



## **PLANNING COMMISSION STAFF REPORT**

**APPLICATION:** CUP2016-26 (Amendment)      **AGENDA ITEM:** PH-1

**PREPARED BY:** Teresa Santilena      **MEETING DATE:** October 10, 2018  
Associate Planner

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**SUBJECT:** Conditional Use Permit CUP2016-26 (Amendment) (On-site Indoor and Outdoor Service of Alcohol)  
504 South Myrtle Avenue

**REQUEST:** Approve an amendment to Conditional Use Permit CUP2016-26 for the service and sales of alcohol (Type 47 ABC License) at an existing restaurant (1776). The existing CUP allows the service and sales of wine and beer. The Type 47 license would allow the service of beer, wine, and distilled spirits. The subject property is located in the Historic Commercial Downtown (HCD) zone.

**APPLICANT:** 1776/BarBell Investments – Joe Kouchakian  
504 South Myrtle Avenue  
Monrovia, CA 91016

**ENVIRONMENTAL DETERMINATION:** Categorical Exemption (Class 1)

**BACKGROUND:** On November 9, 2016, the Planning Commission approved a Conditional Use Permit (CUP2016-26), allowing service and sales of beer and wine (Type 41 ABC License) for indoor and outdoor dining at an existing restaurant, “Salad Bistro.” The staff report for CUP2016-26 noted that the restaurant had recently changed ownership and the new owner had plans for modifying the operations, including rebranding the restaurant, “1776,” expanding the hours of operation, and updating the menu to include more dinner items. Additionally, the restaurant owner submitted a revised floor plan that includes ADA path of travel and restroom improvements, as well as additional indoor seating that did not exceed the previously established maximum restaurant occupancy. The new floor plan was approved by staff on September 5, 2018, and the applicant has begun work on the tenant improvements.

The business owner is now requesting approval of an amendment to CUP2016-26 to allow full alcohol service and sales (Type 47 ABC license). Monrovia Municipal Code (MMC) Section 17.44.025 was established to review and mitigate adverse conditions associated with establishments which serve alcohol, and requires a new or amended Conditional Use Permit (CUP) when the establishment changes its type of retail liquor license within a license classification.

**SUBJECT PROPERTY:** The subject property is located on the southeast corner of South Myrtle Avenue and East Lemon Avenue in Old Town Monrovia. The lot measures 53.3 feet wide and 99 feet deep, for a total lot area of approximately 5,276 square feet. It is improved with a multi-tenant commercial building that totals approximately 6,100 square feet. 1776

occupies one tenant space that totals 1,300 square feet and has operated as a restaurant since February 2015. The other unit in the building is occupied by Crown Shoes shoe store. The subject property is surrounded by the following land designations and uses.

**North (across Lemon Avenue):**

General Plan: Historic Downtown Commercial  
Zoning: Historic Commercial Downtown  
Land Use: Multi-tenant Commercial Building (Namaste Beauty Lounge, The Diplomat Eatery and Tavern, Charlie's House)

**South:**

General Plan: Historic Downtown Commercial  
Zoning: Historic Commercial Downtown  
Land Use: Specialty Food Store (Bakery/Doughnut Shop)

**East:**

General Plan: Historic Downtown Commercial  
Zoning: Historic Commercial Downtown  
Land Use: Restaurant (Saigon Avenue)

**West (across Myrtle Avenue):**

General Plan: Historic Downtown Commercial  
Zoning: Historic Commercial Downtown  
Land Use: Multi-tenant Commercial Building (Bellisima Salon, Ross & Associates)

**DISCUSSION/ANALYSIS: *Business Operation***

Salad Bistro was rebranded 1776 approximately two years ago, and has been serving beer and wine during that time. The restaurant provides a wide range of menu options that includes salads, burgers, and tacos in an indoor and outdoor sit-down casual dining experience. The Applicant now seeks to increase his offerings to patrons by amending his CUP to allow full service and sales of alcohol. He is not proposing other operational changes in conjunction with this request. The restaurant's operating hours are Monday through Sunday from 11:00 AM – 2:00 AM. Condition of approval No. 1 requires that the restaurant establishment be operated as a "Bona Fide Eating Place" with the kitchen open and preparing hot food during all hours the establishment is open.

***Floor Plan***

The restaurant has two building entry points; the main customer entrance is on the west side of the building facing South Myrtle Avenue, and the rear entrance is located on the east side of the building and is used by employees only. The restaurant offers both indoor and outdoor seating for its patrons. Based on the floor plan approved by staff on September 5, 2018, the indoor dining area has seating for 49, including a bar with counter seating for 21 patrons, and both communal and private party patron tables. The interior floor plan also includes a full kitchen with prep area, walk-in cooler, and two restrooms. The outdoor dining area accommodates 10 patrons and is currently being improved with ADA compliant seating and path of travel. As indicated in Condition No. 3, the floor plan is integral to the CUP and no change in the design is permitted without the approval of the Planning Division unless required by the Building Official. In the future, if any proposed change has the effect of expanding or intensifying the present use, it shall require an amendment to this CUP.

The outdoor dining area is located on private property in front of the main building and it is secured by a decorative wrought iron fixed barrier. The Applicant is not proposing any

additional outdoor dining within the public-right-of-way at this time. Conditions of approval related to the outdoor dining are included in Data Sheet 1, including Condition No. 22(d), which limits the hours of alcohol service on the patio to 8:00 AM to 11:00 PM Monday through Thursday and Sunday, and 8:00 AM to 12:00 midnight Friday and Saturday.

### ***Parking***

The restaurant is located in the Old Town parking district, which has a shared parking arrangement for all commercial uses in Old Town. Parking in the Old Town area can be found on the street and in the public parking lots. The parking lot directly to the south of the subject property has over 100 parking spaces. Additionally, 61 public parking spaces are provided in the Colorado Commons parking structure, which is located within a block south of the restaurant.

### ***Conclusion***

The existing restaurant is a permitted use within the HCD zone and is compatible with existing surrounding uses. 1776 has offered beer and wine to its patrons for the past two years, but an amendment to the existing CUP is required to allow full service and sales of alcohol. The Monrovia Police Department has reviewed this request and has stated that they do not have concerns with this establishment offering full service of alcoholic beverages. The service of alcohol will be incidental to the overall operations of the business, which will continue to operate as a restaurant rather than as a bar. Allowing service of wine, beer and distilled spirits will allow this business a similar opportunity as other existing restaurants in Old Town Monrovia. The proposed conditions of approval for the sale of alcohol for on-site consumption will ensure that the restaurant will not negatively impact surrounding properties.

**RECOMMENDATION:** Staff and the Development Review Committee (DRC) recommend approval of an amendment to CUP2016-26. If the Planning Commission concurs with this recommendation then, following the public hearing, the following actions would be:

1. Pursuant to the California Environmental Quality Act (“CEQA”) and the City’s local CEQA Guidelines, the Planning Commission in the exercise of its independent judgment finds that the amendment to CUP2016-26 is categorically exempt from CEQA under Class 1.
2. The Planning Commission finds that the custodian of records for all other materials that constitute the record of the proceedings upon which this decision is based is the Planning Division Manager. Those documents are available for public review in the Planning Division located at 415 South Ivy Avenue, Monrovia, California, 91016.
3. The Planning Commission in the exercise of its independent judgment hereby makes the findings listed on attached Data Sheet No. 3 for an amendment to CUP2016-26, which are incorporated herein by this reference.
4. The Planning Commission approves the amendment to CUP2016-26, subject to the attached Planning Conditions on Data Sheet No. 1 and recommendations in the Staff Report, all of which are incorporated herein by this reference.

### **MOTION:**

**Approve an amendment to CUP2016-26 pursuant to the recommendations in the Staff Report.**



## **STANDARD CONDITIONS FOR SERVING ALCOHOLIC BEVERAGES**

Development of the subject property and operations on the site must remain in substantial conformance at all times with the request and application forms and plans submitted by the applicant for an amendment to CUP2016-26, allowing outdoor dining and the indoor and outdoor service of alcohol (Type 47 ABC License) in an existing restaurant, as approved by the Planning Commission and placed on file in the office of the Planning Division, except as modified by the conditions imposed by the Planning Commission and by subsequent modifications determined by the Planning Division Manager to be in substantial compliance with the conditions of approval. The term "Applicant" as used herein shall include the applicant, the property developer and all successors in interest to this conditional use permit.

## **REQUIREMENTS FOR RESTAURANTS WITH ALCOHOL SERVICE**

1. The establishment shall be operated as a "Bona Fide Eating Place" as defined by ABC. The restaurant shall contain sufficient space and equipment to accommodate a full restaurant kitchen and the kitchen shall be open and preparing food during all hours the establishment is open. The establishment shall provide an assortment of foods and a full menu normally offered in restaurants. The service of sandwiches or salads shall not be deemed in compliance with this requirement.
2. The quarterly gross sales of alcohol beverages shall not exceed 33 percent of all gross sales of all products during the same period. The licensee shall maintain records which reflect separately the gross sales of alcoholic beverages. Records for the last quarter shall be made available to the City only if complaints have been received regarding the violation of conditions of the CUP.
3. The approved floor plan with indoor seating for 49 and outdoor seating for 10 dated September 5, 2018 is an integral part of the decision approving this CUP. There shall be no change in the design of the floor plan without the approval of the Planning Division unless modification is required by the Building Official. Any change in the approved floor plan which has the effect of expanding or intensifying the present use shall require an amendment to the CUP.
4. All areas in the restaurant shall be available for inspection by the Police Department during all open business hours.
5. No sporting game or games of competition shall be permitted in conjunction with the business unless approved as part of the CUP application.

6. The display, posting or airing via closed circuit television of any gambling odds shall be prohibited unless pre-empted by the State.
7. No patrons shall be on the premises during closed hours.
8. There shall be no uses or activities permitted of an adult-oriented nature as defined in Title 17 of the Monrovia Municipal Code.
9. The use of pornographic material in the form of videos, slides, magazines, or pictures shall be prohibited within the business establishment.
10. Only pre-recorded amplified music is permitted on the premises, and such music shall not be audible outside the boundaries of the establishment. No entertainment facilities as defined by the Monrovia Municipal Code (such as live entertainment or dancing) are permitted unless approved by the Planning Commission pursuant to the Monrovia Municipal Code.
11. No locking devices shall be allowed on interior doors that enclose rooms open to the public.
12. No warning devices and/or any action by employees that could serve to alert patrons and employees to the presence of law enforcement or other inspectors shall be permitted.
13. If it is determined by the Community Development Director or Public Services Director that patrons are littering the surrounding streets, sidewalks, parking lots, parks, or adjoining private properties as a result of their coming or leaving the establishment, the business will provide employees to pick-up and properly dispose of all litter.
14. In the event security/policing problems occur, this CUP shall be subject to review by the Development Review Committee (DRC) and may be modified to require uniformed security guards as determined necessary by the DRC.
15. The exterior of the premises, including adjacent public sidewalks shall be illuminated, during the hours of darkness with sufficient lighting to illuminate and make easily discernible the appearance and conduct of all persons on or about the establishment.
16. Window signs shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises.
17. Any graffiti painted or marked upon the premises or on an adjacent area under the control of the licensee shall be removed or painted over within forty-eight hours, unless any law in effect at that time imposes a shorter time period for eradication.
18. No sale of alcoholic beverages for outside service or consumption shall be permitted unless approved by the Planning Commission pursuant to the Monrovia Municipal Code.

19. No happy hour, no drink specials or other bar promotions are permitted to be advertised outside or in the window/door area.
20. Hours of operation shall be limited to 11:00 AM to 2:00 AM. Before any change is made in these hours of operation, approval by the Development Review Committee (DRC) must be obtained. Alternatively, the DRC may refer the matter to the Planning Commission for its review, in which case no change in the hours of operation shall be made without Planning Commission approval.

#### **ADDITIONAL REQUIREMENTS FOR OUTDOOR DINING WITH ALCOHOL SERVICE**

21. Outdoor dining with outdoor service of alcoholic beverages is permitted in the patio area as delineated on the site plan/floor plan.
22. Outdoor dining with the service of alcoholic beverages is subject to the following additional conditions:
  - (a) Outdoor furniture shall be of sturdy construction. Applicant shall keep outdoor furniture clean, attractive, and serviceable.
  - (b) Decorative umbrellas and tablecloths are encouraged.
  - (c) The materials used and the design and style of (i) the portable barriers delineating the outdoor dining areas and (ii) the outdoor dining furniture, shall be in substantial conformance with the design, style and materials approved by the DRC.
  - (d) The hours of operation for service of alcohol in the outdoor dining area shall be limited to the hours of 8:00 AM to 11:00 PM Monday through Thursday and Sunday, and 8:00 AM to 12:00 midnight Friday and Saturday.
  - (e) The hours of operation for outdoor dining and alcohol service shall be reviewed by the Development Review Committee for modification if compatibility problems with adjacent uses develop or other nuisance problems develop, and based upon a finding that those problems exist, the DRC may modify the hours of operation. This authorization is in addition to any other authority the DRC has pursuant to the Monrovia Municipal Code, including without limitation, the authority to revoke an outdoor dining permit. Alternatively, the DRC may refer the matter to the Planning Commission for its review, in which case the Planning Commission may modify the hours of operation if incompatibility with adjacent uses or the existence of other nuisance problems justifies the change, or the Planning Commission may take any other action permitted pursuant to the Monrovia Municipal Code, including modification or revocation of the CUP.
  - (f) Serving of alcoholic beverages in the outdoor dining setting must be accompanied by the sale of food based on the everyday dining menu. Alcoholic beverages cannot be sold or consumed in the outdoor dining area

to a patron who is not seated or to anyone when the restaurant kitchen is closed.

## **GENERAL REQUIREMENTS**

23. Any violation of these conditions of approval or the Monrovia Municipal Code may be subject to the Administrative Fine Ordinance, other available remedies and/or revocation or modification of this permit at the discretion of the City Attorney and City Prosecutor.
24. In addition to Planning (Data Sheet No. 1) conditions of approval, the Applicant shall also comply with all requirements of the Building Division and Fire Department that are directly applicable to the project.
25. This CUP may be called for review, including modification or revocation, at any time by City Staff, the City Council, or Planning Commission if a violation of the approved conditions or the Monrovia Municipal Code (MMC) is alleged, or if it is alleged that the establishment, or its patrons, are creating a public nuisance, and such violation or public nuisance is verified as valid by the Police Department, Code Enforcement, or other City department. In addition to any other remedy available to the City, security measures may be required such as adding an additional employee to monitor the area where problems are occurring.
26. Indemnification. As a condition of approval, Applicant agrees to defend, indemnify, protect and hold harmless City, its officers, officials, employees, agents and volunteers from and against any and all claims, actions, or proceeding against the City, its officers, officials, employees, agents and/or volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the Applicant of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at Applicant's expense.
27. Indemnification. As a condition of approval, Applicant agrees to defend, indemnify, protect and hold harmless City, its officers, officials, employees, agents and volunteers from and against any and all claims, suits, demands, actions, losses, damages, judgments, settlements, penalties, fines, defensive costs or expenses (including without limitation, interest, attorneys' fees and expert witness fees), or liability of any kind or nature arising out of or attributable to the acts or omissions of Applicant, or Applicant's officers, officials, employees, or agents which in any way arise out of, result from, or are in any way related to sale of alcoholic beverages at the property, excepting only liability arising out of the sole negligence or willful misconduct of City, its officers, officials, employees, agents, or volunteers. The City shall promptly notify the Applicant of any claim, action, or proceeding.

Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at the Applicant's expense.

28. The Applicant shall, within 30 days after approval by the Planning Commission, submit to the Community Development Department his/her written acknowledgment of receipt of the decision approving the Conditional Use Permit and his/her written consent to all of the conditions of approval contained in Data Sheet Number 1. This CUP shall be void and of no force or effect unless such written acknowledgment and consent is submitted to the City within the 30 day period.
29. The Development Review Committee shall review each use permitted by this CUP one year from the date the use commences.
30. The use or development associated with this CUP shall begin within one (1) year after its approval or it will expire without further action by the City.
31. All of the above conditions shall be complied with prior to commencement of the operation, unless an earlier compliance period is specified as part of a condition.





# DATA SHEET 3

# Findings

CUP2016-26 (Amendment)

504 South Myrtle Avenue

## CONDITIONAL USE PERMIT 2016-26 (Amendment)

As required by Section 17.52.290 of the Monrovia Municipal Code (MMC), the decision for granting an amendment to CUP2016-26 to allow the indoor and outdoor service of alcoholic beverages for on-site consumption at an existing restaurant located at 504 South Myrtle Avenue is based on the following findings:

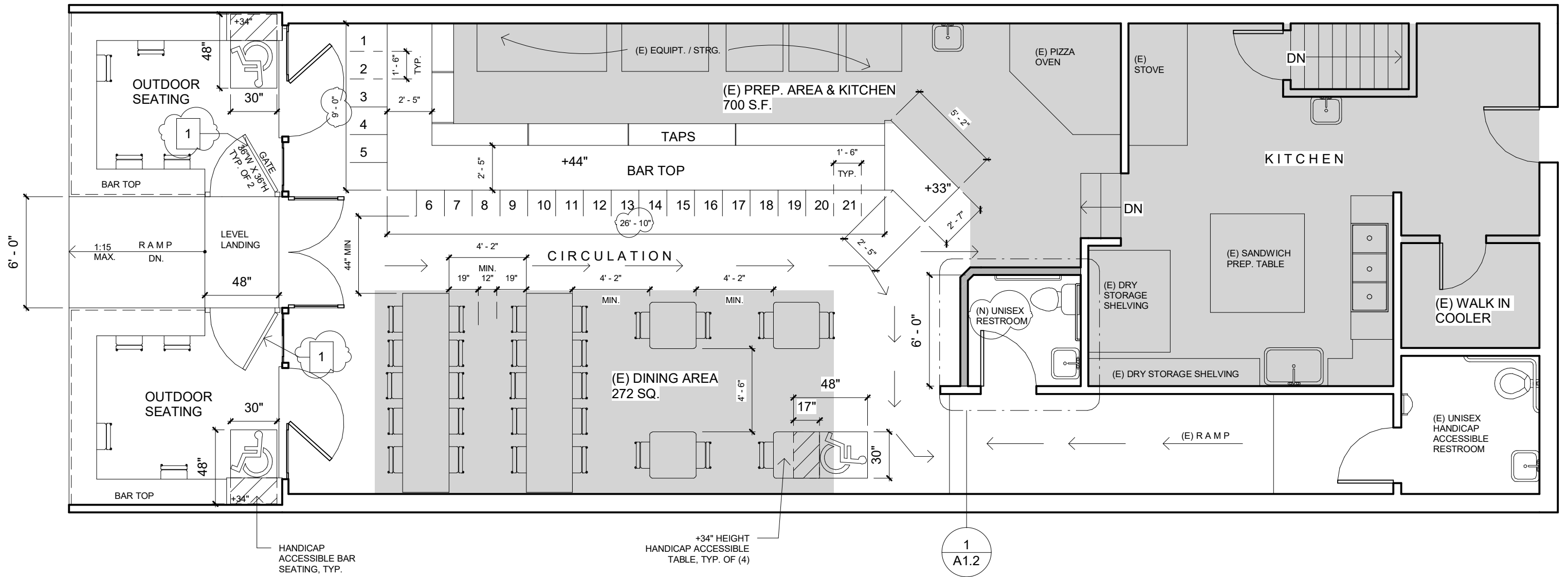
- A. The project site is adequate in size, shape and topography for the proposed sale of alcoholic beverages for on-site consumption in an existing restaurant that will have indoor and outdoor dining. *The topography of this commercial area is relatively flat and the parcel is improved with a two-tenant commercial building. The interior building area and outdoor seating area are adequate in size to accommodate the service of alcoholic beverages in conjunction with restaurant operations. The restaurant has operated with a Type 41 ABC license (service and sales of beer and wine) since late 2016; other than offering full alcoholic beverages (Type 47 ABC license), no other restaurant operations are proposed to change.*
- B. The project site has sufficient access to streets and highways, adequate in width and pavement type to carry the quantity and quality of traffic generated by the restaurant. *The proposed use is located in the central business district, which is suited to support these types of uses and traffic loads. The introduction of full service of alcoholic beverages is not expected to significantly increase traffic, as the main operation is a restaurant use and not a bar. Additionally, the restaurant already offers indoor and outdoor service and sales of wine and beer; going from a Type 41 ABC license to a Type 47 ABC license is not anticipated to increase traffic.*
- C. The proposed sale of alcoholic beverages for on-site (indoor and outdoor) consumption in an existing restaurant is compatible with the General Plan and will not adversely impact the objectives of the General Plan. *The proposed service of alcoholic beverages in a bona fide eating place is consistent with the General Plan, including those General Plan requirements specific to the Historic Downtown Commercial designation that is intended for pedestrian-oriented uses such as small shops, banks and restaurants. The service of alcoholic beverages is an ancillary use to the full service dine-in restaurant.*
- D. The proposed sale of alcoholic beverages for on-site (indoor and outdoor) consumption in an existing restaurant will comply with the applicable provisions of the zoning ordinance. *There are no variances requested for this CUP. A restaurant is a permitted use in the HCD zone. Going from a Type 41 ABC license to a Type 47 ABC license does not change the nature of the establishment; the use will continue to operate as a restaurant with the service of alcoholic beverages and will not operate as a bar.*

- E. The location of the existing restaurant with indoor and outdoor service of alcoholic beverages and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety or welfare, nor will it be materially injurious to properties or improvements in the vicinity. *Conditions of approval for the indoor and outdoor service of alcoholic beverages as part of the restaurant operation will ensure the service of alcoholic beverages is not detrimental or injurious to the public and surrounding uses. The service of alcoholic beverages is an ancillary use to the full service dine-in restaurant. Condition of Approval No. 14 states that if any security/policing problems occur, the CUP may be subject to review by the Development Review Committee requiring additional mitigation measures.*

Further, as required by Section 17.44.025 of the Monrovia Municipal Code (MMC), the decision for granting an amendment to CUP2016-26 to allow the indoor and outdoor service of alcoholic beverages for on-site consumption at an existing restaurant located at 504 South Myrtle Avenue is also based on the following findings:

- A. The proposed sale of alcoholic beverages for on-site consumption (indoor and outdoor) at an existing restaurant will not adversely and seriously affect the peace, health, safety and welfare of residents of the community. *Other than going from a Type 41 ABC license to a Type 47 ABC license, no other restaurant operations are proposed to change. Condition of Approval No. 1 requires the establishment to operate as a “bona fide eating place.” The service of alcoholic beverages is an ancillary use to the full service dine-in restaurant. Additional conditions of approval require that all areas of the restaurant shall be available for inspection by the Police Department and Community Development Department during all open business hours. Furthermore, the CUP may be called for review at any time if a violation of the approved conditions or the MMC is alleged in creating a public nuisance.*
- B. The proposed use will not directly contribute to peace, health, safety and general welfare problems including but not limited to loitering, littering, public drunkenness, defacement and damaging of structures, pedestrian obstructions as well as traffic circulation, parking, and noise problems on public streets and adjacent parking lots. *The restaurant will be required to adhere to the conditions of approval that set forth regulations that are specific to the sale of alcoholic beverages and the overall business operation. Condition of Approval No. 13 indicates that if the Community Development or Public Services Director determine that patrons are littering as a result of coming or leaving establishment, the business will be responsible for the pick-up and proper disposal of all liter. Other than going from a Type 41 ABC license to a Type 47 ABC license, no other restaurant operations are proposed to change.*
- C. The proposed use will not create serious adverse impacts to the commercial district. *The restaurant has operated with a Type 41 ABC license (service and sales of beer and wine) since late 2016; other than offering full alcoholic beverages (Type 47 ABC license), no other restaurant operations are proposed to change. The restaurant will continue to operate as a “bona fide eating place” and will provide a service that has been previously granted to other surrounding restaurants. The business will not become a bar and conditions of approval have been included prohibiting such type of operation.*

- D. The proposed use is adequately served by sufficient parking to serve the quantity of traffic such use generates. *The restaurant is located within the Historic Commercial Downtown zone that is served by public parking lots. The restaurant has operated with a Type 41 ABC license since late 2016. Going from a Type 41 ABC license to a Type 47 ABC license is not anticipated to significantly increase the parking demand as the use will remain primarily a restaurant and not a bar. The floor plan approved by staff on September 5, 2018 does not increase the previously established building occupancy. Accordingly, no additional parking is required.*
- E. The proposed use will not be incompatible with the adjoining uses as it relates to noise, traffic, and hours of operation. *The restaurant is part of the downtown commercial corridor and with the conditions of approval it will be a restaurant use that will operate as a “bona fide eating place.” Alcoholic beverages will only be served in the approved areas that include the inside dining area and outdoor tables on the front patio of the restaurant. Within the downtown commercial corridor, there are a number of existing restaurant uses that also provide incidental alcoholic beverages as part of their operation. The restaurant has operated with a Type 41 ABC license (service and sales of beer and wine) since late 2016; other than offering full alcoholic beverages (Type 47 ABC license), no other restaurant operations are proposed to change.*
- F. The proposed use will not negatively impact nearby parks, schools, recreation centers, religious assembly facilities, and hospitals. *There are no schools, recreation centers, religious assembly facilities, or hospitals located near the existing restaurant. Conditions of approval will ensure that the nearby park and residential units are not negatively impacted. Other than going from a Type 41 ABC license to a Type 47 ABC license, no other restaurant operations are proposed to change. Alcoholic beverages will only be served to restaurant patrons with the purchase of food items. Furthermore, sufficient safeguards exist that will allow the City to exercise control measures that will protect the peace, health, and safety of surrounding properties. The CUP may be called for review at any time by City Staff, the City Council, or Planning Commission if complaints are filed and verified as valid by the Police Department, Code Enforcement Division or other City departments concerning a violation of the approved conditions, or the establishment or its customers creating a public nuisance.*



OCCUPANT LOAD:

DINING AREA / 15 =	272 SQ./15 =	19
BAR SEATING AREA / 18" =	36 L.F. /18" =	21
KITCHEN + PREP. AREA / 200 =	700 / 200 =	4

TOTAL= 44

**NOTE:**  
 1 GATES SHALL HAVE ADA COMPLIANT HARDWARE

**FLOOR PLAN**  
 3/16" = 1'-0" 

OWNER/ PROJECT ADDRESS:  
**1776 RESTUARANT**  
 506 S MYRTLE AVE,  
 MONROVIA, CA 91016

**MARK HOUSTON ASSOCIATES INC**  
 DESIGN · BUILD  
 517 S. MYRTLE AVE., SUITE 201, MONROVIA CA 91016  
 626.357.7858 STATE LICENSE NO. 875303

09/05/18  
**A1.1**