



Date: October 4, 2018  
To: Planning Commission  
From: Sheri Bermejo, Planning Division Manager  
**Subject: Planning Commission Resolution PCR2018-0010**

The Planning Commission held a duly noticed public hearing to review Minor Exception request ME2018-0008 on September 12, 2018. This was a request by Joe Kouchakian to exceed the maximum permitted permanent window sign area at his existing restaurant "The Diplomat Eatery and Tavern" located at 109 East Lemon Avenue.

During the meeting Commissioner Austin made a motion to direct staff to draft a resolution to deny Minor Exception ME2018-0008, which was seconded by Commissioner Carter-Bowen. The motion passed with four Ayes and three Noes (Ayes: Austin, Carter-Bowen, Schaeffler, and Rose; Noes: Beebe, McClellan, Winn).

The attached Planning Commission Resolution (PCR2018-0010) has been drafted for the Commission's consideration. It reflects the decision of denial that was rendered at the conclusion of the public hearing for ME2018-0008. The Commission's review of PCR2018-0010 should be limited to the content of the resolution and whether it accurately reflects the findings and decision of the majority of the Commission.

**RECOMMENDATION:** Staff recommends that the Planning Commission approve Planning Commission Resolution PCR2018-0010. If the Planning Commission concurs then the appropriate motion is:

**MOTION:** Adopt Resolution PCR2018-0010



## **PLANNING COMMISSION RESOLUTION NO. PCR2018-0010**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONROVIA, CALIFORNIA, DENYING A MINOR EXCEPTION (ME2018-0008) TO EXCEED THE MAXIMUM PERMITTED PERMANENT WINDOW SIGN AREA AT AN EXISTING RESTAURANT, THE DIPLOMAT EATERY AND TAVERN, LOCATED AT 109 EAST LEMON AVENUE**

#### **RECITALS**

(i) On June 18, 2018, Joe Kouchakian submitted a Minor Exception (ME2018-0008) application to exceed the maximum permitted permanent window sign area at an existing restaurant located at 109 East Lemon Avenue (the “project”). The application requested to maintain the existing, unpermitted window signage in the Historic Commercial Downtown (HCD) zone at an existing restaurant, The Diplomat Eatery and Tavern, equivalent to 68% window coverage.

(ii) Monrovia Municipal Code (MMC) Section 17.28.100(D) establishes development standards related to window signage and states that window signs shall not exceed 10% of the total window area of the face of the building upon which the signs are mounted or applied.

(iii) MMC Section 17.14.040 establishes development standards within the HCD zone and prohibits storefront windows from being obscured so as to maximize the appearance of an open storefront.

(iv) MMC Section 17.44.025 establishes conditions under which businesses may offer service and sales of alcoholic beverages and requires that to protect the public safety, window signs 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.

(v) MMC Section 2.56.030 grants authority to the Development Review Committee to receive, hear and determine Minor Exception applications or decline to consider the matter and instead refer it to the Planning Commission for a complete hearing. Because a majority of the members of the Development Review Committee were unable to hear this application, due to code enforcement issues affecting the subject property, this application was referred to the Planning Commission.

(vi) MMC Section 17.52.110 lists the specific items that may be considered for a Minor Exception, including “deviations pertaining to the sign regulations.”

(vii) On July 11, 2018, the Planning Commission of the City of Monrovia conducted a duly noticed public hearing on the project. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence, and testimony presented in

connection with this project. At the conclusion of the Commission's discussion, the Planning Commission continued the public hearing on the project and directed staff to work with the applicant to find an acceptable compromise.

(viii) On September 12, 2018, the Planning Commission of the City of Monrovia conducted the continued public hearing. The applicant amended his application request to allow 54% window coverage, and staff recommended approval of 40% window coverage. At the continued hearing, all interested persons, including the applicant, were given an opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence, and testimony presented in connection with this project. The Planning Commission made a motion to deny the request and directed staff to draft a resolution with findings of denial. The Planning Commission's vote at the meeting was four in favor of the motion (Commissioners Austin, Carter-Bowen, Schaeffler, and Chair Rose), and three Commissioners (Beebe, McClellan and Winn) opposed the motion.

**NOW, THEREFORE**, the Planning Commission of the City of Monrovia hereby finds, determines and resolves as follows:

1. As demonstrated in multiple sections of the MMC, allowing 40-54% window coverage does not meet the intent of the Municipal Code. MMC §17.28.100(D), which establishes development standards related to permanent window signage in nonresidential locations, states that window signs shall not exceed 10% of the total window area of the face of the building upon which the signs are mounted or applied. Additionally, MMC §17.14.040, which governs development within the Historic Commercial Downtown (HCD) Zone, requires all uses located at street level to have a front window corridor consistent with the retail nature of Myrtle Avenue. MMC §17.14.040(E)(3) states that: "storefront windows shall not be obscured. Window coverings on the ground floor shall be reviewed by the Development Review Committee and shall maximize the appearance of an open storefront." Furthermore, MMC §17.44.25 establishes procedures and guidelines for businesses wishing to offer service and sales of alcohol and includes the following standard condition of approval: "Window signs shall be placed and maintained in a manner so that there is clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises." This condition of approval was included in the restaurant's Conditional Use Permit (CUP2016-08) for service and sales of alcoholic beverages at this location. The applicant's request for 54% window coverage does not comply with any of these provisions of the Municipal Code, is a significant deviation from the signage standards described above and does not justify the approval of this Minor Exception application.
2. No practical difficulty, unnecessary hardship or results that are inconsistent with the general intent of the code have been demonstrated for this project. The window signage could be redesigned to reduce the amount of window coverage to less than 40%. Also, curtains covering only the bottom portion of the windows could be installed to address the issues raised by the

applicant concerning privacy, while still allowing public safety personnel to be able to see into the premises.

3. The signage proposed by the applicant, which has the effect of almost completely obscuring the view into the establishment, presents public safety concerns, as the severely restricted view may prevent public safety staff from effectively responding to an emergency and from looking into the premises to assess the situation.
4. Even application of the zoning code's development standards is imperative to maintaining the character and retail nature of the commercial areas of the City, and specifically the Historic Commercial Downtown zone. If a majority of the businesses located on the ground floor of buildings within the HCD zone all had this amount of window coverage, they would not have the appearance of an open storefront and alter the historic character of this zone. Accordingly, the applicant's request for 54% window coverage is a significant deviation from the signage standards set forth in the Municipal Code and does not justify the approval of this Minor Exception application.

### **RESOLUTION**

**NOW, THEREFORE**, the Planning Commission of the City of Monrovia hereby finds, determines and resolves as follows:

1. The Planning Commission finds that all of the facts set forth in the Recitals of this Resolution are true and correct and are hereby incorporated as part of the Planning Commission's decision.
2. Based upon the findings of fact and conclusions of law set forth above, the Planning Commission hereby denies Minor Exception ME2018-0008 without prejudice to the applicant's ability to file an additional application in the future.
3. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

**PASSED, APPROVED, AND ADOPTED** this 10th day of October 2018.

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Cheryl Rose, Chair  
Monrovia Planning Commission

APPROVED AS TO FORM:

ATTEST:

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Craig Jimenez, Secretary  
Monrovia Planning Commission

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Carol Lynch, City Attorney  
City of Monrovia

**STATE OF CALIFORNIA            )**  
**COUNTY OF LOS ANGELES    ) §**  
**CITY OF MONROVIA            )**

I, CRAIG JIMENEZ, Secretary of the Planning Commission of the City of Monrovia, California, do hereby certify that the foregoing is a full, true and correct copy of Planning Commission Resolution No. PCR2018-0010, and that it was duly adopted and passed at a regular meeting of the Monrovia Planning Commission on the 10th day of October, 2018, by the following vote:

**AYES:**  
**NOES:**                   **None**  
**ABSTAIN:**               **None**  
**EXCUSED:**               **None**

ATTEST:

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Craig Jimenez, Secretary  
Monrovia Planning Commission