

PLANNING COMMISSION STAFF REPORT

APPLICATION:	CUP2019-0001	AGENDA ITEM:	PH-1
PREPARED BY:	Teresa Santilena Associate Planner	MEETING DATE:	February 13, 2019
SUBJECT:	Conditional Use Permit CUP2 1108 South Fifth Avenue	019-0001	
REQUEST:	Approve a Conditional Use Permit for the indoor and outdoor service and sales of beer and wine (Type 41 ABC License) at a new restaurant (BurgerIM). This property is located in the SP (Specific Plan) zone designation.		
APPLICANT:	Amor Architectural Corporatic 9483 Haven Avenue Rancho Cucamonga, CA 917		

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

BACKGROUND: The Applicant is requesting approval of a Conditional Use Permit (CUP) to serve beer and wine (Type 41 ABC License) for indoor and outdoor dining at a new restaurant "BurgerIM." The proposed restaurant will be located in the commercial tenant space at the Areum Apartments. The 5th and Huntington Specific Plan, which was adopted in 2013 and governs this area requires a Conditional Use Permit for on-premises alcoholic beverage sales.

SUBJECT PROPERTY: The subject restaurant is located within the Areum Apartments development on the east side of South Fifth Avenue, just south of West Huntington Drive. The 2.86 acre, triangular shaped property is developed with a four-story, 154-unit residential apartment building and tenant amenities, including a workout room, outdoor pool/BBQ area, and one commercial tenant space with outdoor patio. The new restaurant will occupy the approximately 1,400 square foot tenant space and patio, which is located at the northernmost apex of the triangular development site. Areum Apartments is surrounded by the following land designations and uses.

North: General Plan: Zoning: Land Use:	RCM (Retail Corridor Mixed) and CRS (Commercial Regional/Subregional) RCM (Retail Corridor Mixed) and CRS (Commercial Regional/Subregional) Wash and Monrovia Gateway Shopping Center
South: General Plan: Zoning: Land Use:	Planned Development (PD) – Area 8 Planned Development (PD) – Area 8 City of Hope Beckman Research Institute

East:General Plan:RCM (Retail Corridor Mixed)Zoning:RCM (Retail Corridor Mixed)Land Use:Doubletree HotelWest:City of Arcadia

General Plan:	City of Arcadia
Zoning:	City of Arcadia
Land Use:	Office Building (City of Arcadia)

DISCUSSION/ANALYSIS: BurgerIM offers customers a build-your-own burger experience in a quick casual dining setting. The restaurant will be open from 11:00 a.m. to 10:00 p.m., Sunday through Thursday, and 11:00 a.m. to 11:00 p.m. Friday and Saturday. There will be approximately four employees on site per shift and BurgerIM will also offer delivery through the Uber Eats service. The franchisee would like to make beer available for purchase to patrons onsite. The service of beer will be incidental to the overall operations of the restaurant. The establishment will maintain a restaurant atmosphere and will not become a bar. The conditions of approval and Alcohol Beverage Control (ABC) require that the establishment be operated as a "Bona Fide Eating Place" with a full restaurant kitchen. The kitchen is required to be open and preparing food during all hours of operation as stated in Condition No. 1 on Data Sheet No. 1.

Since the Type 41 ABC licenses also allow the service of wine, the conditions of approval and findings for this report refer to both beer and wine. If in the future the operator wishes to add service and sales of wine to their operations, this CUP does not require amending.

When the 5th and Huntington Specific Plan was adopted in 2013, it was envisioned that the commercial tenant space would be used by some sort of café or restaurant use, and during construction, the space was plumbed and planned for a restaurant: a grease interceptor was installed, and the trash enclosure was situated just east of the tenant space. The Specific Plan also envisioned that the patio area in front (to the north) of the building would be used by the retail tenant and that its location next to the sidewalk would help to facilitate an active streetscape.

Floor Plan

There are two entry points into the commercial tenant space; one oriented on the building's west side along South Fifth Avenue and one on the building's north side, through the outdoor patio. The indoor floor area includes a dining room with seating for 28 patrons, as well as two restrooms, the kitchen, office, and storage areas for the restaurant.

In order to provide proper delineation and further define the patio area, the applicant proposes to remove the existing L-shaped planter wall and rebuild it so that it fully surrounds the patio. The new planter walls will be built to a height of 2'-6"; there will be two breaks in the planter walls for ingress and egress into and out of the patio. The proposed outdoor patio area includes seating for 49 patrons and will utilize decorative furnishings. The applicant has indicated that they may be interested in building a more permanent patio shade structure in the future, which will require DRC review and approval.

Parking

The 5th and Huntington Specific Plan establishes the development standards for the Areum Apartments development. Per the Specific Plan, the parking structure includes four parking

spaces dedicated to the commercial tenant space. Additionally, 21 guest parking spaces within the parking structure are accessible to the public. Guest and retail parking spaces are separated from resident parking by an electronic gate located on the first parking level. Given its location within an apartment development, with connections to the commercial office building to the west, the Doubletree hotel to the east, and the City of Hope's Beckman Biomedical Research Institute to the south, it is anticipated that many of BurgerlM's patrons will walk from nearby locations.

Conclusion

The proposed restaurant was envisioned as part of the overall 5th and Huntington Specific Plan and is compatible with surrounding uses. The Specific Plan requires a Conditional Use Permit for any business proposing the service or sales of alcoholic beverages. The service of beer will be incidental to the overall restaurant operations of the business. Granting the ability to serve beer will allow this business the same opportunity as other existing restaurants in the City. The proposed conditions of approval for the sale of beer and wine 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 CUP2019-0001. 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 CUP2019-0001 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 proceeding 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 CUP2019-0001, which are incorporated herein by this reference.
- 4. The Planning Commission approves CUP2019-0001, 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 CUP2019-0001 pursuant to the recommendations in the Staff Report.



CUP2019-0001

1108 South Fifth Avenue

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 CUP2019-0001, allowing outdoor dining and the indoor and outdoor service of beer and wine in a new 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 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 happy hour, no drink specials or other bar promotions are permitted to be advertised outside or in the window/door area.
- 19. Hours of operation shall be limited to 11:00 AM to 10:00 PM Sunday through Thursday, and 11:00 AM to 11:00 PM Friday and Saturday. Before any change is made in these hours of operation, approval by the 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

- 20. Outdoor dining with outdoor service of beer and wine is permitted in front (to the north) of the building as delineated on the site plan/floor plan.
- 21. Outdoor dining with the service of beer and wine 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 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 beer and wine in the outdoor dining area shall be limited to the hours of 11:00 AM to 10:00 PM Sunday through Thursday, and 11:00 AM to 11:00 PM 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

22. 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.

- 23. 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.
- 24. 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.
- 25. 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.
- 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, 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 and service 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.
- 27. 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.

- 28. The Development Review Committee shall review each use permitted by this CUP one year from the date the use commences.
- 29. 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.
- 30. 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

CUP2019-0001

1108 South Fifth Avenue

CONDITIONAL USE PERMIT 2019-0001 (Service of beer and wine)

As required by Section 17.52.290 of the Monrovia Municipal Code (MMC), the decision for granting CUP2019-0001 to allow the indoor and outdoor service of beer and wine for on-site consumption at a new restaurant located at 1108 South Fifth Avenue is based on the following findings:

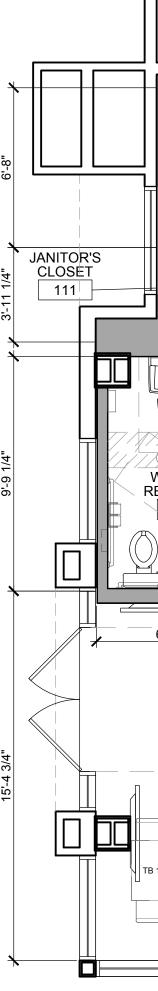
- A. The project site is adequate in size, shape and topography for the proposed sale of beer and wine for on-site consumption in a new restaurant that will have indoor and outdoor dining. The topography of this mixed use project is relatively flat and is improved with an apartment building and tenant amenities and one commercial tenant space. The interior and exterior building areas are adequate in size to accommodate the service of beer and wine in conjunction with restaurant operations.
- 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 a commercial area, which is suited to support these types of uses and traffic loads. The new restaurant will be located within a recently constructed apartment complex, which was developed under the standards adopted by the 5th and Huntington Specific Plan. The introduction of a new restaurant with service of beer and wine was envisioned as part of the adoption of the 5th and Huntington.
- C. The proposed sale of beer and wine for on-site consumption in a new restaurant is compatible with the General Plan and will not adversely impact the objectives of the General Plan. The proposed service of beer and wine in a bona fide eating place is consistent with the General Plan. The restaurant is located within a specific plan area, which is intended for a mixed use project, including a commercial component. The service of beer and wine is an ancillary use to the full service dine-in restaurant.
- D. The proposed sale of beer and wine for on-site consumption in a new restaurant will comply with the applicable provisions of the zoning ordinance. There are no variances requested for this CUP. The 5th and Huntington Specific Plan envisioned the commercial tenant space to be used by a restaurant or cafe. The use will operate as a restaurant with the service of beer and wine and will not operate as a bar.
- E. The location of the new restaurant with indoor and outdoor service of beer and wine 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. The Applicant will comply with the conditions of approval for the indoor and outdoor service of beer and wine as part of the restaurant operation to ensure the service of beer and wine is not detrimental or injurious to the public and surrounding uses. The service of beer and wine 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, and the Committee may require additional mitigation measures.

Further, as required by Section 17.44.025 of the Monrovia Municipal Code (MMC), the decision for granting CUP2019-0001 to allow the indoor and outdoor service of beer and wine for on-site consumption at a new restaurant located at 1108 South Fifth Avenue is also based on the following findings:

- A. The proposed sale of beer and wine for on-site consumption at a new restaurant will not adversely and seriously affect the peace, health, safety and welfare of residents of the community. Condition of Approval No. 1 requires the establishment to operate as a "bona fide eating place." The service of beer and wine 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 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 or if the sale of alcoholic beverages is 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 beer and wine and the overall business operation. Condition of Approval No. 13 states that if the Community Development or Public Services Director determine that patrons are littering as a result of coming to or leaving from the establishment, the business will be responsible for the pick-up and proper disposal of all liter.
- C. The proposed use will not create serious adverse impacts to the commercial district. The restaurant will operate as a "bona fide eating place" and will provide a service that has been planned for in this location. 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 a specific plan area that has four parking spaces dedicated to the commercial tenant and an additional 21 guest parking spaces that may be shared between residential guests and the commercial user. The service of beer and wine within a new restaurant was envisioned as part of the adoption of the specific plan. 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 a new specific plan area, which envisioned a restaurant user as part of the overall project. The restaurant's hours of operation will be limited to 11:00 AM to 10:00 PM Sunday through Thursday and 11:00 AM to 11:00 PM Friday and Saturday. The conditions of approval ensure that it will be a restaurant use that will operate as a "bona fide eating place." Beer and wine will only be served in the approved indoor and outdoor dining areas.

F. The proposed use will not negatively impact nearby parks, schools, recreation centers, religious assembly facilities, and hospitals. There are no parks, schools, recreation centers, religious assembly facilities, or hospitals located near the new restaurant. Beer and wine 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 if the establishment or its customers are creating a public nuisance.





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<u>5 1/4"</u> <u>2"</u> 5'-10" 3'-1 1/4" 5'-0" 8'-8 3/4" 2'-7" HAND SINK PREP/ SINK 30"x46" S/S COOLER 109 106 3'-2" WALK-IN COMBO 107 FREEZER P-tiet 4x10 TYPE-I HOOD COOK LINE 105 HALLWAY WOMEN'S RESTROOM OFFICE 108 30"x48" S/S PREP TABLE SANDWICH TABLE TOASTER 110 U/B 2-DR DRAFT BEER REF U/B 1-DR REF. SERVICE BAR 102 4'-1 1/2" SODA DISP. COUNTER SODA DISP. EQUIPPED W/ ICE W/ ICE 6'-0" (E) ADJACENT TENANT (N.I.C.) DINING 103 POS LOW WALL w/ SNEEZEGUARD ADA ORDER COUNTER TB 101 TB 101 TB 102 12'-4" 5'-2" 4'-0" Ч_____ тв 101 __ 4'-0" **З'-0"** тв 101 TB 102 6. ____ ENTRY 101 ENTRY

OPTION 'A' - PROPOSED FLOOR PLAN

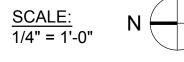
BURGERIM

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1110 S. FIFTH AVENUE MONROVIA, CA 91016

BURGERIM SEATING MATRIX					
SEATING CHART					
TYPES	QT.	SEAT			
STOOL - BAR LOW	-	-			
BT 101 - BOOTH	-	-			
TB 101 - TABLE	8	16			
TB 102 - TABLE	3	12			
DINING TOTAL		28			
ADA SEATING - 5% REQUIRED		2			

Amor Architectural Corporation	 APPROVED APPROVED AS NOTED REVISE AND RESUBMIT REJECTED
WITH THE DES GENERAL COM IN THE CONTR IS SUBJECT TO SPECIFICATION JURISDICTION CODE AMEND	ONLY FOR GENERAL CONFORMANCE SIGN CONCEPT OF THE PROJECT AND MPLIANCE WITH THE INFORMATION GIVEN ACT DOCUMENTS. ANY ACTION SHOWN O THE REQUIREMENTS OF PLANS AND NS. IN ADDITION TO UNFORESEEN LOCAL I REQUIREMENTS OR NEW UPDATED MENTS AND ADDITIONAL REVISIONS PER REQUIREMENTS.
	CONCEPT IS TO BE APPROVED BY CLIENT PRESENTATIVE.
BY:	
DATE:	

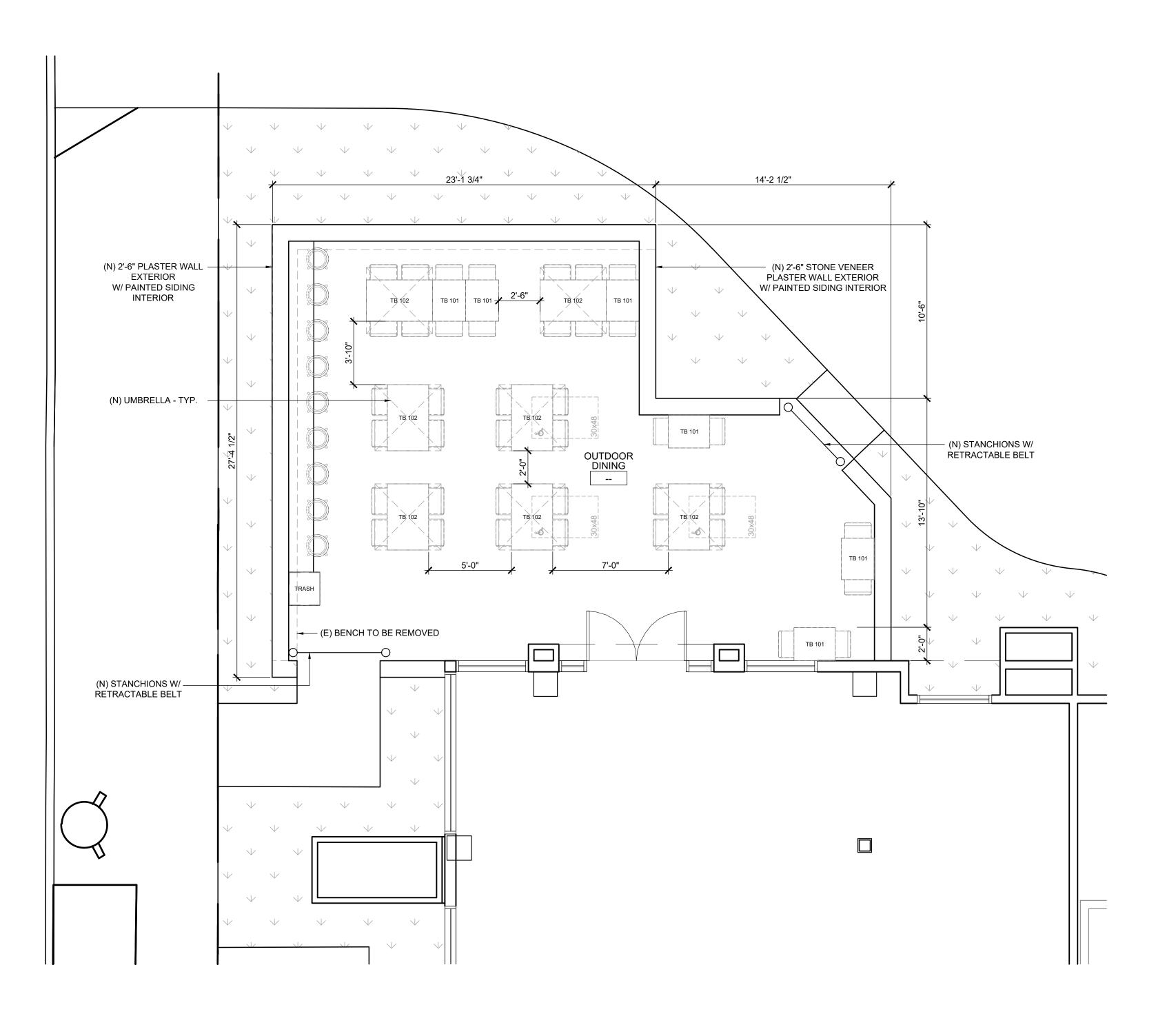


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PROPOSED NEW FLOOR PLAN

BURGERIM

1110 S FIFTH AVENUE MONROVIA, CA 91016

BURGERIM SEATING MATRIX

SEATING CHART				
TYPES		QT.	SEAT	
STOOL - BAR	HIGH	1	9	
ADA SEAT - BAR	LOW	-	-	
BT 101 - BOOTH		-	-	
TB 101 - TABLE		6	12	
TB 102 - TABLE		7	28	
DINING TOTAL			49	
ADA SEATING - 5% REQUIRED			3	



Amor

<u>SCALE:</u> 1/4" = 1'-0"

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PROPOSED SCHEMATIC PERSPECTIVE

BURGERIM

1110 S FIFTH AVENUE MONROVIA, CA 91016



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