~ deed restriction which shall run with the land. ~~and file a copy with the city.~~ The deed restriction shall provide for the following:

1. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence;

2. A restriction that prohibits the junior accessory dwelling unit from being enlarged beyond five hundred square feet;

3. A restriction from renting either the junior accessory dwelling unit or the single-family dwelling or any part thereof for less than ~~thirty-one~~31 consecutive, calendar days;

4. A restriction that the owner resides in either the single-family dwelling or the junior accessory dwelling unit. Notwithstanding the foregoing:

a. The owner may rent both the single-family dwelling and junior accessory dwelling unit to one party with a restriction in the lease that such party may not further sublease any unit or portion thereof; and

b. This restriction shall not apply if the owner of the single-family dwelling is a governmental agency, land trust, or housing organization; and

5. A statement that the deed restrictions may be enforced against future purchasers.

6. A statement that the City shall be entitled to all legal and equitable remedies available under the law upon the default of any covenant in the deed restriction.

7. A statement that the prevailing party shall be entitled to reimbursement of its reasonable attorneys' fees and costs.

I. For the purposes of applying any fire or life protection ordinance or regulation, or providing service water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered to be a separate or new dwelling unit.

SECTION 3. This Ordinance is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 which provides CEQA does not apply to the adoption of an ordinance to implement ADU law.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. This Ordinance shall take effect on the thirty-first day after passage.

SECTION 6. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

SECTION 7. The Community Development Department shall send a copy of this Ordinance to the Department of Housing and Community Development within 60 days of adoption as required by Government Code section 65852.2.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2023.

_____
TASHA CERDA, Mayor

ATTEST:

_____
MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

_____

CARMEN VASQUEZ, City Attorney

TO: Gardena Valley News **DATE**: August 22, 2023
FROM: City of Gardena

Publication Date: August 24, 2023

CITY OF GARDENA
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT on Tuesday, September 5, 2023, at 7:00 p.m., the Planning Commission of the City of Gardena will conduct a public hearing to consider the following:

1. **Conditional Use Permit #6-23**

REQUEST: A request for a conditional use permit, per section 18.32.030.B of the Gardena Municipal Code, to allow the on-site sale and consumption of beer and wine in an existing restaurant located in the General Commercial (C-3) zone and determination that the project qualifies for a Class 1 categorical exemption as an existing facilities project, pursuant to the California Environmental Quality Act.

Project Location: 1845 W Redondo Beach Blvd.
Applicant: Sun Ja Lee

2. **Modification of Conditional Use Permit #13-17**

REQUEST: A request for a modification to Conditional Use Permit (CUP) #13-17, to add an additional prefabricated storage container to the property from the previously approved three prefabricated storage containers for a Landscaping Contractor's Yard and determination that the project qualifies for a Class 3 and Class 11 categorical exemption, additionally that the project falls under CEQA Guidelines Section 15061(b)(3) common sense exemption, pursuant to the California Environmental Quality Act.

Project Location: 1650 W 130th St
Applicant: Antonio Valenzuela

3. **Zone Text Amendment #4-23**

REQUEST: Reconsideration of an Ordinance amending Chapter 18.13 of the Gardena Municipal Code relating to Accessory Dwelling units and making a determination that the Ordinance is exempt from CEQA pursuant to Public Resources Code Section 21080.17. The Planning Commission is being asked to reconsider additional changes to the draft Ordinance and making a recommendation to City Council.

Project Location: Citywide

The public hearing will be held in the Council Chambers of City Hall at 1700 West 162nd Street, Gardena, CA 90247.

The related materials will be on file and open for public inspection on the City's website at https://www.cityofgardena.org/community-development/planning-projects/. You will have the opportunity to speak during the hearing. Comments may also be submitted via email to publiccomment@cityofgardena.org or by mail to 1700 W 162nd Street, Gardena, CA 90247.

If you challenge the nature of the proposed action in court, you will be limited to raising only those issues you or someone else raises at the public hearing described in this notice, or in written correspondence delivered to the Gardena Planning and Environmental Quality Commission at, or prior to, the public hearing. For further information, please contact the Planning Division, at (310) 217-9524.

Kevin La
Planning Assistant

THE ADU LAWS CANNOT APPLY TO MY PROPERTY

Mariya Wrightsman 7/16/23

Planning Commission

The City knows this is a contested issue, yet provides us little time to face its army of lawyers, reservation of right is made to raise any additional issues due to the time limitations imposed by throwing extensive and multiple laws directed at us and specifically me with only 4 days despite holding on to the ordinance for many days prior. All prior objections submitted are incorporated by reference to establish the many violations, only a few of which there was time to touch upon herein.

The City has no authority to impose either the live in requirement or its false claim that my property cannot have an STR anywhere in the property because of the ADU. The law certainly does require the City under Gov. Code, § 65852.2 (e)(5) "A local agency shall require that a rental *of the* accessory dwelling unit **created pursuant to this subdivision** be for a term longer than 30 days." That does not prohibit any location on the remainder of the premises from being used as an STR. But even to impose that limitation on the ADU only, such ADU must have been created pursuant to subdivision (e)

Which given the specifics of my property it was not. I will explain in brackets why it cannot apply under the rule.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency **shall ministerially approve an application** for a building permit within a residential or mixed-use zone **to create *any*** of the following:

[First it was not ministerial, as the City demanded numerous follow up papers and took around 7 months to approve.]

(A) One accessory dwelling unit ***and*** one junior accessory dwelling unit **per lot** with a proposed or existing single-family dwelling if all of the following apply:

[My properties are duplexes, not single family.]

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion

beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, **new construction**, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

[My property was a remodel not new construction.]

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(C)(i) Multiple accessory dwelling units **within** the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

[My ADU was a detached garage and not within the existing dwelling.]

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D)(i) **Not more than two** accessory dwelling units that are located **on a lot** that has an existing or proposed **multifamily dwelling**, *but are detached from that multifamily dwelling* and **are subject to a height limitation** in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of *no more than four feet*.

[I have two lots, one unit on each and expressly only subjected to (c)(D)(iv) because of 18.13.050.G. “the height of an attached or detached accessory dwelling unit shall not be any higher than the primary residence and in no event shall the height exceed twenty-five feet.”]

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling

as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a **single-family lot**, subject to the requirements of paragraph (8) of subdivision (a).

[Mine is multifamily.]

(5) A local agency shall require that a rental *of the* accessory dwelling unit **created pursuant to this subdivision** be for a term longer than 30 days.

[Mine was not created pursuant to (e) because of the Gardena ordinance above and as set forth herein, and not ministerially approved.]

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose objective standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size."

And the attempt to force me to place a convent on my land is too late, Gov. Code, § 65852.2 ("(a)(1) A local agency may, by ordinance, provide for **the creation** of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use.") Thus no authority to do so after the fact.

The City is violating so many constitutional provisions it is not possible to count. After retaliating against me, the City opted for widespread discrimination, then continued its retaliation against me specifically. All prior objections submitted are incorporated by reference to establish the many violations.

5.76.130 Enforcement; penalties.
SECTION 17. Effective Date.
A. This Ordinance shall take effect on the thirty-first day after passage.

B. Notwithstanding subsection A, short-term rentals that were in effect on the date of adoption of this Ordinance shall have until 180 days after the effective date to cease all operations. This extension shall not apply to any vehicle or trailer which is being used as a short-term rental.

SECTION 18. Relief.
B. There are no appeal rights regarding vehicles or trailers being used as short-term rentals.

There has never been a law regarding trailers, this is specific to only me as the only one with high-end Airstream trailers as options that people love.

Dear Planning Board Members, Mariya Wrightsman 7/18/23

Thank you for another opportunity to conduct legal research for the City of Gardena. This time, the City made the task far easier than previous times, all thanks to the new law firm hired specifically to draft this new version, which despite its many illegalities, was much cleaner and actually resembled legislation.

Great and sincere gratitude is expressed to Ms. Acuna, for providing notice as required by law and personally emailing me the notice of the upcoming hearing. I have been pointing out this fundamental failure of notice for 11 months, and finally Ms. Acuna stepped up and served the constitution by providing notice of the hearing. Thank you Ms. Acuna.

The new law firm, apparently is not that new. Never before was there reference to the law firm Jones & Mayer, where our very own "CARMEN VASQUEZ, City Attorney" is listed as an associate. With her profile noting: "Ms. Vasquez serves as the Assistant City Attorney for the city of West Covina and as a deputy city attorney for the cities of Whittier, Fullerton and Costa Mesa." But just because the position as City Attorney is not listed for Gardena, does not mean that Gardena was not listed with the other 131 government entities this 38 lawyer power house firm represents.

I simply had no idea the citizens were up against such a well oiled machine. To think of all the time those 38 lawyers had to work on these ordinances and then the City gives the citizens only 4 days to review their work, each and every time this highly contested issue returns.

Only because this is an Ordinance with findings on its face that are not true statements is the following noted:

Draft Ord. 1854
N. On June 20, 2023, the Planning Commission held the continued public hearing and adopted Resolution No. 10-23 recommending that the City Council adopt the draft of the Ordinance presented.
Minutes from said meeting at p.5:

"A motion was made by Vice Chair Langley and seconded by Commissioner Wright-Scherr to approve Resolution No. PC 10-23, recommending that the City Council adopt Ordinance 1854, with **modifications** to permit issuance, timeframes for compliance, and applicability to extension."

Draft Ord. 1854
O. On July 18, 2023 staff returned the item to the Planning Commission for an additional duly, noticed public hearing due to state and federal cases that were decided and/or published after the prior Planning Commission which necessitated revisions to the Ordinance.

So if that is true, the decisions were after June 20, 2023, of course wiggle room was left by saying prior, but those changes were already noted.

M. On May 16, 2023, the Planning Commission of the City of Gardena held a duly noticed public hearing and considered all evidence presented, both written and oral, after which the Planning Commission provided further direction to staff for recommended changes and continued the public hearing to June 20, 2023.

It is confusing because the notice for this hearing and those changes was prepared "DATE: June 30, 2023" but the Memorandum from "Lisa Kranitz, Assistant City Attorney" is dated "July 7, 2023" and is on Jones & Mayer letterhead but Ms. Kranitz is not listed as one of their attorneys. "On June 20, 2023, the Planning Commission held a continued public hearing and recommended approval. As staff was preparing the item for the City Council's July 11, 2023 meeting, the City Attorney's office became aware of two new cases on short-term rentals in relation to the Dormant Commerce Clause." Clarifying "decided and/or published after the prior Planning Commission".

Now those cases were never cited, but the City is clearly referring to the Jun. 20, 2023 opinion of *S. Lake Tahoe Prop. Owners Grp. v. City of S. Lake Tahoe* (June 20, 2023, C093603) After that memo, was "Order Filed Date 7/12/23" referring to amendments modifying the opinion.

> **THE COURT:**
> It is ordered that the opinion filed herein on June 20, 2023, be modified as follows:
> On page 22, the last sentence in the first paragraph beginning with "The City's argument is meritless" is replaced with the following:
> The City's argument is meritless, as it is not necessary to look beyond Measure T's text to determine the ordinance discriminates against interstate commerce where the text expressly distinguishes between residential homeowners who reside in their South Lake Tahoe homes and all other residential property owners, including out-of-state owners. (See *Camps Newfound/Owatonna, Inc. v. Town of Harrison* (1997) 520 U.S. 564, 575-576.) The complaint's undisputed allegations of Measure T's adoption and its terms were the only facts necessary to plead a facial dormant Commerce Clause violation.
> *Id.* at pp. 1-2

So that is not a good start for a case claimed to be favorable, but good news for the City, the order modifying on 7/12/23 means under Rules of Court, rule 8.366(b), that opinion becomes final 30 days after and per Rule 8.500(e)(1) an additional 10 days thereafter to petition for Supreme Court review, which usually is decided in a month, but assuming not granted then 60 days after that to Petition for United States Supreme Court review, meaning it is a long way from

being any law, despite its many useful aspects to be addressed. Plus the Supreme Court has not approved its publication so it could just be non-citable authority.

The City did not mean the district judge (trial court) opinion in *Short Term Rental All. of San Diego v. City of San Diego* (S.D. Cal., June 12, 2023, 22cv1831-L-BGS), did they? Because that is barely persuasive authority, its not like it's a Circuit Court of Appeal case. San Diego is listed as one of the cities they represent but the attorney for defendant San Diego is "Tyler Louis Fischer Krentz San Diego City Attorney's Office".

But more good news, this time for the citizens, the good thing about the City willfully failing to cite the authority it was relying on, is that it caused a broader to search to ensue. The result was the uncovering of the most factually on point case to date. Thanks to that law firm's swift work and recommendation to look at the dormant commerce clause, which had not even occurred to me, the result was a case the Fifth Circuit (court of appeals is stronger than trial court) on facts exactly as attempted now, held the commerce clause was violated per se, due to the exact constitutional violations occurring here, discrimination.

In response to being called out for retaliating against exercising my constitutional rights, the city of Gardena opted for clear cut and well established discrimination against a population of 85% non-whites, as the City's plan refers to minorities, despite the whites being the minority. "*First* , the City imposed a residency requirement for STRs in residential neighborhoods. Its new policy provided that no person could obtain a license to own such an STR unless the property was also 'the owner's primary residence.'" (*Hignell-Stark v. The City of New Orleans* (5th Cir. 2022) 46 F.4th 317, 321) (*Hignell-Stark*)

> "[T]wo primary principles ... mark the boundaries of a [s]tate's authority to regulate interstate commerce": A state (1) "may not discriminate against interstate commerce" and (2) may not "impose undue burdens on interstate commerce." *South Dakota v. Wayfair, Inc.* , —— U.S. – ——, 138 S. Ct. 2080, 2090, 201 L.Ed.2d 403 (2018). But those principles do not apply with equal force.
>
> If a law discriminates against interstate commerce, it is in big trouble because "[a] discriminatory law is virtually *per se* invalid." *Dep't of Revenue v. Davis* , , 553 U.S. 328, 338, 128 S.Ct. 1801, 170 L.Ed.2d 685 (2008) (quotation omitted). It may be upheld "only if it advances a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives." *Ibid.* (quotation omitted). If there are "*any* available alternative methods for enforcing [the government's] legitimate policy goals," the law is unconstitutional. *Dickerson v. Bailey* , 336 F.3d 388, 402 (5th Cir. 2003) (emphasis added).
>
> *Hignell-Stark* at 325

When a federal circuit court is quoting the United States Supreme Court and follows it with "big trouble" that cannot be good.

> The City's residency requirement discriminates against interstate commerce. A law is discriminatory when it produces "differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." *United Haulers* , 550 U.S. at 338, 127 S.Ct. 1786 (quotation omitted). A law may discriminate on its face, in purpose, or in effect. *See Wal-Mart Stores, Inc. v. Tex. Alcoholic Beverage Comm'n* , 945 F.3d 206, 213 (5th Cir. 2019) ; *Allstate Ins. Co. v. Abbott* , 495 F.3d 151, 160 (5th Cir. 2007). But the only form of discrimination that implicates the dormant Commerce Clause is discrimination between "substantially similar entities." *Davis* , 553 U.S. at 342, 128 S.Ct. 1801 (quotation omitted).
> *Hignell-Stark* at 326

Now the City really needs to pay attention here:

"Indeed, the residency requirement even discriminates against *other residents of the City* —specifically, those who live in non-residential zones. But none of that matters. As the Supreme Court has repeatedly held, local ordinances that discriminate against interstate commerce are not valid simply because they also discriminate against intrastate commerce.(fn.17)" (*Hignell-Stark* at 327) *ibid.,* fn. 17:

> *C & A Carbone* , 511 U.S. at 391, 114 S.Ct. 1677 ; *Fort Gratiot Sanitary Landfill, Inc. v. Mich. Dep't of Nat. Res.* , 504 U.S. 353, 361, 112 S.Ct. 2019, 119 L.Ed.2d 139 (1992) ; *Dean Milk Co. v. City of Madison* , 340 U.S. 349, 354 n.4, 71 S.Ct. 295, 95 L.Ed. 329 (1951) ; *cf. Brimmer v. Rebman* , 138 U.S. 78, 82–83, 11 S.Ct. 213, 34 L.Ed. 862 (1891).

Just look at all of those Supreme Court decisions that declare the City is discriminating against me, wow.

> Our conclusion that the residency requirement is discriminatory puts it on death's doorstep. Recall that "[a] discriminatory law is virtually *per se* invalid." *Davis* , 553 U.S. at 338, 128 S.Ct. 1801 (quotation omitted). This case is no exception. The residency requirement can "survive only if it advances a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives." *Id.* (quotation omitted).
> *Hignell-Stark* at 328

To be certain, the City attorneys are no doubt saying out loud, that's why we amended it! Great. But let's see where this thing takes us.

> On appeal, the City offers three interests served by the residency requirement: preventing nuisances, promoting affordable housing, and protecting neighborhoods' residential character. There's no question that those are legitimate local purposes. But all those objectives can adequately be served by reasonable nondiscriminatory alternatives, so none of them can justify the requirement.
> *Hignell-Stark* at 328

Well that didn't take long.

> F. Short term rentals can create problems in residential areas due to such things as the potential for increased traffic, noise, parking issues, and can cause a change to the residential character of the community which can also lead to safety concerns. The City desires to alleviate these impacts to residential neighborhoods caused by short-term rentals.

Despite not possessing any facts to back those legal conclusions, federal law says not enough anyway. But as written the Supreme Court of the United States holds as to all of these so called findings: "*Papasan v. Allain*, 478 U.S. 265, 286, 106 S. Ct. 2932, (on a motion to dismiss, courts 'are not bound to accept as true a legal conclusion couched as a factual allegation')." (*Bell Atl. Corp. v. Twombly* (2007) 550 U.S. 544, 555)

I am so grateful that the law firm raised dormant commerce clause as that opened the door to commerce clause cases under the Supreme Court of the United States, on facts identical to ours, and that means the Ninth Circuit would have no reason to uphold discrimination attempted after retaliation.

Because all issues I raise can be used by any one else later, some important legal principles will be laid out. Just about one year ago, the City drafted a memo and cited a case under the Second District, which means its findings are binding on them, and federal court will defer to state court interpretations. Well, the City appears to have forgotten all about that case because everything it is doing now, is in direct defiance of the holdings of, *Keen v. City of Manhattan Beach* (2022) 77 Cal.App.5th 142, 148-50:

> The trial court correctly interpreted the City's ordinances: they always permitted short-term, as well as long-term, residential rentals. The City's ban on short-term rentals thus amended the status quo. This amendment required Commission approval, which the City never got. So the City's ban was not valid.
>
> The issue reduces to whether the City's old ordinances permitted short-term rentals. The following analysis demonstrates they did.
>
> The City always has allowed people to rent apartments and homes in the City on a long-term basis. In other words, it always has been legal to live in Manhattan Beach as a renter. No one disputes this. One would be rather surprised to discover a community anywhere that banned renting completely.
>
> Because rentals that are *long* -term have always been permissible under the City's ordinances, however, the City has been forced to distinguish between *long* -term residential rentals the City allows and *short* -term residential rentals the platforms promote and the City dislikes. Unfortunately for the City, its old residential zoning ordinances contain no long-term/short-term distinction.

Absent some distinction in the law, then, the law must treat long-term rentals the same as short-term rentals. If long-term rentals are legal, so too are short-term rentals. The ordinances offer no textual basis for a temporal distinction about the duration of rentals. The City could have enacted a distinction like that, but it never did.

Because its ordinances say nothing about the duration of rentals, the City cannot credibly insist its ordinances permit long-term residential rentals but have always banned short-term rentals. That interpretation makes no sense.

The crucial text is ordinance A.08, which defines "Use Classifications" for the City's zoning code. One use is "Single-Family Residential," defined as "[b]uildings containing one dwelling unit located on a single lot." A second use is "Multi-family Residential," which is defined as "[t]wo or more dwelling units on a site." This ordinance contains a chart that shows the City permits both uses in residential areas.

In other words, it is legal to build a residential house or an apartment building in the City's residential zones. Once it is built, you can reside there. Anyone can. This all makes sense. It would be surprising if it were otherwise.

The reasonable interpretation of permitting a "Single-Family Residential" building in a residential area is that people are allowed to reside in that building, whether they are owners or renters.

Why, under the text of the ordinance, are renters allowed in? Because residential renters are common in cities, as everyone knows, and nothing in the ordinance takes the unusual step of banning all renting in the residential areas of the City.

Use of the word "residence" does not imply some minimum length of occupancy. (Cf. *People v. Venice Suites, LLC* (2021) 71 Cal.App.5th 715, 726, 286 Cal.Rptr.3d 598 (*Venice Suites*) ["A 'residential building' is used for human habitation without regard to length of occupancy ...."]; *Greenfield* , *supra* , 21 Cal.App.5th at p. 899, 230 Cal.Rptr.3d 827 [the city in question historically treated short term rentals as a "residential" activity].)

It is possible to reside somewhere for a night, a week, or a lifetime. The City points to no legally precedented way to draw a line between the number of days that makes some place a "residence" and the number that shows it is not. (Cf. *Venice Suites* , *supra* , 71 Cal.App.5th at p. 732, 286 Cal.Rptr.3d 598 ["the dictionary definitions for apartment house do not indicate a required length of occupancy"].)

The same analysis applies to "Multi-family Residential," where the common form of a multi-family building is an apartment building. Apartment dwellers commonly rent. The City's zoning thus permits you to rent a house or an apartment in Manhattan Beach, which accords with common experience. The City's zoning does not regulate how long your stay can be.

The City's proposed distinction between long- and short-term rentals—the former always allowed, and the latter always forbidden—has no textual or logical basis. The City thus loses this appeal as a matter of textual interpretation.

The City incorrectly argues short-term rentals are more similar to, and therefore fall under the definition of, "Hotels, Motels, and Time-Share Facilities." With our emphasis, the ordinances define these facilities as "[e]stablishments offering lodging on a weekly or less than weekly basis, and *having kitchens in no more than 60 percent of guest units* ." The short-

> term rentals the City is trying to prohibit are of single- and multi-family residences in residential neighborhoods. Houses and apartments conventionally have kitchens. This argument is untenable. The City asks us to take judicial notice of a 1964 ordinance that defines a hotel a particular way. The City argues we should import this definition into the ordinance in the local coastal program. This is illogical. The different definition from decades before cannot prevail over the definition enacted by the City and certified by the Commission in the ordinance at issue. The older document is not relevant. We deny this request.
>
> The zoning ordinances certified by the Commission thus allow rentals of single- and multi-family residences in residential zones for any duration, including short-term rentals of the Airbnb variety.

That shuts down almost all of this purported draft ordinance. But also there is that golden oldie:

> The City relies heavily on the principle of permissive zoning. It argues California has adopted this doctrine: zoning ordinances prohibit any use they do not permit. But the City's ordinances *do* permit short-term rentals in residential zones. That is the only reasonable interpretation of the ordinances, as we have shown. This interpretation is not an affront to permissive zoning.
> *Keen* at 150

> "We affirm the judgment and award costs to Keen." (*Keen* at 151)

Good times. Let's take a stroll down memory lane and compare the present ordinance (blue).

"Findings. The City Council does hereby find and declare as follows:
A. Due to close proximity to entertainment venues such as SoFi Stadium, Los Angeles International airport, Fortune 500 companies, beaches, and other Southern California tourist destinations, the City of Gardena **has <u>become</u> a popular location for alternative short-term** lodging."

Has become means only in recent times has there been a boom in STRs. Yet, in my objection from last September, I noted:

Another stated finding of Ord. 1843 included, "WHEREAS, <u>the desire</u> to operate short-term rentals is <u>expected to increase</u> due to the proximity of Gardena to SoFi Stadium;"
In Ord. 1825 other findings were made:
"WHEREAS, Gardena is situated to be in a position **to capitalize on a demand for new hotel <u>spaces</u>** due to its <u>proximity to SoFi Stadium</u>, Hollywood Park, Dignity Health Sports Park (formerly "Stub Hub"), and other attractions; and
WHEREAS, **during the past year, <u>developers have indicated</u>** that the City's development standards have been an **impediment to new hotel development**; and
WHEREAS, at the City Council meeting on July 14, 2020, the City Council gave direction to staff to <u>implement changes</u>;"

The City desperately wants to preserve, not the neighborhood's character, but its relationship with the big business agenda that significantly changes the character of the City. As I

have noted, the total number of available beds is around the size of a hotel, thus this agenda is for the purpose of promoting private enterprise, as written in public documents.

B. The City of Gardena has never specifically allowed short-term rental lodging as an allowed use and considers such uses to be prohibited in the City.

Again from the same letter:

Proposed Ord. 1843 "short-term rentals of residences for lodging purposes… are not listed as allowed uses under the Gardena Municipal Code"

> The Staff Report of 9/6/22, stated:
> "An STR is any rental of a dwelling of thirty days or less. The City's position has been that because STRs are not listed as an allowed use in the zoning code, they are prohibited. This is known as permissive zoning. The recent case of *Keen v. City of Manhattan Beach* decided in April of this year renders this argument invalid. Due to this decision, the issue of regulating STRs was brought to the City Council for discussion and to provide direction to staff to draft an ordinance."

The city has stated many times that STRs were never prohibited and permissive zoning was the only theory relied on.

C. Recent case law calls into question whether the City's prohibition on short-term rentals is valid without the use being specifically prohibited.

Case law expressly declared the City never had a prohibition. If the City is going to make findings, then they should be based on fact.

D. Since 2017, the City has specifically prohibited short-term rentals on properties which have an accessory dwelling unit (ADU), regardless of whether the short-term rental was of the ADU or the main residential structure.

Finally, an almost true statement. As it was specific under 18.13.040

"C. Neither the accessory dwelling unit nor the primary residence shall be rented out for less than thirty-one consecutive calendar days. A covenant shall be recorded to this effect in a form approved by the city attorney."

You know what else was specific?

"This section only applies to accessory dwelling units **built before** January 28, 2020. (Ord. 1814 § 6 (part), 2020: Ord. 1778 § 5 (part), 2017. Formerly 18.13.030)"

18.13.070
"3. A restriction from renting either the **junior** accessory dwelling unit or the single-family dwelling for less than thirty-one consecutive, calendar days;" (Ord. 1814 § 6 (part), **2020**)

So that was a partial truth, while not defining what a short term rental was, the City did venture into preemption by regulating the state occupied field when no constitutional grant of authority authorized this enactment regulating "less than thirty-one consecutive calendar days" in

the former that limited its application to pre-2020 builds and the latter was enacted in 2020 not 2017. Regardless, these declarations are void.

"As we observed more than a century ago, '[e]very constitutional provision is self-executing to this extent, that everything done in violation of it is void.' [Citation]" (*Katzberg v. Regents of the University of California* (2002) 29 Cal.4th 300, 307)

The City was reminded of its constitutional limitations many times, yet insists on violating them.

Cal. Const. art. VI, § 2 (a) "The Legislature shall prescribe uniform procedure for city formation and provide for city powers."

Cal. Const. art. VI, § 7 "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."

> Moreover, the "general principles governing state statutory preemption of local land use regulation are well settled. 'The Legislature has specified certain minimum standards for local zoning regulations (Gov. Code, § 65850 et seq.)' even though it also 'has carefully expressed its intent to retain the maximum degree of local control (see, e.g., *id.*, §§ 65800, 65802).' (*IT Corp. v. Solano County Bd. of Supervisors*[, *supra*], 1 Cal.4th [at p.] 89.) (4) 'A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations *not in conflict with general laws*." (Cal. Const., art. XI, § 7, italics added.) '"**Local legislation in conflict with general law is void**. Conflicts exist if the ordinance duplicates [citations], contradicts [citation], or enters an area fully occupied by general law, either expressly or by legislative implication [citations]."'" (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 747 [29 Cal.Rptr.2d 804, 872 P.2d 143].) Local legislation is "duplicative" of general law when it is **coextensive** therewith and "contradictory" to general law when it is **inimical** thereto. Local legislation enters an area "fully occupied" by general law when the Legislature has expressly manifested its intent to fully occupy the area or when it has impliedly done so in light of recognized indicia of intent. (*Great Western Shows, Inc. v. County of Los Angeles, supra*, 27 Cal.4th at pp. 860-861.) [Emphasis added.]
> *Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1150

Inimical means "tending to obstruct or harm" (Oxford)

Coextensive means "extending over the same space or time; corresponding exactly in extent." (*Id.*)

State law expressly regulates rents, and authorizes less than 30 days. The ADU field is extensively covered by state law, and this City efforts to enact legislation that is coextensive with it is void.

> In the absence of a statutory definition, we assume that the Legislature intended that "rent" would have its ordinary meaning, which is compensation for the use of land (*Shintaffer v. Bank of Italy etc. Assn.* (1932) 216 Cal. 243, 246 [13 P.2d 668]) and the means by which landlords make a profit on their property (*Action Apartment Assn. v. SantaMonica Rent Control Bd.* (2001) 94 Cal.App.4th 587, 598 [114 Cal.Rptr.2d 412]).

Cacho v. Boudreau (2007) 40 Cal.4th 341, 349

Civil Code Title 5, Chapter 2 Hiring of Real Property

> Civ. Code, § 1940 ("**(a)** Except as provided in subdivision (b), this chapter **shall** apply to all persons who hire dwelling units **located within this state** including tenants, lessees, boarders, lodgers, and others, however denominated.
> **(b)** The term "persons who hire" shall not include a person who maintains either of the following:**(1)** Transient occupancy in a hotel, motel, residence club, or other facility when the transient occupancy is or would be subject to tax under Section 7280 of the Revenue and Taxation Code. The term "persons who hire" shall not include a person to whom this paragraph pertains if the person has not made valid payment for all room and other related charges owing as of the last day on which his or her occupancy is or would be subject to tax under Section 7280 of the Revenue and Taxation Code.
> **(2)** Occupancy at a hotel or motel where the innkeeper retains a right of access to and control of the dwelling unit and the hotel or motel provides or offers ***all*** of the following services to ***all*** of the residents:**(A)** Facilities for the safeguarding of personal property pursuant to Section 1860.**(B)** Central telephone service subject to tariffs covering the same filed with the California Public Utilities Commission.**(C)** Maid, mail, and room services.**(D)** Occupancy for periods of less than seven days.**(E)** Food service provided by a food establishment, as defined in Section 113780 of the Health and Safety Code, located on or adjacent to the premises of the hotel or motel and owned or operated by the innkeeper or owned or operated by a person or entity pursuant to a lease or similar relationship with the innkeeper or person or entity affiliated with the innkeeper.
> **(c)** "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
> **(d)** Nothing in this section shall be construed to limit the application of any provision of this chapter to tenancy in a dwelling unit unless the provision is so limited by its specific terms.")

Civ. Code, § 1944 ("A hiring of lodgings or a dwelling house for an unspecified term is presumed to have been made for such length of time as the parties adopt for the estimation of the rent. Thus a hiring at a monthly rate of rent is presumed to be for one month. In the absence of any agreement respecting the length of time or the rent, the hiring is presumed to be monthly.")

Civ. Code, § 1946 ("A hiring of real property, for a term not specified by the parties, is deemed to be renewed as stated in Section 1945, at the end of the term implied by law unless one of the

parties gives written notice to the other of that party's intention to terminate the same, at least as long before the expiration thereof as the term of the hiring itself, not exceeding 30 days;")

The claimed power to regulate who can rent and under what conditions, as set forth, was preempted by state law.

Civ. Code, § 1946.5 ("**(a)** The hiring of a room by a lodger on a periodic basis within a dwelling unit **occupied by the owner** may be terminated by either party giving written notice to the other of his or her intention to terminate the hiring, at least as long before the expiration of the term of the hiring as specified in Section 1946. The notice shall be given in a manner prescribed in Section 1162 of the Code of Civil Procedure or by certified or registered mail, restricted delivery, to the other party, with a return receipt requested.**(b)** Upon expiration of the notice period provided in the notice of termination given pursuant to subdivision (a), any right of the lodger to remain in the dwelling unit or any part thereof is terminated by operation of law. The lodger's removal from the premises may thereafter be effected pursuant to the provisions of Section 602.3 of the Penal Code or other applicable provisions of law.**(c)** As used in this section, "lodger" means a person contracting with the owner of a dwelling unit for a room or room and board within the **dwelling unit personally occupied by the owner**, where the owner retains a right of access to all areas of the dwelling unit occupied by the lodger and has overall control of the dwelling unit.**(d)** This section applies only to owner-occupied dwellings **where a single lodger** resides. Nothing in this section shall be construed to determine or affect in any way the rights of persons residing as lodgers in an owner-occupied dwelling where more than one lodger resides.")

E. The City Council wishes to make clear that short-terms rentals of an entire home are not permitted in the City. The adoption of this ordinance is not meant to indicate that short-term rentals were previously allowed in the City.

They certainly were not prohibited, thus *Keen* applies. The City is precluded by the constitutions from attempting to regulate rent while simultaneously discriminating.

Civ. Code, § 1947 ("When there is no usage or contract to the contrary, rents are payable at the termination of the holding, when it does not exceed one year. If the **holding is by the day**, week, month, quarter, or year, rent is payable at the termination of the respective periods, as it successively becomes due.")

Your claimed finding under F, was destroyed by the U.S. Supreme Court above, and equally destroys below:

R. Adoption of this Ordinance is for public necessity, convenience, and the general welfare as it provides protections to persons living in residential zones and protects the supply of housing in the City while taking into consideration constitutional requirements.

Which ties into the next incredible aspect the City is trying to employ.

G. According to the most recent Regional Housing Needs Allocation which was incorporated into the City's 6th Cycle Housing Element, the City has a total need of 5,735 units, 55 percent of which are for very low, low and moderate income households.

To address that aspect, which the City really should have thought of sooner, again the Sept. letter addressed the most disingenuously claim of all:

The Council answered this concern for all, as to the finding made by the Council, "changing the character of a residential neighborhood, and with the case of housing – creating an impact on housing supply;" (Proposed Ord. 1843) because the Council had already made another finding, on May 11, 2021, Ord. 1828, "The Zoning Changes will allow the development of a high-density, 265-unit, **first-class** apartment project in the north end of Gardena which will provide new and needed housing opportunities in the City." The median income of a resident in Gardena is $55,000, that certainly does not seem like a salary that can afford a "first-class apartment". Those 265 units adds more than 165% of the cars from all short term rentals to the intersection of El Segundo and Crenshaw, where 58,300 cars cross paths daily. Those 264 units create more trash, take up more parking, and most certainly will create an impact on the housing supply, for rich people.

The city was fully aware that It had the authority to "[r]equire, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households" (Gov. Code, § 65850 (g)) but the city did not so require that. Instead the city authorized "265-unit, **first-class** apartment[s]" that will only cater to the upper class, and serve to increase the rental median price; then claimed that STRs will drive up the rental prices and serve to take away affordable housing.

H. Short term rentals impact the supply of long-term rental housing available in the City and increase the cost of housing. The City desires to preserve its available housing stock.

Now that is a tough one, what in the world could anyone say to rebut such a contention.
Well, of course, this body said plenty on this point.
"MOTION: It was moved by Vice Chair Langley and seconded by Commissioner Kanhan to approve Resolution No. PC 9-23 approving Vesting Tentative Map #1-22 and directed staff to file a Notice of Exemption The motion was passed by the following roll call vote:
Ayes: Langley, Kanhan, Wright-Scherr, Henderson
Noes:" (Minutes 5-16-23 pp.2-3) (Approved 6-6-23 minutes p.1)

The Commission knows where I am going with this one.

"6.B VESTING TENTATIVE MAP #1-22 A request for a vesting tentative map per Chapter 17.08 of the Gardena Municipal Code, for the subdivision of airspace to create five **condominium units** for a property located in the Medium Residential Multiple-Family Residential Zone (R-3) zone and direct staff to file a Notice of Exemption pursuant to Guidelines section 15061(b)(3). Project Location: 1715 West 149th Street (APN: 6103-022-091)" (*Id*.)

HOUSING STOCK
17.12.010 Purpose.

> G. The council finds that the conversion of existing **apartment buildings into condominiums diminishes the supply of rental housing** and displaces residents and will tend to require them to move outside the city when a housing shortage exists. The council finds and declares that **when the number of vacant dwelling units in the city is equal to or less than <u>three percent</u> of the total number of dwelling units in the city, <u>a housing shortage exists</u>** which is inconsistent with the purposes of this chapter and with the goals and policies set forth in the housing element of the general plan of the city; and

If anyone on the Commission does not know where this is going, you should pay close attention.

17.12.020

A. To insure a reasonable balance of rental and ownership housing in the city and a variety of individual choices of tenure, type, price and location of housing and at the same time provide an additional mode of property ownership;
B. To maintain the supply of rental housing for low and moderate-income persons and families and to provide an additional mode of property ownership;

C. To reduce and avoid the displacement of long-term residents, particularly senior citizens and families with school-age children, who may be required to move from the community due to a shortage of replacement rental housing;

G. **A condominium project**, as the same is defined in Section 1351 of the Civil Code of the state, which is divided into five or more condominium units shall be subject to the requirements and procedures applicable to subdivisions as generally set forth in Chapters 17.04 and 17.08 and to the additional requirements and procedures set forth in this chapter.

L. "Vacancy deficiency" means the number of vacant apartment units needed to raise the vacancy rate to three percent.

M. "Vacancy rate" means the number of apartments being offered for rent or lease in the city shown as a percentage of the total number of apartments offered for or under rental or lease agreement in the city.

N. "Vacancy surplus" means the number of vacant apartments being offered for rent or lease in excess of a three percent vacancy rate.

17.12.030 Determination of vacancy rate and surplus.

In **December of each year**, the **community development director** shall determine the vacancy rate and the vacancy surplus, if any, which **shall apply for the entire year**.

A. **No application** for the approval of a tentative tract or parcel map for a condominium or stock cooperative conversion **shall be filed unless there is a vacancy surplus**.

B. **When there is a vacancy surplus** as of the **most recent determination**, an application for the approval of a tentative tract or parcel map **for a conversion may be filed with the community development department** if the number of lots, parcels, units, or rights of exclusive occupancy proposed by all such filings does not exceed the vacancy surplus by more than ten percent. (Prior code § 10-2.22.1)

"On November 28, 2022, the City received an application requesting the approval of a new vesting tentative map for the subdivision of the property at 1715 W. 149th Street to create five condominium units."

"lot located in the Medium Density Multiple-Family Residential (R-3) zoning district"

"The applicant is requesting the approval of Vesting Tentative Map #1-22 for the subject parcel to create five condominium lots in accordance with Gardena Municipal Code

("GMC") Chapter 17.08. **Staff recommends** the Planning and Environmental Quality Commission **approve the vesting tentative map**. The analysis supports the findings set forth in the accompanying resolution"

CITY OF GARDENA

PLANNING AND ENVIRONMENTAL QUALITY COMMISSION

STAFF REPORT

VESTING TENTATIVE MAP #1-22

AGENDA ITEM #6.B

DATE: May 16, 2023

According to the City's own laws, the above proves as a matter of law, the claims of need to preserve housing stock is an outright lie. Intended to actually be communicated to a court. Drafted by attorneys no less, that is a disbarrable offense, and done in public record.

Bus. & Prof. Code, § 6068 ("It is the duty of an attorney to do all of the following:

(a) To support the Constitution and laws of the United States and of this state.

(c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

(d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and **never to seek to mislead the judge** or any judicial officer by an artifice or false statement of fact or law.

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

(h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.")

Bus. & Prof. Code, § 6106 ("The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension.If the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.")

This was pointed out, and yet the laws were ignored. Civil Code, § 827, the right to charge "rent" for "tenancies for less than one month" as to "a residential dwelling" is granted by

the state. See also Civil Code, § 1946 “hiring of real property” “not exceeding 30 days” “the rent shall be due and payable”. The City of Gardena is preempted in this field by the state.

Sections I through L and 18.06.020, 18.12.040, 18.18A.030, 18.19.050, 18.19A.050, 18.20.040, 18.28.040 and CHAPTER 5.76

Each and all violate *Keen* and Gov. Code, § 65852 (“All such regulations shall be uniform for each class or kind of building or use of land throughout each zone, but the regulation in one type of zone may differ from those in other types of zones.”)

Did the drafters of this ordinance really think that it would go unnoticed that the ordinance was constructed from various statutes, none of which apply, but the parts therein are the very aspects enacted. But the failure of a whole statute’s commands, does not grant partial. The City is failing to comply with: Gov. Code, § 65852.21, Gov. Code, § 65860, Gov. Code, § 65862, Gov. Code, § 7060, Gov. Code, § 7061, Gov. Code, § 65853, Gov. Code, § 65854, Gov. Code, § 65855

The entire scheme of this ordinance claimed as zoning, whereby the City claims power to create business, then regulate it, and regulate the affairs of persons not subject to its jurisdiction, while dictating how and when and what the business shall do, is completely foreign to capitalism and outside of the grant of authority provided by the legislature.

Gov. Code, § 65850 (“The legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following: **(a)** Regulate the use of buildings, structures, and land **as between** industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes. **(b)** Regulate signs and billboards. **(c)** Regulate all of the following:**(1)** The location, height, bulk, number of stories, and size of buildings and structures.**(2)** The size and use of lots, yards, courts, and other open spaces.**(3)** The percentage of a lot which may be occupied by a building or structure.**(4)** The intensity of land use. **(d)** Establish requirements for offstreet parking and loading. **(e)** Establish and maintain building setback lines.**(f)** Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.**(g)** Require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or

extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance shall provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.")

The zoning laws most certainly grant local power, but what has been misunderstood is that the legislature used words that the City ignores, *use of land as <u>between</u> residences.* The principles of statutory construction dictate that we cannot read a word out of a statute nor construct it to make any words superfluous.

Code Civ. Proc. § 1858

> In the <u>construction of a statute</u> or instrument, the office of the Judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or <u>to omit what has been inserted</u>; and where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all.

Code Civ. Proc. § 1866

> When a statute or instrument is equally susceptible of two interpretations, one in favor of natural right, and the other against it, the former is to be adopted.

Since our state believes that the use of land is a constitutional right, to interpret the zoning lands as a grant of plenary authority by disregard of the use of "between" and diminish a natural right as a liberty interest over property.

In the statute, the word "between" is a preposition. It is used to show the relationship and distribution of various uses of buildings, structures, and land. The preposition "between" is used to indicate a connection or relationship between two or more things. In this case, it is used to indicate the relationship between different uses of buildings, structures, and land.

In the statute, the preposition "between" is used to express the relationship or distribution between various uses of buildings, structures, and land. The statute lists different types of uses that are relevant for the regulation of buildings, structures, and land. These uses include industry, business, residences, open space, agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.

The use of "between" suggests that these uses are related to each other and that there is a distribution or allocation of these uses across the available buildings, structures, and land. For example, the sentence implies that there should be a balance or proportionate distribution between different uses, such as industry and open space, or residential and recreational uses. The preposition

"between" suggests that there is an interrelationship between these different uses, and that they need to be regulated and managed in a way that is fair and sustainable.

The law did not grant power to create and dictate business. The rental units in this city are not all subjected to this enormous complex web that runs afoul of the authority that was granted. Gov. Code, § 65852.150 ("**(b)** It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.")

As to the laughable grievance procedure, the California Supreme Court says no way, after the complete disregard and repeated attempts without doing legal research and only in the face of opposition, the City ignores our right to be heard. "The fundamental requisite of due process of law is the opportunity to be heard." (*Grannis v. Ordean* (1914) 234 U.S. 385, 394)

> In any event, apart from the inadequacy of the notice, the… evaluation process itself does not fairly constitute an adequate "hearing." … procedures are intended only to evoke and record a public response… of a proposed project. … process does not guarantee an affected landowner a "meaningful" predeprivation hearing (*Bell* v. *Burson, supra,* 402 U.S. 535, 541; *Beaudreau* v. *Superior Court, supra,* 14 Cal.3d 448, 458) at which his *specific* objections to the threatened interference with his property interests may be raised. Accordingly, the existence…[of] procedures neither satisfies the due process demands of plaintiff's claim nor constitutes a "remedy" which he was required to exhaust. (See *Ramos* v. *County of Madera* (1971) 4 Cal.3d 685, 691 [94 Cal.Rptr. 421, 484 P.2d 93].)
>
> *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 619

> The hearing required by the Due Process Clause must be "meaningful," *Armstrong* v. *Manzo*, 380 U.S. 545, 552 (1965), and "appropriate to the nature of the case." *Mullane* v. *Central Hanover Bank Trust Co., supra*, at 313. It is a proposition which hardly seems to need explication that a hearing which excludes consideration of an element essential to the decision whether licenses of the nature here involved shall be suspended does not meet this standard.
>
> *Bell v. Burson* (1971) 402 U.S. 535, 541-42

It was bad enough that the City sent a private company in to snoop around on us and collect information in violation of Cal. Const. art. I § 1, but now… the federal constitution too?

G. The host shall keep records of the vehicle license plate numbers of guests, which shall be provided to the City upon request.

P. The host shall keep and preserve, for a minimum period of three years, all records regarding each home sharing stay, including the length of stay for each booking and the corresponding rate charged, which shall be provided to the City upon request.

This was declared a specific violation of the Fourth Amendment.

"*Ferguson v. Charleston,* 532 U.S. 67, 86, 121 S.Ct. 1281, 149 L.Ed.2d 205 (2001) (holding that a hospital policy authorizing "nonconsensual, warrantless, and suspicionless searches" contravened the Fourth Amendment); " *City of L. A. v. Patel* (2015) 576 U.S. 409, 417

> The Court has held that business owners cannot reasonably be put to this kind of choice. *Camara,*387 U.S., at 533, 87 S.Ct. 1727 (holding that "broad statutory safeguards are no substitute for individualized review, particularly when those safeguards may only be invoked at the risk of a criminal penalty"). Absent an opportunity for precompliance review, the ordinance creates an intolerable risk that searches authorized by it will exceed statutory limits, or be used as a pretext to harass hotel operators and their guests. Even if a hotel has been searched 10 times a day, every day, for three months, without any violation being found, the operator can only refuse to comply with an officer's demand to turn over the registry at his or her own peril.
> *City of L. A.* at 421

"Over the past 45 years, the Court has identified only four industries that "have such a history of government oversight that no reasonable expectation of privacy ... could exist for a proprietor over the stock of such an enterprise," *Barlow's, Inc.,* 436 U.S., at 313, 98 S.Ct. 1816. " (*City of L. A.* at 424)

> the Court rejected as a basis for deeming "the entirety of American interstate commerce" to be closely regulated in *Barlow's, Inc.*436 U.S., at 314, 98 S.Ct. 1816. If such general regulations were sufficient to invoke the closely regulated industry exception, it would be hard to imagine a type of business that would not qualify. See Brief for Google Inc. as *Amicus Curiae* 16–17; Brief for the Chamber of Commerce of United States of America as *Amicus Curiae* 12–13.
> *City of L. A.* at 425

The City wants to take on Google… good luck.

Finally…

The one aspect the City pretends it never heard, is the one thing the City is powerless over.

“‘“'If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.’’ (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897)” (*Action v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1242)

Civil Code § 1946 and § 1947 contemplate rents under 30 days, as noted compensation for any use of the land, which by Airbnb contract is a license grant to hosts. A subject the City is powerless to regulate.

> The interests which enjoy constitutional protection as "property" are generally defined by state law. (Civ. Code, § 755; Lucas v. South Carolina Coastal Council (1992) 505 U.S. 1003, 1030 [112 S.Ct. 2886, 2901, 120 L.Ed.2d 798].) In California "[t]he right to acquire and possess property, guaranteed by the constitution, includes the right to dispose of it, or any part of it, and for that purpose to divide it in any possible manner, either by separating it into estates for successive periods or otherwise, and to dispose of one or more of such estates." (Tennant v. John Tennant Memorial Home (1914) 167 Cal. 570, 575 [140 P. 242]; Gregory v. City of San Juan Capistrano (1983) 142 Cal.App.3d 72, 88 [191 Cal.Rptr. 47].) Just as that right encompasses the power to grant a license to use a portion of the owner's property temporarily (see Ex Parte Quarg(1906) 149 Cal. 79 [84 P. 766] [theater ticket]), it includes the right to create a leasehold estate.
> *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761, 794-95

The City is violating so many constitutional provisions it is not possible to count. After retaliating against me, the City opted for widespread discrimination, then continued its retaliation against me specifically. All prior objections submitted are incorporated by reference to establish the many violations.

5.76.130 Enforcement; penalties.
SECTION 17. Effective Date.
A. This Ordinance shall take effect on the thirty-first day after passage.

B. Notwithstanding subsection A, short-term rentals that were in effect on the date of adoption of this Ordinance shall have until 180 days after the effective date to cease all operations. This extension shall not apply to any vehicle or trailer which is being used as a short-term rental.

SECTION 18. Relief.
B. There are no appeal rights regarding vehicles or trailers being used as short-term rentals.

There has never been a law regarding trailers, this is specific to only me as the only one with high-end Airstream trailers as options that people love. The retaliation for speaking out is shameful.

Controlling business by government enterprise, spying on citizens, punishing them for speaking out and petitioning for redress of grievances is the very essence of communism. I fled it over 25 years ago, only to run right to the City that is practicing it.

Правители не заботятся о людях, которым они призваны служить, мы крестьяне, предназначенные только для того, чтобы служить интересам богатых, которым вы служите.

Mariya Wrightsman

Мария Райтсман

For the Second time now:

It appears that prior public comments were "inadvertently" omitted from the agenda as posted on the planning committee web page, that were posted on a different planning committee web page as directed to by the notice by publication sent out for Short Term Rentals. Since they were clearly a part of the record on public comment, they should be so included in the record on public comment, and are hereby resubmitted to assist with this oversight.

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LAW OFFICE OF PAUL L. CASS

7777 GREENBACK LN. #107
CITRUS HEIGHTS, CA 95610

PAUL L. CASS LL.M.
ATTORNEY AT LAW

May 11, 2023

RE: SHORT TERM RENTALS GARDENA

MY CLIENT: MARIYA WRIGHTSMAN PROPERTY OWNER

DEAR PLANNING COMMISSION:

As the City Attorney was specifically advised in October of 2022, the City of Gardena has violated my client's (Ms. Wrightsman's) constitutional rights and based on the last public notice apparently intend to do so again. The City of Gardena is prohibited from violating my client's constitutional property rights and any effort to do so would invite a lawsuit for equitable relief to have the local legislation deemed void and unenforceable as a matter of law.

The City of Gardena is engaging in harassment in violation of the US and State constitution. As was spelled out to the City Attorney in an October 2022 letter, the Council Members are not immune under a 1983 action for violating these rights, nor is the City itself. This letter serves to put the City of Gardena on notice that pursuant to Civil Code, § 827, the right to charge "rent" for "tenancies for less than one month" as to "a residential dwelling" is granted by the State of California. [See also Civil Code, § 1946 "hiring of real property" "not exceeding 30 days" "the rent shall be due and payable"]. The City of Gardena is preempted in this field by the State law.

Not to mention the constitutional issues. Below are the Airbnb terms of use:

8. Terms specific for Guests
"8.2 Booking Accommodations
8.2.1 You understand that a confirmed booking of an Accommodation ("**Accommodation Booking**") is a limited license granted to you by the Host to enter, occupy and use the Accommodation for the duration of your stay, during which time the Host (only where and to the extent permitted by applicable law) retains the right to re-enter the Accommodation, in accordance with your agreement with the Host."

The interests which enjoy constitutional protection as "property" are generally defined by state law. (Civ. Code, § 755; *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1030.) In California "[t]he right to acquire and possess property, guaranteed by the constitution, includes the right to dispose of it, or any part of it, and for that purpose to divide it in any possible manner, either by separating it into estates for successive periods or otherwise, and to dispose of one or more of such estates." (*Tennant v. John Tennant Memorial Home* (1914) 167 Cal. 570, 575; *Gregory v. City of San Juan Capistrano* (1983) 142 Cal.App.3d 72, 88.) Just as that right encompasses the power to grant a license to use a portion of the owner's property temporarily (see *Ex Parte Quarg* (1906) 149 Cal. 79 [theater ticket]), it includes the right to create a leasehold estate. *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761, 794-95

"'''If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.'' (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897)" (*Action v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1242) "As we observed more than a century ago, '[e]very constitutional provision is self-executing to this extent, that everything done in violation of it is void.' [Citation]" (*Katzberg v. Regents of the University of California* (2002) 29 Cal.4th 300, 307) "[V]oid may be attacked anywhere, directly or collaterally whenever it presents itself, either by parties or strangers. It is simply a nullity, and can be neither a basis nor evidence of any right whatever." (*Andrews v. Superior Court* (1946) 29 Cal.2d 208, 214)

Void in legal terms means it never existed.

Please present this letter to the City Attorney's Office, whom will be able to advise of the correctness of the law that prohibits the current course of action.

If the City wishes to readdress this issue, it is suggested to pursue the only correct legal avenue available, by sponsoring an initiative to amend the California Constitution and also lobby the California state Legislature to change existing laws. Because the City can only proceed in this manner, future attempts to enact local legislation which is void will result in a Federal action under 42 U.S.C. §§ 1983 and 1985 pursuant to the equal protection clause of the Fourteenth Amendment. Due process protections are necessary "to insure that the state-created right is not arbitrarily abrogated." (*Vitek v. Jones* (1980) 445 U.S. 480, 489, quoting *Wolff v. McDonnell*, (1974) 418 U.S. 539, 557) and see *Vitek* at 491 fn. 6. In reality the amount of rentals of less than 30 days is minimal within the boundaries of Gardenia. However, since my client invested heavily before any attempt was made to change the laws, then this fact inures to my client's benefit. Legally under existing laws the City may not unilaterally change the rules without subjecting the City to a costly legal battle. The City's plan of action would be deemed arbitrary and is a form of "taking" which is prohibited.

The issue of **"grandfathering"** existing Gardena rentals (which are few in number) is not before us at this time but may in the future be a remedy especially if there is a situation where the City affirms its plan and the client is forced to file a Federal Lawsuit and tack-on the State law claims. If this event of a total ban on rentals of less than 30 days occurs then such action will cause all concerned parties to waste resources in a quagmire of litigation. If the City wanted to bypass litigation and to that end it inserted a grandfather provision in its expected law this would make it where the City might have some leverage as to new units (post legislation), assuming some future attempt by a property owner to engage in rentals of less than 30 days. However, that possibility is not yet before us. The current understanding is that the City will be seeking a total ban on rentals of less than 30 days which would trigger a lawsuit / petition.

Best,

PAUL L. CASS, ESQUIRE SBN 158,323

To the City of Gardena Planning Commission June 20, 2023

The Gardena City Council Minutes of May 23, 2023 state:

"10.C MAY 16, 2023
MEETING ZONE TEXT AMENDMENT #3-23
The Planning Commission considered a recommendation to the City Council on the adoption of an ordinance amending Title 18 and Title 5, Zoning, of the Gardena
Municipal Code relating to regulations for short-term home sharing rentals in residential zoning districts throughout the city and direction to staff to file a Notice of Exemption pursuant to CEQA Guidelines Section 15061(b)(3) and 15308.
Commission Action: A motion was made to reopen the public hearing and continue it to the June 20, 2023 meeting, and direction to staff to make modifications to the draft ordinance *relating to onsite parking space requirements, timeframe for compliance properties with existing listings, and to add a time extension process for compliance*. The motion was passed by a vote of 4-0-0 page 6 of the City Council minutes of 5/23/23" pp. 4-5

From the June 20, 2023 Agenda Packet:

"The Planning Commission is being asked whether the extension of time and relief request should be applied to those existing listings within an Accessory Dwelling Units (ADUs), as highlighted in yellow in the attached Ordinance. *All changes are shown in redline*." pp.1-2

"SECTION 16. Effective Date.
A. This Ordinance shall take effect on the thirty-first day after passage.
B. Notwithstanding subsection A, short term rentals that were in effect on the date of adoption of this Ordinance shall have until 90 days after the effective date to cease all operations. This extension shall not apply to any property that has an accessory dwelling unit. This extension shall not apply to any vehicle or trailer which is being used as a short term rental." pp.13-14

"SECTION 17. Relief.
A. The Owner of any residence being used for a short-term lodging rental may appeal the termination of the use pursuant to the following administrative procedure:
…
B. There are no appeal rights regarding accessory dwelling units, including junior accessory dwelling units, as the prohibition is a declaration of existing law.
C. There are no appeal rights regarding vehicles or trailers being used as short term rentals."
pp.14-15

The additional text included in this draft were not shown in red. No changes were shown in redline, because no changes were made. The blue highlight over the last sentence of every section was added language from the last hearing.

I very aptly noted at the last hearing when addressing this body in public, there is no reason to speak to those that will not listen. The staff then read aloud from my attorney's letter

noting that this course of conduct was void for want of power to enact these laws, yet made no changes despite the void nature.

While not in red, the staff did include: “The Request shall state all reasons, including but not limited to alleged abridgements of the appellant’s constitutional rights, and why the prohibition should not be made effective as set forth in Section 16 of this Ordinance on the 90th day after effective date extension and relief.” Under the heading “Relief” p. 14

But the staff did prove that they were listening to me, by adding the language that was not noted in red, as the blue highlighted text on the previous page is language that is specific to only me. Despite the city’s claim that ADU’s are prohibited from short term rentals being a clear misreading of the state law that controls this subject and specifically my properties are exempted under state law, the city has arbitrarily and capriciously extended the reach to the entire property, not isolating the ADU. Yet, on the very next line noted that the appeal and extension rights were denied specific to the unit (vehicle), not the entire property, i.e., “not apply to any property”; “not apply to any vehicle”. Therefore, the adjournment can only be seen as an excuse to amend the laws in a manner that is specific to me, intended as punishment for speaking out.

The toll exacted from my rights, has been targeted at me for exercising my constitutional right “to petition the Government for a redress of grievances.” (U.S. Const. Amendment I)

It did not matter that under the California Constitution art. I sec. 3 that “(a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.” Because it is clear by presenting punitive laws that directly apply to me alone, out of the entire group of hosts, animus is intended to silence me.

Nor does it matter that under the California Constitution art. I sec. 1 that “All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.” Because in defending my inalienable property rights, the city has exacted a toll, to punish me for presenting the law that expressly put the city on notice that it was acting without a grant of authority. Thus, I have learned my lesson, exercising rights is dangerous to my rights.

Having left Ukraine over twenty years ago, but still raised as a child in the Soviet Union, I confess that I had forgotten this lesson. Thank you for reminding me comrades.

I am forced to cease enjoyment of my rights due to the cost that will be imposed on me for engaging in that which is guaranteed to all others in this county.

The theory of Communism may be summed up in the single sentence: Abolition of private property.

- Karl Marx

I had forgotten the old party lines instilled in us children:

Идеи Ленина живут и побеждают!

Lenin's ideas live and win!

Слава великому Сталину!

Glory to the great Stalin!

Spaciba,

Mariya Wrightsman

To the Lead Agency as May 19, 2023
The City of Gardena

RE: Notice of Preparation and Scoping Meeting for the City of Gardena Land Use Plan, Zoning Code & Zoning Amendment Environmental Impact Report

PUBLIC COMMENT PERIOD EXTENDED to May 19, 2023

Cal. Code Regs., tit. 14, § 15044 ("Any person or entity other than a responsible agency may submit comments to a lead agency concerning any environmental effects of a project being considered by the lead agency.")

First I would like to thank the Lead Agency for extending public comments for an additional week. As the Lead Agency knows, the hearing held on this matter was closed to the public so we were not able to participate which you will please note, since your report to the state must include public comments and Gov. Code, § 65583 ("(c)(9) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.")

It was not easy to find because the Lead Agency posted on their agenda page: "The City of Gardena Land Use Plan and Zoning Amendments Project proposes changes to the land use designation and zoning for parcels located throughout the City of Gardena."

But the title of the report we were to read was named: "Review project materials for the Revised 2021-2029 Housing Element on the Planning Projects Page" Because a secret meeting and mislabeled documents are the opposite of diligent efforts, it can be presumed that this was part of the intended consideration due the public. Cal. Code Regs., tit. 14, § 15064 ("**(c)** In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the lead agency must still determine whether environmental change itself might be substantial.") It seems the substantial impact on the environment was already determined.

"NOTICE IS HEREBY GIVEN that as Lead Agency pursuant to California Public Resources Code §21165 and State California Environmental Quality Act (CEQA) Guidelines §15050, the City of Gardena (City) **will prepare** an Environmental Impact Report (EIR)"

This interested person is concerned about specific issues that affect the physical environmental factors and admitted to harmful environmental factors that appear to be in disregard of multiple state laws as will be established by the facts as set forth below. It is understood and acknowledged that the scope of this inquiry is limited to the environmental issues and the merits

of the plan will be addressed later. Since the law requires mitigation and further requires that all concerns expressed must be supported by substantial evidence, a factual foundation based on the documented evidence must be set forth to demonstrate the concerns raised herein.

> Cal. Code Regs., tit. 14, § 15064 ("**(5)** Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.")

As far as "credible" evidence, it will be admissions made by the city itself.

Please understand and be patient while this record is made, which you will no doubt find very important by the end. But since we are shooting in the dark (4) "… A lead agency shall not circulate a draft EIR for public review before the time period for responses to the notice of preparation has expired." (Cal. Code Regs., tit. 14, § 15082) Yet were still able to hit a bull's eye, I am sure this read will be of importance.

It will be known if these concerns were disregarded because Cal. Code Regs., tit. 14, § 15105 ("(a) The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days") Which must be made available to the public tomorrow.

FACTUAL BASIS

"As indicated in Table 3, the proposed Project could result in the following when compared to existing conditions: • 154 fewer single-family dwelling units; • 12,167 additional multiple-family dwelling units; and • 7,544,381 fewer square feet of non-residential development." (NOP – City of Gardena Plan Land Use & Zone Change EIR April 13, 2023, p.10)

"Existing Land Uses to be Removed

Single-Family Residential	-154
Multiple-Family Residential	-961
Net New Development Potential	
Single-Family Residential	-154
Multiple-Family Residential	12,167

At first it was noted as odd, that no mention was made of the level of income of these family units, but it could not be that low income will be lost and only medium to high income gained because that would be illegal and violate the California Environmental Quality Act (CEQA).

> "As site-specific development proposals are not currently known, a programmatic analysis of the potential environmental impacts associated with new residential development consistent with implementation of the proposed project **was prepared in this EIR**.

As discussed previously, the development potential is **solely based on the new residential development** that could occur with implementation of the new land use designations and the higher densities that would be associated with the proposed land use designations to resolve split-zoned parcels. The minor clean-up changes to the Gardena Zoning Map that are proposed as part of the Project would not result in new development or new development potential; rather the Zoning Map would be amended to rezone properties to match the existing uses, densities, or intensities that already occur on the property. (*Id.* at p.11)

That is a bit confusing, the city announced that it "will prepare" an EIR, but the above noted it was already prepared, "was prepared in this EIR."

Cal. Code Regs., tit. 14, § 15082 ("(b) **Response to Notice of Preparation**. Within 30 days after receiving the notice of preparation under subdivision (a), each responsible and trustee agency and the Office of Planning and Research **shall provide the lead agency with specific detail** about the scope and content of the environmental information related to the responsible or trustee agency's area of statutory responsibility that must be included in the draft EIR. (1) **The response at a minimum shall identify**: (A) The significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the Office of Planning and Research will need to have explored in the draft EIR; and (B) Whether the agency will be a responsible agency or trustee agency for the project.") (3) **A generalized list of concerns not related to the specific project shall not meet the requirements of this section for a response**."

The "Environmental Factors Potentially Affected" and are the focus of this complaint were generalized by the city on its NOP at p.12 included Air Quality; Energy; Greenhouse Gases Emissions; Land Use and Planning; Noise; Population and Housing; Public Services; Transportation and Traffic. Now, everybody knows that this compassionate Lead Agency cares deeply about noise, traffic increase, maintaining housing stock and overcrowding, which are all listed above, but what was not listed above was parking which the city is passionate about. Driving around looking for parking surely impacts the environment. Regardless, there are much larger issues that will be developed herein, because the city announced it is preparing an EIR, that means the Lead Agency determined there will be a negative impact on the environment.

Cal. Code Regs., tit. 14, § 15081 ("The EIR process starts with the decision to prepare an EIR. This decision will be made either during preliminary review under Section 15060 or at the conclusion of an initial study after applying the standards described in Section 15064.")

Therefore, it is worthy of pointing out that the powers, are limited not plenary.

Cal. Code Regs., tit. 14, § 15040 ("(a) CEQA is intended to be used in conjunction with discretionary powers granted to public agencies by other laws. (b) CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws. (c) Where another law grants an agency discretionary powers, CEQA supplements those

discretionary powers by authorizing the agency to use the discretionary powers **to mitigate or avoid significant effects on the environment** when it is feasible to do so with respect to projects subject to the powers of the agency."

Discretion was afforded to allow avoidance of environmental impact. Taking a review of the laws that are to considered and not ignored are the following relevant issues that arise from this plan that the Lead Agency has already determined are problematic.

Cal. Code Regs., tit. 14, § 15064 ("(a) Determining whether a **project may have a significant effect plays a critical role** in the CEQA process.(1) If there is **substantial evidence**, in light of the whole record before a lead agency, that a project may have **a significant effect on the environment, the agency shall prepare a draft EIR**.")[1]

(b)(1) The determination of whether a project may have a significant effect on the environment calls for **careful judgment** on the part of the public agency involved, based to the extent possible on **scientific and factual data**.")

(c) In determining whether an effect will be adverse or beneficial, the **lead agency shall consider the views held by members of the public** in all areas affected as expressed in the whole record before the lead agency. *Before* requiring the preparation of an EIR, the lead agency must still determine whether **environmental change itself might be substantial**.

(1) A **direct physical change** in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of **direct physical changes in the environment are the dust, noise, and traffic of heavy equipment** that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An **indirect physical change** in the environment **is a physical change in the environmen**t which is not immediately related to the project, but which is caused indirectly by the project. … may lead to **an increase in air pollution**."

Cal. Code Regs., tit. 14, § 15064.3 ("**(a)** Purpose. This section describes specific considerations for **evaluating a project's transportation impacts**.
(b)(4) Methodology. **A lead agency has discretion** to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, **per household** or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled, and may revise those estimates to **reflect professional judgment based on substantial evidence.** Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs **should be documented** and **explained in the environmental document prepared for the**

[1] Cal. Code Regs., tit. 14, § 15050 ("(c) The determination of the lead agency of whether to prepare an EIR or a negative declaration shall be final and conclusive for all persons, including responsible agencies, ")
"NOTICE IS HEREBY GIVEN that as Lead Agency pursuant to California Public Resources Code §21165 and State California Environmental Quality Act (CEQA) Guidelines §15050, the City of Gardena (City) **will prepare an Environmental Impact Report** (EIR)"

project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section.")

Cal. Code Regs., tit. 14, § 15064.7 ("**(a) A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect**, noncompliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

(b) Each public agency is **encouraged to develop and publish thresholds of significance** that the agency uses in the determination of the **significance of environmental effects**. Thresholds of significance to be adopted for general use as part of the lead agency's **environmental review process must be adopted by ordinance, resolution, rule, or regulation**, *and* **developed through a public review process** and be **supported by substantial evidence.** Lead agencies may also use thresholds on a case-by-case basis as provided in Section 15064(b)(2).

(d) Using environmental standards as thresholds of significance **promotes consistency in significance determinations** and integrates environmental review with other environmental program planning and regulation. Any public agency may adopt or use an environmental standard as a threshold of significance. In adopting or using an environmental standard as a threshold of significance, **a public agency shall explain how the particular requirements of that environmental standard reduce project impacts, including cumulative impacts, to a level that is less than significant,** and ***why*** the environmental standard is relevant to the analysis of the project under consideration. For the purposes of this subdivision, an "environmental standard" is a rule of general application that is **adopted by a public agency through a public review process** and that is all of the following:
(1) a quantitative, qualitative or performance requirement found in an ordinance, resolution, rule, regulation, order, plan or other environmental requirement;
(2) adopted for the **purpose of environmental protection**;
(3) addresses the environmental effect caused by the project; and,
(4) applies to the project under review.")

Earlier it was noted that the EIR was based on and this entire project to amend the housing element is "solely based on the new residential development" it seems like a good place to look there for the environmental violations that are established herein.

"The Housing Overlay rezone sites *can* accommodate a total of 6,586 units, including 2,636 lower income units (very low and low income) and 3,950 market-rate units (moderate and above moderate income) units." (City of Gardena 2021-2029 Housing Element Readopted 2/15/23 p. 75; same in Revised 2021-2029 Housing Element p. 72 from July 2022) "Another way in which density may be increased in the City is through the Density Bonus Ordinance" (*id.*) "The 429 lot consolidation parcels occupy 173.9 acres and could yield a net gain of 6,128 units." (*Id*. at p. 76 earlier at p.73) "The 686 units from entitled or pending development projects, 160 ADUs, and the potential 6,586 units resulting from implementation of the Housing Overlay could result in 7,432

units, exceeding the total RHNA allocation for Gardena by 1,697 units or 30 percent." (*Id.* at p.77 earlier at p.74)

That is amazing that the city has allocated so much of the potential land use to assist the poor and comply with state law.

"Table V-2 presents the Housing Element's quantified housing objectives for the 2021-2029 planning period"

Category	Extremely Low Income	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
New Construction	743	742	761	894	2,595	5,735
Preservation	80	72	72	---	---	224
Conservation (Units at Risk)	70	70	140	---	---	280
Conservation (Code Enforcement)	0	50	50	100	50	250

> "According to Government Code Section 65583(b), local governments' housing elements are required to establish quantified objectives for the maximum number of housing units which can be constructed, rehabilitated, and conserved over the planning period." (Housing Element pp. 105-106; earlier at p. 99)

But instead, the law states that the maximum number of houses that can be built as new construction for the extremely low poor people are 13% of the total, the very low poor get 13%, the low poor get 13%, the median class get 16% and the upper middle class get 45% of the opportunities for home ownership over the next decade!

According to state law, the housing element is required to list the maximum number of units that can be constructed. And it was listed under "5. Affirmatively Furthering Fair Housing" as the policy of the city to maximize housing for the upper middle class as a way to be fair. Earlier, "7,432 units, exceeding the total RHNA allocation for Gardena by 1,697 units or 30 percent." But lot 429, "could yield a net gain of 6,128 units." Putting the city at 13,560 units!

Very close to the report calling for new residential potential of 13,128. Very cool in deed, that is something like 42.293% complete surplus stock of housing left unused after taking care of all of the classes listed… except for one class, the upper class.

Thus the intense environmental impact about to be sustained by the city and suffered by the residents for years to come will be for the benefit of 6,239 upper middle class or upper class, which is more than the combined total allotted for above. A further review of the numbers shows

more than just changing the character of the city and adding 13,000 new cars to the traffic conditions in Gardena, forever.

"The Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area contains the following areas: Los Angeles County, CA;" the HUD calculator for median income level for all of Los Angeles is $98,200 and county wide extremely low income limits are by number of persons in household listed as 1) $26,500; 2) $30,300; 3) $34,100; 4) $37,850. And that is not good, because in Gardena those numbers are not just extremely low, they are normal.

According to the US Census Bureau as of July 1, 2022 there were an estimated 58,843 people in Gardena, CA. Which revealed a population decrease of -3.6%, down from 61,022 since just April 1, 2020, the population per square mile is 10,469.5; of which 38.8% are foreign born, just like I was when I moved from Ukraine and landed exactly in the City of Gardena. Owner occupied housing represents 48.3% of the housing stock, of the total 20,806 households of an average of 2.89 people per household, of which 91.3% had lived in the same location for over 1 year. The **mean travel time to work 28.4 minutes**, and the median household income was $68,413 with a per capita income of $29,939.

Another site, the combines the census and FBI and other entities, breaks down those stats and many others, that show Gardena's crime rate has been dropping, and shows the individual median income is just over $30,000 as up from $25,000 ten years ago. But of course, the city used the phrase "moderate income" not median income.

The California Department of Housing and Community Development advises:

Income Limits

State statutory limits are based on federal limits set and periodically revised by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 Housing Choice Voucher Program. HUD's limits are based on surveys of local area median income (AMI). The commonly used income categories are approximately as follows, subject to variations for household size and other factors:

- Acutely low income: 0-15% of AMI
- Extremely low income: 15-30% of AMI
- Very low income: 30% to 50% of AMI
- Lower income: 50% to 80% of AMI; the term may also be used to mean 0% to 80% of AMI
- Moderate income: 80% to 120% of AMI

"Affordable housing cost" for lower-income households is defined in State law as not more than 30 percent of gross household income with variations (Health and Safety Code Section 50052.5). The comparable federal limit, more widely used, is 30 percent of gross

income, with variations. "Housing cost" commonly includes rent or mortgage payments, utilities (gas, electricity, water, sewer, garbage, recycling, green waste), and property taxes and insurance on owner-occupied housing.
The State's Hold Harmless policy supports objectives to preserve and increase the supply of affordable rental housing. Availability of affordable rental housing benefits a broad public and households with different income levels served by affordable housing providers required to comply with Health and Safety Code (H&SC) income limits and affordable rent criteria [H&SC 50093(c)].

25 CCR § 11002 (*l*) "Persons and families of low or moderate income" includes any of the following:
(1) A "very low income family" is a family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.
(2) A "low income family" is a family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that income limits higher or lower than 80 percent may be established on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.
(3) A "moderate income family" is a family whose income does not exceed 120 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.
(4) For purposes of this section, "family" includes an elderly, handicapped, disabled, or displaced person and the remaining member of a tenant family as defined in Section 201(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 1437a).

The above regulation was obtained from the website of the Office of Administrative Law, which is significant for many reasons.

Gov. Code, § 65584 ("(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.")
Health & Saf. Code, § 50093 (""Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by [HUD]…")

If any changes were intended to be declared then they would already be on file.

Health & Saf. Code, § 50093 ("For purposes of this section, the department shall file, with the Office of Administrative Law, any changes in area median income and income limits determined by the United States Department of Housing and Urban Development, together with any consequent changes in other derivative income limits determined by the department pursuant to this section. These filings shall not be subject to Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, but **shall be effective upon filing with the Office of Administrative Law and shall be published** as soon as possible in the California Regulatory Code Supplement and the California Code of Regulations.")

For simplicity's sake using the even number of $30,000 moderate income is $24,000 to $36,000 per year; lower income is $15,000 to $24,000; very low income is $9,000 to $15,000 and extremely low income is $4,500 to $9,000 per year. We can infer that above moderate income is therefore $36,000 and up. But HUD notes that county wide the extremely low income per number in household are 1) $26,500; 2) $30,300; 3) $34,100; 4) $37,850. Therefore, in Gardena the upper moderate income are the equivalent to an extremely low income family of 4.

This is where the environmental issues start to gel, because HUD places the median higher that means the city must provide an unrealistic number to its residents to even qualify for one of the 13% allotted to them.

"Of the 5.89 million renter households living in California, 1.97 million (or one in three of these households) come from the two lowest income groups—extremely low-income (ELI) and very low-income (VLI). Meanwhile, only 668,000 rental homes are affordable and available to households at these income levels, resulting in a shortfall of 1.30 million affordable rental homes (see Figure 1). In other words, 1.30 million—nearly two-thirds—of California's lowest income households do not have access to affordable housing."
Rosenfeld, Lindsay. *Demystifying California's Affordable Homes Shortfall* (4/7/20) California Housing Partnership

The housing element woefully fails to comply with meeting the City Plan's dictate to remove local government interference with the housing, and more important for this objection fails state law, which by the laws terms means it fails the environment.

Gov. Code, § 65583 ("The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:
(a) An assessment of housing needs and an inventory of resources and **constraints relevant to the meeting of these needs**. The assessment and inventory shall include all of the following:
(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs **for all income levels**, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. **The number of extremely low income households and**

very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.")

The above is the very Code section cited by the city when limiting the number of houses to be made available to the very low income, which actually states the City was obligated to provide for all of their needs. Gov. Code, § 65583 ("(c)(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.")

> Gov. Code, § 65584 ("For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.")
> **(a)(2)** "It is the intent of the Legislature that cities, counties, and cities and counties should undertake **all necessary actions** to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, and reasonable actions should be taken by local and regional governments to ensure that future housing production meets, at a minimum, the regional housing need established for planning purposes. These actions shall include applicable reforms and incentives in Section 65582.1."

CHECK MATE

The city has an obligation to reduce environmental impacts and the only exception allowed is if it can be proven with actual evidence that there was no way to avoid it.

> Gov. Code, § 65584 ("**(3)** The Legislature finds and declares that **insufficient housing** in job centers **hinders the state's environmental quality** and runs **counter to the state's environmental goals**. In particular, when Californians seeking affordable housing are **forced to drive longer distances to work**, an **increased** amount of **greenhouse gases** and other pollutants is released **and puts in jeopardy the achievement of the state's climate goals**, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.")

The city intends at best to create great environmental damage to benefit over 6,000 upper class, and another 2,500 above median class, which county wide is extremely low income, so in reality the entire 13,000 homes are intended for the upper class just like the recent project approved for high end apartments. This is a certain fact, simply because this EIR was requested.

> Gov. Code, § 65584 ("**(g)** Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).")

The decision was made to not provide housing to the poor as required by Gov. Code, § 65584 and Gov. Code, § 65583 which is why the EIR was ordered to be prepared.

Cal. Code Regs., tit. 14, § 15021 ("(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.")

The duty was obfuscated, dereliction of office replaced it, and the report to the state oversight will be reviewed as well. Gov. Code, § 65583 ("(c)(9) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.")

What the Lead Agency should find most concerning is the intention behind these regulations.

Cal. Code Regs., tit. 14, § 15003 ("**(d)** The EIR is to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. (People ex rel. Department of Public Works v. Bosio, 47 Cal. App. 3d 495.)

(e) The EIR process will enable the public to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree. (People v. County of Kern, 39 Cal. App. 3d 830.)")

(j) CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. (Laurel Heights Improvement Assoc. v. Regents of U.C.(1993) 6 Cal.4th 1112 and Citizens of Goleta Valley v. Board of Supervisors(1990) 52 Cal.3d 553)")

The decision to add 13,000 new cars to the 20,000 currently on the roads is a massive increase in traffic, but it is the decision that will force the residents to move out and drive farther to work that has caused the otherwise avoidable damage, that the city chose to skirt, that will cause the residents to realize they elected a body who serves the interests of the rich and 12,000 upper middle class and upper class that are not the people of Gardena, and the time has come to replace their rulers with people who serve them.

Again, thank you for extending the time to respond.

Very truly,
Mariya Wrightsman

City of Gardena Planning Commission May 16, 2023

Here we are yet again, despite an outcry of opposition 8 months ago and only the city council's endorsement of once made objections by two people that knew to appear the first time before announced to the city and have not shown since. Clearly the planning department has had months to prepare this ordinance, and despite knowing it was highly contested, released the text of the proposed ordinance 4 days prior to the hearing. In other words, the planning department has been working on this draft for 185 days and provided 4 days to the citizens to engage in the same work.

With 46 days to every one day that we were afforded, the city failed to notice as mandated by law and prevented the ability to adequately respond, all rights are reserved and no waiver of any such rights may be or should be inferred. Generally, the city can be advised, and to which it already knows, that the city has failed to state any grant of authority to enact this ordinance 1854, the city was not afforded power to enact 1854 pursuant to Cal. Const. art. XI § 2 and the language of 1854 is void under preemption (*Big Creek Lumber Co. v. County of Santa Cruz* (2004) 115 Cal.App.4th 952, 983-84) as it violates Cal. Const. art. XI § 7, per Gov. Code, § 65852.2 (expressly preempts), Gov. Code, § 65852 (violates uniformity requirement), occupied field under Civ. Code, §§ 827, 1946 (rents for less than 30 days), no authority to prohibit conduct authorized per Civil Code § 1945.5, and this is not a contemplated use of the zoning laws per Gov. Code, § 65850(a).

Civ. Code, § 679 ("The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.") The general laws authorize every aspect of my pre-engaged in uses of my real property as I pleased, the city has been unlawfully attempting to pass a law without authority to do so. This is arbitrary government action depriving vested liberty interests in violation of due process under both the federal and state constitutions, and all without a factual basis (*People v. Ramirez* (1979) 25 Cal.3d 260, 268, 276; *Naidu v. Superior Court of Riverside Cnty*. (2018) 20 Cal.App.5th 300, 308, 312; *Hipsher v. L.A. Cnty. Emps. Ret. Ass'n* (2020) 58 Cal.App.5th 671, 699-700 (2nd Dist. Div. 4))

Despite having six months to write something valid, returning with a proposed ordinance that violates this many fundamental aspects of the law is embarrassing for the city, and then to

throw procedure at the citizens to attempt to deprive them of judicial remedy turned that embarrassment into shame.

This body's public notice issued ten days prior to this hearing included language that clearly intended to invoke Gov. Code, § 65009(b)(2) ('"If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or prior to, the public hearing.'") But ignored the language that would allow such a limitation, Gov. Code, § 65009 (b)(1)("decision of a public agency made pursuant to this title at a ***properly*** noticed public hearing,") which instead was:

"If you challenge the nature of the proposed action in court, you will be limited to raising only those issues you or someone else raises at the public hearing described in this notice, or in written correspondence delivered to the Gardena Planning and Environmental Quality Commission at, or prior to, the public hearing. For further information, please contact the Planning Division, at (310) 217-9524" Just as was pointed out prior, the city knew to replace the latter parenthesized text with relevant facts, but again failed to describe the nature of the proposed action in the language.

The city has been engaged in surveillance and snooping on its citizens in violation of Cal. Const. art. I § 1 *White v. Davis* (1975) 13 Cal.3d 757, 774 ('"The proliferation of government snooping and data collecting is threatening to destroy our traditional freedoms. Government agencies seem to be competing to compile the most extensive sets of dossiers of American citizens. Computerization of records makes it possible to create 'cradle-to-grave' profiles of every American. [¶] *At present there are no effective restraints on the information activities of government and business. This amendment creates a legal and enforceable right of privacy for every Californian.*' (Italics in original.)") The Council hired a private company to engage in this exact purpose and sent them to our properties under false guises to collect data and build dossiers on people engaged in the lawful business of renting, just as half of this city does.

Despite the city being put on notice last September of 2022 of its obligation to cause notice to be given to each landowner that would be affected by the ordinance "shall be mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property as shown on the latest equalized assessment roll." (Gov. Code, § 65091) And failed to perform even publication notice as it did not "plac[e] a display advertisement of at least one-eighth page " (*id.*)

The city believes that the language of Gov. Code, § 65093 permits them to disregard the use of "shall" in the notice statutes, but the forgiveness was on a claim of not receiving and had nothing to do with willful failure to send, thus is voidable on that ground too. "The failure of any person or entity to receive notice given pursuant to this title, or pursuant to the procedures established by a chartered city, shall not constitute grounds for any court to invalidate the actions of a local agency for which the notice was given." (Gov. Code, § 65093)

The MOST important failure of the notice, was the failure to give notice of the intention of the city to deprive the entire city of their rights because the notice was limited to a foreign topic, "relating to *regulations* for short term home sharing rentals in residential zoning districts throughout the city." Since September the city has only been focused on short term rentals and defined it then as it does now, yet the city sent out notice for some foreign topic as its intended state created business model, and not noticing short term rentals nor its intention to disenfranchise the entire city of their state granted rights.

Agenda Staff Report Aug. 9, 2022:

"An STR is any rental of a dwelling of thirty days or less. The City's position has been that because STRs are not listed as an allowed use in the zoning code, they are prohibited. This is known as permissive zoning. The recent case of *Keen v. City of Manhattan Beach* decided in April of this year **renders this argument invalid**.
According to the appellate court, Manhattan Beach's ordinance did not regulate how long a person could stay in a dwelling and therefore rejected the city's argument that the STRs were prohibited under the theory of permissive zoning. Based on this decision, if Gardena wishes to regulate or prohibit STRs, it will be required to enact a zoning ordinance to do so." (p.1)
"Submitted by: Greg Tsujiuchi Date: August 4, 2022" (p.3)

This exact failure of notice has been preserved at every prior meeting, but the city continues to disregard it. The planning department knew it was changing zoning city wide, Gov. Code, § 65853, then filed to provide notice as required Gov. Code, §§ 65853, 65854, 65091 which mandated "a general explanation of the matter to be considered," Gov. Code, § 65094, this department was not short on words to describe what it repeatedly claimed was not applicable as to the CEQA but could not even muster a complete sentence as to an explanation of what was being considered, and have failed to provide notice to all.

> At these stages — indeed at "every level of the planning process" — the Legislature "recognizes the importance of public participation." (§ 65033.) To this end, the Planning and Zoning Law has declared "the policy of the state and the intent of the Legislature that each state, regional, and local agency concerned in the planning process involve the public through public hearings, informative meetings, publicity and other means available to them,

and that at such hearings and other public forums, the public be afforded the opportunity to respond *to clearly defined alternative objectives, policies, and actions.*" (§ 65033, italics added.)

With this broader perspective in mind, we return to the statutory language at issue here. As stated, the notice of the legislative body's hearing must contain "a general explanation of the matter to be considered." (§ 65094.) This must be read in conjunction with the state's policy and Legislature's intent that the public be involved in the planning process and be given "the opportunity to respond to clearly defined alternative objectives, policies, and actions." (§ 65033.) Together, there can be little doubt that the purpose of notice in cases such as this one is to inform the public of the legislative body's hearing so they will have an opportunity to respond to the planning commission's recommendation and protect any interests they may have before the legislative body approves, modifies, or disapproves that recommendation. If notice could be given before the planning commission made its recommendation and, therefore, without inclusion of what that recommendation was, the purpose behind the notice provision would be ill served, as the notice would not inform the public to what "clearly defined alternative objectives, policies, and actions" they would be responding.

Environmental Defense Project of Sierra County v. County of Sierra (2008) 158 Cal.App.4th 877, 891-92

Given the outcry against this city action there is no lawful reason to continue to pursue it, and the fact that all purported regulations are aimed at characteristics particular to me demonstrates retaliatory animus because I have been the strongest force opposing this repeated unlawful effort, and for exercising my constitutional rights.

Gov. Code, § 65008 ("**(a)** Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons: **(A)** The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2.")

After dozens and dozens of papers were filed by person opposing this action, on the link from the news paper the planning department provides almost all of these comments, yet omitted my Feb. 15, 2023 opposition and then on the agenda omitted all of them except for my attorney's letter succinctly advising the city its actions were void, which was the only public comment attached. Regarding the city's effort to outlaw, in violation of state law, the rights and lawful business conducted by home owners. In total the city knowingly plans to prohibit 96% of current operators so that possibly three could operate, but could only do so by violating a plethora of laws and constitutional provisions, without any factual basis.

The scienter is present as is the imminent harm intended, all while failing notice and engaging in deception at a legislative level.

Mariya Wrightsman 5/16/23

RE Feb. 15, 2023 Proposed Ordinances and Urgency Ordinances on Special Hearing

To her honor, Mayor Cerda, and esteemed Members of the Gardena City Council,

This letter sets forth the liability resulting from official action, with specific actual factual findings made, expresses the vulnerability the City has placed itself, and the positions needed to be taken to relieve any conflict. Else the current course is "not only detrimental to petitioners but to public trust in local government." (*Kieffer v. Spencer* (1984) 153 Cal.App.3d 954, 964)

URGENCY ORDINANCE NO. 1847 entirely focuses on zoning yet failed to make a statement of facts to support the improperly cited and relied upon general statute, Gov. Code, § 36937(b).

Not once was any mention made of fact relating to *public peace, health or safety*. The only aspect of a loss, was money, the proposed circumvention of statutory procedure is void. "WHEREAS, HCD has recently informed the City that the City must adopt it housing element and complete the required rezoning by February 15, 2023 in order to receive its 2019 PLHA grant in the amount of $329,877;"

Counsel for the City need no lecture on a cardinal principle of statutory construction, that the specific statute always applies over the general, part of the stated amendments was to prohibit uses in two zones, specifically targeting short-term rentals. Thus the specific law was ignored. The haste in procrastinating and squandering time on assaulting the civil rights of a tiny minority of the population has cost the City. And the haste in attempting to enact a law that is void for failure to comply with mandatory procedure is the price to pay for this neglect of office.

Gov. Code, § 65858 is clearly the statute on point, expressly addressing every issue raised in these proposals and permits foregoing the mandatory zoning procedure in specific circumstances and only for a temporary purpose. The claimed actions are to thwart the possibility of business due to neglect by those charged with these very functions.

Recent history supported by ample evidence shows the actions by the City to have been dealing with its citizens in bad faith for months. The facts are in writing, and recorded on video. There is no escaping it. Rather than follow the law, more disregard for the law and procedure is shown. Since no one has bothered to read the applicable statute, it is set forth at the end of this letter so that the City is on notice of the law it is disregarding, and the Ordinance is void as a result, which has no effect and the money gained will have to be returned regardless.

Despite disregard for requisite findings under Gov. Code, §§ 65858 or 36937(b), the City then claims these as its findings of fact:

"SECTION 1. Findings.

A. The foregoing recitals are *true and correct*.

B. The adoption of the Zoning Map and changes to Title 18 are consistent with the City's General Plan. More specifically, these changes implement changes required by the Housing Element and the changes create consistency with the City's Land Use Plan.

C. The changes set forth herein represent good land use practices which are required by the public necessity, convenience and the general welfare.

SECTION 2. Adoption of Zoning Map. The City Council hereby adopts the zoning map attached hereto as Exhibit A as the zoning map for the City.

SECTION 3. The term "multiple-family" is hereby replaced with the term "multi-family" throughout the Gardena Municipal Code.

After making no relevant findings whatsoever, the ordinance then launches into the very subject matter covered by the statute ignored.

The "findings" of "recitals are *true and correct*" state as the sum total of factual findings: "represent good land use practices which are required by the public necessity, convenience and the general welfare".

"*public peace, health or safety*", (Gov. Code, §§ 65858 & 36937(b))

"public necessity, convenience and the general welfare" (no statute citable)

Even in the conclusionary findings, there was not a single finding made relevant to the required basis to enact such urgent legislation.

The reason there can be no findings of fact was a finding of fact already made:

Community Development Meeting Date: February 15, 2023 Agenda Staff Report:

"Adoption of Resolution No. 6620 Updating the Land Use Plan, including changes to the Land Use Map and adoption of **Urgency Ordinance No. 1847**, *amending* the Zoning Code and *revising* the Zoning Map"

"While it is **not likely** that there would be many Builder's Remedy projects used in Gardena, it is *not impossible*. Staff has had at least **one inquiry** regarding a **100 percent affordable development** on El Segundo Boulevard. Without a compliant housing element and

the adoption of development standards, staff would have had **no authority to prevent** the project from being built." p.2

The stated purpose is to **stop** affordable housing, but 1847 states different facts:

"WHEREAS, projects under the Builder's Remedy **are likely** to be submitted to the City prior to the certification of the EIR and adoption of the changes as the City **has already received inquiry into projects on certain sites**;"

"Under the Builder's Remedy, if a city does not have a housing element that substantially complies with state law, then the city has only very limited grounds **on which to deny an affordable housing project**," p.2

The true facts and urgency have nothing to do with the public. "Ordinance No. 1847 therefore adds a new chapter…" followed by the only reason for the urgency:

"Therefore, in order for the City to have access to needed grant funding as well as to be able to impose objective development standards, **it is necessary to immediately rezone** the Inventory Sites so that the City has a compliant Housing Element. In order to qualify for the PLHA grant, HCD recommended a program which was included in the Housing Element which required the City, by February 15, 2023, to **amend the Land Use Plan and adopt an urgency ordinance** which provided that any project with a minimum of 20 percent affordable housing would be ministerially approved. (Housing Program 4.1.)" p.3

That is the true reason for this urgency and has nothing to do with "*public peace, health or safety*", unless of course one looks at the problem from the clear agenda of those involved.

"100 percent affordable development" is bad, with "no authority to prevent", but the desirable and pushed for agenda is "minimum of 20 percent affordable" which equally states, "maximum of 80 percent high end housing" just like the projects we have been approving to push the poor out. While attacking short-term rentals declaring us detrimental to the affordable housing supply.

It is rather interesting that the word "short" is not even present in that Staff Report, yet a necessity to single out short-term rental as the sole prohibited activity was made, without any supported findings whatsoever.

"18.21.040 Prohibited uses in housing overlays. The following uses shall be explicitly prohibited in the housing overlays: A. Short-term rentals."

"18.18A.030 Uses prohibited. A. All uses not listed in Sections 18.18A.020 are deemed to be prohibited in the R-6 zone, except those determined to be similar pursuant to the provisions of Section 18.42.040. B. The following uses are expressly prohibited:

1. Short-term rental of residential units."

Out of all documents submitted in connection with the proposals, some version of a word with "short" in it appears 18 times, i.e., shortfalls (11), short (1), shortage (2), short-term rental (2), short-term bicycle parking (2). Not once is there a discussion to justify an outright ban, no reference to any findings, not even proposed in any reports leading up to the drafting. Yet an outright ban is implemented.

Given the inconsistent statements, that can only be characterized politely as deliberate misrepresentations, in the final product compared to the reports generated to create the ordinances, the bad faith referenced above must be presumed as the facts lend to such a finding.

As this is an unfounded assault on the short term rental community, it is taken to mean there is a desire to litigate this entire proposal, where it will be found void for failure to comply with jurisdictional authorizations, if that is not plain enough English, then the documents prove the passage of the enactment was *ultra vires*. In simple terms, it "means a want of authority to exercise in a particular manner a power" (*Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280, 290) and all money received will have to be returned, and start over.

If however, due to haste in preparing the documents, this language was merely included in an earlier draft and was intended to be removed yet overlooked when compiling, and now that it is brought to your attention it will be promptly excised prior to adoption, then it is forgiven and other projects will require my time rather than litigating and destroying this entire enactment and causing all monies to be returned as gained from a void passage. If short-term ban continues to find its way in the text, then my position on the matter is perfectly clear.

Very truly,

Mariya Wrightsman

Post script, case law says I have already won.

> At no point in RPI's argument on appeal do they take issue with the material *facts* alleged by petitioners and alluded to at the hearing below by the trial court. RPI's appellate presentation has been made with skill and is replete with highly technical arguments seeking to persuade us that City has followed the letter of the law in dealing with petitioners.
> The legal argument made with respect to the moratorium ordinance is a case in point: RPI relies on both section 36937 of the Government Code (which authorizes emergency

ordinances "[f]or the immediate preservation of the public peace, health or safety . . .") and section 65858 of the Government Code (which provides for interim ordinances prohibiting certain kinds of land use when a study of broader implication is pending), as justification for RPI's enactment, on August 18, 1981, of the moratorium ordinance with which we are concerned in the case at bench.

RPI's argument misses the thrust of the trial court's ruling: the *basic* factual finding made below was that RPI had acted *in bad faith* insofar as the petitioners were concerned. There was substantial evidence supporting that finding. That being so, it matters very little whether Government Code sections exist authorizing emergency enactments and whether RPI did or did not follow them to the letter. The record inescapably establishes that RPI, instead of facing in the first instance the "dilemma" which had arisen with respect to petitioners, and arriving at fair resolution of the situation, has exacerbated the situation by engaging in administrative, legislative and legal conduct calculated to avoid responsibility for the substantial damages incurred by petitioners.

Kieffer v. Spencer (1984) 153 Cal.App.3d 954, 961

Presently, the City has been acting in bad faith and failed procedure. That is a very weak position to litigate from.

The law referenced is now provided, so that the City cannot claim ignorance on the matter, which is no defense, but being placed on express notice of its violations of law, before violating it, is an express aggravator.

Gov. Code, § 65858 ("**(a)** Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.**(b)** Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.**(c)** The legislative body shall not adopt or extend

any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:**(1)** The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.**(2)** The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).**(3)** There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.**(d)** Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.**(e)** When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.**(f)** Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.**(g)** For purposes of this section, "development of multifamily housing projects" does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will

result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.**(h)** For purposes of this section, "projects with a significant component of multifamily housing" means projects in which multifamily housing consists of at least one-third of the total square footage of the project.")

Thank you for affording us another opportunity to exercise and protect our rights,[1] I am Maryia Wrightsman speaking about my real property that is affected by the proposed directives. I had submitted documents showing the extensive factual and legal incorrectness of the city council's actions, which were ignored in favor of pushing forward. Today's directive is motivated by proposed Ord. 1844, wherein the city council before commencing investigation alleged to have found "short-term rentals for lodging and other uses have deleterious impacts by increasing noise and traffic, creating parking problems, changing the character of a residential neighborhood, and with the case of housing - creating an impact on housing supply;" the stated concern leading to those findings was, "the desire to operate short-term rentals is expected to increase due to the proximity of Gardena to SoFi Stadium."

On April 13, 2021, this city council adopted Ord. 1825, which found, "Gardena is situated to be in a position **to capitalize on a demand for new hotel spaces** due to its proximity to SoFi Stadium" and found "during the past year, developers have indicated that the City's development standards have been an **impediment to new hotel development**". Which means the city is blaming us for the very thing, the city wants to bring into our city.

The city was very concerned about the impact that STRs as 0.8% of the volume of rental locations will have on affordable housing in the city. But on May 11, 2021, the city council adopted Ord. 1828, "The Zoning Changes will allow the development of a high-density, 265-unit, **first-class** apartment project in the north end of Gardena which will provide new and needed housing opportunities in the City." The mean income of a resident in Gardena is $60,000.

Through official action, the only ones impacting affordable housing, traffic, noise, and changing the character of our neighborhood is this council. So that you can capitalize on Sofi.

The report states "most" are non-owner occupied to create a negative appearance, in truth the report highlights that 62% are non-owner occupied, and ignores that all houses in the city are 50% non-owner occupied.

You persisting in seeking to remove short term rentals when there has been a public out cry against this proposed action. Each time you state you will listen to us, then proceed as if we said nothing at all. The company you hired is great at using a computer to provide data but that data was presented entirely slanted in favor of the predetermined agenda to ban STRs. Which is understandable since they advertise themselves as destroyers of STRs. The council hired a company that will work towards its agenda after knowing there was great resistance by the community.

According to the Supreme Court, *Penn Central Transp. Co.,* 438 U.S. 104, page 12, the disingenuous claims by the council "frustrate distinct investment-backed expectations as to amount to a 'taking'" under the Takings Clause of the Fifth Amendment. The Gardena city council offered money to bill board owners when lifting the billboard ban to allow electronic billboards for a takings clause violation but now same Gardena city council is ignoring the same conduct when it comes to STRs home owners.

The city was put on express notice of the constitutional violations it was committing against its citizens and yet persist as if nothing was said at all.

Your concern for the affordable housing is now expressed in being given $500,000 a year for three years by the state, to patch up existing locations, while putting forth great effort towards changing our city to accommodate for the rich, and oppress the handful of citizens all in favor of corporate greed.

Mariya Wrightsman.

From: Scarlet Sunlight
To: Public Comment
Subject: Fwd: Short Term Rental ordinance 1844 public comment
Date: Tuesday, September 27, 2022 4:58:04 PM

Caution! This message was sent from outside your organization.

Begin forwarded message:

From: Scarlet Sunlight <scarlet.sunlight@outlook.com>
Subject: Short Term Rental ordinance 1844 public comment
Date: September 27, 2022 at 4:56:23 PM PDT
To: wlove@cityofgardena.org, mhenderson@cityofgardena.org, pfrancis@cityofgardena.org, rtanaka@cityofgardena.org, tcerda@cityofgardena.org

Dear Gardena Councilmember,

...To provide leadership and resources that ensure the highest quality of life possible for residents, support business development, welcome visitors, and establish a positive work environment for City employees.

I am strongly opposed to the Short-Term Rental ban in Gardena or any restrictions that will influence negatively any citizen's opportunity to generate legally income, in the present or future.

I have been an **Airbnb/VRBO guest** for the past 27 years all around the US and world. This has allowed my family to travel on a budget, to experiment extraordinary and shared moments with my children and dear friends, to discover many cultures through historical monuments, food, sceneries and to meet wonderful people.

Sharing this experience with others is the main reason **I choose to be a host in the STR business.**

I have been operating a STR business from a single-family home since 2019. The beginning is hard as you must get 5 stars reviews for guests to trust your professionalism.

This first year I had a STR management company in charge. That was a disaster, they did not screen any guests, so the property was badly abused, and they did not take any responsibility. When the contract was cancelled, they refuse to give me back my access to the Airbnb account and I lost all my reviews on top of repairing the house. So, I had to start from scratch to rebuild my host reputation. It took one year and **then …the COVID hit. Two very difficult years started.**

I am an Airbnb Super host because of the hard, meticulous and continued work to maintain my property and its curve appeal, screen guests (I do not hesitate to refuse a booking if I suspect the guest will not follow the house rules), provide clean and comfortable accommodations, be available 24/7 in case of problem during the guests stay, etc.

My family bought this house in 2016 and lived very happily in this great neighborhood, I was a home maker and when the kids went to school, I had to find extra income with a flexible schedule. My husband and I decided to keep the house as an investment for retirement. I don't have any 401K or Social Security benefits by myself.

The STR are 0.68% of the housing units in Gardena (STR 150/ Gardena housing units 22,000) it is an extremely small amount of housing why do you have to spend time and taxpayer money adding unnecessary ordinances?

We already pay **income taxes** on the earnings, **property taxes** when our guest do not use the school or most of the other facilities, **sales taxes** to recommend local businesses and buying supplies or making repairs or maintenance.

We are mainly sole proprietorships and provide jobs locally linked to our business.

We are law-abiding citizen and a taxpayer not a hedge fund or trust baby, so everything my husband and I own comes from decades of labor, budgeting and leaving within our means.

At this point I don't see any valuable arguments against STR business in Gardena, if you have them please enlighten us because what I witnessed in the Sept 13th zoom meeting was nothing short of abuse of power from elected officials.

Sincerely

Clara Caetano T

From: George Young
To: Public Comment
Cc: Tasha Cerda; Paulette Francis; Mark Henderson; Rodney Tanaka; wlove@cityofgardena.com
Subject: Allow Gardena STR
Date: Tuesday, September 27, 2022 4:51:28 PM

Caution! This message was sent from outside your organization.

Honorable Mayor and Councilmembers:

I am writing this letter in full support of short-term rental continuing to operate in Gardena, Ca. It is an invaluable and affordable option for our lower-income families to have access to short-term rentals as it has made visiting family members and friends in Gardena an easier and more enjoyable experience. In addition, STR brings revenue and tax dollars to our retail businesses and the city. Unlike the beach communities where most of the visitors tend to be rowdier, visitors to Gardena are mostly family and friends visits, with the recent Airbnb's strict policy of a global no party ban, the noise problem would be very Minuscule. STR truly will benefit our community and localized economy.

Thank you and please allow STR in our beautiful city.

George Young

From: Monique Johnson
To: Public Comment
Subject: Short Term Rentals
Date: Tuesday, September 27, 2022 12:20:11 PM

Caution! This message was sent from outside your organization.

I think a suspension of short term rentals is warranted until an ordinance in put into place. In my opinion, the individuals should have went down to City Hall and inquired about the requirements of a short term rental (common sense to me). Those people are getting free money because they don't have to pay for a business license or City of Gardena taxes. In addition, I'm sure that they are not including the additional income on their State and Federal taxes. The City of Gardena is rewarding bad behavior.

Until an ordinance is implemented, is the City of Gardena going to suspense or retroactively adjust the taxes and business license that current legitimate business owners have to pay? I had compassion for all the people who spoke last week especially the crying lady who uses the additional income for her children's extracurricular activities, and the other people who talked about supplementing their income because times are difficult now but we are all dealing with the economy situation (inflation). Attorney Vasquez stated that the City of Inglewood currently has an ordinance for short term rentals but it took a while to be written. How long is it going to take the City of Gardena to come up with an ordinance? In the meantime, those people who are currently making money off of short term rentals are making tax free money with no consequences.

I agree with Mayor Pro Tem Francis and Councilmember Henderson that a moratorium on short term rental should be enacted until the City of Gardena writes an ordinance.

From: le ma
To: Public Comment; Tasha Cerda; Paulette Francis; Rodney Tanaka; Mark Henderson; Wanda Love
Subject: Needing Short Term Rental agenda postponed
Date: Tuesday, September 27, 2022 7:05:45 PM

Caution! This message was sent from outside your organization.

Dear representatives!
My name is Le Ma. I own a house in Gardena. My spouse and I are in the military. When being deployed, we open our home to Airbnb guests. We survived, My mortgage rate will be increasing to 7.125% from 2.625% since Jan 10th 2023. If airbnb is banned now, I will be falling into big financial trouble immediately while no one is benefiting right away. I hope that agenda will be postponed.
Today we are in a turmoil age, facing war, highest inflation, highest food prices, high mortgage rates. Property taxes are higher and higher yearly. That is NOT a good timing for any big decisions. I want that banning postponed. That will save me.
We are part of the community, so we want Gardena to get better and better in every way. Airbnb is allowed in the city of LA, Torrance, Santa Monica, and most cities in LA county. That means airbnb is not too bad. Why can't Gardena allow it?! Gardena is open enough to allow 2 casinos. I hope all property rights are given back to the property owners. Again banning now, will not benefit anyone in the short run and put me into big trouble.
Banning is the easiest thing for any administration. But good politicians and administration teams are those who are willing and able to balance the interests of all groups of people. My sister cleaned my airbnb space for $16 an hour. She would lose her job. Then she would become a burden to the public. (she is disable, would not be easy to get hired by others)
The economy is going down. Many companies are laying off. Small businesses are closing. High inflation, no signs to show slowing. We are in a bad timing. Banning airbnb now will hurt more residents like me.
I hope you all can think about it carefully and thoroughly and come up with a better way to balance things.

Sincerely
Thank you
Le Ma

From: Vera Povetina
To: CDD Planning and Zoning
Subject: Public Comment
Date: Tuesday, September 27, 2022 10:55:44 AM

Caution! This message was sent from outside your organization.

Dear City Council,

In course of discussion regarding Short Term Rentals, me and my fellow citizens of Gardena would like to address some questions and concerns to the City Council and expect detailed answers to be provided and discussed during Public Hearing regarding the matter. Most of the questions were addressed to you earlier as Public Comment for the City Council meeting happened on 13 September 2022 but none of the specific answers have been provided during the meeting or after.

Whereas in Resolution No. PC 11-22 and not adopted Urgency Ordinance #1843 mentioned that short-term rentals of residences for lodging purposes and short-term rentals of residences for other commercial uses are not listed as allowed uses under the Gardena Municipal Code.

• Do I understand correct that they are also not listed as prohibited?

Whereas in Resolution No. PC 11-22 and in Proposed Ordinance No. 1844 mentioned: short-term rentals for lodging and other uses have deleterious impacts by increasing noise and traffic, creating parking problems, changing the character of a residential neighborhood, and with the case of housing - creating an impact on housing supply.

• Is there any evidence regarding this statement in the City of Gardena? Can it be disclosed to the public?

• Were measurements made for noise level increase? Please disclose the results.

• Changes in traffic? Would you be able to specify – how big is the change?

According to the open-source data it is 164 STR properties in Gardena with average occupancy rate of 75%. Even if we assume that every guest is driving a car and I know from my over 100 guests stay in my house - that it is not the case. It is about 116 cars to add to city traffic with 33,276 cars going through main streets daily or 0.35% increase in variety of locations in the city. How "deleterious" is this? How it would be different from long term rental with same amount of cars?

• Parking issues complains increased by how many since establishing current amount of STR in the city? How were these complaints linked to STR?

• What are the changes in character of residential neighborhood happened? How do you even define and measure the "character of neighborhood"? Would you be able to provide details of changes to the character of neighborhood made by all new constructions of apartment houses in recent 2 years? 5 levels of planned self-storage on Van Ness Avenue (U-Haul)? How does City Council measure it to be considered a factor? May these criteria be disclosed to the public?

City adopted TOT Incentive Program tax in FY17-18 with below intent:

"To continue to sustain economic development, the City has introduced a new Hotel Incentive Program by providing assistance in the form of partial Transient Occupancy Tax credit to hotel owners making substantial improvements to their existing properties, as well as incentives to

developers to build new hotels in Gardena. The City will also continue to provide expedited developer plan approval processes, establish an expedited plan check process to reduce time and cost for developers, and acquire new grants for additional funding of economic development efforts, and to identify and provide tools/incentives that will increase business

expansion along the Rosecrans Corridor."
This serves as evidence that city is interested in tourists/guests coming to Gardena in general and discussions regarding changes of the "character of the city" are not a real concern.
• How the housing supply impacted specifically by the factor of STR in the City of Gardena?
In Agenda Staff report dated Aug 9, 2022, there is a mentioning of some studies regarding house supply and rent and housing price. Were these studies done in the City of Gardena with consideration of all other factors that are influencing housing supplies and prices? How it is different from neighbor cities where STR is not allowed?
• With additional regulation and additional taxation in discussion, what will City of Gardena propose to people in exchange?
• Does City of Gardena have a lot to offer to its people to offset increased inflation?
• Will city of Gardena offer new Eviction law to protect homeowners? Help to offset the costs of hosting non-paying renters long term? Will City of Gardena pay out our mortgage and compensate investments made?
It is 164 short rental properties listed in Gardena, not all of them are on the market constantly, but all of them is a source that provides food to the tables to families of our city.
• Why do you feel that it is ok to cut an opportunity to provide for families?
• During on-line meeting Councilmembers expressed concerns with safety. We would like to know: were similar concerns expressed during adopting HOPE program and converting Travelodge Inn and Suites on Normandie Avenue into a home for convicted criminals and homeless people? How were interests of citizens protected?
During COVID pandemic a lot of us hosted travel nurses who were saving lives while city hosted criminals.
Let me continue with questions to the additional regulations proposals.
• Regarding limitation of number of STRs one person can have. Can you please provide any precedent in the City of Gardena where you limiting any other business owner with similar rules? One cannot have more than one Hotel, Store, Car Wash and so on. Will this limitation be applied to all other businesses? If not - why?
Any additional limitations to types of properties or number of total STR will make harm to property owners and will set precedent of unreliability of the City of Gardena for any current or future small or big investors. Rules for business can be changed anytime without any evidential support by the city officials.
• What is the intent of all these limitations?
It is not only hosts who benefit. All local small businesses benefit. Shops, restaurants, beauty salons and so on. A lot of guests asking for local attractions and as hosts – we recommend local places. Business synergy is already in place and there are no reasons to the city to break it.
There should be no ban for STR out of no evidence of negative impact and City of Gardena should use an opportunity to let citizens use their property to their advantage.
Another thing to discuss is money.
STR Income is taxed as any other. Current local property sales bring a lot of additional income to the city as Property Tax. Average 7.2% annual growth FY19 to FY21 if we take FY18 was a base year and it is over half a million dollars per year and let us face the truth – available APR influence market much more than STR perspective in Gardena.
Application of additional taxation in a form of Transient Occupancy Tax is not viable for this type of business and should not be considered for the reasons below:
1. Excerpts from Title 3, Chapter 16 of the Gardena Municipal Code states:
Sec. 3.16.050 Tax Imposed
A. For the privilege of occupancy in any hotel, each transient shall be subject to and shall pay a tax in the amount of eleven percent (11%) of the rent charged by the operator. Such tax shall

constitute a debt owed by the transient to the city, which shall be extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require such tax to be paid directly to the tax administrator.

B. For purposes of this Section, unless there is an agreement in writing entered into prior to commencing occupancy between the operator and occupant providing for a period of occupancy longer than thirty days, this tax shall be imposed upon, owed by and collected from the transient for the first thirty days of occupancy, regardless of whether the transient continues occupancy beyond thirty days.

By no means any of the properties can be considered a Hotel and thus cannot be taxed based on that.

Implementing additional taxation will be one more factor to push the inflation rate in Gardena even higher as we, as a business owners, will be forced to increase our rates to offset rising costs.

As a Financial Analyst by trade, I`ll go with some numbers sourced from available to the public online analytical tools and information published on the City of Gardena website.

Currently Gardena has 164 properties listed. 89 can be considered "entire home" and 75 are private or shared room.

Average price for STR is $153 per night and occupancy rate is 86%. (source - AirDNA)

Out of about 21,472 residential properties in the City of Gardena (source - Wikipedia) we are discussing 0.8% of all properties.

Currently there are 21 hotels/motels in Gardena with 747 accommodations on the market and this number didn`t change a lot during recent years (source - City of Gardena website and propertyshark.com).

I think it will be reasonable to consider fiscal year ended in 2019 for the below calculations regarding Transient Occupancy Tax collected by the City of Gardena as we can exclude influence of COVID to the hotel business.

Hotel accommodations 747

In FY2018-FY2019:

TOT collected by the City of Gardena $ 1,464,512.00

Average TOT collected per room $ 1,960.53

If the Hotels in Gardena would work with effectiveness of STR (av. occupancy 86% and av. rate $153) the actual % or revenues collected by the city would be 4.2% and this number shows that the demand in STR is high and there should be no restrictions, but the City of Gardena should benefit from it too.

City should provide opportunity to obtain business license with cost no more than $50 per STR and let people continue their business.

As a last resort the City may consider establishing a reasonable tax specifically for STR that should be significantly lower than for Hotels/Motels as our scale of business cannot be compared to them.

STR tax rate in amount of 4% seems to be reasonable and will provide city with about $304,064.86 ($1,854.1 per property) per year with just a minor cost to the City for administering new tax on quarterly or semi-annual basis.

The main platform used for STR booking is AirBnB – 96%.

(82% - AirBnB, 4% - VRBO, 14% - both, source AirDNA)

AirBnB and VRBO automatically collect and pay occupancy taxes on behalf of the hosts whenever a guest pays for a booking in specific jurisdiction. Gardena can be included in the

list of specific jurisdictions if needed. It will provide city with transparent data regarding hosts revenue collected and will help to keep new tax administration rate at lowest possible level. Dear City Council, please accept our suggestion as it will benefit everyone, the City of Gardena and Citizens of Gardena.

With best regards,
Vera Povetina
[redacted]

South Bay Association of REALTORS®

Tuesday, September 27, 2022
Via Electronic Mail

Hon. Mayor Cerda
and the Members of the City Council
1700 W. 162nd Street, Gardena, CA 90247

RE: Agenda Item 12 (A) – Ordinance No. 1844: Prohibiting Short-Term Rentals

Dear Hon. Mayor Cerda and City Council:

The South Bay Association of Realtors® (SBAOR) urges the Council to **reject** adoption of the proposed ordinance to prohibit short-term rentals (STR) at the September 27th Council meeting. We ask that you REGULATE STRs. Please engage with SBAOR and other key community stakeholders to identify best practices and effective policy solutions that strike a balance between the increasing economic benefits of STRs and the potential impacts.

What SBAOR can offer:

Work with the Mayor and City Council to help identify effective and enforceable STR regulations that both benefit and protect the community.

City can benefit and community be protected:

We encourage the city to do a thorough examination of the benefits and various options related to STR. Other local cities achieve this by some or all of the following: requiring a business license, an annual registry and/or permit (that can be revoked if a certain number of complaints are received on a property), and/or Transient Occupancy Tax (unincorporated Los Angeles County charges 12%). Cities can also institute a series of fines to ensure compliance with regulations.

Regulating STRs is reasonable and benefits everyone:

Rather than outright bans or heavy restrictions, regulating ensures property rights and the well-being of our community are in balance. For instance, we believe in preserving the ability of struggling residents to continue to afford their homes rather than sell to investors. Balancing the benefits to the city, local businesses, homeowners, and all residents are paramount.

Gardena is a growing city. Today, residents want to live, work, and play in cities that have thoughtful, reasonable, and progressive policies. A ban would overshadow this balance and take revenue out.

Stakeholders have not been engaged:

The proposed ordinance is too broad and overreaching. It was drafted without the input and considerations of groups representing the very Gardena residents that would be impacted. The issue of STRs are not new, and other cities have worked to craft workable solutions for all sides, together. We urge the City of Gardena to open dialogue with local stakeholders and implement a reasonable ordinance.

Thank you for your time and consideration. We look forward to working towards solutions. If you have any questions, please contact the SBAOR's Government Affairs Director Julie Tomanpos at Julie@SouthBayAOR.com or (310) 326-3010.

Sincerely,

Jaime Sutachan,
Government Affairs Committee Co-Chair
South Bay Association of REALTORS®

Her Honor, and to the honorable body of the city Council of the City of Gardena, this letter is addressed to each and all council members.

There will be two presentations in this letter. Both will demonstrate how our relationship can be from here forward, and particular attention is warranted as the First, Fifth and Fourteenth Amendments are being violated.

The first, serves as legal notice, and must address how I have been forced into an unamicable relationship based on assumptions without so much as common decency to ask a question and start a conversation, treated like a criminal, not even given the courtesy of respect to be spoken to, let alone listened to, the Council has necessarily required a showing of how our relationship has been so positioned.

The other showing, is what our relationship can also can be, a partnership, a team dedicated towards the same goal, peace of mind and friendship.

I may have a thick accent when speaking, but some background may give insight, I am a Ukrainian medical doctor, raised in the Soviet Union. I fled Ukraine, left a career amidst economic turmoil which imagination is not capable of creating, a week or month's work as a doctor in hopes of earning bread. The only currency we had was honesty, because we were raised in a world of deep mistrust and amidst a solid accepted belief that government knows best, for we were just the simple ones, who could not think for ourselves. I know communism, I know totalitarianism, because I have lived it. They believed they were doing right, they knew better… they were only human. It is hard to start a story more grim than this, no?

To escape, I would dream, and there is only one dream for lives like mine, it is the American dream. Against no odds, I was miracled to this country, and the home I made and the life began, was here in Gardena. Saving every penny, because I know how precious they are. Eventually they turned into a house, then two, and the dream that is America was mine. A little Ukrainian girl, owner of three homes in Southern California, now divorced with two children that were to be raised alone, yet they would go to college because of my income from my investment houses.

To Councilmember Love, the conversation mentioned second, is all that you need to read, not the former half; for you showed deep respect for human dignity and I am humbled.

This will be a little intense, so it is hoped that you can make it to the friendship portion, but when a Russian raised, Ukrainian single mother sees her cubs in danger, things do get… well it

will be seen, but only necessarily as the Council introduced themselves to me in such fashion, and it serves to demonstrate why a friendship is desirable.

THE WRONG FOOT

A maxim of law is that everyone is presumed to know the law, this especially applies to a government of laws, not of humans.

Because this is a mandated "public hearing on the proposed zoning ordinance or amendment to a zoning ordinance" (Gov. Code, § 65804 (b)) and per subdivision (a) to "publish procedural rules for conduct of their hearings" which "shall incorporate the procedures in Section 65854" despite this, the Council has afforded each of us 3 minutes to voice our concerns and lay out a cause of action at the same time, as a result have provided an open opportunity to raise any additional matters, because "[t]he body conducting the public hearing prevented the issue from being raised at the public hearing." (Gov. Code, § 65009 (b)(1)(B)) This is so because under Chapter 2.04 CITY COUNCIL, of the Garden Municipal Code (GMC) under 2.04.080 Meetings – Rules. "The following rules shall govern the meetings of the council and its transaction of business:

A. Oral Communications. Any person may address the council on any matter concerning the city's business or on any matter over which the city has control... There shall be a three minute limit on all speakers. **This time limit shall not apply to public hearing items where the property interests of the speaker are affected**."

Consequent to sending out the documents three days prior and coupled with the 3 minute limitation on this contested issue affecting our property rights, we have not been afforded sufficient notice and an adequate opportunity to be heard in clear violation of the Council's own rules and the Fourteenth Amendment, and have mandated a rapid response be thrown together. Without waiving any rights, that which was able to be worked up, will now be set forth, for one and all to join, "raising only those issues you or *someone else* raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing)" (Gov. Code, § 65009 (b)(2)) and for each to follow.

Each property that was already permitted as to the *use* of said property for what is today attempting to be defined as a Short Term Rental, as for me I was expressly previously granted permission for this purpose. As was acknowledged by the assistant city attorney Kranitz on August 9th as a lawful use, "So right now, yes, they're legal." (Exhibit C, p. 9 ln. 6), all such properties were in lawful operation and are thus Grandfathered in, any proposed changes are ineffectual to

said properties. "'Grandfathered' businesses are nonconforming uses that are not required to seek permits under local zoning ordinances enacted after they were in business. (See *Korean American Legal Advocacy Foundation* v. *City of Los Angeles* (1994) 23 Cal.App.4th 376, 397.)" (*City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740, 747 fn. 1)[1]

The Council specifically had attempted to disenfranchise homeowner rights with the defective notice, as published:

"If you challenge the nature of the proposed action in court, you will be limited to raising only those issues you or someone else raises at the public hearing described in this notice, or in written correspondence" then changes to either:
"delivered to the Gardena City Council at, or prior to, the public hearing." (9/15/22) (Exhibit A)
"delivered to the Gardena Planning and Environmental Quality Commission at or prior to the public hearing." (hereafter PEQC) (8/25/22) (Exhibit B)

Because under Gov. Code, § 65009(b)(2) ("If a public agency *desires* the provisions of this subdivision to apply to a matter, it shall include in any public notice issued pursuant to this title a notice substantially stating all of the following: 'If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or prior to, the public hearing.'") The city knew to replace the latter parenthetical portion with the contact information as shown above, but as to the former, simply omitted the parentheses and left it vague, rather than comply with case law as shown below.

FOR WANT OF NOTICE

As said published rules do not "restrict or limit" (Gov. Code, § 65802) this assertion, as such, on behalf of all such concerned persons, **this general object is lodged** as to the **failure to comply with mandatory notice** which was required because "the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice shall also be given pursuant to Section 65091." (Gov. Code, § 65854) Whereby Gov. Code, § 65091 provides in subdivision (a) "notice shall be given in *all* of the following ways: (1) Notice of the hearing **shall be mailed** or delivered **at least 10 days prior to the hearing to the owner of the subject**

[1] See also, "'A legal nonconforming use is one that existed lawfully before a zoning restriction became effective and that is not in conformity with the ordinance when it continues thereafter.' (*Hansen Brothers Enterprises, Inc.* v. *Board of Supervisors* (1996) 12 Cal.4th 533, 540, fn. 1.) ``Grandfathered' businesses are nonconforming uses that are not required to seek permits under local zoning ordinances enacted after they were in business.' (*City of Oakland* v. *Superior Court* [cited as above].)" (*Bauer v. City of San Diego* (1999) 75 Cal.App.4th 1281, 1286 fn. 1)

real property" and under subdivision (b) "[t]he notice shall include the information specified in Section 65094."

The Council further failed to provide a portion of notice under Gov. Code, § 65094 mandating "a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing."

Furthermore, the published noticed hearing for 9/27/22 pertained only to "Ordinance No. 1844" (Exhibit A) stemming from a prior adoption of Resolution No. PC 11-22. But the documents provided on 9/23/22 for this hearing and are here today being discussed by the Council, contained the first ever appearance of the text of Ordinance[2] No. 1843, as well as 1844. Wherein Ord. No. 1843 states, "the Planning Commission adopted Resolution No. XXX, recommending that the City Council adopt the Ordinance;" not Resolution No. PC 11-22, as Ord. No. 1844 did. But no copy of this "adopted Resolution No. XXX" had been provided. Ord. No. 1843 contained entirely different proposed actions, noticed only in the Regular Meeting Notice and Agenda as "Urgency Moratorium Ordinance" as a document. For all relevant publications and text of Agendas providing notice of actions here discussed see Exhibit D.

Gov. Code, § 65853 "A zoning ordinance or an amendment to a zoning ordinance, which amendment changes any property from one zone to another or imposes any regulation listed in Section 65850 not theretofore imposed or removes or modifies any such regulation theretofore imposed **shall be adopted** *in the manner set forth* in **Sections 65854** to 65857, inclusive." Which as just shown, there has been a failure to comply with Gov. Code § 65854 by failing to comply with Gov. Code § 65091 (mail notice and publish notice and description notice).

Furthermore, The Council has failed to provide required notice pursuant to Gov. Code, sections 65009(b)(2) "nature of the proposed action" "described in this notice"; 65090(b) "notice shall include the information specified in Section 65094" as quoted above. Easy so far right?

> On the merits, we hold that the court did not err in granting plaintiff's request for declaratory relief. Consistent with the Legislature's recognition of "the importance of public participation at every level of the planning process" and the policy of the state to give the public "the opportunity to respond to clearly defined alternative objectives, policies, and actions" (§ 65033), we hold that the 10-day notice of the legislative body's hearing must be given *after* the planning commission's recommendation has been received and must include the planning commission's recommendation as part of the "general explanation of the matter

[2] Hereafter "Ord."

to be considered" (§ 65094). We will therefore affirm the trial court's grant of summary judgment in favor of plaintiff.
Environmental Defense Project of Sierra County v. County of Sierra (2008) 158 Cal.App.4th 877, 881 (*Environmental Defense Project*)

The 8/25/22 published notice for the PEQC meeting on 9/6/22 was to discuss "Ordinance No. 1844" (Exhibit B) but as to Ord. 1843 it was not even announced as on the agenda to be put up for a vote by the PEQC, as Director Tsujiuchi declared under penalty of perjury on 9/2/22. (See 9/6/22 PEQC Meeting Notice and Agenda) Therefore there was no findings by the PEQC and today's consideration of Ord. No. 1843 is in direct violation of *Environmental Defense Project.*

"At the same meeting Councilmember Francis made a directive to place a moratorium on all STRs within the City. The directive was seconded by Council Member Henderson and an urgency ordinance is scheduled to go before the City Council at the regularly scheduled meeting of September 13, 2022." (PEQC Report 9/6/22, Tsujiuchi, pp. 1-2) "Recommendation … Adopt Resolution No. PC 11-22 recommending that the City Council adopt Ordinance No. 1844 (Attachment D)." (*Id*. p.3) The only action was adopting Resolution No. PC 11-22 as to Ord. No. 1844, but other than mentioning that "an urgency ordinance [wa]s scheduled to go before the City Council" no documents were presented to the public before or after regarding the findings of urgency by the planning department.

On 9/13/22, without any published notice to the public and absent any findings by the PEQC, the urgency ordinance 1843 was attempted to be passed, but failed.

"It was moved by Mayor Pro Tem Francis, seconded by Council Member Henderson, and carried by the following roll call vote to Adopt Urgency Ordinance No. 1843 with the added appeal language, by way of a four-fifths vote: Ayes: Mayor Pro Tem Francis and Council Member Henderson Noes: Council Members Tanaka, Love and Mayor Cerda Absent: None
Urgency Ordinance No. 1843 did not pass." (9/13/22 Minutes p.12)

Despite this failed motion, the matter appears to be presented again.

For a second time, the Council has disregarded Gov. Code, § 65804 ("publish procedural rules") GMC 2.04.080 Meetings – Rules. "N. Robert's Rules. Upon questions arising not covered by this section, Robert's Rules of Order shall govern unless a majority of the council shall deem otherwise." Under Robert's Rules, "If the motion has been voted down, it can be made again after there has been some progress in the debate." Yet no progress has been shown. That same majority to override Robert's Rules is also required under Robert's Rules to permit the second vote.

The Council attempted to deprive rights to their constituents but the stated reasons do not fall under the protections of Gov. Code, § 65009(a), for its purpose is "essential to reduce delays

and restraints upon expeditiously completing housing projects." This effort had not to do with building projects, and only to do with a council member's agenda.

And all of these failures to provide notice as required by law, began after a memorandum declaring these actions as *lawful* was written on Aug. 5, 2022 for the Aug. 9, 2022 meeting, placed on the agenda to educate the Council and seek direction, without published notice to the public.

Francis: Okay. So could we tonight declare moratorium until we have more time to discuss it and do some research and investigate what we can do? Can we do that? Can that be an option?

Cerda: Mayor Pro Tem. So tonight what we're doing is we're just discussing it for it to come back later on. As far as staff can do more research and so they just want to get some direction. We're not taking any action on this tonight, other than just, what are our feelings of this here? So it's going to come back and we will have more time to discuss it.

Francis: Until we take some time discussing all that we couldn't say until right now, we're just going to declare moratorium on all short-term rentals until we can figure out what it is we want to do.

Kranitz: We couldn't do it tonight because it's not on the agenda. And it would have to be added as an urgency item on the agenda. *And I think since it's been going on, you couldn't make the findings to support that there was an immediate need to add it on*. (Exhibit C p. 5 lns. 7-31)

And there still have been no *findings to support that there was an immediate need to add it on*, to even qualify to start the process of "the 10-day notice of the legislative body's hearing must be given *after* the planning commission's recommendation has been received and must include the planning commission's recommendation" (*Environmental Defense Project, supra.*) Despite the only notice on both Agenda and Publication being for Ord. No. 1844, the minutes of 9/13/22 reflect only a conversation about Ord. No. 1843.

"12.A URGENCY ORDINANCE NO. 1843, An Urgency Ordinance of the City Council of the City of Gardena, California, Establishing a Temporary Moratorium on Short-Term Rental." (9/13/22 Minutes p. 9)

Ord. No. 1843 "a moratorium is hereby established prohibiting all short-term rentals as defined herein." "SECTION 4. Prohibition. A. All short-term rentals are hereby immediately prohibited in the City."

The failure to provide lawful notice has left a state of confusion as to what we are even doing today. Evidenced by the statements during the 9/13/22 meeting. Kranitz: "To be effective immediately, it has to be an urgency ordinance. Otherwise its first reading, second reading, thirty days." Vasquez: "And that's the method that would be done on September 27th that process will be commenced, the first reading." Francis: "Yeah, so I think at least for that much, we ought to be

able to just kind of, you know, stop the action, just for a moment, just like I said, it's temporary, there was supposed to have things in place, cause I heard a lot of people say they're opposed to an out right ban. And that's not what we're talking about right now. We're just talking about a temporary situation, where we can discuss it on the 27th that's all. So I'm for it. I call for it."[3]

"All short-term rentals are hereby immediately prohibited in the City." (Ord. No. 1843)

RECIPROCATE, NOT PLACATE

As further explained in *Environmental Defense Project* at 891-92, the "Legislature's intent [is] that the public be involved in the planning process", and "there can be little doubt that the purpose of notice" "is to inform the public" "so they will have an opportunity to respond" "and protect any interests they may have", such participation was reported as "On September 13, 2022 the City Council considered the moratorium ordinance. There were **more than a dozen speakers**, **all of whom spoke in opposition to a ban** on STRs." (Agenda Staff Report 9/22/22) There were specifically fifteen speakers that spoke in opposition to the ban, none spoke in favor, two of which were not hosts but citizens in opposition of the ban, the remaining thirteen were people discussing the prejudicial harm and substantial damages that would result from the moratorium, and discussing the great care that they take to screen guests and protect the community. Yet promoted after nothing was offered to substantiate the purported findings based on speculation in Ord. No. 1843, without any notice it was to be heard, with disregard for those fifteen objections, absent any voice in favor, there was an immediate motion to pass this *urgent* matter.

This body has seen too often the complacency of the citizens, in not being involved in their local government, but along came an issue that inspired a memory - - that in this country we have a right to be involved and as Justice Ginsberg wrote, the "choice in exercising that right 'must be honored out of 'that respect for the individual which is the lifeblood of the law.'' [Citations.]" (*McCoy v. Louisiana* (2018) 138 S.Ct. 1500, 1507-08). It hardly seems worthy of being said, but apparently it must be reminded that the idea behind these laws, is so "that the public be involved in the planning process" and if the citizens so served are displeased then she is required to consider their voices and not her own. For such is the nature of a public servant, as in, serves the public will, not the public serves her will. It was so written in the rules of conduct for these meetings.

[3] https://youtu.be/6T1z77Zy5Z4?t=9303

The rules as stated note: Listen to others respectfully; Exercise self-control; Give open-minded consideration to all viewpoints; Focus on the issues; and Embrace democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions. Yet after hearing such passionate opposition and receiving only letters opposing since, after fifteen voices petitioned their government with grievances, "a motion to adopt the moratorium ordinance" was made, which failed to lead by example, as it did not show impartial listening and that embracing of democratic rights.

THE GRAVE HARM PRESENTED

From the Approved Minutes of the 8/9/22 City Council meeting.

"12. DEPARTMENTAL ITEMS - COMMUNITY DEVELOPMENT

12.A Short Term Rentals for Lodging Discussion

City Manager Osorio presented the Staff Report.

Community Development Director, Greg Tsujiuchi gave the presentation. Assistant City Attorney, Lisa Kranitz and Senior Planner, Amanda Acuna were present and available for any questions.

Assistant City Attorney Kranitz explained the City's position stating that the regulations relating to Short Term Rentals can either be totally permissive, completely prohibitive, or somewhere in between. They also gave information of what our surrounding cities are doing in putting certain regulations in place when it comes to STRs.

Our Mayor and Council Members asked questions, expressed their opinions, and discussed all aspects if we were to allow short term rentals **including hiring extra staff to monitor *all* the complaints.** Director Tsujiuchi and Assistant City Attorney Kranitz provided answers, along with City Manager Osorio and City Attorney Vasquez. It was also asked if staff could come back with additional findings because having short term rentals could also be a positive experience.

Public Speakers:

1) Charisse, asked if Airbnb are legal to have in Gardena.

2) Raymond Dennis expressed his concerns and spoke in opposition to this item.

City Attorney Vasquez, then asked for direction clarification from Council: Direction is for staff to draft an Ordinance to Prohibit Short Term Rentals." (pp.7-8)

"19. COUNCIL DIRECTIVES
Mayor Pro Tem Francis
Asked If we could bring an Ordinance to establish a moratorium regarding Short Term Rentals to our September 13, 2022, Council Meeting. Council Member Henderson seconded it." (p.11)

Returning to the Agenda Staff Report again, after observing "more than a dozen speakers, **all of whom spoke in opposition to a ban** on STRs.

<u>STR Discussion</u>
As has been **<u>evidenced</u>** <u>by public testimony</u>, there are arguments both for and against STRs.
Arguments in favor of STRs include:
• Provides additional income to individuals

• Introduces new people to Gardena
• Provides additional customers who will utilize businesses in Gardena
• Provides revenue to the City
Arguments against STRs include:
• Impacts the residential character of the neighborhood
• Creates nuisances relating to parking and noise
• Reduces the supply of housing, including affordable housing, as these uses drive up housing prices" (p.1-2 of 3)

"On August 9, 2022, the City Council discussed various policy options for short term rentals (STRs) and **heard concerns** from the public on potential **loss of neighborhood character** and **challenges with enforcement**. *The Council also had concerns* on the adverse impacts to *noise*, *trash, crime, traffic, and parking* these uses would have to the residential neighborhoods." (p.1)

Because the staff report stated, at the 9/13/22 meeting the public voice, "all of whom spoke in opposition to a ban" but earlier on 8/9/22 the public voice was reported as limited to "loss of neighborhood character and challenges with enforcement", yet the minutes reflect a query about legality to which the answer was, "So right now, yes, they're legal." (Exhibit C, p. 9 ln. 6). But her statement actually was rather unusual, yet the Council missed it completely. That discussion was not noticed to the public yet two people knew to show up and voice concerns. The woman wanted to stress her question about legality, then made a materially false statement to the Council to send her point home, as she claimed just a few days prior in Gardena "an FBI raid on it. They had the dogs, the Secret Service. They had everybody because somebody was selling guns from the Airbnb on that street" (Exhibit C p. 8 lns. 26-28). That was a significant event to have a gun trafficker be investigated by Secret Service who handles treasury matters and not by ATF, but the FBI, yet not a single news report covered such a large scale operation as described investigated by anyone, not even a raid of any sort from any agency could be located to corroborate her claims.

Despite the minutes reflecting a nondescript expression of concerns from the second speaker, by the vague "spoke in opposition to this item" which could mean opposing the item being proposed to be banned or opposed to STRs; but his message was very poignant and made with an agenda, and successfully steered the Council's minds as she had intended, then moved for a moratorium. But the real proof of the agenda as it relates to his statement will be revealed below.

The report is inaccurate when it then declared, "[a]rguments against STRs include: … Creates nuisances relating to parking and noise ; Reduces the supply of housing, including affordable housing, as these uses drive up housing prices" because those were not voiced by the "public testimony" those were only opinions from the "Council also had concerns on the adverse impacts to noise, trash, crime, traffic, and parking", but have offered no evidence to substantiate

these claims. It was even stated "*And I think since it's been going on, you couldn't make the findings to support that there was an immediate need to add it on*", yet ever since that time, the speculations from that non-noticed discussion have come to be the findings.

The city has brought this urgency ordinance on a vague number of complaints, since 8/9/22 but the last report written by Director Tsujiuchi on 9/22/22 provided some numbers:

"While the STRs in Gardena have generated complaints, it is difficult to determine to what level. Police were only able to identify **9 calls in the past 3 years** that were identified as STR locations. However, officers do not use terms in their police report that would identify a response as one that involves an STR, so officers have likely responded to things such as noise complaints without an identification that the site was an STR."

It is more correct to say *possibly* responded, "likely" implies probabilistic, meaning greater than 51% chance, there is no data to conclude there is a probability of calls, when the calls come in at a rate of once every four months based on known data, 1 out of 120 days is 0.83%, falling far below probability, and hardly inspiring a need to hire "extra staff to monitor *all* the complaints."

"Additionally, Community Development has received approximately 8 calls in the last month relating to STRs that were not logged."

For the past two months, this has been a hot issue, but no one on the staff thought to log a single one of these calls? But they remember them all being negative. Despite the calls coming in at a rate of once per four months, after a month of no calls, now the calls are once a week, which is consistent with an agenda being promoted.

Also on the claimed aspect of crime, during the past three years, there were 9 calls and 8 calls in a month, using the number of 17, it is odd to be found as urgent when also reported during a three year time period were 52 rapes, 14 murders, 23 arsons, 509 robberies, 468 assaults, 878 burglaries, 985 auto thefts, and 2,038 thefts and the city wants to scare away the outside money that is still willing to come here. By spending $4,000 on a KGB type company to study the money coming into the city, over 17 calls, as this was more correct than that money being spent on the 4,967 calls about serious criminal activity "to protect public health, safety, and welfare," from the 0.34% of calls.

"In order to protect the public health, safety and welfare of the community and pursuant to the provisions of Government Code section 65858, a moratorium is hereby established prohibiting all short-term rentals as defined herein." (Ord. 1843)

The Council has been tricked into believing we are covert criminals, and overlooked that we are exactly like all others who worked hard to buy a house and create a business from it, like 50% of all homeowners in this city have done.

THE REASONABLENESS INQUIRY

Despite being Grandfathered in, the city wants to effectuate a taking of an economic interest vested in real property, yet has made no mention of it in the process, "a state statute that substantially furthers important public policies may so frustrate distinct investment-backed expectations as to amount to a 'taking.'" (*Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 127) The U.S. Supreme Court test for a Fifth Amendment taking under *Goldblatt v. Hempstead* (1962) 369 U.S. 590, 594-95 asks us to look at:

1) Do the interests of the public require such interference?

2) Are the means reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals?

To answer these questions, the high court asks us to "evaluate its reasonableness" as to "the nature of the menace against which it will protect".

In proposed Ord. 1843, the city council found "short-term rentals for lodging and other uses have deleterious impacts by increasing noise and traffic, creating parking problems, changing the character of a residential neighborhood, and with the case of housing - creating an impact on housing supply;" to justify changes in zoning laws, making *Goldblatt* the correct test.

Deleterious is a strong word, defined as "causing harm or damage" (Oxford Dictionary) that is a serious invocation by the honorable members of the city's council. Thus an investigation of what the Council is being asked to declare as "true and correct" is necessary, for such harms caused by increase in traffic and noise and loss of parking would interfere with the rights as property owners to the use and enjoyment of ownership of lands and "changing the character of a residential neighborhood" is certainly "deleterious".

Tanaka: And so Mr. Tsujiuchi, you said that there's some issues with code enforcement. What type of issues did we get? Were they like parties? Were they just loud people? What kind of issues?

Tsujiuchi: The ones that came on, I'd say at least three times, were noise. And it's usually some, it's not uncommon for short term rentals, people rent a larger house and then they host a party there. So several of the calls, or I would say three for Mayor Pro Tem, say two to three calls have come in for noise. For sure, I'd say two came in because of parking being taken up in the neighborhood. And then there was one call where it was just a complaint that they said what Ms. Kranitz was saying, that it's taken away from our neighborhood. These are residential neighborhoods. They're not little hotels on our blocks that we want. So it was kind of just a general complaint.

(Exhibit C p. 7 lns. 23-35)

Whereas, these stated reasons establish "the nature of the menace against which it will protect" so we must "evaluate its reasonableness" and "A careful examination of the record reveals a dearth of relevant evidence on these points." (*Goldblatt* at 595) *More than could be imaged.*

THE ALLEGED ALLEGATIONS

The city made a finding in proposed Ord. 1843 that "the City Council has become aware of new platforms that allows people to rent out their pools [sic] by the hours [sic]". Yet a Google search for "city of Gardena rent a pool party" resulted in all first page hits about how to rent a pool from the city of Gardena itself. And on 8/9/22, Director Tsujiuchi, reported, "Currently, there do not appear to be any pools for rent in Gardena."

Starting then, with the first real issue, "adverse impacts to noise", that weapon has met its demise because Chapter 8.36 Noise, of the Gardena Municipal Code, as set by policy, "8.36.010 Declaration of policy. In order to control unnecessary, excessive and annoying noise and vibration in the City of Gardena, it is hereby declared to be the policy of the City to prohibit such noise and vibration generated from or by *all sources as specified* in this chapter" violates void for vagueness and is overbroad thus no law at all under the First and Fourteenth Amendments, each "ordinance criminalizes a substantial amount of constitutionally protected speech" (*Houston v. Hill*, (1987) 482 U.S. 451, 466) as each ordinance "authorizes or even encourages arbitrary and discriminatory enforcement." (*Hill v. Colorado* (2000) 530 U.S. 703, 732) Which is exactly what was evidenced in writing, by the city, at this very event, by declaring a noise nuisance.

"[T]he void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." (*Kolender v. Lawson,* (1987) 461 U.S. 352, 357)

> "[I]n a facial challenge to the overbreadth and vagueness of a law, a court's first task is to determine whether the enactment reaches a substantial amount of constitutionally protected conduct." *Hoffman Estates* v. *The Flipside, Hoffman Estates, Inc.,* 455 U.S. 489, 494 (1982); *Kolender* v. *Lawson,* 461 U.S. 352, 359, n. 8 (1983). Criminal statutes must be scrutinized with particular care, *e. g., Winters* v. *New York,* 333 U.S. 507, 515 (1948); those that make unlawful a substantial amount of constitutionally protected conduct may be held facially invalid even if they also have legitimate application. *E. g., Kolender, supra,* at 359, n. 8.
> *Houston v. Hill* at 458-59

The Gardena Municipal Code (GMC) proscribes, from 7am to 10pm, the interior noise level if sustained for over 15 minutes at "45 dB(A)" and the peak maximum is "65 dB(A)" but if "speech conveying informational content," the "noise standards shall be reduced by 5 dB." (GMC

8.36.050 Interior noise standards). For the same events but outdoors it is, "55 dB(A)" and "75 dB(A)", respectively, and "speech conveying informational content, … reduced by 5 dB." (GMC 8.36.040 Exterior noise standards) and "shall be deemed guilty of a misdemeanor" (GMC 8.36.090 Enforcement) which permits incarceration upon arrest.

Such laws criminalize all speech, and provide no guidance to a reasonable person as to what conduct to avoid. Putting the ordinance in English terms, according to Yale University,[4] "a household refrigerator" is 55 dB(A) which is 5dB over one's outdoor speaking limit of 15 minutes, because "normal conversation" is 60-70 dB(A); and qualifies for that 5dB reduction, meaning outside in Gardena the loudest anyone can be is equivalent to "a household refrigerator". Thus this ordinance is perfect for declaring unwanted aspects in violation of and is now being used as an arbitrary weapon in violation of the federal Constitution.

Moving onto the dire issue of traffic congestion, there are 50 short term hosts in the city of Gardena, with a total maximum of 166 beds at 87 locations, given that we only drive one car if visiting with our family, the number is properly closer to 87, but to console the city's fears we will analyze using 166 cars from the short term rentals in the city of Gardena on any given day. Compare to the 21 hotels or motels in the city, with a total of 747 rooms, (and yes I counted them all).

The five main city streets with the largest traffic load, average 33,276 cars per day,[5] assuming all 166 cars from the short term units drove on the same road, that is a traffic increase of 0.49% on any given main road in Gardena, and at 87 cars it is 0.26%. Since they obviously would not all be using the same road, the impact is even lower, the average increased impact on any of the main five streets is 0.098% and 0.05%, which falls well short of harmful.

The claimed reasons of concern for the increase of traffic prove to be disingenuous, not only by the obvious negligible increase of 0.098% per main road but by ordinances recently enacted since March of 2020, see Ords. 1822 & 1823, both increasing zoning to R-4 high density population; Ord. 1824, changes from R-4 high density to General Commercial (C-3) with mixed use overlay (MUO) followed directly after by Ord. 1825 changes to zoning relating to Amenity

[4] Available here: https://ehs.yale.edu/sites/default/files/files/decibel-level-chart.pdf

[5] The average of all reported counts per block for the largest streets impacted by daily traffic are: El Segundo Blvd. (31,350), Crenshaw Blvd. (27,940), Redondo Beach Blvd. (31,250), Artesia Blvd. (48,800), Western Ave. (27,042), combined average is 33,276.
Source: https://cityofgardena.org/traffic-counts/

Hotels and other minor revisions. The former two were done to add housing, yet the city voiced concerns about loss of housing. More so, all significantly increase traffic and noise and quite literally serve as "changing the character of a residential neighborhood".

Further along the deleterious impacts of traffic and noise increases, the city also passed Ord. 1838, permitting lot splits, thereby doubling the traffic impact on the city. Maybe the city can explain how 0.49% increase is more "deleterious" than 200%.

Proposed Ord. 1843, noted a serious concern "creating parking problems" as to the 87 cars parked in the same locations that a resident would park, as a major concern to the city. Which is why in Ord. 1832, the Council found 18.40 of the Gardena Municipal Code "out of synch with the goals and policies of the General Plan, effectively making the over-supply of on-site parking, whether needed or not, the top policy of the City;" the purpose of that ordinance was to allow for more commercial growth by permitting all previously excluded areas to count towards total parking, e.g., ally ways, street parking, drive ways, etc. Stated as a major concern as to the entities the Council are now declaring as commercial short term rentals, after the Council enacted ordinances creating parking concerns.

Returning to the final aspects of the report that could possibly still be characterized as substantiated by evidence, the alleged public argument in favor of the bans is limited to "loss of neighborhood character" because the trash argument is the same trash that would be created by renters. Which is why no proof of these allegations could be offered, and none can be found.

But looking at loss of character for a moment. The city zoning permits the following:

> 18.12.010 Single-family residential zone (R-1).
> "The R-1 single-family residential zone is intended as a low density residential district of single-family homes with one dwelling per lot and customary accessory buildings considered harmonious with low density residential development."
>
> 18.12.020 Uses permitted.
> "The following uses shall be permitted in the R-1 zone and other such uses as the commission may deem to be similar to those listed and not detrimental to the public health, safety, and welfare:
> A. Single-family dwellings and accessory buildings customary to such uses located on the same lot or parcel of land;
> D. Family day care homes
> E. Mobile homes
> G. Residential group facility;
> H. Transitional housing, subject only to those restrictions that apply to other residential dwellings of the same type in this zone;

I. Supportive housing, subject only to those restrictions that apply to other residential dwellings of the same type in this zone.

Family day care consists of the beautiful sound of children with their laughter and screams filling the air… and violating the noise ordinance, which is a criminal violation… not by the kids though (see Pen. Code, § 26 (one)), but by the home owner, yet this is not enforced.

The Council is commended and applauded for offering to enact express protection for members of residential group homes, transitional housing, and supportive housing. Many communities reject them, but they are welcome here, sincerely… good job.

It is not intended as any sort of disparagement of these sorts of homes, but it is nonetheless necessary to point out that these homes include multiple unrelated persons, often living 2-4 people to a room, in 3-5 bedroom houses, creating a single family residence that houses 6-20 people. Those are commercial enterprises operated in an R-1, but they are not subject to the same "restrictions that apply to other residential dwellings of the same type in this zone" because other SFRs are being singled out, for having less people, taking up less parking, generating less trash and creating less noise.

With solemnity, the struggles these residents are under going is difficult. But the city accused residents of Airbnb and other platforms of being criminals without basis, yet the very definition of transitional housing is to provide for group support based housing during the transition back into normal society after prolonged prison sentences, and the function of a residential group facility is for those who wish to stop using drugs. Both groups are literally criminals, and turning their lives around, but the city accused law abiding guests as criminals to further a falsely inspired and steadily driven agenda.

At the same meeting to vote on an urgency ordinance "to protect public health, safety, and welfare," "Marc Panetta: owns apartment property on 147th asked if the policy when obtaining a police report for having disruptive tenants or domestic violence for landlords could be modified;" (9/13/22 Minutes p.6) So the violence, noise, and unruly tenants at apartments is so common that the city has a procedural policy about this? When will those properties be up for an urgency vote?

Proposed Ord. 1843 "short-term rentals of residences for lodging purposes… are not listed as allowed uses under the Gardena Municipal Code"

The Staff Report of 9/6/22, stated:
"An STR is any rental of a dwelling of thirty days or less. The City's position has been that because STRs are not listed as an allowed use in the zoning code, they are prohibited. This is known as permissive zoning. The recent case of *Keen v. City of Manhattan Beach* decided

> in April of this year renders this argument invalid. Due to this decision, the issue of regulating STRs was brought to the City Council for discussion and to provide direction to staff to draft an ordinance."

Again, cutting the citizens right out of the conversation, because if involved we can ask questions that maybe the city can or cannot answer. One would be, what sort of use is involved when a person is eating, watching TV, relaxing and sleeping at a house? Because the city said this was "not listed as an allowed use." "The following uses shall be permitted… Single-family dwellings and accessory buildings *customary to such uses* located on the same lot or parcel of land", it appears that sleeping and eating are customary uses of a house, or no?

Proposed Ord. 1843 claimed it needed to study this new phenomena called short term rentals, that have been around since 2008. While simultaneously drafting an ordinance to prohibit short term rentals under Ord. 1844 with all of the same findings. Which sounds nothing like a desire to study.

Proposed Ord. 1843 concludes its "findings" with:

> "WHEREAS, the City Council would like to immediately prohibit short-term residential rentals in order to protect the public health, safety and welfare from the impacts listed above on short-term lodging rentals and make clear that other short-term rentals of residential properties are prohibited until such time as it considers a permanent ordinance and if adopted, such ordinance takes effect;"

The impacts listed above, were proven to be false, unfounded and not supported by any evidence.

"NOW, THEREFORE, the City Council of the City of Gardena does ordain as follows:

SECTION 1. That the above recitals are true and correct and are adopted as the City Council's findings."

That declaration is simply not true, and has so been proven.

The above major concerns and reasons for changing the laws to take away existing property rights have been proven as false, the high court had already held the city will have to pay for our expected losses under the Fifth Amendment, yet the city persists anyway, even in situations where it actually does "substantially further[any] important public policies may so frustrate distinct investment-backed expectations as to amount to a 'taking'" (*Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 127) and the city will have to pay for our losses.

CHANGING THE CHARACTER OF A NEIGHBORHOOD

The Council answered this concern for all, as to the finding made by the Council, "changing the character of a residential neighborhood, and with the case of housing - creating an impact on housing supply;" (Proposed Ord. 1843) because the Council had already made another finding, on May 11, 2021, Ord. 1828, "The Zoning Changes will allow the development of a high-density, 265-unit, **first-class** apartment project in the north end of Gardena which will provide new and needed housing opportunities in the City." The median income of a resident in Gardena is $55,000, that certainly does not seem like a salary that can afford a "first-class apartment". Those 265 units adds more than 165% of the cars from all short term rentals to the intersection of El Segundo and Crenshaw, where 58,300 cars cross paths daily. Those 264 units create more trash, take up more parking, and most certainly will create an impact on the housing supply, for rich people.

The city was fully aware that it had the authority to "[r]equire, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households" (Gov. Code, § 65850 (g)) but the city did not so require that. Instead the city authorized "265-unit, **first-class** apartment[s]" that will only cater to the upper class, and serve to increase the rental median price; then claimed that STRs will drive up the rental prices and serve to take away affordable housing.

And as to "changing the character of a residential neighborhood," all who once enjoyed the billboard ban in this beautiful city, will find the view changed because that same proposal also now amended and added other ordinances, amending Ord. 18.58.050 "Billboards, as defined herein; this does not apply to digital billboards." And added Ord. 18.58.055 permitting digital bill boards, which are known to increase traffic. Not to mention the glaring light changing the character of any neighborhood it is placed in. But those were paramount concerns to justify outlawing rentals in the city. Also in those billboard laws, there was a citation to Bus. & Prof. Code, § 5412 "Eminent Domain Law" "'Relocation,' as used in this section, includes removal" but the city has simply tried to violate the Fifth Amendment with this ordinance but without advising the extending that offer or even acknowledgement of rights mentioned above by the U.S. Supreme Court cases *Goldblatt* and *Penn Central Transp. Co.*

But there were some affordable housing units built recently, e.g., "50 contemporary new townhomes" in a "Gated community" at Azalea Walk 1335 W. 141st St. Gardena, CA 90247 "Payments starting as low as $2,508* a month." * "$676,990 with a 20% down payment… 680+ fico credit score and 6 months PITI reserves required" meaning our median income families only have to come up with $135,000 + $18,000 reserves, for a total of $153,000 and that affordable $2,508 per month is within their reach.

Another stated finding of Ord. 1843 included, "WHEREAS, the desire to operate short-term rentals is expected to increase due to the proximity of Gardena to SoFi Stadium;"

In Ord. 1825 other findings were made:

"WHEREAS, Gardena is situated to be in a position **to capitalize on a demand for new hotel spaces** due to its proximity to SoFi Stadium, Hollywood Park, Dignity Health Sports Park (formerly "Stub Hub"), and other attractions; and
WHEREAS, **during the past year, developers have indicated** that the City's development standards have been an **impediment to new hotel development**; and
WHEREAS, at the City Council meeting on July 14, 2020, the City Council gave direction to staff to implement changes;"

The Council has been pushed by an agenda to ban STRs, steering the city to blame STRs for traffic, forgetting they increased it themselves; blamed for less parking, while causing less parking through Ordinances; declaring STRs will cause prices to go up and a shortage, yet forgetting about creating first class apartments for the rich; declaring STRs will become more proliferent because of SoFi, while declaring that SoFi money is good for the city. Someone has been hiding an agenda.

The meeting that started all this, was not noticed to the public, yet two people showed up to speak in favor of the ban. Observe the words of the second person:

Raymond Dennis: I also think that with the proximity of SpaceX and proximity of Tesla, that they have many short term people that come into those organizations that *instead of using hotels* would be more inclined to bundle up in a Airbnb. … I understand if you can't do a moratorium right now, but you at least should investigate, investigate quickly because the world cup is coming. You have the Super Bowl. You have the BCS championship coming. You have the final four coming and you have in 2026 World Cup, all of that coming to SoFi, and *people be looking for places to stay*.

(Exhibit C p. 9 lns. 26-28, 34-37; p. 10 ln. 1)

Those are rather unusual concerns for a random citizen at a local city hall meeting to spontaneously show up and be focused on upper class workers desiring a short term place to stay and not using a hotel, that SoFi money will be coming in and needing a place to stay, in a couple

of years, just in time for a hotel to be approved and built. But he also planted fears in his speech, and what was a relatively quiet reception by the council, then turned into a fear fest. Spurned by people randomly present with focused messages to manipulate the Council.

STRs HAVE ALWAYS BEEN LAWFUL AND STILL ARE

The proposed zoning fails the uniformity requirement of Gov. Code, § 65852 because some houses are permitted to a use of their land for hire and are not treated as a business, but every year money is paid by me for a business license, "License Activity Residential Rental Property" one for each of my addresses (Account Numbers 2820, 2821; $56.75 x2; I am current see Transactions ID's: 63482405363 and 63482409762). Her Honor declared on 9/13/22, "I'm sure none of these people are paying any type of business license tax or anything like that."[6] The city has been approving of my short term rentals for years, because as it acknowledges, it was a lawful activity.

5.04.110 Separate business licenses/permits for each business and for each location.
A. Except as otherwise provided in this Title, a separate license shall be obtained and a separate fee paid for each branch establishment or separate place of business, and for each separate type of business activity which shares a common location, even when conducted under the same ownership.
B. Each license shall authorize the licensee named therein to commence and conduct only that business described in such license and only at the location or place of business which is indicated therein.

5.04.010 Definitions.
"'Business' means and includes all kinds of … enterprises, establishments and all other kinds of activities and matters, … used or carried on for the purpose of earning in whole or in part a profit or livelihood … Business, … shall include, without being limited thereto, trades and occupations of all and every kind of calling carried on within the city; … the renting or supplying of living quarters or board, or both for guests, tenants or occupants."
"'Established business' means and includes only such persons in cases whereby the nature of their respective modes of operation would clearly be classifiable as a "permanent business." In all other cases such fact shall be required to be proven … for a minimum period of six months or more.

During the slide show on 8/9/22, a word had to be defined for the city:

"What is a Short Term Rental (STR)?- Typically defined as a rental of a dwelling unit which is shared, in whole or in part, for periods of 30 days or less as a way of generating rental income."

That was an admission that the city had yet to define the term legally.

The August 9th Agenda Staff Report

"An STR is any rental of a dwelling of thirty days or less. The City's position has been that because STRs are not listed as an allowed use in the zoning code, they are prohibited. This is

[6] https://youtu.be/6T1z77Zy5Z4?t=8971

known as permissive zoning. The recent case of *Keen v. City of Manhattan Beach* decided in April of this year renders this argument **invalid**.
According to the appellate court, Manhattan Beach's ordinance did not regulate how long a person could stay in a dwelling and therefore rejected the city's argument that the STRs were prohibited under the theory of permissive zoning. **Based on this decision, if Gardena wishes to regulate or prohibit STRs, it will be required to enact a zoning ordinance to do so**." (p.1)
"There are now websites that are devoted to hourly rentals of pools in single-family homes, the most popular of which is www.swimply.com. Additionally, owners are renting their homes for use as event spaces. Currently, there do not appear to be any pools for rent in Gardena. Community Development has received inquiries about using private homes for events such as weddings. Use of homes for these purposes turns a single-family home into a commercial enterprise and can cause neighborhood disruptions.
Unlike STRs for lodging, these uses are prohibited under the Gardena Municipal Code as they are not listed as an allowed use. However, staff believes that such uses should be specifically addressed in accordance with the City Council's desires." (p.3)
"Submitted by: Greg Tsujiuchi Date: August 4, 2022"

The above is a direct acknowledgment by the Community Development Department Director that STRs were not prohibited but rather are currently permitted, because an appellate court had determined their theory was legally invalid and acknowledged that the Gardena Code did not regulate how long a person could stay, therefore the use as a STR was just like the other 10,000 rentals in this city, except that STRs comprised 0.8% of the volume of rental units in the city, which by no means has ANY meaningful impact on the available housing supply.

As of 2018, there were 20,619 households, comprised of 32% nonfamilies, 68% families; the median income was $55,351 (City of Gardena 2021-2029 Housing Element p.13) and as of 2020 there were 21,982 housing units with 52% as single family residents (SFR) and 43.6% multiple-family units (MFU), (*id*. p. 15) thus 11,431 SFRs and 9,584 MFUs, but near 50/50 on ownership (10,090) to renter (10,529) ratio (*id.* p. 36).

Under Public Resources Code § 21083.3 when a "parcel has been zoned to accommodate a particular density of development or has been designated in a community plan to accommodate a particular density" which all of our properties were, thus "consistent with the zoning or community plan" any inquiry "shall be limited to effects upon the environment which are peculiar to the parcel" but the city already declared "with certainty that there is no possibility" of an environmental issue under the commonsense exemption set forth in California Code of Regulations title 14, section 15061(b)(3), which the city planner forgot to cite, and further proves there are no concerns with trash, noise, or traffic.

This ordinance is not consistent with the General Plan, Policy 2.2 "Encourage provision of units of various sizes to accommodate the diverse needs of the community, including seniors, students and young workers, and large households." Rentals of any duration accommodate any degree of temporary worker or visitor, how many will be available to rent to a visiting nurse here for three weeks or worker in for a project for 6 weeks? Or those Tesla or SpaceX workers? And directly violates Policy 5.2 "Provide a range of housing options, locational choices, and price points to accommodate the diverse needs in Gardena and to allow for housing mobility." One of those public voices on 9/13/22 specifically advised that she uses STRs to house visiting family members when they come to town because they cannot afford the hotel rates.

And the only stated negative aspect is under Policy 2.5, "Discourage the conversion of affordable rental units to condominium ownership." Which not one of us has contemplated.

Is the Council aware that the General Plan only uses the word "short" one time in the entire plan? And it is under Permit and Processing Procedures. "Development processing time is relatively *short* and expeditious due to a one-stop counter, streamlined procedures, and concurrent processing." (City of Gardena 2021-2029 Housing Element, p. 49)

Therefore, the proposed zoning is not compliant with Gov. Code, § 65862 as to any "inconsistency between the general plan and zoning arises as a result of adoption of or amendment to a general plan" and the moment the Council attempts to amend the General Plan to make STR's inconsistent with it, the Council grants each of us standing to attack the General Plan under Gov. Code, § 65860(c).

THE LEGISLATURE PRECLUDED THIS CURRENT ACTION

And that brings us to the stated reason for this urgency measure, as brought under Gov. Code, § 65858 "to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a *contemplated* general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time." The Legislative history clarifies that the intended use of this statute is not a contemplated use. From the (Senate Housing & Community Development Committee, Chair Senator Dunn, Analysis of SB No. 1098 (2001-2002 Regular Secession) as introduced May 3, 2001, p. 1):

> "Existing law allows a local government to adopt an 'interim ordinance' - otherwise called a moratorium - prohibiting **any *new* land use** that may be in conflict with a change to the general plan, specific plan or zoning proposal that the jurisdiction is studying or considering.

> The local government must first make legislative findings that there is a current and immediate threat to the public health, safety or welfare and **that the approval of <u>additional permits</u> would <u>result in the realization of that threat</u>**. Upon a 4/5ths vote, the local legislative body can adopt such an ordinance for 45 days and ultimately extend it for as long as two years."[7]

The Senate disagrees with this council's intended use to retroactively apply the zoning law, as does our local Court of Appeal. "We conclude that the city council failed to make findings required under Government Code section 65858, subdivision (c) … therefore was contrary to law and invalid." (*Hoffman Street, LLC v. City of West Hollywood* (2009) 179 Cal.App.4th 754, 758). Wherein the court also concluded their was no need to follow the administrative remedies because the ordinance was invalid.

Gov. Code, § 65858 subdivision (c) provides "The legislative body **<u>shall not adopt</u>** or extend any interim ordinance pursuant to this section ***unless*** the ordinance contains legislative findings that there is a **<u>current and immediate</u> threat to the public health, safety, or welfare**, ***and*** that <u>the approval of additional</u> subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare." The Council has skipped right over the aspect of any additional future units would cause harm, and only declared then existing lawful uses were the cause of harm, but failed to substantiate it as required by statute and case law.

It is generally understood in this state, that the findings need supporting evidence, which as of now only consists of voices of the public submitting an objection to the unlawful ban.

Three quick points and then done.

The Council's administrative process is designed to eliminate a cause of action under Gov. Code, sections 65009(c); 65009; 65093 in violation of the Fifth and Fourteenth Amendments pursuant to *Logan v. Zimmerman Brush Co.* (1982) 455 U.S. 422 as a cause of action is a property right that may not be so shortly limited.

Reservation of right is hereby made and no waiver of rights results as under local, state and federal laws, all possible applicable causes of action, and defenses are now raised, reserved and intended to be used.

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[7] Available here: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200120020SB1098#

Finally, and very importantly, in a case where the citizens prevailed over the city regarding zoning issues, the "plaintiffs moved for attorney's fees pursuant to section 1021.5 for prevailing on their challenges to the SNAP variances. After full briefing and a hearing, the trial court granted La Mirada attorney's fees totaling $793,817.50 and Citizens attorney's fees of $180,320." And was affirmed by our local Court of Appeal. (*La Mirada Ave. Neighborhood Ass'n of Hollywood v. City of L. A.* (2018) 22 Cal.App.5th 1149, 1155) Money that could be spent on the homelessness issue.

WHERE DO WE REALLY WANT TO GO FROM HERE?

The above recommendations were made before investigation because the city only began an investigation after the urgency moratorium vote failed, and then a KGB poised company was procured to spy, as if we were hiding.

"After the last City Council meeting, the City Manager authorized entering into a $4,000 consultant agreement with Deckard Technologies/Rentalscape to provide important information regarding STRs that currently exist in the City. Generally, it takes several weeks for the system to populate the information for the City."

But how will the city be making good use of that money when it cuts off the source of the data?

"Any modification to Ordinance No. 1844 would need to first go back to the Planning Commission. Given the complexity of drafting an ordinance that allowed STRs, it is unlikely that such an ordinance could be returned to the City Council before late November or early December."

And that few months is not enough time for the company to be running data to make an informed decision with, but better than no time. Additionally, this "would need to first go back to the Planning Commission" anyway, because 1843 was not voted on by the Planning Commission.

Now, if you do not want to shoot me, that part is all done and we can move on to where we need to be. Do you know that where I am from, this could never be said? After the second page, they would win the argument…

You have no idea the freedom you take for granted here. And how wonderful it is to be able to use it. But disagreement can lead to compromise. Let's take a look at that now.

THE RIGHT FOOT.

Come, sit my friends. Let us try to do what rational people do, talk.

Your people, the proud homeowners of STRs are mostly all immigrants, who came here for the same reasons as I did, because this American dream belongs to the world. Those of us that win the lottery of life, get to live it, and we see so many born into it not even see it.

Each of us worked so hard to build and safe and invest and grow. Do you think for one second we want any harm to come to our property, our investments, our children's futures?

We are dedicated to our success.

I meet every single guest that comes to the property, after running background checks on them, I personally let them into the house; a very small reason is to be a good host, the very large reason is that I was raised to be suspicious and need to check them all out myself.

Her Honor made an interesting comment about the feeling of knowing your neighbors during the 8/9/22 meeting. To this there are two things: first, we do not get to pick them, and sometimes they are *not* at *all* what we want, and that feeling never leaves because they never leave. Second, sometimes its nice to be curious about who is in there now for a little excitement, and find that same familiar comfort in knowing they are leaving in a day or two. Life is how we look at it. I see an attack, and find a reason to make good for all of it.

One of your STR hosts, suffered the ultimate test of a mother, when her son was paralyzed and she had to stop working to become full time caretaker and to supplement the loss of income had to rent out part of the house. Nightmare after nightmare, followed by even worst long term tenants kept arriving and not paying, she switched to Airbnb and has never had a single problem since, finally she is financially worry free.

Councilmember Henderson, you were concerned about 290 registrants, Airbnb makes all members photograph their face and ID to register, then the computer verifies, and also checks against the federal data base made available to social media sites for this very purpose. If one signs up, within minutes the system closes their account permanently. So none can rent from us as hosts, unlike your normal landlord that may not know, we do; simply because they contacted us qualifies them as not.

City Manager Osorio, you were concerned about staffing and timing and costs of enforcement, yet you have the most dedicated staff imaginable, more ready and willing than your staff could ever be (no offense) because we are the owners. There is no reason why our phone

numbers cannot be distributed or connected to law enforcement and the city so if a noise complaint comes in, we are called first.

If there are noise complaints, then we want to know more than you do, because that is a rather large investment and only one of three things are occurring. The guest is unruly and we want them out; a neighbor is the cause of the noise and we want it to stop more than you do to protect our guest's peace and relaxation; or the call is from a busy body with nothing better to do, and we all need to know that, and be able to recognize it when it becomes a pattern.

Which also goes to Councilmember Tanaka's concern about a rave party at a house, which should be clear by now, is completely unacceptable, and the police *will* need to be called, but to protect them from me.

Which leads into Director Tsujiuchi, Counselor Vasquez, and Counselor Kranitz, there was concern about drafting an ordinance; you can be boring and copy one of the many you read from the other cities, or we can all create something to serve as model for them to copy, by combing your drafting and legal knowledge with the practical knowledge of the hosts' who are happy to provide insight. There is no reason why we cannot work out a system that helps everyone, this is America still right? Two brilliant female attorneys and a can-do-attitude and we can make this happen quickly.

From the top of my head, maybe just a simple point system, starting with 3 points, each call that is not resolved by the host that results in another call to address the unresolve complaint loses one point, but if no calls that month gains one point as a reward; then if all points are lost, then they lose; or something that involves punishment and reward. By the time a host gets seasoned enough, it should not be a problem, but maybe cap at 12 or 15 incase somebody spirals down there is still a way to hold them accountable. Putting together packets of preparedness and plans and methods can be symbiotic, and allow us to resolve problems together, rather than spending money.

We do not want bad hosts out there either, and we need your protection too. Rather coincidently, just this Sunday, I had what appeared to be a normal guest, with good reviews, then because I monitor the property which alerts me when movement occurs outside, I saw she had an unregistered and unverified person on the property, I immediately contacted Airbnb and notified them of the unauthorized person in violation of the agreement, as a result they cancelled the agreement with the guest and Airbnb notified her she must leave now, and notified her several more times but she refused to leave. Then I went over to tell her to leave in person, incredibly she

called the police to have *me* removed. I explained the law and the situation but the officer said this was civil and they do not do civil, when it was clearly a criminal trespass because she could not prove consent with a simple proof of payment as that would show it was cancelled for violating rules. The police left. She then shoved my friend and called the police a second time, luckily my place is fully captured on cameras and I also had my phone and showed the officer who finally, sternly spoke to her and they left. This break down of procedure when a citizen needs police help is not good for anyone, because in the end, the officer was rewarding the criminal.

Also, Director Tsujiuchi, maybe you did not realize it, but many of those people that came to ask if it was legal, were would-be hosts; as I once did the same. Most of us want to do right, we are in business to live, not starve.

Does the city want to make money? Because we do too. Sales taxes and TOT are better than nothing, also Airbnb automatically takes out the TOT and sends it to the city directly on a hosts behalf, so that makes it streamlined. "Asst City Attorney Kranitz gave the amount of STRs we currently have in our city which is about 130 rentals, and an estimation of TOT would be $125,000 a year but then we would be paying a company to check on them." (9/13/22 Minutes p.10) As Director Tsujiuchi showed, it will cost the city $4,000 to make $121,000, that is an investment that any of us hosts would die for, and you get it for the cost of bringing in *more* money to the city, because that which is even better than taxes is outside dollars brought into the city and spent here, building our economy. Who else is going to shop at your site specific plans?

Mayor Pro Tem Francis, there is so much more that I could have said, but I would rather not fight as it is best if we leave each other be and we both will be happier in the long run in the end. But you are also right, that a cap should occur, because to be rather selfish, we do not want to see the area flooded with hosts either. The only lawful and constitutional way is to enact prospective laws. And for all of the big companies that are trying to be impressed to help the city grow, do you really think multi-hundred million dollar companies are really intimidated by 50 citizens?

Combined we are one hotel. That should scare no one, but rather excite that we bring in a hotel's worth of business daily, without having to wait for it to be built.

When the hotels are finally built, we won't matter then either.

Do you know what I love? Korovka milk caramel, I am hopelessly addicted, and I hate Skittles.

Which I am sure someone just shook their head reading that. But you do not need to convince me of what I don't like, nor I you. Some people hate hotels and want a home feel, others love hotels, my closest friend is one of them. If a person wants an Airbnb, they will find one, even if it is not in Gardena, and that is money lost to local shops.

Options stimulate growth, not one sided un-thought out decisions, that result in enacting laws which will result in hundreds of thousands of dollars of attorney fees taken from the city fund, to only find out you have to start over.

And to what end? So outside money is not spent here?

Her Brilliance Councilmember Love saw it, true to her namesake, for she was accepting of the unknown and embraced the possibilities of hope. You inspired me to find the same middle ground.

Working together to solve the problems is where all this energy needs to be spent.

On this note, I will conclude with my favorite passage from a case.

> The authentic majesty in our Constitution derives in large measure from the rule of law — principle and process instead of person. Conceived in the shadow of an abusive and unanswerable tyrant who rejected all authority save his own, our ancestors wisely birthed a government not of leaders, but of servants of the law. Nowhere in the Constitution or in the Declaration of Independence, nor for that matter in the Federalist or in any other writing of the Founding Fathers, can one find a single utterance that could justify a decision by any oath-beholden servant of the law to look the other way when confronted by the real possibility of being complicit in the wrongful [deprivation of another's pursuit of happiness]. When the Preamble of the Constitution consecrates the mission of our Republic in part to the pursuit of Justice, it does not contemplate that the power of the state thereby created could be used improperly to abuse its citizens[.]
> *Northern Mariana Islands v. Bowie*, (9th Cir. 2001) 243 F.3d 1109, 1124

I grew up in tyranny, yes it sounds fun, but its not all its cracked up to be, living under a boot of those who mean well by thinking for you is not living.

"It is a melancholy reflection that liberty should be equally exposed to danger whether the Government have too much or too little power, and that the line which defines these extremes should be so inaccurately defined by experience." James Madison letter to Thomas Jefferson, October 17, 1788

Too little, and liberty is destroyed by crime; too much, and there is no liberty, only a dictatorship.

Thank you for your time, consideration, and for taking care of the men and women in the transitional and group housing, that was very impressive. Let's keep that spirit of community unity going, together.

Most sincerely,

Mariya Wrightsman September 27, 2022

Attached: Exhibits A-D

EXHIBIT A

gent creditors, and persons who may otherwise be interested in the will or estate, or both, of WILLIAM EARL DAVIDSON.
A PETITION for Probate has been filed by: WILLIAM DAVIDSON JR. in the Superior Court of California, County of Los Angeles.
The Petition for Probate requests that WILLIAM DAVIDSON JR. be appointed as personal representative to administer the estate of the decedent.
The petition requests the decedent's will and codicils, if any, be admitted to probate. The will and any codicils are available for examination in the file kept by the court.
The petition requests authority to administer the estate under the Independent Administration of Estates Act. (This authority will allhearing. Your appearance may be in person or by your attorney.
If you are a creditor or a contingent creditor of the decedent, you must file your claim with the court and mail a copy to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Probate Code section 9100. The time for filing claims will not expire before four months from the hearing date noticed above.
You may examine the file kept by the court. If you are a person interested in the estate, you may file with the court a Request for Special Notice (form DE-154) of the filing of an inventory and appraisal of estate assets or of any petition or account as provided in Probate
ANGELES.
THE PETITION FOR PROBATE requests that Reginald Denzel McDonald be appointed as personal representative to administer the estate of the decedent.
THE PETITION requests authority to administer the estate under the Independent Administration of Estates Act. (This authority will allow the personal representative to take many actions without obtaining court approval. Before taking certain very important actions, however, the personal representative will be required to give notice to interested persons unless they have waived notice or consented to the proposed action.) The independent administration authority will be granted unless an interested person files an
58(b) of the California Probate Code, or (2) 60 days from the date of mailing or personal delivery to you of a notice under section 9052 of the California Probate Code.
Other California statutes and legal authority may affect your rights as a creditor. You may want to consult with an attorney knowledgeable in California law.
YOU MAY EXAMINE the file kept by the court. If you are a person interested in the estate, you may file with the court a Request for Special Notice (form DE-154) of the filing of an inventory and appraisal of estate assets or of any petition or account as provided in Probate Code section 1250. A Request for Special Notice form is available from the court clerk.
Attorney for petitioner:
PAUL HORN ESQ
SBN 243227
PAUL HORN LAW GROUP PC
11404 SOUTH STREET
CERRITOS CA 90703
CN989776 SIMS Sep 1,8,15, 2022
Gardena Valley News 9/1,8,15/22-122217
without obtaining court approval. Before taking certain very important actions, however, the personal representative will be required to give notice to interested persons unless they have waived notice or consented to the proposed action.) The independent administration authority will be granted unless an interested person files an objection to the petition and shows good cause why the court should not grant the authority.
A HEARING on the petition will be held in this court as follows: 10/31/22 at 8:30AM in Dept. 9 located at 111 N. HILL ST., LOS ANGELES, CA 90012
IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.
IF YOU ARE A CREDITOR or a contingent creditor of the decedent, you must file your claim with the court and mail a copy to the personal representative appointed by the court within the later of either (1) four
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CITY OF GARDENA
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT on Tuesday, September 27, 2022, at 7:30 p.m., the City Council of the City of Gardena will conduct a **virtual** public hearing to consider the following:

ORDINANCE NO. 1844

REQUEST: Consideration of an Ordinance amending Title 18, Zoning, of the Gardena Municipal Code to prohibit short-term rentals of residences for lodging purposes and short-term rentals of residences for other commercial uses not listed as allowed uses under the Gardena Municipal Code. The Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to the commonsense exemption set forth in Guidelines section 15061(b)(3). On September 6, 2022, the Planning Commission voted 3-1-0, recommending that the City Council adopt the ordinance to prohibit short term rentals.

Applicant: City
Project Location: Citywide

The public hearing will take place via an on-line platform that can be accessed from your computer, smartphone, or tablet. Detailed directions for accessing this hearing will be on the City's website at https://cityofgardena.org/agendas-city-council/, no later than **September 23, 2022**.
The related materials will be on file and open for public inspection on the City's website at https://www.cityofgardena.org/community-development/planning-projects/. You will have the opportunity to post questions during the hearing. Comments may also be submitted via email to publiccomment@cityofgardena.org or by mail to 1700 W 162nd Street, Gardena, CA 90247.
If you challenge the nature of the proposed action in court, you will be limited to raising only those issues you or someone else raises at the public hearing described in this notice, or in written correspondence delivered to the Gardena City Council at, or prior to, the public hearing. For further information, please contact the Planning Division, at (310) 217-9524.

/s/ MINA SEMENZA
CITY CLERK
Gardena Valley News 9/15/2022-122990

CITY OF GARDENA
VIDEO POLICING SYSTEM PROFESSIONAL SERVICES

NOTICE OF REQUEST FOR PROPOSALS

PUBLIC NOTICE IS HEREBY GIVEN that the City of Gardena, California, invites and will receive proposals via Planet Bids up to the hour of 1:00 p.m., October 25th, 2022, for PROFESSIONAL SERVICES FOR VIDEO POLICING SYSTEM in accordance with the Notice, Scope of Work and the Draft Agreement contained in the City of Gardena Request for Proposals for Video Policing System Professional Services. Copies of this document and the necessary proposal response forms may be obtained from Planet Bids.

A **mandatory** pre-bid proposal conference has been scheduled for prospective bidders at 10 a.m., October 11th, 2022 at the Gardena Police Department, for the purpose of reviewing the City's requirements. To qualify for consideration for award of the contract, potential bidders **MUST** attend this pre-bid proposal conference.

Dated this 15th day of September 2022
/s/ Mina Semenza, City Clerk of the City of Gardena, California
Gardena Valley News 9/15/2022-122901

EXHIBIT B

ance bond in the amount of 100 percent of the contract price, and a payment bond in the amount of 100 percent of the contract price, both in a form satisfactory to the City Attorney.

The contractor shall have an active **"A", "C-10" or "B"** license from the Contractor's State License Board at the time of submitting bid. Asbestos and Lead abatement work shall be done by a contractor having the appropriate legal license and certifications.

The prime Contractor must perform at least 25% of the cost of the contract, not including the cost of materials, with its own employees on site.

Pursuant to Public the escrow agreement, letter of credit, form of security and any other document related to said substitution is reviewed and found acceptable by the City Attorney.

The City reserves the right to reject any or all bids and to waive any informality or irregularity in any bid received and to be the sole judge of the merits of the respective bids received. The award, if made, will be made to the lowest responsive responsible bidder.

Bidders are advised that this Project is a public work for purposes of the California Labor Code, which requires payment of prevailing wages. Accordingly, the bidder awarded the Contract and all subcontractors shall tions 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by Contractor or any Subcontractor under it. Contractor and any Subcontractor under if shall comply with the requirements of said sections in the employment of apprentices.

The Contractor is prohibited from performing work on this project with a subcontractor who is ineligible to perform work on the project pursuant to Section 1777.1 or 1777.7 of the Labor Code.
This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All contractors and subcontractors must furnish electronic certified covered by a qualifying project labor agreement.

These requirements will apply to all public works projects that are subject to the prevailing wage requirements of the Labor Code without regard to funding source.

The State General Prevailing Wage Determination is as established by the California Department of Industrial Relations (available at http://www.dir.ca.gov/DLSR/PWD/index.htm).

Skilled and Trained Workforce: This project is subject to Skilled and Trained Workforce Requirements per Sections 2600 through 2603 of the Public Contract Code.

Award of Contract: The following are conditions to the award of the contract:

I. Each contractor and subcontractor listed on the bid must be registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. subject to the limited exceptions set forth in Labor Code Section 1771.1(a) (regarding the submission of a bid as authorized by Business & Professions Code Section 7029.1 or Public Contract Code Section 10164 or 20103.5 provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract was awarded): and
II. No contractor or subcontractor may be awarded this contract unless the contractor and each subcontractor listed on the bid is registered with the Department of Industrial Relations pursuant to Section 17265.5.

Any questions regarding this bid package may be referred to Kevin Kwak, Principal Civil Engineer, Public Works Engineering Division at 310.217.9643

CITY OF GARDENA
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT on Tuesday, September 6, 2022, at 7:00 p.m., the Planning Commission of the City of Gardena will conduct a **virtual** public hearing to consider the following and make a recommendation thereon:

ORDINANCE NO. 1844

REQUEST: Consideration of an Ordinance amending Title 18, Zoning, of the Gardena Municipal Code to prohibit short-term rentals of residences for lodging purposes and short-term rentals of residences for other commercial uses not listed as allowed uses under the Gardena Municipal Code. The Planning Commission will make a recommendation to the City Council. The Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to the commonsense exemption set forth in Guidelines section 15061(b)(3).

Project Location: Citywide
Applicant: City

The public hearing will take place via an on-line platform that can be accessed from your computer, smartphone, or tablet. Detailed directions for accessing this hearing will be on the City's website at https://cityofgardena.org/agendas-planning-environmental-commission/, no later than **September 2, 2022**.
The related materials will be on file and open for public inspection on the City's website at https://www.cityofgardena.org/community-development/planning-projects/. You will have the opportunity to post questions during the hearing. Comments may also be submitted via email to PlanningCommissioner@cityofgardena.org or by mail to 1700 W 162nd Street, Gardena, CA 90247.
If you challenge the nature of the proposed action in court, you will be limited to raising only those issues you or someone else raises at the public hearing described in this notice, or in written correspondence delivered to the Gardena Planning and Environmental Quality Commission at, or prior to, the public hearing. For further information, please contact the Planning Division, at (310) 217-9524.

Amanda Acuna
Senior Planner

Gardena Valley News 8/25/2022-122309

the decedent.
THE PETITION requests the decedent's will and codicils, if any, be admitted to probate. The will and any codicils are available for examination in the file kept by the court.
THE PETITION requests authority to administer the estate under the Independent Administration of Estates Act. (This authority will allow the personal representative to take many actions without obtaining court approval. Before taking certain very important actions, however, the personal representative will be required to give notice to interested persons unless they have waived notice or consented to the proposed action.) The independent administration authority will be granted unless an interested person files an objection to the petition and shows good cause why the court should not grant the authority.
A HEARING on the petition will be held on Sept. 15, 2022 at 8:30 AM in Dept. No. 11 located at 111 N. Hill St., Los Angeles, CA 90012.
IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.
IF YOU ARE A CREDITOR or a contingent creditor of the decedent, you must file your claim with the court and mail a copy to the personal representative appointed by the court within the later of either (1) four months from the date of first issuance of letters to a general personal representative, as defined in section 58(b) of the California Probate Code, or (2) 60 days from the date of mailing or personal delivery to you of a notice under section 9052 of the California Probate Code.

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EXHIBIT C

Tsujiuchi: Short presentation, if you'd like to hear that first?

Cerda: Let's go ahead and do that first, because we may have questions as it relates to that.

Tsujiuchi: Okay we're going to share our screen here. Can everyone see the screen?

Cerda: Yes.

Tsujiuchi: Good evening members of the city council. Tonight's discussion is about short-term rentals. We have a short presentation and we go to next slide here.

So just a recap on what a short-term rental is. Typically, it's defined as a renting of a dwelling unit, which is shared in whole or in part, meaning it could be the whole dwelling unit or maybe just a bedroom or actually an amenity that we recently seen for usually periods of 30 days or less as a way of generating rental income. Most recently, we're starting to see not only the dwelling unit being defined as a short-term rental, but we're starting to see it kind of broadened in definition to include things like hourly and daily rentals of swimming pools in people's backyards. And also as a daily special event venue, like maybe hosting weddings. That could also be included in this definition of a short-term rental.

So why we're bringing this to you for discussion, our Gardena Municipal Code doesn't specifically prohibit short-term rentals. There's been a recent case law known as Keen versus City of Manhattan Beach. And I'd actually like Lisa to kind of brief you on that.

Kranitz: So generally Gardena and other cities use what's called permissive zoning. If a use is not listed in the municipal code, then according to the city, it's prohibited. That's how Gardena functions. That's theoretically how Manhattan Beach functions. Manhattan Beach tried to argue that because short-term rentals weren't listed as an allowed use, they were prohibited under the city's code. The case involved the Coastal Commission, but that's not relevant for how it impacts all other cities. What the court said was because residential uses are allowed in residential zones and residential uses don't specify how many days a person has to stay in a dwelling, short-term rentals are not prohibited under permissive zoning. So therefore, if a city wants to prohibit a short-term rental for lodging, they have to specifically go in and amend their ordinance to provide such prohibition.

For the other types of things that Greg was talking about, people who are now renting their backyards out for special event venues or renting their swimming pools by the hour, those we can argue are prohibited under permissive zoning because they're not residential use as far as lodging goes,

but it would be better if the council wants to prohibit them to specifically call it out. So it's quite clear in the code.

Tsujiuchi: So those first two go hand in hand. Gardena Municipal Code doesn't specifically prohibit it, or it doesn't specifically prohibit short-term rentals. And this new recent case says we ought to, if that's what we're going to do. In addition to that, we are seeing an increase of inquiries on the ability to have STRs in the city. Our planning division has been taking numerous calls, people wanting to do it more and more often. My code enforcement here in community development, they've seen an increase of complaints regarding short-term rentals, usually with noise or parking or the amount of people that they're seeing next to residential homes. We've also done a little research and there's been numerous listings found on different platforms on the internet. Platforms or things such as Airbnb, VRBO, booking.com. There's a few others.

And so staff is really looking for direction on two major - - or two options. Either to prohibit the short-term rentals in Gardena, which is what we're currently enforcing, or to permit short-term rentals. And so we kind of looked around at our neighboring South Bay Cities. And so those who are currently prohibiting, would be cities of Redondo Beach. Manhattan Beach, for the most part, they are doing some amendments to it, I think to also include their coastal areas. Inglewood, I think, saw a huge uptick with their SoFi Stadium and whatnot coming up and so they actually put up moratorium on it. I think it became such a harm or nuisance to them. Lawndale prohibits it. There's other cities who are permitting STRs. Lomita is permitting it, but kind of like how Gardena would be, where they're not really specifying it. So by this new case law, it would be permitted.

We believe Carson is the same way. We really couldn't find anything that prohibited it, so we assume that they're allowing it because they don't specifically prohibit it. Cities of El Segundo, Hermosa Beach, Torrance, and Hawthorne, they have pretty strict regulations where it can be numbers, how many can be rented or used as short-term rentals at any one time, specific zones, whether or not the owner has to occupy the home or not.

And so there's a number of different ways that you could regulate it, but all in all staff is just looking for a direction, whether or not you'd like to prohibit it. And if so, then direct staff to draft a ordinance prohibiting short-term rentals. If you're looking to permit short-term rentals, then direct staff to draft an ordinance either to one allow it pretty much without any regulation, just say get a business license, make sure you're paying your transient orient tax- - ah - - transient occupancy tax, and let them do that, or permit STRs and have regulations. And these regulations can pretty intensive. And so we would request that you direct staff to work with the planning commission,

come up with a draft ordinance, and then we would come back to you for more input.

So that's where we're at now. I could go more into different options if you decide to permit STRs, but at this point in time of my presentation just wanted to see whether or not you were interested in prohibiting or permitting short-term rentals.

Cerda: Okay, thank you. Let's open up for questions. Customer Henderson had his hand up first. Go ahead.

Henderson: Thank you Madam Mayor. Thanks for that presentation Greg in regards to that. You brought up another question. In regards to those cities of El Segundo, Hawthorne, Hermosa Beach, Torrance, that kind of have some regulations drafted. What was their criterion in regards to selection, process of properties that would do that? Did they spread them out throughout their city, 20 per district? How did they do that? And then what did that add to the staff administrative overhead as far as all that work now?

Tsujiuchi: Well, so I'll speak to a neighboring city that is real near Gardena. They did a rental ordinance that put it in specific zones. It wasn't really in any particular north, south, east, west part of the city, it was just in wherever this type of a zone was located. They allowed it. They limited the number of licenses that they would issue all the way down to, I think they limited it to 10 at any one time. They limited it as far as what they call multiple bookings, meaning that they're renting out multiple rooms only so many could do it at one time. I think in our staff report we identified some Torrance, I believe did they - - we're looking into that [inaudible 00:09:02]

Kranitz: A home share only.

Tsujiuchi: Oh, they did a home share only, meaning that the owner has to be present. It can't be where they're either on a long-term vacation and while they're gone, they're renting out their home or they own another primary residence maybe in another city and they own this other property in Gardena and so they want to short-term rental that house as a short-term rental, rather than a long-term lease to someone.

Kranitz: I think generally what the neighboring city did of only 10 permits per year is unusual. I think usually the cities do it by zones. Be it home share, or you can do the short-term rentals. It could be just the R1 zones or just R2, R3, R4 type zones. Those are all the directions we're looking for if the council wishes to allow short-term rentals. It's really, what is your imagination. Homes which have an ADU or an SB9 unit cannot be used for short-term rentals. That's by law.

Tsujiuchi: Affordable housing units?

Kranitz: Affordable housing units, then they wouldn't qualify for a short-term rental because you wouldn't be meeting the income qualifications.

Tsujiuchi: There's a whole host of options that we would go through depending on if that's the council's direction.

Kranitz: As far as administrative costs, it would be like any other type of city service where a permit fee would be established that would cover the city's expenses. We'd figure out how much staff time was involved in it, and then charge a fee along with business license.

Henderson: Okay. Thank you. Then my second question regards to, if we were to come up with some sort of solution in the middle versus fully allowing it all over the place or denying it all together, what about, would it be discriminatory if we said in our regulations, if we permitted this, that if you live near a park or a school zone, you cannot have such a facility because we want to control the potentiality of predators coming into our community and everything. Can that be put in the regulation? And if so, does that open us up to potential liability, because now we're exercising discriminatory practice?

Kranitz: It's something we'll have to look at.

Henderson: Okay.

Tsujiuchi: I've not heard of any of the cities around here doing that, but we'll certainly look into it if that's the council's desire or direction. Thank you.

Cerda: Mayor Pro Tem Paulette Francis.

Francis: Yes. I have a few questions. So you mentioned there were numerous calls. How many is numerous?

Tsujiuchi: From planning for whether there's the ability to use a short-term rental?

Francis: No, no, no. You said you received numerous calls regarding short-term rentals. I was just wondering how many is numerous.

Tsujiuchi: So the ones that came into planning, with the average two to three a week.

Kranitz: Yeah, we get numerous calls like Greg is saying and emails as well.

Tsujiuchi: So maybe two to three at a week.

Francis: Over a month?

Tsujiuchi: Over the past few months. Over the past, maybe 12 months.

Kranitz: Gardena currently has, if you go on various platforms, there's probably at least 20 rentals right now.

Francis: I saw that. Thank you. And you say you had numerous complaints with code enforcement?

Tsujiuchi: Several complaints from code enforcement. I don't have a specific number, but I would say that it's been enough to bring this up as part of the discussion. So I would say we get, within the last couple of months, I would say I've gotten four or five.

Francis: All right. Thank you. I'm not quite sure who to direct this question to. Now you said that since we don't have anything in place, single short-term rentals are not prohibited because of this Keen versus Manhattan Beach rule. Is that correct?

Kranitz: Correct.

Francis: Okay. So could we tonight declare moratorium until we have more time to discuss it and do some research and investigate what we can do? Can we do that? Can that be an option?

Cerda: Mayor Pro Tem. So tonight what we're doing is we're just discussing it for it to come back later on. As far as staff can do more research and so they just want to get some direction. We're not taking any action on this tonight, other than just, what are our feelings of this here? So it's going to come back and we will have more time to discuss it.

Francis: Until we take some time discussing all that we couldn't say until right now, we're just going to declare moratorium on all short-term rentals until we can figure out what it is we want to do.

Kranitz: We couldn't do it tonight because it's not on the agenda. And it would have to be added as an urgency item on the agenda. And I think since it's been going on, you couldn't make the findings to support that there was an immediate need to add it on. You can certainly come to the city council for the 45-day moratorium at the city council's next meeting. And then after 45 days, that moratorium can be renewed up to a year and 11 months and 15 days for a total of, 10 months and 15 days for a total of a two-year moratorium while you're working on it.

Francis: I was going to say, because we've had moratorium that were 145 days, but since it's not on the agenda, we can't declare a moratorium because it's not

on the agenda, but could we put it on the agenda for next meeting to have moratorium in place until we can figure out exactly what is we should do?

Kranitz: If that's a council directive.

Francis: A majority, not a directive. Okay, so I need to wait until directives. Okay. Thank you so much. I appreciate your response.

I just get a little confused if you say numerous. I mean, I like dealing hard numbers and after the meeting, I'll tell you a story of why I don't play with statistics and numerous because I've done some things just based on that and gotten away with it based on numerous. So anyway.

Cerda: Any more questions or comments?

Oh, tonight we're just discussing it just so that staff can have some direction. It will still go before planning. It would still come before us. And even if we said we're in favor of it and we want limitations on it, we would still do an official vote, but they just need somewhere to start with this. So that's why it's up for some discussion.

Love: So I know there's three options: to moratorium, to say no, or to agree with amendments or restrictions, right?

Cerda: I think on a permanent basis, it would be called a prohibition, not a moratorium. I think what Inglewood did was essentially what Mayor Pro Tem Francis just said is it became such a problem immediately because of SoFi Stadium that they went in under the emergency regulations and put a moratorium on while they figure out what to do.

Francis: They become Super Bowl. They rent out hotels and people rent out their houses, and that's why they did it. It was everywhere. So that's why they did it.

Love: Do we have any licensed units like this in the city now?

Tsujiuchi: No, we do not have any licensed units. We have people doing it in our city.

Love: Yeah, I know.

Tsujiuchi: But we don't issue a business license.

Love: Okay. So, well, do you need a motion?

Cerda: No, no, no. We're not there yet. I need to open it up to the public as well, too. Any other council members have any questions or comments?

Tanaka: So Ms. Kranitz home shares are not included in this, correct?

Kranitz: Well, that's what we're looking for direction on. So the home share is the idea that you were at your house and maybe you're renting one bedroom out for supplemental income, or to keep because you don't want to be lonely all the time.

Tanaka: That's what I was going to say is that because the cog is actually promoting home share it's long term. It's usually a person that has a home that lives by themselves and they are looking for maybe somebody to come in and live with them and help them with the bills, the groceries, the chores, that kind of stuff. And it's actually long term it's not.

Kranitz: That wouldn't be included when we're talking in this term of home share, it's still a short term rental for under 30 days. But under a home share, the owner is required to be present in the home while they're renting it out. And the idea there is that if the owner's present, then it's not being used for a party house. So it's just one room, not the whole house. You don't get 15 people actually moving in. I mean, some of the rentals that I've looked at in Garden and elsewhere, it's like, "Well, we've put in the two sets of bunk beds that have the full on the bottom and the twin on the top. So you can get six people in one room," and then it becomes you're changing the character of the neighborhood.

Tanaka: And so Mr. Tsujiuchi, you said that there's some issues with code enforcement. What type of issues did we get? Were they like parties? Were they just loud people? What kind of issues?

Tsujiuchi: The ones that came on, I'd say at least three times, were noise. And it's usually some, it's not uncommon for short term rentals, people rent a larger house and then they host a party there. So several of the calls, or I would say three for Mayor Pro Tem, say two to three calls have come in for noise. For sure, I'd say two came in because of parking being taken up in the neighborhood. And then there was one call where it was just a complaint that they said what Ms. Kranitz was saying, that it's taken away from our neighborhood. These are residential neighborhoods. They're not little hotels on our blocks that we want. So it was kind of just a general complaint.

Tanaka: Okay. So the reason I ask that question is I'm kind of against this whole issue because once you open Pandora's box, then all of a sudden you'll start having home parties, just like they're doing in the commercial areas where you'll all of a sudden, they'll take over a house and there'll be 200 people in the house. And then we have a law enforcement issue. Police department staffing is going to have to take that in effect. So that's why I asked. That's why I appreciate that. Thank you.

Cerda: Okay. Any more question? Excuse me, any more questions or comments?

Love: I have a comment. I know that there's some issues with some properties already being used for Airbnb. I've gotten those calls at the Chamber Office about this, but I would hate for us to deny responsible property owners, the opportunity to make some extra money. I mean, we will always have those that are not considerate of other residents or the fact that these are neighborhoods, but I would really like for us to allow staff to come back with some findings and some suggestions and consider approving with restrictions instead of just a blanket moratorium and saying no to everything.

Cerda: Any more questions or comments? Madam city, deputy clerk, do we have anybody from the public speak on this item?

Romero: Yes we do, Mayor Cerda. We have two hands that are up.

Cerda: Okay, go ahead.

Cerda: Okay. I think it's Charisse?

Charisse: Hello?

Cerda: Hi, you can go ahead and begin.

Charisse: Okay. I'm sorry. Good evening. I'm listening to everybody speak about the Airbnb. My question is right now are they legal to have in Gardena? Are they permitted to use them as Airbnb? Because really on our side, I know of three that are on our side. And I'm just wondering if it's just legal to have them? I'm done. Those who wanted different traffic there. And one of the houses, I don't know if you guys were aware of that they did an FBI raid on it. They had the dogs, the Secret Service. They had everybody because somebody was selling guns from the Airbnb on that street. So I don't know if it's not legal for them to have it I would like to know that. And if it is legal for them to have it right now, that I would like to know that too. Thank you.

Cerda: Okay, Mr. Tsujuchi, can you just relay again what was said?

Tsujiuchi: Yeah, I'm going to defer our, to our assistant city attorney.

Kranitz: So as we said, we used to believe we had the authority to say you can't have them under the concept of permissive zoning. It wasn't allowed in our code. Therefore, it's prohibited. The case that came out earlier this year, Manhattan Beach destroyed that argument, which is why we're now bringing it to the council. If the desire is to regulate or prohibit, we need specific ordinance adopted to that effect. So right now, yes, they're legal.

Cerda: Okay. Thank you. Thank you. Deputy Clark, we had another speaker?

Romero: Yes, Raymond. Dennis.

Cerda: Okay. Go - -

Romero: I'm bringing him in.

Raymond Dennis: Hello?

Cerda: Hello. Mr. Dennis? Go ahead.

Raymond Dennis: Yes. Yes. Thank you for allowing me to speak on this topic. I just wanted to go along with the council member Tanaka's comments, as it relates to the activities that could take place to the Airbnb. My particular concern is one, code enforcement. I think code enforcement will be a challenge. Two, the fact that if you don't move quickly, now you're going to have a lot of opportunities for other people to convert to Airbnbs. And then they're going to come after the city saying that the ordinance went in effect after they had been in business for X number of days or months or years. Personally, I would be a proponent to prohibit them because I think the nature and the culture of our neighborhoods and the community of Gardena is more family-oriented. It's more residential oriented. And if you live on a cul-de-sac as I do, it could be problematic if you throw a rave party at the end of the cul-de-sac.

I also think that with the proximity of SpaceX and proximity of Tesla, that they have many short term people that come into those organizations that instead of using hotels would be more inclined to bundle up in a Airbnb. And it could present problems there in terms of traffic. Problems in terms of not knowing who your people are. You might as well eliminate the neighborhood watch because you couldn't watch everyone. And so it would make more sense to me that the city get ahead of this thing and not drag its feet to wait and see well how this all plays out.

I understand if you can't do a moratorium right now, but you at least should investigate, investigate quickly because the world cup is coming. You have the Super Bowl. You have the BCS championship coming. You have the final four coming and you have in 2026 World Cup, all of that coming to SoFi, and people be looking for places to stay. And I understand that people want to cash out and make as much money off their home as they can, but who's going to clean up the mess when those folks have rented their properties out for $30, $40,000 and left the city in rambles? Thank you.

Cerda: Thank you. Deputy Clark, do we have anybody else?

Romero: No, we do not Madam Mayor.

Cerda: Okay. Any more questions or comments?

Tanaka: Madam Mayor, Mr. Dennis just brought up a comment that I think maybe the city manager could probably answer. So if this were allowed, even under certain restrictions, how much more in code enforcement will we have to hire and how much more staff time would this cost?

Osorio: I don't have a clear answer. As far as how many more code enforcement officers we're going to need. I know we're going to need at least absolutely one, if not more. Code enforcement is as really strapped already as it is. So what we're doing, Greg can attest to that. And I think without knowing exactly the case loads, we wouldn't be able to tell you if we need two or three.

Tanaka: Okay. So would Chief Sobel be able to say how much it would affect his department?

Osorio: Maybe. We can certainly ask him, but again, it's a matter of caseloads again.

Tanaka: Right? Calls for service. Those kind.

Osorio: We just don't have any data on.

Tanaka: Okay. Thank you

Cerda: Greg, I'm sorry. You were saying something.

Tsujiuchi: I was going to say we'd also have to probably with additional officers also adjust schedules. A lot of this stuff happens in the evening hours, early morning. So it would definitely be a challenge.

Cerda: So also Mr. Dennis said something else. He mentioned that if somebody already has an Airbnb and then we put this in place, do they get grandfathered in saying that they can have? So once we say this, no matter what they've had, it's just not allowed. Okay, good.

Vasquez: That's correct, Madam mayor. They would not get grandfathered in. And I also want to mention just for, so everyone's clear, with any type of moratorium, it does require a four fifths vote. A simple majority is not sufficient to pass a moratorium. So I just want to make sure you guys are all clear in understanding of what's required for moratorium.

Cerda: Okay, got it. Go ahead.

Love: Again. I hear everybody saying that they don't want it and they wouldn't support it or they kind of leaning that way. There - - isn't there ways that we can offset the cost for additional officers or additional code enforcement by determining the permitting fees and the licensing fees and the taxes that we can probably get as TOT if possible. Because we often hear about the negative stories that always supersede the success stories. And I would really hate to cut out an opportunity for some of our responsible residents to be able to benefit from because of the no ordinance and the free for all that's going on right now. So, I mean, I understand that there are some that are out of control and they rent these spaces, but we can also hold the property owners responsible to a certain degree. We can also set the licensing and the permit fees and that type of stuff to offset the cost. So I really wish we'd take these things into consideration and not just blanket the whole city and consider the regulations.

Cerda: Any more questions or comments?

So my feelings on this here is I live on a cul-de-sac street and I think there's 13 houses on our street. And we have a house that from time to time, they rent a, I guess they have an ADU or something like that, and they rent it out. And about every three months, there's different people. There's four or five different cars on our street. We don't recognize the people. And that's one of the things that I love about our community is that we know our neighbors. We know who should be there and who shouldn't. And when you see people just sitting in their cars and then it takes a day or two to realize that, oh, they're attached to that house. I mean, it can be a little unsettling and I don't think it's fair for a person to choose to rent out their house. If they're renting out their backyard for a wedding or Airbnb, because now we're dealing with parking issues and we already have issues with parking as it stands now.

I mean, as neighbors, we don't mind if our neighbor has a party every now and then, if the music's a little loud and they have their guests there. But when you have people who are renting out their backyards for different events, weddings, or banquets, that's not fair to everybody. When you're renting out your house as an Airbnb and now you don't know who's staying there. You're dealing with loud music, things of that sort. If you want to operate a business, there are certain places it should be. I mean, when a person lives in home or an apartment, I mean, unless they're living next to a business area, you shouldn't have to deal with that. I mean, people have quality of life issues.

And again, we're already dealing with the state requiring us to allow people to build these ADU's. And I'm already concerned about how just the parking of that's going to affect us. And then to allow people to use their home now, to operate as a business. I understand everybody needs money, but all money's not good money coming to our city like that. And I think for the

purposes of people having a decent quality of life, I like to know when I go home that I know all my neighbors. And even if somebody is renting in an area they're usually renting for a longer period of time, long enough for me to get to know their name, who they are, recognize the car, et cetera. So I'm not in favor of this. That's my feeling on it. So Mayor Pro Tem? You're muted.

Francis: So I guess I'm going echo your sentiments because I just want to say everything that makes money, doesn't always make sense. And I'm concerned that by allowing a commercial use in a residential neighborhood will change the nature of our neighborhood, our residents, where we live. I'm also concerned as a council member Tanaka mentioned about the impact on services. In terms of our police services, fire services, paramedics, and there will be problems. These wild sorts, we heard about, perhaps they may do abnormality, but we also have to take all those kinds of things to consideration what are the negatives, as well as whatever positives they are. And sometimes the cost doesn't always outweigh the benefit or the benefit doesn't always outweigh the cost. So we have to be constant and do things that are going to keep our residents family-oriented and safe.

There's just too much going on there's a world property owners are not going to be able to control who comes in or who comes out. Things say, well, I'm here to rent this for this particular reason. And there's all kind of human trafficking, drugs, all kinds of stuff that's going on. And you say most property owners are responsible, but your responsibility, unless you are there controlling it, you have no clue who you just rented your house to. And you have no clue what they could come out to. So you'll hear my directive read that end, but anyway, thank you so much.

Cerda: Okay. So to Greg, do you kind have some inference as far as where we're going with this or comment, do I need to be more exact as far as direction?

Vasquez: And what I'm taking is that the direction is that you would like staff to draft an ordinance to prohibit it. That is the direction that we are interpreting from the majority of the council tonight. That is, that will be prepared, taken to the planning commission, depending the planning commission, what they do with it. And it would come back to council. That's separate and aside from any directives, if you guys choose to do that, a directive pertaining to the topic of moratoriums.

Kranitz: The next city council meeting, as I understand it, is not until September 13th. So the council could also consider putting back the 23rd meeting or maybe having a special meeting on the 30th, if there was a desire to move this up, because otherwise we're over a month away from the next meeting.

Cerda: I'm sorry, you're speaking in terms of moratorium? Or as far as this coming back?

Kranitz: Yes.

Vasquez: But Lisa, hold on. We're not at the directive

Kranitz: To consider when they get to.

Francis: We're still not here yet.

Vasquez: We're - - we're not there when we get to the directive, I'll bring up that subject of okay, when you guys want to, if that's what you guys choose to go, but for now, for purposes of the ordinance that staff is being asked to draft to take back to the planning commission, the direction that we are hearing from staff from the council is draft and ordinance to prohibit it.

Cerda: Correct.

Vasquez: Okay. All right.

Cerda: And there's no action. I mean there's no vote.

Vasquez: There is not Madame Mayor.

Cerda: Okay. Okay. So next we're going to move on.

EXHIBIT D

ALL RELEVANT EXCERPTS FROM THE MEETING NOTICE AND AGENDA REPORTS PERTAINING TO THESE ISSUES; LIST OF PUBLISHED NOTICES

(No Published Notice)

City Council Regular Meeting Notice and Agenda 8/9/22

12. DEPARTMENTAL ITEMS - COMMUNITY DEVELOPMENT

12.A Short Term Rentals for Lodging Discussion

Staff Recommendation: Provide direction to staff to draft an ordinance Staff Report - Agenda Item 12.A.pdf

8/5/22 City Clerk Semenza

(Published notice for PEQC 8/25/22)

PEQC Regular Meeting Notice and Agenda 9/6/22

5. PUBLIC HEARING ITEMS 5.A Zone Text Amendment #2-22 (Ordinance No. 1844) Consideration of an Ordinance amending Title 18, Zoning, of the Gardena Municipal Code to prohibit short-term rentals of residences for lodging purposes and short-term rentals of residences for other commercial uses not listed as allowed uses under the Gardena Municipal Code. The Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to the commonsense exemption set forth in Guidelines section 15061(b)(3).

APPLICANT: City

LOCATION: Citywide

Staff Report.pdf

Attachment A - Council Agenda Staff Report.pdf

Attachment B - Council PowerPoint Presentation.pdf

Attachment C - Public Comment.pdf

Attachment D - Resolution No. PC 11-22_Draft Ordinance.pdf

9/2/22 Director Tsujiuchi

(No Published Notice)

City Council Regular Meeting Notice and Agenda 9/13/22

10.A September 6, 2022 MEETING

Zone Text Amendment #2-22 (Ordinance No. 1844)

The Planning Commission considered an Ordinance amending Title 18, Zoning, of the Gardena Municipal Code to prohibit short-term rentals of residences for lodging purposes and short-term rentals of residences and other commercial uses not listed as allowed uses under the Gardena Municipal Code. The Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to the commonsense exemption set forth in Guidelines Section 15061(b)(3).

APPLICANT: City

LOCATION: Citywide Commission

Action: The Planning Commission approved Resolution No. PC 11-22 by vote of 3-1, approving Zone Text Amendment #2-22 (Ordinance No. 1844).

City Council Action : Receive and File. This item will be brought forth to the Council for review at a future City Council meeting.

To view the complete Planning Commission packet CLICK HERE 2022_09_06 PCAX

9/9/22 City Clerk Semenza

(Published notice for City Council 9/15/22)
City Council Regular Meeting Notice and Agenda 9/27/22
12.A PUBLIC HEARING : INTRODUCTION OF ORDINANCE NO. 1844 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AMENDING THE ZONING CODE TO PROHIBIT SHORT-TERM RENTALS
Staff Recommendation: Conduct Public Hearing; Allow three (3) minutes for each speaker; Introduce Ordinance No. 1844 or provide direction to staff to draft a revised Ordinance
Agenda Staff Report - STR.pdf
City Council agenda staff report dated August 9, 2022.pdf
Planning Commission staff report dated September 6, 2022.pdf
Draft Ordinance No. 1844.pdf
City Council staff summary dated September 13, 2022.pdf
Urgency Moratorium Ordinance.pdf
9/23/22 City Clerk Semenza

The first time a document pertaining to Ord. 1843 was made available, was the last linked item "Urgency Moratorium Ordinance", yet has written above the signature line, "at a regular meeting thereof held on September 13, 2022."

LIST OF PUBLISHED NOTICES BY DATE

The dates when a public notice pertaining to these issues appeared as published:

9-22-22	No Published Notices
9-15-22	Published Notice for City Hall
9-8-22	No Notices published
9-1-22	No Notices published
8-25-22	Published Notice for Planning
8-18-22	No Notices published
8-11-22	No Notices published
8-4-22	No Notices published
7-28-22	No Notices published
7-21-22	No Notices published

Available here:
https://gardenavalleynews.org/public-notices/

From: G Young
To: Public Comment; Tasha Cerda; Paulette Francis; Mark Henderson; Rodney Tanaka; Wanda Love
Subject: A letter regarding short term rental concern in Gardena
Date: Tuesday, September 27, 2022 3:08:52 PM

Caution! This message was sent from outside your organization.

Dear Mayor and Gardena City Council members:

Gardena has a vibrant Airbnb community of responsible hosts, respectful guests and a longstanding short-term rental industry.

The Airbnb in Gardena is different from a beach city like Manhattan Beach or Redondo Beach that attracts rowdy visitors. Most visitors in Gardena are people visiting families and friends. Airbnb will bring more revenue to better support our local restaurants and retailers, which means more tax dollars for the Gardena city and also brings our community more vibrancy.

Many local Airbnb in Gardena are just room sharing which will not serve any significant impact to the local family rental market if the short term rental is taken away.

Short term rental provides more benefits to the city and residents. Please do not prohibit the short term rental in Gardena.

Sincerely,

Gretl Young

South Bay Association of REALTORS®

Tuesday, September 13, 2022
Via Electronic Mail

Hon. Mayor Cerda
and the Members of the City Council
1700 W. 162nd Street, Gardena, CA 90247

RE: Agenda Item 10 (A) – Zone Text Amendment #2-22 (Ordinance No. 1844) Prohibiting Short-term Rentals

Dear Hon. Mayor Cerda and City Council:

The South Bay Association of Realtors® (SBAOR) urges the Council to **reject** adoption of the proposed ordinance to prohibit short-term rentals (STR) at the September 13th Council meeting. We ask that you engage with SBAOR and other key community stakeholders to identify best practices and effective policy solutions that strike a balance between the increasing economic benefits of STRs and the potential impacts.

What SBAOR can offer:

Work with the Mayor and City Council to help identify effective and enforceable STR regulations that both benefit and protect the community.

City can benefit and community be protected:

We encourage the city to do a thorough examination of the benefits and various options related to STR. Other local cities achieve this by some or all of the following: requiring a business license, an annual registry and/or permit (that can be revoked if a certain number of complaints are received on a property), and/or Transient Occupancy Tax (unincorporated Los Angeles County charges 12%). Cities can also institute a series of fines to ensure compliance with regulations.

Regulating STRs is reasonable and benefits everyone:

Rather than outright bans or heavy restrictions, regulating ensures property rights and the well-being of our community are in balance. For instance, we believe in preserving the ability of struggling residents to continue to afford their homes rather than sell to investors. Balancing the benefits to the city, local businesses, homeowners, and all residents are paramount.

Gardena is a growing city. Today, residents want to live, work, and play in cities that have thoughtful, reasonable, and progressive policies. A ban would overshadow this balance and take revenue out.

Stakeholders have not been engaged:

The proposed ordinance is too broad and overreaching. It was drafted without the input and considerations of groups representing the very Gardena residents that would be impacted. The issue of STRs are not new, and other cities have worked to craft workable solutions for all sides, together. We urge the City of Gardena to open dialogue with local stakeholders and implement a reasonable ordinance.

Thank you for your time and consideration. We look forward to working towards solutions. If you have any questions, please contact the SBAOR's Government Affairs Director Julie Tomanpos at Julie@SouthBayAOR.com or (310) 326-3010.

Sincerely,

Jaime Sutachan,
Government Affairs Committee Co-Chair
South Bay Association of REALTORS®

From:	Vera Povetina
To:	CDD Planning and Zoning
Subject:	Public Comment
Date:	Tuesday, September 13, 2022 11:26:45 AM

Caution! This message was sent from outside your organization.

Dear City Council,

In lieu with discussion regarding Short Term Rentals I would like to address some questions to the City Council and expect detailed answers.

1. whereas in Resolution No. PC 11-22 mentioned that short-term rentals of residences for lodging purposes and short term rentals of residences for other commercial uses are not listed as allowed uses under the Gardena Municipal Code.
1.1. Do I understand correctly that they are also not listed as prohibited?

2. In the same document mentioned: short-term rentals for lodging and other uses have deleterious impacts by increasing noise and traffic, creating parking problems, changing the character of a residential neighborhood, and with the case of housing - creating an impact on housing supply.
2.1. Is there any evidence regarding this statement in the City of Gardena? Can it be disclosed to the public?
2.2. Where measurements made for noise level increase?
2.3. Changes in traffic? Would you be able to specify – how big is the change?
2.4. Parking issues complains increased by how many since establishing current amount of STR in the city? How were these complaints linked to STR?
2.5. What are the changes in character of residential neighborhood happened because of STR? How the housing supply impacted specifically by the factor of STR?

It is about 160-170 rental properties listed in Gardena, not all of them are on the market constantly, but all of them is a source that provides food to the tables to families of our city.

Does City of Gardena have a lot to offer to its people to offset increased inflation? Growing costs for everything?

Why do you feel that it is ok to cut an opportunity to provide for families? To make our city more attractive for guests?

It is not only hosts who benefit. All local small businesses benefit. Additional jobs are created. Shops, restaurants, beauty salons and other businesses get more customers. A lot of guests asking for local attractions and as a host – I recommend local places.

STR Income is taxed as any other. Current local property sales bring a lot of additional income to the city as Property Tax and let us face the truth – available APR influence market much more than STR perspective in Gardena.

The U.S. travel and tourism industry generated $1.9 trillion in economic output; supporting 9.5 million American jobs and accounted for 2.9% of U.S. GDP. That is huge. At 14.5% of international travel spending globally, international travelers spend more in the United States than any other country.

Tourism accelerated Los Angeles County's economic prosperity in 2018 as visitors pumped an all-time high $23.9 billion directly into the L.A. economy, generating a record $36.6 billion in total economic impact. Just nine LA neighborhoods account for 73 percent of the money Airbnb, and Gardena is not one of them, unfortunately.

Gardena should care to attract many more tourists, not to ban them. We need more events, we need pedestrian streets with restaurants, entertainment and parks. Tourist industry could bring

Becky Romero

From: Amanda Kindt <[redacted]>
Sent: Tuesday, September 13, 2022 6:18 AM
To: Public Comment
Subject: PUBLIC COMMENT

Caution! This message was sent from outside your organization.

To Whom It May Concern:

As a resident of Gardena, I am writing to you this morning regarding Ordinance #1844.

I understand the concerns that communities have regarding short term rentals, and they are valid. However, I also understand the opportunities that short term rentals provide. Many would not be able to afford to continue living in Gardena if it were not for the additional income they receive through short term rental hosting.

Housing costs in Gardena are SKY HIGH. Things like short term rentals, hourly pool rentals, hosting events, etc are critical to keeping long time Gardena residents in Gardena.

There are other options than a simple ban. Other communities like Big Bear have regulated short term rentals to keep them AND to alleviate the community strains they can cause. Collection of occupancy taxes from hosts or an annual registration fee can be used to enforce guidelines that protect the community while providing the opportunity for lower and middle class residents to generate critically needed additional income and stay in their homes. Please take the time to look at Big Bear's program as a model. (https://www.citybigbearlake.com/index.php/departments/tourism-management/transient-private-home-rental-tphr-program)

How much time does the city invest, collectively, supporting all of the development and new construction of housing properties that then turn around and draw tenants able to pay $4000-$5000 per month? They are ALL OVER the city!!! Could the city invest the same amount of time to research and draft ordinances that support the lower and middle class residents that are already residents of Gardena?

Thank you,

Amanda Kindt

Becky Romero

From: The Kim's Adventure <[redacted]>
Sent: Tuesday, September 13, 2022 4:46 AM
To: Public Comment
Subject: Public Comment

Caution! This message was sent from outside your organization.

Dear Deputy City Clerk:

Please forward this to the mayor and all city council.

I am writing in regards to city of Gardena trying to ban STR (short term rental).

I have been an Airbnb host and it has benefitted the city and my family.

I recommend that it be CONTINUED and we are in full support.

Bringing new guests to stay in our area has provided the city with great benefits:

- There are not many inexpensive hotels in this area so it means more people can afford to stay here.

- More tourists bring money to local businesses, transportation, restaurants, local city events and concert.

- More jobs: I have given more work to our cleaning crew, handyman, plumber, electrician, landscaper, etc.

- More people know the positive parts of Gardena because where I guide them and they tell other people, return to visit.

Being an Airbnb host has also provided my family with financial support -

- We have an old house that takes a lot of repairs. Through the money I have made from Airbnb I have been able to keep my house maintained.

- Many of the houses in this area are old. The money I have made from Airbnb has helped us pay our mortgage and taxes so we can keep our house and support our family.

Airbnb has helped me develop new relationships with people from around the world.

- We have guided guests when they visited: As tourists, for work, concert, and tournaments.

Most of our guests had been reviewed by us and have great review on airbnb before we accept them to stay at our place. We made sure they accepted our house rules as well as keeping the noise down and respecting our neighbors. Our guests never caused an issue to our neighborhood because they are all exploring the city from early morning to late at night.

As a traveler myself, my family and I benefits the use of airbnb and able to explore more of the local hidden gems in the area than the touristy area.

Airbnb provides a vital service for our city of Gardena and visitors around the world and I recommend that it continue PROTECTED.

Thank You!

The Kims

PS - We are part of the Gardena group on facebook and most of the members in the group have more concerns on the control of homeless and transients than people who are here just for travel/work that brings in money to local businesses in our city like airbnb.

Becky Romero

From: Alejandra Orozco
Sent: Monday, August 22, 2022 9:53 AM
To: Becky Romero
Subject: FW: Short term rentals

-----Original Message-----
From: Sherelle [redacted]
Sent: Saturday, August 20, 2022 8:38 AM
To: City Council.web <CityCouncil.web@cityofgardena.org>
Subject: Short term rentals

Dear City Council

I totally disagree with you all banning Short term rentals. I think Gardena is a progressive city but this ordinance is fear based. Take a step back. Think who is considering buying here. Think of the age bracket condemning this. Think progressively. Do not ban but make rules. We need to attract $$ in this city. Not stalemate it.

Thank You
Sherelle
[redacted]

Tuesday, September 6, 2022
Via Electronic Mail

City of Gardena
Planning and Environmental Quality Commission
1700 W. 162nd Street, Gardena, CA 90247

RE: Agenda Item 5 (A) – Zone Text Amendment #2-22 (Ordinance No. 1844) Prohibiting short-term rentals

Dear Hon. Members of Planning and Environmental Quality Commission:

The South Bay Association of Realtors® (SBAOR) urges the Commission to **reject** adoption of the proposed ordinance to prohibit short-term rentals (STR) at today's September 6th Commission meeting. We ask that you engage with SBAOR and other key community stakeholders to identify best practices and effective policy solutions that strike a balance between the increasing economic benefits of STRs and the potential impacts.

What SBAOR can offer:

Work with the Mayor and City Council to help identify effective and enforceable STR regulations that both benefit and protect the community.

City can benefit and community be protected:

We encourage the city to do a thorough examination of the benefits and various options related to STR. Other local cities achieve this by some or all of the following: requiring a business license, an annual registry and/or permit (that can be revoked if a certain number of complaints are received on a property), and/or Transient Occupancy Tax (unincorporated Los Angeles County charges 12%). Cities can also institute a series of fines to ensure compliance with regulations.

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Gardena is a growing city. Today, residents want to live, work, and play in cities that have thoughtful, reasonable, and progressive policies. A ban would overshadow this balance and take revenue out.

Stakeholders have not been engaged:

The proposed ordinance is too broad and overreaching. It was drafted without the input and considerations of groups representing the very Gardena residents that would be impacted. The issue of STRs are not new, and other cities have worked to craft workable solutions for all sides, together. We urge the City of Gardena to open dialogue with local stakeholders and implement a reasonable ordinance.

Thank you for your time and consideration. We look forward to working towards solutions. If you have any questions, please contact the SBAOR's Government Affairs Director Julie Tomanpos at Julie@SouthBayAOR.com or (310) 326-3010.

Sincerely,

Jaime Sutachan,
Government Affairs Committee Co-Chair
South Bay Association of REALTORS®