



**CITY OF DUARTE
PLANNING COMMISSION
M I N U T E S
November 21, 2016**

**Planning Commission
Commissioners**
Shauna Pierce, Chair
Paula Watson-Gardner, Vice-Chair
George K. Farra
Sheryl Lefmann
Sara Vasquez

1. CALL TO ORDER AND NOTATION OF ABSENCES

Chairperson Pierce called the meeting to order at 7:00 p.m.

The following were in attendance:

PRESENT:	Pierce, Watson-Gardner, Farra, Lefmann, Vasquez
ABSENT:	None
STAFF:	Golding, Eoff IV, Hernandez
DEPUTY CITY ATTORNEY:	None

2. PLEDGE OF ALLEGIANCE

City Planner Golding led the Pledge of Allegiance.

3. APPROVAL OF MINUTES – September 19, 2016

Commissioner **Lefmann** moved to approve the minutes, seconded by Commissioner Farra. Motion approved 5-0-0-0.

4. ORAL COMMUNICATIONS – ITEMS NOT ON THE AGENDA

Chairperson Pierce opened Oral Communications for Items not on the Agenda. Seeing none Chairperson Pierce closed Oral Communications.

5. PUBLIC HEARINGS

A. Conditional Use Permit 16-03 and PC Resolution 16-15

Chairperson Pierce stated CUP 16-03 would continue to December's meeting per the Applicant's request.

B. Conditional Use Permit 16-05 and PC Resolution 16-14

Associate Planner David Eoff IV presented the staff report, discussing the request to approve a new health & fitness facility with late night hours of operation at 1008 Huntington Drive. He discussed hours of operation, set schedules, and explained the process of appointment only group fitness training. In addition, all classes and training activities would be conducted inside the facility and there would be a prohibition on outdoor activities within the parking lot or around the shopping center perimeters. Eoff clarified that the facility does not contain, nor will provide, onsite locker rooms, showers, spas, saunas, massages, or childcare services.

He further explained the typical concerns and conditions of approval associated with training facilities that include outdoor activities, noise levels, and the operation of businesses within a multiple tenant shopping center.

Eoff IV ended his presentation indicating that the owners and their representative were present for any questions. He stated that based on the information provided in the Staff report, Staff recommends that Planning Commission reviews the information and adopt PC Resolution 16-14 approving Conditional Use Permit 16-05 to allow the operation of a health & fitness facility with late night hours, subject to conditions of approval.

Chairperson Pierce opened Commissioners' Comments.

Farra asked if the air conditioning system was adequate for a number of people in the studio to avoid the need for a fan in front of a door. **Eoff IV** stated that the building is equipped with a HVAC system that is designed to accommodate the size of that tenant space.

Lefmann inquired about the facility opening time by appointment only, if it would be any earlier than 5:00 a.m. **Eoff IV** stated that the appointments would only occur when they are closed during 11:00 a.m. to 4:00 p.m. for consultations, new members and information.

Lefmann asked for clarification if there would be any auxiliary sales such as nutritional items, beverages or clothing. **Eoff IV** stated that a retail component is not included in this project.

Vasquez inquired about the late night hours; if the applicant will be allowed to have a class at 2:00 a.m. **Eoff IV** referenced to Condition of Approval #2; on page 4, Exhibit B that list the approve class schedule which restricts operation from starting earlier than 5:00 a.m.

Chairperson Pierce closed comments from Commissioners and opened Public Comments.

Steve Hernandez addressed Commissioner's Farra inquiry regarding the HVAC system capacity and provided information on a number of air exchanges on HVAC systems.

Chairperson Pierce closed Public Comments and opened Commissioners' discussion.

Chairperson Pierce expressed her concern on the availability of parking spaces during the evening in the shopping center. **Eoff IV** explained the requirements and the conditions to alleviate the issue of the parking crowdedness.

Chairperson Pierce closed Commissioners' discussion.

Lefmann motioned to approved CUP 16-05 and PC 16-14. Seconded by **Watson-Gardner**. The motion was approved 5-0-0-0.

6. ITEMS FROM DIRECTOR

City Planner Golding, substituting for Director Hensley, provided an update on the following City development projects:

- City of Hope Specific Plan and EIR near completion and will be distributed for public review in the near future.
- No damage to report from previous rain storm after crew's inspection over the weekend.
- Eoff IV discussed the Duarte Gold Line project improvements in Duarte Rd. and Highland for new headlights, landscape, and sidewalks.
- Prolacta Bioscience project south of Highland is near completion.
- Hotel project not official yet since no application has been submitted, however it is moving forward and a traffic engineering study is being bidden.
- Third and Oak housing development is moving forward and pending other agencies response before it gets to the Planning Commission.

7. ITEMS FROM COMMISSIONERS

Farra inquired about the status of the marketing study for the Fresh and Easy site. **Golding** stated that the study has been completed for about a year, adding that one potential business was interested in relocating a market however, Staff did not hear back from them.

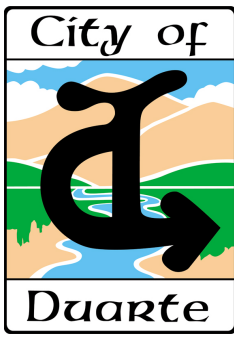
Farra inquired on the status of the ACTS Thrift Store application. **Golding** stated that the application and plans that were submitted were incomplete and unclear. And it is pending a response from the comment letter staff mailed out today.

Lefmann inquired about the code enforcement on banners for the new businesses that have been displaying for 2-3 years. **Golding** explained the application process businesses go through and stated that her comment was noted and would be given to Public Safety.

ADJOURNMENT

The meeting was adjourned at 7:33 p.m.

Craig Hensley, Secretary



City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 357-7931 - FAX (626) 358-0018

PC Resolution 16-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE DENYING
CONDITIONAL USE PERMIT 16-03 FOR THE OFF-SITE SALES OF BEER AND WINE
LOCATED AT 1327 HUNTINGTON DRIVE



PLANNING COMMISSION STAFF REPORT

Date: December 19, 2016

Project: **Conditional Use Permit 16-03;** request to allow the off-site sales of beer and wine in conjunction with an existing consumer goods store (Retail Use)

Location: 1327 Huntington Drive

Applicant: Steve Rawlings, Alcoholic Beverage Consulting / Applicant; 99 Cents Only Stores / Business Owner

SUMMARY

The applicant, Steve Rawlings, is requesting approval of Conditional Use Permit (CUP) 16-03 to allow off-site beer and wine sales in conjunction with an existing consumer goods store, 99 Cents Only Stores, located at 1327 Huntington Drive. The Commercial General (C-G) zone permits retail sales; however, the off-site sale of beer and wine requires the approval of a conditional use permit by the Planning Commission.

Staff has concerns with the applicant's request for off-site sales off beer and wine, including but not limited to the increase of availability of low cost beer and wine at a high volume, which raises issues of compatibility and is considered to be an overconcentration of alcohol licenses within the shopping center. A memo was received from the Public Safety Department discouraging the proposed use, listing the continuing problems at the property with public drunkards known to frequent the subject property, loitering within the center, on-going calls for service regarding theft at Rite Aid and 99 Cents Only Store, use of narcotics, and urinating/defecating in public and in or around the shopping center.

The item was scheduled for the Planning Commission hearing on November 21, 2016. Prior to the meeting, the applicant requested a continuation of the item due to the Operations Manager for 99 Cents Only Stores being unable to attend and the applicant needing more time to prepare for the meeting. The Planning Commission granted the applicant's request and the item was continued to tonight's hearing.

BACKGROUND

The project site is located within the Big Lots shopping center, at the northeast corner of Huntington Drive and Buena Vista Avenue. The 99 Cents Only Store comprises approximately 12,650 square feet and is located directly east of Big Lots and north of Rite Aid. In 2011, the 99 Cents Only Store began operations after an extensive façade remodel.

The State Department of Alcoholic Beverage Control (ABC) allows off-site sales of beer and wine with various license types. The applicant is requesting approval for a Type-20 license (beer and wine only) for off-site sales in conjunction with a retail store.

Currently, there are 35 retail and/or restaurant establishments in the City of Duarte with active alcohol licenses, which include on-site and off-site licenses (Exhibit B). Twelve of the thirty-five

licenses are Type-20 (off-sale beer and wine) and seven businesses maintain Type-21 (off-sale general) licenses. Four businesses within the same shopping center as 99 Cents Only Store, maintain either an on-site or off-site license: Sparr Liquor located at 1303 Huntington Drive; El Salvadoreno located at 1313 Huntington Drive; Rite Aid located at 1335 Huntington Drive; and Slaw Dogs located at 1355 Huntington Drive. Additionally, there are four businesses within proximity of the property with an active on-site and off-site sale licenses which include: Grocery Outlet located at 1322 Huntington Drive; Young's Gourmet located at 1340 Huntington Drive; Tropicana International Market located at 1406 Huntington Drive; and Smart and Final located at 1193 Huntington Drive.

PROJECT DESCRIPTION

The 99 Cents Only Store, located at 1327 Huntington Drive, proposes off-site sales of beer and wine in conjunction with the consumer goods store. The 99 Cents Only Store is a discount store offering items such groceries, hardware, housewares, health and beauty aids, stationary, seasonal merchandise, and cleaning supplies. Approximately 30 percent of the store is dedicated to grocery sales.

The display of beer and wine is proposed along 34 lineal feet of shelf space (24" deep) located at the rear of the store, adjacent to the stock room and grocery section at the east end of the store (Exhibit C – Plans and Exhibit D - Photos). Beer and malt products will be sold in manufacturer's pre-packaged containers such as: 3-packs, 6-packs, and/or 12-packs or larger. Single wine bottles will be sold at a minimum of 750 ml. Wine coolers will be sold in no less than 2-pack containers. All beer and wine will be displayed on shelves, with no proposed cold storage.

The business hours will remain between 8:00 a.m. and 10:00 p.m., seven days a week. The average number of employees ranges between 8 and 12 per shift. A detailed description of the stores business operations has been provided in the statement of operations, which is attached for your review (Exhibit E - Applicant's Statement of Operations). Furthermore, security cameras are proposed throughout the store, including two exterior cameras: one at the front and one at the rear door overlooking the loading dock and trash enclosure.

ANALYSIS

Section 19.60.030 of the Duarte Development Code (DDC) provides operational standards for establishments that may be granted a conditional use permit for an ABC license. Through the conditional use permit process, beer and wine sales for off-site consumption is permitted as an accessory use to supermarkets, drug stores, and other similar establishments. As defined in Section 19.160.200 of the DDC, a supermarket is a self-service grocery and associated consumer goods store divided into departments and also offering prepared foods and food service and may include secondary uses within the store for visitor convenience, such as banking services, retail sales of non-food items, and pharmacies. Although the 99 Cents Only store offers a variety of fresh, frozen and canned food products, the majority of the store is stocked with non-grocery items, seasonal goods, housewares, cleaning supplies and other general merchandise. Even though the subject business does not meet the typical definition of a supermarket, it is considered a similar establishment that may make an application for an off-site alcoholic beverage sales permit. DDC operational standards for an off-site alcohol retailer

license restricts the display, sale, and storage of alcoholic beverages to no more than 10 percent of the store floor area.

The display of beer and wine is proposed at the easterly back corner of the store, adjacent to chilled, freezer, and cooler stored grocery items. The proposed beer and wine display area is approximately 34 lineal feet of shelf space totaling 68 square feet. Additionally, the proposed stock room storage is approximately 20 lineal feet totaling 40 square feet. This equates to approximately 1% of the total floor area dedicated to the display, sales or storage of alcoholic beverages. The proposed merchandising of beer and wine is: 50 to 75 percent of 750 ml bottles of wine; 10 percent of 2 and 3 packs of beer; and 15 to 40 percent of 6 packs or greater. The display of beer and wine is not proposed to be located in coolers, end-caps, on pallets or any other location other than the designated area, shown on Exhibit C.

As proposed, the area for beer and wine display is located along the back wall of the store and provides limited visibility to cashiers and managers. If the Commission wishes to approve CUP16-03, staff recommends that the beer and wine display be re-located to the area just east of the check out stands along the front wall, so it is visible and can be easily monitored by store employees.

Alcoholic Beverage Control

The State, acting through the Department of Alcoholic Beverage Control, maintains exclusive authority to license and regulate the purchase and sale of alcoholic beverage. However, the State recognizes a city's authority to regulate the location of businesses engaged in the sale of alcohol, and its secondary effects including potential nuisance effects such as noise and compatibility with the surrounding neighborhood and businesses.

Pursuant to Section 23958 of the Department of Alcoholic Beverage Control Business and Professions Code, the Department has the authority to deny an application for a license if issuance of that license would create further law enforcement problems and/or add to an undue concentration of licenses. As described in Section 23958.4, an undue concentration of licenses would be determined by the ratio of off-sale retail licenses to population in the census tract or census division, in which the application premises are located. Section 23817.5 states that the number of premises for which off-sale beer and wine license is issued shall be limited to one for each 2,500, inhabitants of the city or 1,250 inhabitants in combination with the number of premises of off-sale general licenses issued in the city. As such, the Department of Alcoholic Beverage Control may approve the beer and wine license if the applicant shows that public convenience or necessity would be served by the issuance, subject to existing conditions listed in Section 23817.7. A vicinity map has been provided showing the locations of all ABC licenses within the City of Duarte (Exhibit B).

Location and Land Use Compatibility

The 99 Cent Only Store is situated at the northeast corner of an existing shopping center, comprised of retail and restaurant uses, which include: Rite Aid, Big Lots, The Slaw Dogs Cafe, El Salvadoreno, A & P Donuts, Roman Cleaners, La Paz Medical Clinic, Secret Beauty, Mother's Nutritional Center, and Sparr Liquor. Approving a conditional use permit allowing 99 Cent Only Stores to sell beer and wine will be the fifth ABC license within the shopping center.

This shopping center has regular issues with loitering, transient panhandling, and public drinking on the subject property and in the vicinity of Buena Vista and Huntington Drive. In addition to public nuisances, staff has documented the lack of building and property maintenance. In particular, staff noticed the removal of two exterior gates, which were previously installed as part of the conditions of approval for an exterior façade remodel in 2011 (ARB2011-04). The gates were to be installed and maintained in order to eliminate loitering, and the lack of visibility of illegal activities known to occur on the property and in the walkway between the 99 Cents Only Store and Rite Aid. Additionally, staff noticed the deterioration of the cart corals; maintenance activities that included repainting to dissimilar paint colors on the exterior of the building; and an excessive amount of trash outside of the store, throughout the parking lot, and at the back of the store, particularly at the loading dock and overflowing trash in and around the trash enclosure. The lack of adequate maintenance and property control generates additional concern regarding compatibility if alcohol sales are added.

Security and Public Safety Department Comments

The Public Safety Department has serious concerns with allowing an additional Type-20 ABC license within the subject shopping center. The Los Angeles Sheriff Department and the City of Duarte Public Safety Department have focused their efforts to address concerns and complaints from residents regarding drinking in public and transient issues such as aggressive panhandling, drinking alcohol, the use of narcotics, and urinating/defecating in public, in and/or around the shopping centers located at Huntington Drive and Buena Vista Avenue. The sales of heavily discounted alcohol in a location of the city where there have traditionally been law enforcement issues create a legitimate concern for the community.

Public Safety has provided a memorandum to the Community Development Department describing their concerns and discouraging approval of the CUP 16-03 (Exhibit F). Based on calls for service provided by Public Safety for the past eighteen months, a total of 67 calls were reported, which were comprised of approximately 80 different incident types. Many of these calls involved alcohol or transient-related issues. A summary has been provided as part of Exhibit F. Calls for service include suspicious persons, drinking in public, on-going theft at 99 Cents Only Store and Rite-Aid, loitering, customers being harassed inside the liquor and retail stores, harassment of customers in the parking lot, excessive amount of public drunkards, trespassing and vandalism.

If the use permit is approved, a condition would be added requiring the applicant to submit a detailed security plan for review and approval by the Public Safety and Planning Departments. The applicant has provided a security plan showing the installation of sixteen security cameras throughout the store, including two exterior cameras: one at the front and one at the rear door overlooking the loading dock and trash enclosure. The security control center and storage hard-drive would be located in the manager's office at the front of the store. Other security measures the applicant has proposed is to include new hire staff training under the California Department of Alcoholic Beverage Control L.E.A.D (Licensee Education on Alcohol and Drugs) program. It should be noted; the applicant has indicated their willingness to provide a part-time or full-time security guard.

Conclusion

The Community Development Department's recommendation to deny the applicant's request is supported by the Public Safety Department's memorandum, which expresses significant concern about negative activities occurring on the property. These activities have resulted in multiple calls for service regarding transient activity, public drinking, theft, use of narcotics, trespassing, panhandling, and loitering. Permitting beer and wine sales does not assist the Sheriff's or Public Safety Department in their efforts to alleviate violations. Furthermore, Staff's concerns include the proposed display location of beer and wine; the packaging size and availability of beer and wine at a lower cost; the overconcentration of alcohol sales within the shopping center and areas surrounding the subject property; and would aggravate an existing policing problem.

If the Commission chooses to consider a permit for off-site sales of beer and wine, Staff would recommend conditions of approval which would include, but are not limited to: submittal of a detailed security plan to be reviewed and approved by the Public Safety and Planning Department, a condition limiting the minimum size of beer and wine sold (packaging size and/or volume), relocation of the beer and wine display area to an area more visible by employees, staff training to comply with the Alcoholic Beverage Control Board training requirements, and the requirement that the applicant provide a security guard at the front exterior of the store.

RECOMMENDATION

Based primarily on the concerns of the Public Safety Department regarding the use, Staff has prepared Resolution 16-15 (Exhibit A), recommending denial of CUP 16-03. If the Commission feels that approval with conditions is appropriate, Staff would recommend that the Commission provide Staff direction and continue the public hearing to the December meeting.

Respectfully Submitted,



Kristen Johnston
Associate Planner

ATTACHMENTS

- Exhibit A – PC Resolution 16-15
- Exhibit B – Vicinity Map and List of ABC Licenses
- Exhibit C – Project Plans
- Exhibit D – Project Photos
- Exhibit E – Applicant's Statement of Operations
- Exhibit F – Public Safety Memorandum and Calls for Service Log Summary

Exhibit A

RESOLUTION NO. PC 16-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE DENYING CONDITIONAL USE PERMIT 16-03 FOR THE OFF-SITE SALES OF BEER AND WINE LOCATED AT 1327 HUNTINGTON DRIVE

WHEREAS, the applicant, Steve Rawlings of Alcoholic Beverage Consulting, and 99 Cents Only Stores is requesting approval of Conditional Use Permit 16-03 (CUP 16-03) to allow the off-site sales of beer and wine on property located at 1327 Huntington Drive; and

WHEREAS, a public hearing on this application was held by the Planning Commission of the City of Duarte on December 19, 2016 after due notice was given as required by law, at which time oral and documentary evidence was introduced along with the written recommendation of the Planning Department of the City of Duarte; and

WHEREAS, Duarte Development Code (DDC) provides that the Planning Commission must make all of the findings listed Section 19.114.050(B)(1-5) before a conditional use permit can be approved; and

WHEREAS, the Planning Commission of the City of Duarte has considered the analysis and recommendation provided in the staff report and all of the information, evidence and public testimony received at the public hearing; and

NOW THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. All of the facts set forth in the recitals of this Resolution are true and correct and incorporated herein by this reference.

SECTION 2. In accordance with DDC Section 19.114.050(B)(1-5), based upon substantial evidence presented to the Planning Commission during the public hearing conducted with regard to CUP 16-03, including written staff reports and verbal testimony, the Planning Commission hereby finds as follows:

1. The proposed use is not consistent with the General Plan;

Based on the information currently available to the Planning Commission, off-site sales of beer and wine sales appear to be generally consistent with the site's General Commercial land use designation, which is "intended to provide for sites which will meet the shopping needs of the entire community." (Land Use Element, p. 15.) However, because the proposed off-site sales will increase the availability of low cost beer and wine at a high volume, the use raises issues of compatibility and overconcentration of alcohol licenses within the shopping center. Therefore, the proposed use is not consistent with Land Use Goals 1 and 2, which aim to "[m]aintain a balanced community consisting of various ... commercial activities" and "[d]evelop compatible and harmonious land uses by providing a mix of uses." (Land Use Element, pp. 2-3.) Allowing a fifth such business (approximately 45-feet, 150-

feet, 200-feet, and 350-feet) from businesses with on-site and off-site sales of beer and wine will not maintain a “balance” (or “mix”) of various commercial uses such that the commercial area “meet[s] the shopping needs of the entire community.”

2. The proposed use appears to be allowed within the subject zone and appears to comply with all other provisions of this Development Code and the Municipal Code;

Off-site beer and wine sales are permitted with a conditional use permit within the Commercial-General (C-G) zone. Based on the information currently available to the Planning Commission, [t]he use appears to be consistent with the C-G zoning as it appears to serve local and regional needs. (DDC § 19.12.010(C).)

3. The design, location, size and operating characteristics of the proposed use are not compatible with the allowed uses in the vicinity;

Pursuant to Section As defined in Section 19.160.200 of the Duarte Development Code, a supermarket is a self-service grocery and associated consumer goods store divided into departments and also offering prepared foods and food service and may include secondary uses within the store for visitor convenience, such as banking services, retail sales of non-food items, and pharmacies. Although the 99 Cents Only store offers a variety of fresh, frozen and canned food products, the majority of the store is stocked with non-grocery items, seasonal goods, housewares, cleaning supplies and other general merchandise. Even though the subject business does not meet the typical definition of a supermarket, it is considered a similar establishment that may make an application for an off-site alcoholic beverage sales permit.

However, the proposed off-site sales will increase the availability of low cost beer and wine at a high volume raising issues of compatibility and overconcentration of alcohol licenses within the shopping center. As noted, the applicant’s request for off-site beer and wine sales will be the fifth ABC license issued for the property and will be located in close proximity (approximately 45-feet, 150-feet, 200-feet, and 350-feet) to existing retail businesses that maintain Type-20 & Type-21 (on-site & off-site) licenses; and is located in a shopping center with existing policing problems that includes numerous calls for service for public drunkards, loitering, use of narcotics, and theft. Therefore, based on the concerns of the Public Safety Department regarding the use, the site is not suitable for the off-site sales of beer and wine.

4. Operation of the use at the location proposed would be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

The 99 Cents Only Store is situated at the northeast corner of an existing shopping center comprised of retail and restaurant uses. Approving a conditional use permit

allowing 99 Cents Only Stores to sell beer and wine will be the fifth ABC license within the shopping center.

The applicant's proposal includes the display of beer and wine at 34 lineal feet of shelf space located at the rear of the store, adjacent to the stock room and grocery section at the east end of the store. Discounted beer and malt products will be sold in manufacturer's pre-packaged containers such as: 3-packs, 6-packs, and/or 12-packs or larger. Single wine bottles will be sold at a minimum of 750 ml. Wine coolers will be sold in no less than 2-pack containers.

The Public Safety Department has serious concerns with allowing an additional Type-20 ABC license within the subject shopping center. The Los Angeles Sheriff Department and the City of Duarte Public Safety Department has focused their efforts to address concerns and complaints from residents regarding drinking in public and transient issues such as aggressive panhandling, drinking alcohol, the use of narcotics, and urinating/defecating in public, in and/or around the shopping centers located at Huntington Drive and Buena Vista Avenue. Permitting beer and wine sales does not assist with the Sheriff's or Public Safety Department in their efforts to alleviate violations.

Based on the concerns of the Public Safety Department, the proposed off-site sales of beer and wine would not enhance the harmonious and orderly growth of the City, given that the proposed use will increase the availability of low cost beer and wine at a high volume raising issues of compatibility and overconcentration of alcohol licenses within the shopping center. The proposed use would be the fifth Type-20 ABC licenses on the property and within approximately 45-feet to an adjacent business that maintains a Type-20 license. As noted, the numerous calls for service for public drunkards, theft, loitering on the property, the use of narcotics, and reports of customers being harassed will constitute a hazard to the public convenience and general welfare of persons residing or working in the neighborhood of the proposed use

5. The subject site is not:
 - a. Physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities; and
 - b. Served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

Based on the information currently available to the Planning Commission, the subject site appears to satisfy the second requirement (i.e., "b"), but not the first requirement (i.e., "a"). The 99 Cents Only Store is approximately 12,650 square feet in area located within an existing shopping center on a 5.84-acre parcel. The property is located in the Commercial-General (C-G) zone at the northeast corner of Buena Vista and Huntington Drive, accessible from at least one drive aisle approach along each thoroughfare. The project site has demonstrated that it is physically

suitable to support the existing development. Although the addition of off-site sales of beer and wine within an existing commercial building will not alter the site's ability to provide public and emergency vehicle access and public services and utilities (i.e., requirement "b"), it does not appear to be "[p]hysically suitable in terms of ... location" (i.e., requirement "a") because, as noted above: (1) the proposed off-site sales will increase the availability of low cost beer and wine at a high volume raising issues of compatibility and overconcentration of alcohol licenses with the proposed use adding a fifth ABC license for the property and is located in close proximity (approximately 45-feet, 150-feet, 200-feet, and 350-feet) to existing retail businesses that maintain Type-20 & Type-21 (on-site & off-site) licenses; and (2) located in a shopping center with existing policing problems that including numerous calls for service for public drunkards, loitering, use of narcotics, and theft. Subsequently, based on the concerns of the Public Safety Department regarding the use, the site is not suitable for the off-site sales of beer and wine.

SECTION 3. Based upon the substantial evidence and testimony received at public hearing and the findings and conclusions set forth hereinabove, the Planning Commission hereby adopts this Resolution and denies CUP 16-03.

SECTION 4. The denial of Conditional Use Permit 16-03 by the Planning Commission is statutorily exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15270 of Title 14 of the California Code of Regulations, as CEQA does not apply to projects, which a public agency rejects or disapproves. No further environmental review is necessary.

SECTION 5. The chair shall sign this Resolution and the Secretary shall attest and certify to the passage and adoption of this Resolution, subject to a 15-day appeal, as further described in DDC Chapter 19.144 (Appeals).

APPROVED, AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 19th day of December 2016

Shauna Pierce, Chairperson
City of Duarte Planning Commission

ATTEST:

Craig Hensley, Community Development Director

CITY OF DUARTE
COUNTY OF LOS ANGELES } ss.
STATE OF CALIFORNIA

I, Craig Hensley, Secretary of the Planning Commission of the City of Duarte, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Duarte held on December 19, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Exhibit B

Active Alcohol License Allowing Off-Site Consumption

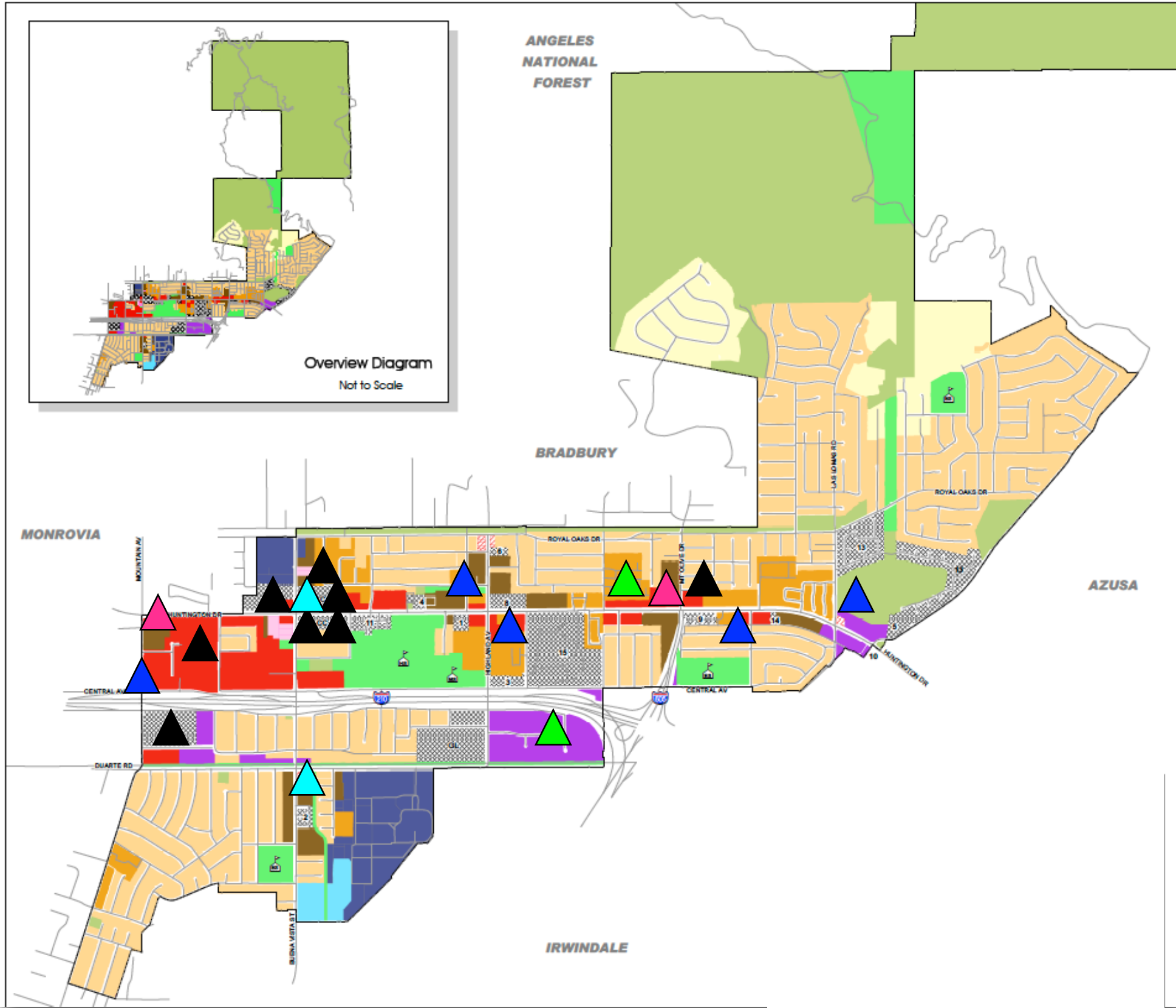
City of Duarte

Rev.11-2016

A total of 19 businesses in the City of Duarte have been granted a Conditional Use Permit to sell alcohol for off-site consumption.

12 Type 20 licenses (beer & wine)

7 Type 21 (full liquor).



Map Symbol	Use	Business Name
▲	General Retail with Accessory Alcohol Sales	Type 20: Grocery Outlet Big Lots Tropicana Market Type 21: Target Rite-Aid Smart & Final Walmart CVS
▲	Gas Station with Convenience Store and Accessory Alcohol Sales	Type 20: AM/PM Mobil
▲	Existing Liquor Store	Type 21: Sparr's Liquor Duarte Liquors
▲	Mini-Mart	Type 20: 7-Eleven (3) Quick 'N Go Duarte Drive Thru
▲	Other	Type 20: Rancho Duarte Florist D'Aquino Italian Importing Co.

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and check the Create CSV
Download Option.*

**California Department of Alcoholic
Beverage Control
Retail Licenses
For the Cities of
DUARTE**

Report as of 11/9/2016

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	268873	ACTIVE	47	03/22/1993	2/28/2017	OSF INTERNATIONAL INC 1431 BUENA VISTA ST DUARTE, CA 91010 Census Tract: 4301.01	OLD SPAGHETTI COMPANY THE	0715 SW BANCROFT ST PORTLAND, OR 97239-4273	1917
2)	235292	ACTIVE	20	09/05/1989	2/28/2017	DAQUINO ITALIAN IMPORTING CO INC 1850 BUSINESS CENTER DR DUARTE, CA 91010-2901 Census Tract: 4300.02	DAQUINO ITALIAN IMPORTING CO INC		1917
3)	375796	ACTIVE	21	05/24/2001	4/30/2017	RAMIREZ, AMALIA ZUNIGA 1302 DUARTE RD DUARTE, CA 91010-3010 Census Tract: 4301.02	DUARTE LIQUORS		1917
4)	415351	ACTIVE	41	11/24/2004	10/31/2016	RAMIREZ, MANUELA 1306-1308 E DUARTE RD DUARTE, CA 91010 Census Tract: 4301.02	DON REYES MEXICAN RESTAURANT		1917
5)	531818	SUREND	41	04/19/2013	4/30/2017	KAUR, SUKHRAJ 934 HAMILTON RD DUARTE, CA 91010-2700 Census Tract: 4301.01	SR INDIAN CUISINE		1917
6)	572779	ACTIVE	41	10/21/2016	9/30/2017	SK RESTAURANT, LLC 934 HAMILTON RD DUARTE, CA 91010-2700 Census Tract: 4301.01	SR INDIAN CUISINE		1917
7)	249556	ACTIVE	20	09/24/1990	6/30/2017	7 ELEVEN INC 1802 HUNTINGTON DR DUARTE, CA 91010 Census Tract: 4300.02	7 ELEVEN 2175 27055	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	1917
8)	285920	ACTIVE	21	07/14/1993	6/30/2017	DIAB, SAMAN 1303 HUNTINGTON DR DUARTE, CA 91010-2527 Census Tract: 4301.01	SPARR LIQUOR	1303 HUNTINGTON DR DUARTE, CA 91010-2527	1917
9)	316539	ACTIVE	41	02/27/1996	1/31/2017	BORRIRUX, VATCHARA 2414 HUNTINGTON DR DUARTE, CA 91010 Census Tract: 4300.02	THAI CITY RESTAURANT		1917
10)	318758	SUREND	20	05/21/1996	4/30/2017	SONG, CHAN HOE 1322 HUNTINGTON DR DUARTE, CA 91010-2526 Census Tract: 4301.01	MIKES FOOD	552 MUIRWOOD DR BREA, CA 92821-6662	1917
11)	327803	ACTIVE	41	04/01/1997	3/31/2017	MEER FOODS INC 1060 HUNTINGTON DR DUARTE, CA 91010 Census Tract: 4301.01	DENNYS RESTAURANT 6986	12377 LEWIS ST, STE 201 GARDEN GROVE, CA 92840	1917
12)	370892	ACTIVE	41	01/30/2001	12/31/2016	DIPIAZZA, BERNARDO 1028 HUNTINGTON DR DUARTE, CA 91010 Census Tract: 4301.01	VILLA ITALIA RISTORANTE		1917
13)	38411	ACTIVE	21	01/01/1994	6/30/2017	THRIFTY PAYLESS INC 1335 HUNTINGTON DR DUARTE, CA 91010 Census Tract: 4301.01	RITE AID STORE 5528	2600 CAPITOL AVE, STE 300 SACRAMENTO, CA 95816-5930	1917

14)	388003	ACTIVE	48	06/17/2002	5/31/2017	KELBE INC 1846 HUNTINGTON DR DUARTE, CA 91010-2672 Census Tract: 4300.02	ROUTE 66 ROADHOUSE & TAVERN		1917
15)	395517	ACTIVE	51	12/01/2004	8/31/2017	BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNI 2436 HUNTINGTON DR DUARTE, CA 91010-2153 Census Tract: 4300.02	DUARTE ELKS LODGE #1427		1917
16)	407124	SUREND	21	01/09/2004	6/30/2017	RALPHS GROCERY COMPANY 1193 HUNTINGTON DR DUARTE, CA 91010-2400 Census Tract: 4301.01	RALPHS 5	PO BOX 54143 LOS ANGELES, CA 90054-0143	1917
17)	410671	ACTIVE	20	04/20/2004	6/30/2017	7 ELEVEN INC 2705 HUNTINGTON DR DUARTE, CA 91010-2302 Census Tract: 4300.02	7 ELEVEN STORE 2175 20248D	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	1917
18)	466396	ACTIVE	20	07/18/2008	6/30/2017	DEVICI DEVELOPMENT INC 902 HUNTINGTON DR DUARTE, CA 91010-2444 Census Tract: 4301.01	ARCO AMPM 82016		1917
19)	479346	ACTIVE	21	09/01/2009	8/31/2017	GARFIELD BEACH CVS LLC 2315 HUNTINGTON DR DUARTE, CA 91010-2102 Census Tract: 4300.02	CVS PHARMACY 9788	1 CVS DR, MAIL DROP 23062A WOONSOCKET, RI 02895-6146	1917
20)	488568	ACTIVE	20	06/15/2010	5/31/2017	BADRINATH CORPORATION 2444 HUNTINGTON DR DUARTE, CA 91010-2153 Census Tract: 4300.02	DUARTE DRIVE THRU STORE		1917
21)	500152	ACTIVE	41	08/05/2010	9/30/2017	KATSE INC 1845 HUNTINGTON DR DUARTE, CA 91010-2635 Census Tract: 4300.02	CALIFORNIA SKEWERS		1917
22)	500511	ACTIVE	47	10/19/2010	9/30/2017	OTHMAN, SAEED MOHAMAD 1521-25 HUNTINGTON DR DUARTE, CA 91010-2532 Census Tract: 4301.01	VILLAGE RESTAURANT THE		1917
23)	521506	ACTIVE	41	07/25/2012	6/30/2017	TNT DOGS HUNTINGTON, INC. 1355 HUNTINGTON DR DUARTE, CA 91010-2527 Census Tract: 4301.01	SLAW DOGS THE		1917
24)	523920	ACTIVE	41	08/08/2012	4/30/2017	YOUNG'S GOURMET INC. 1340 HUNTINGTON DR DUARTE, CA 91010-2526 Census Tract: 4301.01	YOUNGS GOURMET		1917
25)	525612	ACTIVE	21	01/10/2014	12/31/2016	TARGET CORPORATION 1050 HUNTINGTON DR DUARTE, CA 91010-2475 Census Tract: 4301.01	TARGET T302	33 S 6TH ST, CC-1028 ATTN: ERIN COPA MINNEAPOLIS, MN 55402	1917
26)	527856	ACTIVE	41	02/13/2013	1/31/2017	FUENTES, ADILIO ERNESTO 1313 HUNTINGTON DR DUARTE, CA 91010-2527 Census Tract: 4301.01	EL SALVADORENO		1917
27)	529508	ACTIVE	47	04/18/2013	3/31/2017	CABRERAS MEXICAN CUISINE INC 1856 HUNTINGTON DR DUARTE, CA 91010-2672 Census Tract: 4300.02	CABRERAS MEXICAN CUISINE	625 E LIVE OAK AVE ARCADIA, CA 91006-5741	1917
28)	539601	ACTIVE	21	07/15/2014	4/30/2017	FRESH & EASY LLC 2215 HUNTINGTON DR DUARTE, CA 91010-2016 Census Tract: 4300.02	FRESH & EASY #1237	6080 CENTER DR, 6TH FLR, HOWARD HUGHES CENTER LOS ANGELES, CA 90045	1917
29)	543991	ACTIVE	41	05/22/2014	4/30/2017	CHER, SWEE KOK 1723 HUNTINGTON DR DUARTE, CA 91010-2537 Census Tract: 4301.01	SUSHI FIRE		1917

30)	548279	ACTIVE	20	04/22/2015	3/31/2017	DUARTE UNIVERSAL, INC. 2249 HUNTINGTON DR DUARTE, CA 91010-2016 Census Tract:	DUARTE UNIVERSAL		1917
31)	551825	ACTIVE	41	10/01/2015	9/30/2017	MONGOLIAN HASHEN INTERNATIONAL, LLC 1164 HUNTINGTON DR DUARTE, CA 91010-2451 Census Tract: 4301.01	HASHEN MONGOLIAN BBQ		1917
32)	563761	ACTIVE	21	06/23/2016	6/30/2017	SMART & FINAL STORES LLC 1193 HUNTINGTON DR DUARTE, CA 91010-2400 Census Tract: 4301.01	SMART & FINAL STORE #746	600 CITADEL DR LOS ANGELES, CA 90040-1562	1917
33)	563784	ACTIVE	47	06/28/2016	5/31/2017	MORRALITO, INC. 1501 HUNTINGTON DR DUARTE, CA 91010-2532 Census Tract: 4301.01	MORRALITO MEXICAN GRILL		1917
34)	566013	ACTIVE	20	08/12/2016	6/30/2017	GROCERY OUTLET INC 1322 HUNTINGTON DR DUARTE, CA 91010-2526 Census Tract: 4301.01	GROCERY OUTLET	5650 HOLLIS ST EMERYVILLE, CA 94608-2597	1917
35)	568568	ACTIVE	20	07/21/2016	3/31/2017	TROPICANA INTERNATIONAL MARKET, INC. 1406 HUNTINGTON DR DUARTE, CA 91010-2528 Census Tract: 4301.01	TROPICANA MARKET		1917
36)	445504	ACTIVE	47	10/24/2006	9/30/2017	E N J ENTERTAINMENT INC 1000 LAS LOMAS RD DUARTE, CA 91010-2229 Census Tract: 4300.02	DUFFERS BAR & GRILL		1917
37)	503077	ACTIVE	21	12/08/2010	6/30/2017	WAL MART STORES INC 1600 MOUNTAIN AVE DUARTE, CA 91010 Census Tract: 4301.01	WALMART STORE #2401	702 SW 8TH ST, DEPT 8916 ATTN: TIM FARRAR BENTONVILLE, AR 72716-0500	1917
38)	515798	ACTIVE	20	12/20/2011	6/30/2017	7 ELEVEN INC 1430 MOUNTAIN AVE, STE 106 DUARTE, CA 91010 Census Tract: 4301.01	7 11 2175 35014A	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	1917

- - - End of Report ---

For a definition of codes, view our [glossary](#).

Exhibit C

EXHIBIT C

FIXTURE COUNT

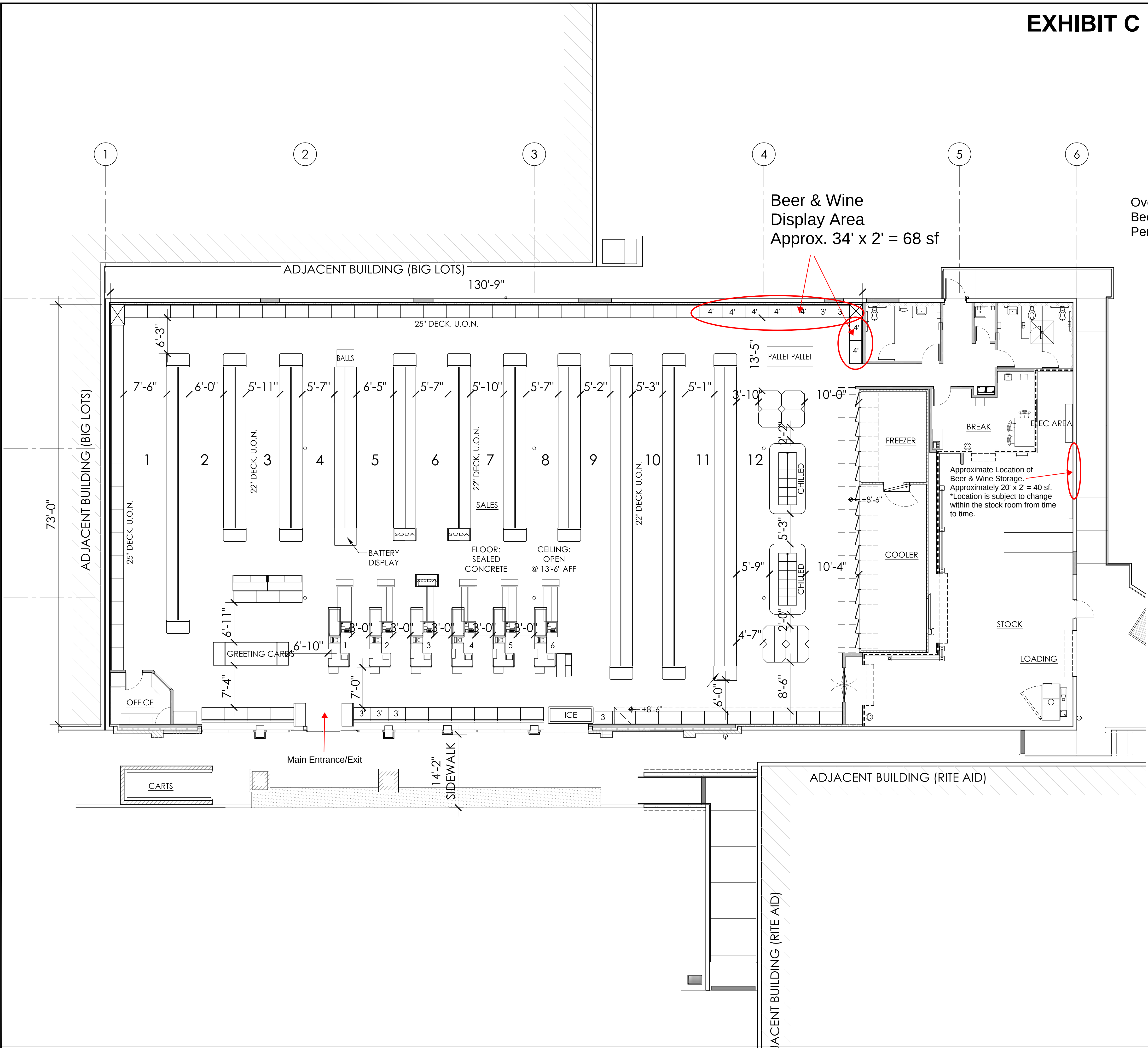
TYPE	DESCRIPTION	FIXTURE QTY.	LINEAL FEET
FIXTURES	GONDOLAS	203	812
	END CAPS	17	68
	WALL UNITS	61	241
	WINDOW DISPLAYS	13	49
	DRY GOODS	8	--
	--	--	--
TOTALS		302	1170

PMgroup Architects

16219 SE 12th STREET, SUITE 202
VANCOUVER, WA 98683
(360) 834-6536
kmc Cracken@pmdginc.com
Ken McCracken, Architect

Overall Store Size: 12,214 square feet
Beer & Wine Display Area: 68 square feet
Percentage of Beer/Wine Display: Less than 1%

Beer & Wine Display Area
Approx. 34' x 2' = 68 sf



Seal

REVISION
AS-BUILT FIXTURE PLAN

DATE
3/6/14

MARK

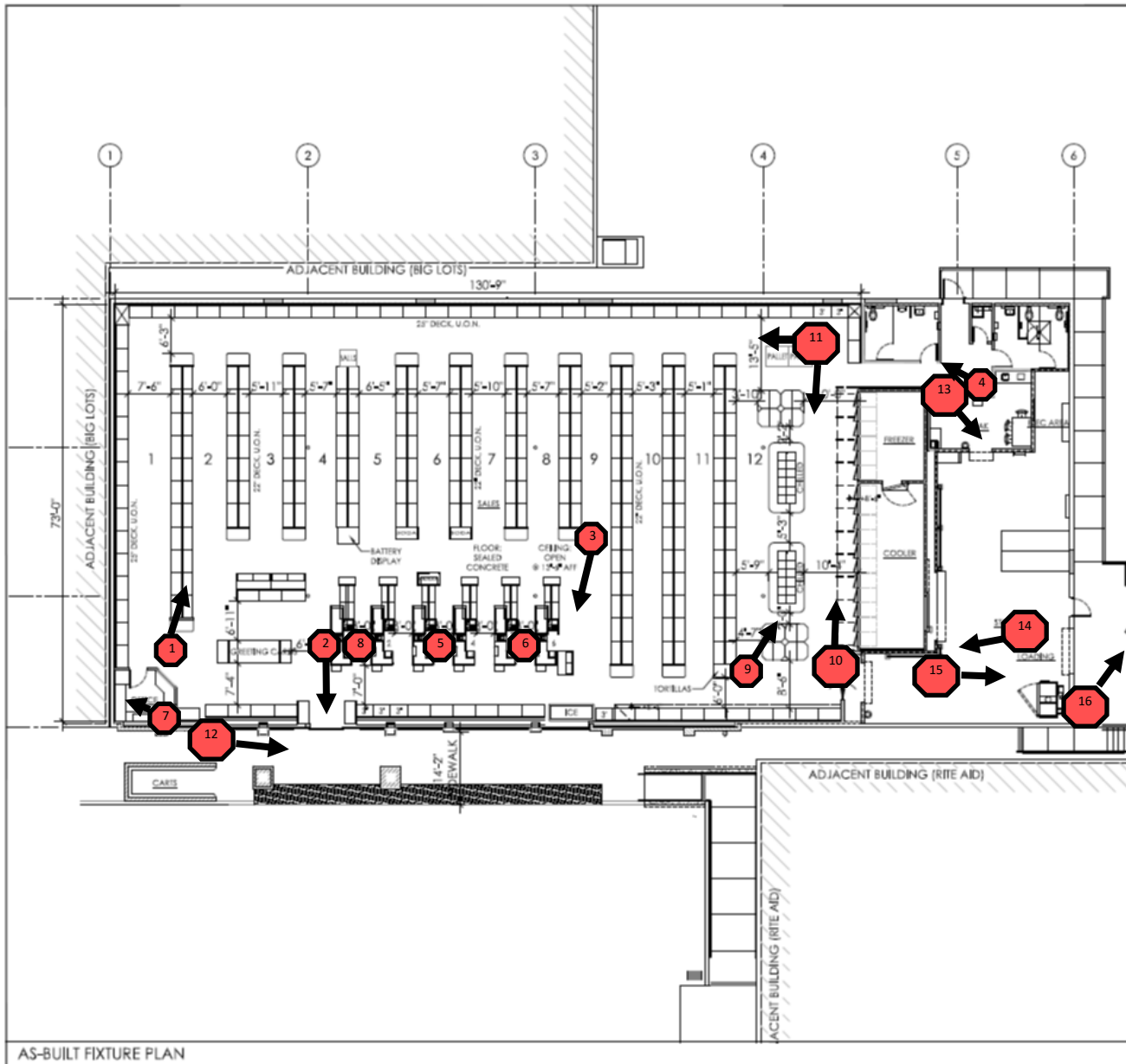
99¢
Store # 0336
1327 E. HUNTINGTON DR
DUARTE, CA

Project Number
NN14012

Sheet Name
AS-BUILT
FIXTURE
PLAN

Sheet Number

A1



Camera	Location
1	Aisle 1
2	PVM on Door
3	ICE X Shot
4	Back Hallway
5	Reg 3&4
6	Reg 5&6
7	Office
8	Reg 1&2
9	Deli
10	Produce 1
11	Produce 2/Beer/Wine
12	Outside
13	Break Room
14	Cooler/ WH Door
15	Dock/Bailer
16	Dock Ramp



Store # 0336
1327 E. HUNTINGTON DR
DUARTE, CA

Project Number
NN14012

Sheet Name
AS-BUILT
FIXTURE
PLAN

Sheet Number
A1

Exhibit D

Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit D
99 Cent Only Stores
1327 Huntington Drive



Exhibit E

Statement of Operations
99 Cents Only Store #336
1327 E. Huntington Drive, Duarte, CA
7/12/16

Proposed Additional Use: Finding of public convenience or necessity and permit to sell beer and wine for offsite consumption (Type 20 ABC License) within an existing grocery and consumer goods store.

Hours of Operation: 8:00 am to 10:00 pm - 7 days per week.

Average number of employees per shift: 8 - 12

Beer and Wine Display Area: Display of beer and wine is proposed to be 30 lineal feet of shelf space near the rear of the store. There will be no posters advertising beer or wine in store windows. Beer and malt products will be sold only in manufacturer's pre-packaged containers such as: 3-packs, 6-packs or 12-packs or larger. Single wine bottles will be sold at a minimum of 750 ml in size. Wine coolers will be sold in minimum of 2-pack containers. All beer and wine will be displayed on shelves and there will be no cold storage of beer or wine.

Security Measures: Surveillance cameras are located throughout the store. Employees go through corporate training for alcohol sales to ensure strict compliance to CA Department of Alcoholic Beverage Control laws. Point of sale system prompts cashiers for date of birth entry for all alcohol transactions.

About 99 Cents Only Stores

99 Cents Only Stores is a unique retailer of primarily name-brand consumable general merchandise and groceries. They have always delivered great value to customers and provide an exciting primary shopping destination for price-sensitive consumers. The stores are attractively merchandised, clean, full service "destination" locations that offer customers significant value on their everyday household needs.

From the first store opening in 1982, 99 Cent Only Stores has expanded to nearly 400 extreme value retail stores with over 50% grocery items including a large area dedicated to fresh produce and bread.

99 Cents Only buys directly from almost every major name-brand grocery and consumer goods manufacturer in the nation including 3M, Cadbury Adams, Campbell's, Church & Dwight, Coca-Cola, Colgate-Palmolive, Con Agra, Del Monte, Dial, Dole, Energizer, Frito Lay, General Mills, Hasbro, Heinz, Hershey Foods, Johnson & Johnson, Kellogg's, Kraft, Masterfoods, Nestle, Procter & Gamble, Quaker, Revlon, Unilever and Wrigley.

Exhibit F

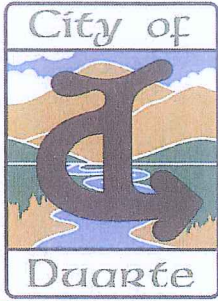


EXHIBIT F

City of Duarte

Sixteen Hundred Huntington Drive, Duarte, California 91010-2592
Tel 626-357-7931 FAX 626-358-0018 www.accessduarte.com

Mayor

Liz Reilly

Mayor Pro Tem

Tzeitel Paras-Caracci

Councilmembers

John Fasana

Margaret E. Finlay

Samuel Kang

City Manager

Darrell George

To: Kristen Johnston, Associate Planner

From: Brian Villalobos, Director of Public Safety

Subject: CUP Hearing to Sell Off-Site Beer and Wine at the 99 Cent Store Located at
1327 Huntington Drive

Date: May 11, 2016

The Public Safety Department has serious concerns regarding the potential addition of another site allowed to sell off-site alcohol within the area of Huntington Drive and Buena Vista. The Los Angeles County Sheriff Department and the City of Duarte Code Enforcement Department has focused their efforts to address concerns and complaints from residents regarding drinking in public and transient issues such as aggressive panhandling, drinking alcohol, using narcotics, and urinating/defecating in public, in or around the shopping centers located at Huntington Drive and Buena Vista. The addition of another establishment permitted to sell alcohol in that shopping center in no way helps the Public Safety Department in the effort to alleviate the above noted violations.

As proof of the problems noted above, attached to this memo is a letter issued by Code Enforcement to Sparr Liquor, dated March 9, 2015, addressing the sale of alcohol to a habitual drinker in violation of Duarte Municipal Code section 5.04.240. Additionally, attached are Los Angeles County Sheriff Department patrol logs for the past year regarding drinking in public and transient related calls for Sparr Liquor, Big Lots, Rite-Aid, and the 99 Cents store. The total number of calls for those four businesses in the past year was sixty seven calls related to either to drinking or transient related issues.

Named "Most Business Friendly City 2012" by LAEDC

 - Brand of the original Andres Duarte Rancho



City of Duarte

1042 Huntington Drive, Duarte, California 91010-2592
Tel. (626) 357-7938 | Fax (626) 303-0694

Notice of Violation

03/09/2016

GRAIR, GEORGE Y TR
1303 HUNTINGTON
DUARTE, CA 91010

Subject Location:

1303 HUNTINGTON DR
DUARTE, CA 91010
APN: 8530004072
Case #: CE16-649

Dear GRAIR, GEORGE Y TR,

An inspection of your property shows that the following violation(s) exist and requires the following corrective action:

Municipal Code	Description	Corrective Action
5.04.240	Any license or permit granted or issued under the provisions of this title may be revoked or suspended by the finance director if the finance director or his or her designee determines, after a hearing pursuant to Section 5.04.250 of this code, that: (1) The holder of the license or permit has obtained the license or permit by misrepresentation; (2) The holder of the license or permit has failed to comply with one or more of the specific provisions of this code or any other resolution or ordinance of this city; (3) The license or permit is being used in contravention of any state or federal law or regulation; (4) The holder of the license or permit has not obtained or does not currently hold each and every one of the additional governmental approvals or entitlements required in order to lawfully operate the business, or alternatively, that the holder of the license or permit did not identify, on the application, certain required government approvals or entitlements that the licensee does not have; (5) The premises wherein any business described in this title is conducted are not in good and sanitary condition, or have become dangerous to or adversely affect the public health, safety, welfare, morals or peace; <u>(6) The business of the person to whom such license or permit was issued has been conducted in a manner that is dangerous to or adversely affects the public health, safety, welfare, morals or peace;</u> or (7) The license or permit is being used for a purpose different from that for which it was issued.	Per sub-section (6), you must operate your business in manner which does not adversely affect public health, morals or peace. It has been brought to our attention that your business has been selling alcohol to a known alcoholic. His name is Edwin Nikolas Storlie. A picture of this person has been provided to you with this letter. This person is known to overly intoxicate himself, thusly becoming hazardous to the public and himself. Please refrain from selling any alcohol to him or your Business license may be subject to revocation and or fine. Please feel free to provide a copy of the included photo to your staff to avoid the sale of alcohol. Thank you for your help in saving lives.

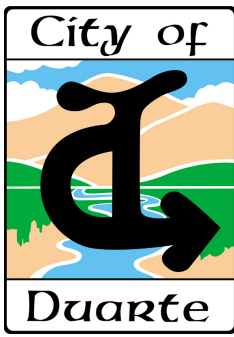
Pursuant to the DMC, the Code Violations on your property constitute misdemeanors punishable by a \$ 1,000 fine and/or six months in the county jail (DMC §§ 1.04.090-1.04.100, 9.32.150, 19.154.070). Each day the violation continues constitutes a new and separate offense for which the full misdemeanor penalty may be imposed (DMC § 1.04.100). Alternatively, or in addition to criminal action, the City could seek compliance by pursuing an administrative action and or filing a civil action including but not limited to: Administrative Citations being issued with fines ranging from \$100 to \$1000 for each offense, the City executing an Abatement and Lien, and or the submitting of a Sub-Standard Lien against the property with the Los Angeles County Recorder (DMC §§ 1.08.040, 9.32.140, 19.154.070, 19.154.080). Finally you should be aware that if the City prevails in any legal action, the City could be awarded attorneys' fees (DMC §§ 9.32.160, 19.154.100).

Furthermore, we are providing you notice that "in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year" for any property that is deemed a violation of the DMC. (Cal. Health & Saf. Code § 17980(d)). Moreover, as required by law, we are hereby providing you notice that it is unlawful for a lessor to retaliate against a lessee pursuant to Section 1942.5 of the Civil Code for

**EXHIBIT F
CALLS FOR SERVICE SUMMARY
MAY 2016 to NOVEMBER 2016**

Drinking in Public / Public Intoxication	Loitering/ Trespass/Refusal to Leave Premises	Other (i.e. warrants, indecent exposure, graffiti)	Harassment	Panhandling	Controlled Substance	Burglary / Theft	Assault	Vehicle Code Violation	Public Disturbance
1	1	1	1	1	1	1	1	1	1
1	1	1	1	1	1	1	1	1	1
1	1	1	1	1	1	1	1	2	1
1	1	1	1	1	1	1	1		1
1	1	1	1	4	1	1	4		1
1	1	1	1		5	1			5
1	1	6	1			1			
1	1		1			1			
1	1		1			8			
1	1		1						
1	1		1						
1	1		1						
12	1		12						
	1								
	1								
	1								
	1								
	1								
	1								
	1								
	1								
	1								
	22								

67 Drinking or Transient Related Issues - PS
80 Incident Summarized from Call Logs - CDD



City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 357-7931 - FAX (626) 358-0018

PC Resolution 16-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE RECOMMENDING THE CITY OF COUNCIL OF THE CITY OF DUARTE ADOPT ORDINANCE NO. 17-O-01 AMENDING SECTIONS 19.10.020.A (TABLE 2-1 AND TABLE 2-2) ALLOWED USES AND PERMIT REQUIREMENTS FOR SINGLE FAMILY AND MULTIFAMILY ZONES, 19.38.050.A (TABLE 3-4) OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL USES, 19.60.160 SECOND DWELLING UNITS, AND MODIFICATIONS TO DEFINITIONS IN SECTIONS 19.160.020, 19.160.050 AND 19.160.200 OF THE DUARTE DEVELOPMENT CODE RELATED TO THE REGULATION AND APPROVAL OF ACCESSORY (SECOND) DWELLING UNITS WITHIN THE CITY OF DUARTE



PLANNING COMMISSION STAFF REPORT

Date: December 19, 2016

To: Planning Commission

Subject: **MUNICIPAL CODE AMENDMENT 16-05:** A City initiated request to amend Sections: (1) 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; (2) 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; (3) 19.60.160 second dwelling units; and (4) modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code related to the regulation and approval of accessory (second) dwelling units within the City of Duarte.

SUMMARY

The State's Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of second units in single-family and multi-family residential zones, as specified.

The Duarte Development Code (DDC) provides development standards (Section 19.60.160) for property owners to construct accessory (second) dwelling units, with the intent of providing an alternative housing option for residents. The current development standards for accessory (second) dwelling units allow for their construction within single-family zones, subject to certain development standards, which do not meet all of the requirements of two recently approved laws relating to accessory dwelling units: Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069").

Municipal Code Amendment (MCA) 16-05 proposes modifications to various chapters within the Duarte Development Code, related to accessory (second) dwelling units, to align the City's development standards with new State laws that would otherwise take affect in the beginning of 2017.

BACKGROUND

On September 27, 2016, Governor Brown approved Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069"), which replace the term "second unit" with "accessory dwelling unit." These bills place concrete limitations on the restrictions local agencies can place on accessory dwelling units within their jurisdictions, to those expressly enumerated in and allowed by AB 2299 and SB 1069. Moreover, these bills require ministerial, nondiscretionary approval of accessory dwelling units. They also specify that a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction, and delineate circumstances under which parking standards may not be imposed.

Additionally, these bills provide that in the event a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of the new legislation, that ordinance shall become null and void upon the effective date of the bills, and that agency shall thereafter apply the standards established in AB 2299 and SB 1069 for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section. AB 2299 and SB 1069 become effective on January 1, 2017.

As currently written, the City's Second Dwelling Unit Ordinance (Section 19.60.160) does not meet the requirements of this new legislation. In order to bring the City's code into compliance with the state law, and avoid Section 19.60.160 being rendered null and void, the suggested amendments to the following Duarte Development Code Sections are necessary: (1) 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; (2) 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; (3) 19.60.160 second dwelling units; and (4) modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200.

ANALYSIS

The State of California recognizes the statewide housing crisis and has adopted accessory dwelling unit legislation (AB 2299 and SB 1069) to address these concerns. The accessory dwelling law imposes standards intended to create greater flexibility and to encourage the construction of affordable housing.

The City has allowed accessory (second) units since the adoption of Ordinance 686 in 1991. Subsequent revisions to the City's Zoning (Development) Code have maintained the same development standards and requirements for these types of units; however, a previous requirement to obtain conditional use permit approval was later eliminated. A majority of the development standards applicable to accessory units will remain unchanged from current regulations. The following sections provide further discussion on the areas of the accessory dwelling unit development standards being amended by MCA 16-05 in order to meet the new State laws.

Development Standards

The Duarte Development Code currently allows for attached accessory (second) dwelling units on properties zoned for single-family residences, up to 700 square feet and designed so that the unit can revert back to being used as an integral portion of the main residence in the event that the unit is no longer used as an accessory (second) dwelling unit. Income-restricted units were previously allowed up to 1,200 square feet with a deed restriction for low-income households.

Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069") require cities to modify their current zoning ordinances to permit accessory (second) dwelling units in all single-family and multi-family residential zones (which contains an existing single-family house), and allow for both attached and detached accessory (second) dwelling units up to 1,200 square feet but no more than 50 percent of existing living space. Staff proposes modifying the current development standards to permit both detached and attached accessory (second) dwelling units, not to exceed fifty percent of the total floor area, excluding garages, up to a maximum of 400 square feet. This will allow property owners an alternative housing option for relatives or

renters, in a reasonably sized dwelling unit that minimizes impacts and poses only small increases to land use intensity within existing neighborhoods.

Another modification to our current accessory dwelling unit regulations relate to approximately 100 to 200 homes within the City that remain on private sewage disposal systems. Staff has added a development standard that requires the local health officer to review accessory (second) dwelling units to ensure proper private sewage system sizing.

Parking

Off-street parking requirements for accessory (second) dwelling units currently require one additional space for the unit, in addition to maintaining required parking associated with the existing residence. Staff recommends that this requirement remain, in order to reduce on-street parking. However, additional off-street parking requirements for accessory (second) dwelling units would not be required for the following exceptions, based upon the new State laws: (a) the accessory dwelling unit is located within one-half mile of public transit; (b) the accessory dwelling unit is located within an architecturally and historically significant historic district; (c) the accessory dwelling unit is part of the existing primary residence or an existing accessory structure; (d) when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; and (e) when there is a car share vehicle located within one block of the accessory dwelling unit.

Other Modifications

In addition to the modifications to the development standards for accessory (second) dwelling units and off-street parking requirements, MCA 16-05 changes all references to “second” dwelling units with “accessory” dwelling units, and modifies the definitions in Sections 19.160.020, 19.160.050, and 19.160.200, to address the same (Exhibit A).

RECOMMENDATION

Staff recommends that the Planning Commission review and adopt PC Resolution 16-16 (Exhibit B) amending Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code and recommend that the City Council adopt Ordinance 17-O-01 (Exhibit C).

Respectfully Submitted,



Kristen Johnston
Associate Planner

ATTACHMENTS

Exhibit A: Duarte Development Code Sections: 19.10.020.A (Table 2-1 and Table 2-2),
19.38.050.A (Table 3-4), 19.60.160, 19.160.020, 19.160.050, and 19.160.200
Exhibit B: Resolution PC 16-16
Exhibit C: Draft Ordinance 17-O-01

Exhibit A

EXHIBIT A

19.10.020 - Land use and permit requirements.

A. Allowed land uses.

1. Tables 2-1 and 2-2 indicate the uses allowed within each residential zone and any permits required to establish the use, pursuant to Article 7 (Permit Processing Procedures) and Article 8 (Development Code Administration).
2. Residential uses represent the primary allowed use, and only those additional uses that are complementary to, and can exist in harmony with, the residential character of each zone may be allowed as accessory, conditionally permitted, and/or temporary uses. Accessory uses deemed appropriate may only be permitted when provided as a secondary use on property for which a legally permitted/allowed residential unit exists or is proposed in conjunction with establishment of the accessory use, except as may be otherwise allowed in Article 6 (Nonconformities).
3. Land uses that are not listed in Tables 2-1 and 2-2 or are not shown in a particular zone are not allowed (see Uses Not Classified in Section 19.04.040), except as otherwise provided by Section 19.04.020 (Rules of Interpretation).
4. Where the last column in the Tables 2-1 and 2-2 includes a Chapter or Section number, the regulations in the referenced Chapter or Section shall apply to the use. Provisions in other Sections of this Development Code may also apply as indicated in Section 19.10.090 (Other Applicable Regulations).
5. See Article 9 (Definitions) for land use definitions and explanations.

TABLE 2-1 ALLOWED USES AND PERMIT REQUIREMENTS	Single-Family and Two-Family Residential Zone Permit Requirements							
	P = Permitted By Right A = Permitted as Accessory Use MUP = Minor Use Permit CUP = Conditional Use Permit — = Not Allowed							
Land Use	R-1	R-1A	R-1B	R-1D	R-1E	R-1F	R-2	Specific Use Regulations
Residential Uses								
Single-Family Dwellings	P	P	P	P	P	P	P	See Table 7-2 (Article 7) for Site Plan Review

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								Requirements. See 19.10.050 for R-1D zone special requirements. See 19.10.080 (Manufactured Homes)
Multi-Family Dwellings	—	—	—	—	—	—	—	
Two-Family Dwellings (Duplex)	—	—	—	—	—	—	P	
Mobile Housing Unit	—	—	—	—	—	—	—	
Second Accessory Dwelling Unit	A	A	A	A	A	A	A	See 19.60.160 (Second Accessory Dwelling Units)
Care Uses								
Child Care Home - Large Family	A	A	A	A	A	A	A	See 19.60.100 (Large and Small Family Child Day Care Facilities)
Child Care Home - Small Family	A	A	A	A	A	A	A	
Day Care General - 15 or more children	—	—	—	—	—	—	—	
Agriculture and Animal-Related								
Animal Keeping	A	A	A	A	A	A	A	As regulated by Title 8 (Animals) of the Municipal Code
Horse Keeping	—	—	—	MUP	A	A	—	See 19.60.080 (Horse

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								Keeping)
Horticulture - Private	A	A	A	A	A	A	A	
Other Uses								
Accessory Structures and Uses	A	A	A	A	A	A	A	See 19.60.020 (Accessory Uses)
Educational Institution - Private	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Golf Course, Country Club	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Home Occupations	A	A	A	A	A	A	A	See 19.60.070 (Home Occupations)
Places of Religious Assembly	CUP	CUP	CUP	CUP	CUP	CUP	CUP	See 19.60.140 (Places of Religious Assembly)
Recreational Vehicle Parking (Open/outdoor parking)	A	A	A	A	A	A	A	See 19.38.160 (Recreational Vehicle Parking in Residential Zones)
Temporary Uses	See Chapter 19.124 (Temporary Use Permits)							
Utilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	

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TABLE 2-2 ALLOWED USES AND PERMIT REQUIREMENTS FOR MULTI- FAMILY RESIDENTIAL ZONES	P = Permitted by Right A = Permitted as Accessory Use MUP = Minor Use Permit CUP = Conditional Use Permit — = Not Allowed			
Land Use	R-3	R-4	R- MH	Specific Use Regulations
Residential Uses				
Single-Family Dwellings	P	P	—	See 19.10.080 for Manufactured Housing.
Multi-Family Dwellings	P	P	—	
Two-Family Dwellings (Duplex)	P	P	—	
Mobile Homes	—	—	P	Applies to establishment of a single mobile home in an existing mobile home park
Mobile Home Parks			CUP	Applies to establishment of a new mobile home park
Care Uses				
Child Care Home - Large Family	—	—	—	See 19.60.100 (Large and Small Family Child Day Care Facilities)
Child Care Home - Small Family	A	A	A	
Day Care Facility - 15 or more	CUP	CUP	—	
Residential Care	CUP	CUP	—	

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Facilities				
Agriculture and Animal-Related				
Animal Keeping	A	A	A	As regulated by Title 8 (Animals) of the Municipal Code.
Horticulture - Private	A	A	A	
Other Uses				
Accessory Structures and Uses	A	A	A	See 19.60.020 (Accessory Uses) See 19.60.160 (Accessory Dwelling Unit)
Educational Facilities - Private	CUP	CUP	CUP	
Golf Course, Country Club	CUP	CUP	CUP	
Home Occupations	A	A	A	See 19.60.070 (Home Occupations)
Places of Religious Assembly	CUP	CUP	CUP	See 19.60.140 (Places of Religious Assembly)
Recreational Vehicle Parking (open/outdoor parking)	—	—	A	See 19.38.160 (Recreational Vehicle Parking in Residential Zones)
Temporary Uses	See Chapter 19.124 (Temporary Use Permits)			
Utilities	CUP	CUP	CUP	

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19.38.050 - Off-street parking space requirements

TABLE 3-4 OFF-STREET PARKING REQUIREMENTS RESIDENTIAL USES	
Land Use	Parking Spaces Required
Single-Family Dwellings (Attached and Detached) and Two-Family Dwellings	2 per dwelling unit in a garage for units with up to 4 bedrooms; 3 per dwelling unit in a garage for units with 5 or more bedrooms. See also 19.38.050(I).
Second Accessory Dwelling Unit	1 per second accessory dwelling unit; a minimum of 2 enclosed per site a minimum of 2 – 3 enclosed parking spaces within a garage is required depending upon total number of bedrooms on the property (in association with primary unit).
Multi-Family Dwellings	2 per unit in a garage, plus overflow and guest parking as follows: 1 overflow parking space per each 4 units 1 guest parking space per each 4 units See also 19.38.050(F) and (I).
Mobile Home Parks	1 per mobile home space plus 1 for each mobile home space for guest parking; guest parking to be separate from mobile home spaces
Live/Work Units	2 spaces per unit in a garage plus customer parking as determined through the Conditional Use Permit.
Senior Housing (when restricted to age 62 and older)	1 space per 1-bedroom unit. 2 spaces for each 2-bedroom unit.
Conversions of Existing Covered Parking Spaces for Single-Unit Dwelling	2 per unit in garage
Large and Small Family Child Day Care Facilities	Spaces required for dwelling unit only, plus 1 per each permanent non-resident employee

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19.60.160 – ~~Second~~ **Accessory** dwelling units.

- A. Purpose. This Section provides locational, developmental, and operational standards for ~~second~~ **accessory** dwelling units.
- B. Applicability. The provisions in this Section shall apply to ~~second~~ **accessory** dwelling units as defined in Article 9 and where allowed in compliance with Article 2 (Zones, Allowable Uses, and Development Standards) and the following standards.
- C. City standards. A ~~second~~ **accessory** dwelling unit as authorized by Government Code Section 65852.2 shall comply with all of the following locational and developmental standards:
 1. The ~~second~~ **accessory** dwelling unit shall comply with all of the development standards applicable to the specific residential zone in which it is located.
 2. ***The lot is zone for single-family or multifamily use and contains an existing, single-family dwelling.***
 3. The parcel proposed for the ~~second~~ **accessory** dwelling unit shall contain a minimum of 6,000 square feet.
 4. Either the primary unit or the ~~second~~ **accessory** dwelling unit shall be occupied as a primary residence by the property owner.
 5. There shall not be more than one ~~second~~ **accessory** dwelling unit on each parcel.
 6. The ~~second~~ **accessory** dwelling unit shall be physically attached to the primary residence ~~and shall be designed so that it can revert back to being used as an integral portion of the attached single family residence in the event that the unit is no longer used as a second dwelling unit~~ ***or located within the living area of the primary residence or detached from the primary residence and located on the same lot as the primary residence.***
 7. Colors, materials, roof form, windows, and window trim shall match those of the primary structure.
 8. The ***attached*** ~~second~~ **accessory** dwelling unit shall be designed to maintain the appearance of a single-family dwelling.
 9. The maximum floor area of the ~~second~~ **accessory** dwelling unit shall comply with the following:
 - a. ~~The maximum floor area of the second dwelling unit shall not exceed 700 square feet.~~ ***Attached or detached accessory dwelling units shall not exceed fifty percent of the total floor area, excluding garages, of the existing dwelling unit up to a maximum of 400 square feet.***
 - b. ~~The maximum floor area of the second dwelling unit may be allowed to increase up to 1,200 square feet, provided the unit is deed restricted to be affordable to low-income households.~~

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10. The maximum number of allowable bedrooms within the ~~second~~ **accessory** dwelling unit shall comply with the following:
 - a. The ~~second~~ **accessory** dwelling unit shall not contain more than ~~two~~ **one** bedrooms, which shall comply with the minimum bedroom size required by this Development Code.
 - b. ~~A maximum of three bedrooms shall be allowed for second dwelling units over 700 square feet in size, when deed restricted to be affordable to low-income households.~~
11. In addition to all other required off-street parking, there shall be at least one additional off-street parking space for the ~~second~~ **accessory** dwelling unit. The parking space may be uncovered and may be in tandem with the existing off-street parking facilities. ***However, these parking standards shall not be imposed on accessory units in any of the following instances:***
 - a. ***The accessory dwelling unit is located within one-half mile of public transit. Public transit is hereafter defined as a "Major Transit Stop", pursuant to Public Resources Code 21094.5.5.***
 - b. ***The accessory dwelling unit is located within an architecturally and historically significant historic district.***
 - c. ***The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.***
 - d. ***When on-street parking permits are required but not offered to the occupancy of the accessory dwelling unit.***
 - e. ***When there is a car share vehicle located within one block of the accessory dwelling unit.***
12. At the time that the ~~second~~ **accessory** dwelling unit is assigned a street address, it may be given the primary residential numerical address with the alphabetical letter "A" following the numerical designation.
13. All gas, sewer, water, and other utility hook-ups shall be part of the primary dwelling unit.
14. ***Approval by the local health officer where a private sewage disposal system is being used, if required.***
15. The ~~second~~ **accessory** dwelling unit shall comply with all building, safety, fire and health codes, and all other applicable laws and regulations.
16. ~~A site plan~~ ***Conceptual development plans*** and elevations shall be subject to Site Plan and Design Review before the issuance of any Building Permits for the ~~second~~ **accessory** dwelling unit in compliance with Chapter 19.122 (Site Plan and Design Review).
17. A deed restriction, in a form satisfactory to the City Attorney, shall be recorded with the County Recorder to evidence and give notice of the requirements of

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this Section, and a conformed copy submitted to the City before final building (occupancy) approval.

18. A yearly administrative hearing and/or inspection, if warranted, shall be held by the Director to ensure compliance with all applicable conditions, standards, and terms.

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19.160.020 - "A" definitions.

Accessory Dwelling Unit. See "Dwelling Unit."

Accessory Use. See "Use."

Accessory Building or Structure. A structure that is physically detached from, secondary and incidental to, and commonly associated with the primary structure, and as may be further defined by the Building Code as requiring a Building Permit.

Acupuncture. A form of medical treatment involving the use of pressure, needles, or similar applications.

Administrative Variance. See "Variance."

Adult-Oriented Businesses. See Chapter 19.62 (Adult Business Uses).

Agriculture. All methods of production and management of crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting and marketing. Horticulture is not included.

Alcohol Sales, Off-Sale. Any establishment in which alcoholic beverages are sold, served, or given away for consumption off the premises. References to the establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the licensee.

Alcohol Sales, On-Sale. Any establishment in which alcoholic beverages are sold, served, or given away for consumption on the premises and which is applying for or has obtained any ABC Licenses for on-site consumption. References to the establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the licensee.

Alcohol Sales, On-Sale, Accessory Only. Any establishment that has all of the following characteristics:

- A. Alcoholic beverages are sold, served, or given away for consumption on site.
- B. The establishment will sell or sells alcoholic beverages only as an accessory use to a commercial recreation use. Examples include snack bars and concession stands at facilities sport venues (e.g., baseball, football, rugby, soccer, etc.). For the purposes of this definition, a snack bar or concession stand is an establishment that sells confections, snacks, or other light meals for consumption on-site and that provides no inside seating or drive-through service for customers.

Alley. A public thoroughfare or lane (not more than 30 feet wide) that affords only a secondary means of access to abutting property (see Figure 9-1).

Amateur Radio Antenna. An amateur radio antenna is an antenna at a height and dimension sufficient to accommodate amateur radio service communications in compliance with Part 97 of Title 47 of the Code of Federal Regulations (or successor regulations).

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Ambulance Fleet Services. A base facility where ambulances and similar vehicles are parked and from which they are dispatched, and/or where ambulance vehicles and crews are not based at a hospital or fire department stand by for emergency calls.

Amendment. A change in the wording, context, or substance of this Development Code, or a change in the zone boundaries upon the zoning map which is a part of this Title, in the manner prescribed by the Development Code.

Animal Hospital/Clinic. See "Veterinary Services."

Animal Keeping. The keeping of domestic animals cared for and owned by the occupants of the residential property in accordance with the provisions of Title 8 of the Duarte Municipal Code.

Animal Sales and Services:

- **Animal Boarding/Kennels.** The commercial provision of shelter and care for dogs, cats, other household animals, and horses (where allowed), including activities associated with such shelter and care (e.g., feeding, exercising, grooming, and incidental medical care).
- **Animal Grooming.** The commercial provision of bathing and trimming services for dogs, cats, and other household animals permitted by this Development Code. Overnight boarding is not allowed.
- **Animal Retail Sales.** The retail sales of household animals within an entirely enclosed building. These uses include grooming, if incidental to the retail use, but specifically excludes boarding of animals other than those for sale.

Antenna Tower. See "Wireless Telecommunications Facilities."

Apiary. A facility where beehives of honey bees are housed (also known as a bee yard).

ARB. See "Architectural Review Board."

Arcade (Electronic Game Center). An establishment that provides more than four amusement devices, whether or not the devices constitute the primary use or an accessory or incidental use of the premises. Amusement devices mean an electronic or mechanical equipment, game, or machine that is played or used for amusement, which, when so played or used involves skill and which is activated by coin, key, or token, or for which the player or user pays money for the privilege of playing or using. See also "Internet/Cyber Cafe."

Architectural Review Board. The Architectural Review Board (ARB) of the City of Duarte.

Area Median Income. The median household income for Los Angeles County as provided by Section 50093(c) of the California Health and Safety Code.

Artist Studios. See "Studio - Art, Dance, Martial Arts, Music."

Assembly/Meeting Facilities, Public or Private. A facility for public or private assembly and meetings, exclusive of "Places of Religious Assembly," which is defined separately. Examples of these uses include:

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- banquet rooms
- civic and private auditoriums
- community centers
- conference/convention facilities
- meeting halls for clubs and other membership organizations

ATM (Automated Teller Machine). An automated device used by the public to conduct banking and financial transactions electronically (i.e., withdrawing cash from, or depositing cash or checks into, a bank, savings, credit union, credit card or similar account). Does not apply to retail point-of-sale transactions within a fully enclosed location. Also refers to machines located on properties separate from financial institutions.

Attic. The area located between the top plate and the roof or ridge of a building, as further defined in the Building Code (see Figure 9-2).

Auto Repair. See "Vehicle Repair and Service."

Auto Service or Servicing. See "Vehicle Repair and Service."

Auto Accessory Service. See "Vehicle Repair and Service."

Automatic Controller. A mechanical or solid-state irrigation system timer capable of operating irrigation valve stations to set the days and length of time of a water application.

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19.160.050 - "D" definitions.

Day Care, General. Establishments that provide nonmedical care for 15 or more persons on a less than a 24-hour basis, including nursery schools, preschools, and day care centers for children or adults. Such use must comply with all applicable State regulations, and specifically those set forth in the California Health and Safety Code commencing with Section 1596.70, to be considered a General Day Care facility. General Day Care establishments may be accessory to an industrial, commercial or institutional use, as may be allowed by Article 2 of this Development Code.

Day Care, Limited. Nonresidential, nonmedical care and supervision of 14 or fewer persons on a less than 24-hour basis.

- **Child Day Care:**
 - **Child Care Home, Small Family (8 or fewer children).** Day care facilities located in single-family dwellings where an occupant of the dwelling provides care and supervision for eight or fewer children. Children under the age of 10 years who reside in the dwelling count as children served by the day care facility. Such use must comply all applicable State regulations, and specifically those set forth in the California Health and Safety Code commencing with Section 1596.70, to be considered a small family child care home.
 - **Child Care Home, Large Family (9 to 14 children).** Day care facilities located in single-family dwellings where an occupant of the dwelling provides care and supervision for nine to 14 children. Children under the age of 10 years who reside in the dwelling count as children served by the day care facility. Such use must comply all applicable State regulations, and specifically those set forth in the California Health and Safety Code commencing with Section 1596.70, to be considered a large family child care home.
 - **Fifteen or more children.** See "Day Care, General" for facilities serving 15 or more children.
- **Adult Day Care.** See "Day Care, General."

Developer. Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks city permits or approvals for all or part of a development.

Development Agreement. Means an agreement entered into between the city and a developer pursuant to Section 65864 of the California Government Code.

Discretionary Approval.

1. Any entitlement or approval required by Title 18 or Title 19 of this code, including but not limited to, conditional use permit, variance, and subdivision map, or

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2. Architectural design review approval, if no other entitlement or approval is required by Title 18 or Title 19 of this code.

Donation Box. A bin, storage shed, or similar facility measuring no more than eight feet wide by eight feet long and eight feet high, and established as an accessory use to a primary use for the purpose of providing a collection location for donated clothes, shoes, and small household items. Such facilities generally are established by a charitable or non-profit organization.

Drive-Through or Drive-Up Facilities. An establishment that sells products or provides services to occupants in vehicles, including drive-in or drive-up windows and drive-through services. Examples include fast food restaurants, banks, and pharmacies.

Drip Irrigation. A method of micro-irrigation wherein water is applied to the soil surface as drops or small streams through emitters.

Drought-tolerant Plants. Plants that require less water because they are adapted to regions with frequent drought or to soils with low water-holding capacity.

Dwelling. A structure or portion thereof designed exclusively for permanent residential purposes, but not including hotels, motels, emergency shelters, or extended stay locations.

- ***Accessory Dwelling Unit. An attached or detached dwelling unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as an existing qualified primary dwelling unit is situated.***
- **Dwelling Unit.** Any structure or portion thereof designed for living and sleeping purposes that contains independent cooking and sanitation facilities.
- **Multi-Family Dwelling Unit.** A structure or portion thereof containing three or more dwelling units designed for the independent occupancy of three or more households.
- **Primary Dwelling Unit.** An existing single-unit residential structure on a single lot with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities, and occupied by one household.
- **Single-Family Dwelling Unit.** A detached structure containing no more than one dwelling unit which, regardless of form of ownership, is designed and/or used to house not more than one household, including all domestic employees for such household.
- ~~**Second Dwelling Unit.** An attached or detached dwelling unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as an existing qualified primary dwelling unit is situated.~~
- **Two-Family Dwelling (Duplex) Unit.** A building containing two complete dwelling units designed for the independent occupancy of two households.

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- See also "Manufactured Housing" and "Mobile Housing Unit."

19.160.200 - "S" definitions.

Schools, Public and Private. A public or private academic educational institution, including boarding schools; colleges and universities; elementary, middle/junior, and high schools; military academies; and businesses providing instruction in arts and languages. This definition does not include trade schools or non-tuition part-time instruction at places of religious assembly. See "Education Facility."

~~Second Dwelling Unit.~~ "See "Dwelling Unit."

Secondary Use. See "Use."

Secondhand Store. A business involved in the retail sale of used goods and merchandise, whereby the sale of such used goods and merchandise comprise 25 percent or more of total monthly sales volume. This definition does not include pawn shops.

Self-service Display. The display or storage of products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

Senior Citizen. Generally, any person 62 years of age or older. However, for purposes of any State or federal housing programs, the age may be 55 years or older.

Sensitive Use. See "Use."

Setback. The distance from which a structure, parking area, or other development feature must be separated from a prescribed lot line, easement, or other structure or development feature (see Figure 9-7)

- Front Setback. The minimum distance required between a structure and the front property line.
- Primary Building Line. That portion of the front yard area defined by the space between the front property line and the entire building frontage of the primary structure, whether or not all facade portions of the primary structure coincide with the front setback line (see Figure 9-7).
- Side Setback. The minimum distance required between a structure and a side property line.
- Rear Setback. The minimum distance required between a structure and the rear property line.

Shopping Center. Commercial sites that are primarily retail with two or more separate businesses managed as a total entity and sharing common access, circulation, signage and pedestrian and parking areas so that a public right-of-way does not need to

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be used to get from business to another. General guidelines follow, but the Director may make a determination on a case-by-case basis.

- **Neighborhood.** A shopping center that provides a limited number of frequent or recurrently needed personal items or services for residents in an immediate neighborhood that generally has up to 100,000 square feet of combined gross leasable area, without a significant anchor store, and draws its clientele from a five-minute driving radius from the center.
- **Community.** A shopping center that provides a variety of retail or personal services for patrons that contains approximately 100,000 to 250,000 square feet of combined gross leasable area, may have up to two anchor stores, has a site of 5 or more acres, and draws its clientele from about a 10-minute drive from the center.
- **Regional.** A shopping center that contains a wide range of retail and service establishments, including at least three anchor stores, having at least 250,000 square feet of combined gross leasable space, and draws its clientele from as much as a 45 minute drive from the center.

Sign. See Chapter 19.42 (Signs).

Single-family Dwelling. See "Dwelling, Single-family."

Site. A lot or group of contiguous lots not divided by any alley, street, other right-of-way or city limit that is proposed for development in accord with the provisions of this Development Code, and is in a single ownership or has multiple owners, all of whom join in an application for development.

Special Events and Temporary Uses. Any activity of limited duration that is permitted through the issuance of a Temporary Use Permit, see Chapter 19.124 (Temporary Use Permits). This definition includes carnivals, farmers' markets, seasonal sales, and promotional events.

Specific Plan. Under Article 8 of the Government Code (Section 65450 et seq.), a legal tool for detailed design and implementation of a defined portion of the area covered by a General Plan. A specific plan may include all detailed regulations, conditions, programs, and/or proposed legislation which may be necessary or convenient for the systematic implementation of any General Plan element(s).

Static water pressure. The pipeline or municipal water supply pressure when water is not flowing.

Storage:

- **Storage—Accessory.** The indoor storage of materials accessory and incidental to the primary use is not considered a land use separate from the primary use.
- **Storage—Outdoor.** The storage of various materials outside of a structure other than fencing, either as an accessory or primary use.
- **Storage—Personal Storage Facility.** See "Personal Storage."

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Story. The portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. See also "Basement" and "Attic."

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground (see Figure 9-8), except for walls and fences.

- **Accessory Structure.** See "Accessory Structure."
- **Attached Structure.** Any structure that has a wall or roof in common with another structure.
- **Primary Structure.** A structure that is conducted as the primary or predominant use of the lot and/or building site.

Studio - Art, Dance, Martial Arts, Music. Small-scale instructional facilities, typically accommodating one group of students at a time, in no more than one instructional space. Examples include: individual and group instruction and training in the arts, production rehearsal, photography and the processing of photographs produced only by users of the studio facilities, martial arts training studios, and gymnastics instruction. Also includes production studios for individual filmmakers, musicians, painters, sculptors, photographers, and other artists. These uses may also include accessory retail sales of products related to the services provided.

Substantial Rehabilitation or Substantially Rehabilitated. The substantial rehabilitation of a dwelling unit(s) as defined in Section 33413(b)(2)(iv) of the California Health and Safety Code.

Supermarket. A self-service grocery and associated consumer goods store divided into departments and also offering prepared foods and food service. May include secondary uses within the store for visitor convenience, such as banking services, retail sales of non-food items, and a pharmacy,

Swap Meet. Any event at which two or more persons offer personal property, new and/or used, for sale or exchange and at which a fee is charged for the privilege of offering or displaying personal property for sale or exchange, and/or at which a fee is generally charged to prospective buyers for admission to the area where personal property is offered or displayed for sale or exchange.

(Ord. No. 852, § 5, 8-26-2014)

Exhibit B

RESOLUTION NO. PC 16-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL OF THE CITY OF DUARTE ADOPT ORDINANCE NO. 17-O-01 AMENDING SECTIONS 19.10.020.A (Table 2-1 and Table 2-2) ALLOWED USES AND PERMIT REQUIREMENTS FOR SINGLE FAMILY AND MULTIFAMILY ZONES; 19.38.050.A (TABLE 3-4) OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL USES; 19.60.160 SECOND DWELLING UNITS; AND MODIFICATIONS TO DEFINITIONS IN SECTIONS 19.160.020, 19.160.050, AND 19.160.200 OF THE DUARTE DEVELOPMENT CODE RELATED TO THE REGULATIONS AND APPROVAL OF ACCESSORY (SECOND) DWELLING UNITS WITHIN THE CITY OF DUARTE

WHEREAS, in accordance with Section 19.142.020 of the Duarte Development Code, an Ordinance (Ordinance No. 17-O-01) to amend Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code, as set forth in Exhibit "A," attached hereto and made part of this Resolution ("Code Amendments") has been proposed by the Director of Community Development; and

WHEREAS, the Planning Commission of the City of Duarte ("Planning Commission") has considered Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code, which provide, among other things, for the regulation and approval of accessory (second) dwelling units within the City; and

WHEREAS, notice of a public hearing on the proposed Code Amendments was given in accordance with applicable law; and

WHEREAS, on December 19, 2016, the Planning Commission held a duly noticed public hearing on the proposed Code Amendments (Ordinance No. 17-O-01), at which time oral and documentary evidence was introduced along with the written recommendation of the Planning Department of the City of Duarte and the Planning Commission received public testimony; and

WHEREAS, the Planning Commission has considered the staff report and all of the information, evidence, and testimony received at the public hearing.

NOW, THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Based upon substantial evidence presented to the Planning Commission during the public hearing, including written staff reports and verbal testimony, the Planning Commission hereby finds and determines:

1. The proposed amendments to Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code are consistent with the General Plan and all applicable specific plans, and are specifically intended to comply with changes in State law re accessory residential units, specifically Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069");
2. The proposed amendments to Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; in that they are intended to keep the City's Development Code consistent with State law; and
3. The proposed amendments to Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code are internally consistent with other applicable provisions of the Duarte Development Code.

SECTION 3. The Planning Commission finds and determines that the proposed amendments to Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code are in the best interests and welfare of the City and its residents.

SECTION 4. Based upon the substantial evidence and testimony received at public hearing and the findings and conclusions set forth hereinabove, the Planning Commission hereby recommends the City Council adopt and approve the proposed amendments to Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code.

SECTION 5. In recommending adoption of this Resolution (17-O-01) for the proposed amendments to Sections 19.10.020.A (Table 2-1 and Table 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code, the Planning Commission finds and determines the project is in compliance with the California Environmental Quality Act pursuant to Public Resources Code Section 21000 *et seq.* (CEQA), and State regulations in Title 14 of the California Code of Regulations, Section 15000 *et seq.* (CEQA Guidelines) because the project is categorically exempt from CEQA pursuant to Title 14 California Code of Regulations Sections 15061(b)(3); 15303; 15332; and 15378, in that it can be seen with certainty that the adoption of the Development Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; pertain to new construction or conversion of small structures, and would qualify as infill development.

SECTION 6. Except as expressly amended herein, the Land Use Policy Map shall remain in full force and effect and shall apply to the property affected by this Resolution.

SECTION 7. The chair shall sign this Resolution and the Secretary shall attest and certify to the passage and adoption of this Resolution.

APPROVED, AND ADOPTED by the Planning Commission of the City of Duarte at a public meeting held on the 19th day of December 2016.

Shawna Pierce, Chairperson
City of Duarte Planning Commission

ATTEST:

Craig Hensley, Community Development Director

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.
CITY OF DUARTE

I, Craig Hensley, Community Development Director of the City of Duarte, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Duarte held on December 19, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Craig Hensley, Community Development Director

Exhibit C

ORDINANCE NO. 17-O-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA AMENDING SECTIONS 19.10.020.A (Table 2-1 and Table 2-2) ALLOWED USES AND PERMIT REQUIREMENTS FOR SINGLE FAMILY AND MULTIFAMILY ZONES; 19.38.050.A (TABLE 3-4) OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL USES; 19.60.160 SECOND DWELLING UNITS; AND MODIFICATIONS TO DEFINITIONS IN SECTIONS 19.160.020, 19.160.050 AND 19.160.200 OF THE DUARTE DEVELOPMENT CODE RELATING TO THE REGULATIONS AND APPROVAL OF ACCESSORY (SECOND) DWELLING UNITS WITHIN THE CITY OF DUARTE

WHEREAS, the City of Duarte (“City”) seeks to ensure that the City’s zoning laws are consistent with the goals, policies and standards set forth in the City’s General Plan, federal law, and state law as it relates to the regulation and approval of second dwelling units within the City; and

WHEREAS, on September 27, 2016, Governor Brown approved California Assembly Bill 2299 (“AB 2299”) and California Senate Bill 1069 (“SB 1069”), which change the manner in which second dwelling units (now called “accessory dwelling units”) must be regulated and processed by local agencies;

WHEREAS, effective January 1, 2017, AB 2299 and SB 1069, codified at Gov. Code §§ 65852.2, 65582.1, 65583.1, 65589.4, 65852.150, and 66412.2, adopt new requirements for local agencies’ regulation of accessory dwelling units and approval of applications for accessory dwelling units; and

WHEREAS, AB 2299 and SB 1069 further provide that in the event a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of the new legislation, any conflicting provisions shall be null and void upon January 1, 2017, unless and until the agency adopts an ordinance that complies with AB 2299 and SB 1069; and

WHEREAS, the proposed amendments to the Duarte Development Code are intended to ensure the City’s procedural and substantive requirements for accessory dwelling units are consistent with the above-described recent changes to State law; and

WHEREAS, after the duly noticed public hearing, held on December 19, 2016, the Planning Commission adopted Resolution No. PC 16-16 recommending the City Council adopt and approve the proposed code amendments; and

WHEREAS, the proposed amendments to the Duarte Municipal Code are set forth in the attached Exhibit A to this Ordinance (the “Code Amendments”)

THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Recitals. The foregoing recitals are true and correct and are incorporated herein as through set forth in full.

SECTION 2: Adoption. Sections 19.10.020.A (Table 2-1 and Tale 2-2) allowed uses and permit requirements for single family and multifamily zones; 19.38.050.A (Table 3-4) off-street parking requirements for residential uses; 19.60.160 second dwelling units; and modifications to definitions in Sections 19.160.020, 19.160.050, and 19.160.200 of the Duarte Development Code are hereby amended to read as set forth in Exhibit A, attached to this Ordinance and incorporated herein by this reference.

SECTION 4: No Changes to Permitted Uses/Density. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code and General Plan.

SECTION 5: CEQA Determination. In adopting this Ordinance, the City Council finds that the project is in compliance with the California Environmental Quality Act pursuant to Public Resources Code Section 21000 *et seq.* (CEQA), and State regulations in Title 14 of the California Code of Regulations, Section 15000 *et seq.* (CEQA Guidelines) because the project is categorically exempt from CEQA pursuant to Title 14 California Code of Regulations Sections 15061(b)(3); 15303; 15332; and 15378, in that it can be seen with certainty that the adoption of the Development Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; pertain to new construction or conversion of small structures; and would qualify as infill development.

SECTION 6: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

SECTION 7: Effective Date. This Ordinance shall become effective thirty (30) days after its passage and adoption. Within fifteen (15) days of the date of adoption of this Ordinance, the City Clerk shall post a copy of said Ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published as required by law.

SECTION 8: That the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

PASSED, APPROVED and ADOPTED, at a regular meeting of the Duarte City Council held this ____ day of _____, 2017 by the following vote:

NOES:

ABSENT:

ABSTAIN:

Mayor Margaret Finley
City of Duarte, California

ATTEST:

City Clerk Marla Akana
City of Duarte, California

(CITY SEAL)

APPROVED AS TO FORM:

David B. Cosgrove, City Attorney
City of Duarte, California

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, do hereby certify the foregoing to be a full, true, and correct copy of Ordinance No. ____ which was introduced at a regular meeting on the ____ day of _____, 2017, and was adopted at a regular meeting held on the ____ day of _____, 2017, not being less than 5 days after the date of introduction thereof.

City Clerk Marla Akana
City of Duarte, California