



PLANNING COMMISSION STAFF REPORT

APPLICATION: CUP2014-02
(formerly CUP2013-16)

AGENDA ITEM: PH-1

PREPARED BY: Ili Lobaco
Associate Planner

MEETING DATE: February 12, 2014

SUBJECT: Conditional Use Permit 2014-02 (formerly CUP2013-16)
608-610 South Myrtle Avenue

REQUEST: Allow the indoor and outdoor service of alcoholic beverages at a new restaurant (Copper Still Grill) to be located in an existing commercial building in the HCD (Historic Commercial Downtown) Zone.

APPLICANT: Joey Stevens, LLC

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

BACKGROUND: The applicant is requesting approval of a Conditional Use Permit to serve full alcohol (Type 47 ABC License) for indoor and outdoor dining at "Copper Still Grill", a new restaurant that will be opening soon.

SUBJECT PROPERTY: The subject property is located on the east side of Myrtle Avenue between Colorado Boulevard and Olive Avenue. The new restaurant will be located in a building that was occupied by "Sam's Deli" for many years. To the north of the property is "Rudy's Mexican Restaurant", south is "Pinkberry" and across the street to the west is "T Philips".

DISCUSSION/ANALYSIS: The Monrovia Municipal Code Section 17.44.025 was established to review and mitigate adverse conditions associated with establishments which sell, or serve alcoholic beverages. A conditional use permit is required when alcoholic beverages are sold or served at a location that is located within 500 feet of any residential zone, park, school, recreation center, religious assembly or hospital. The new restaurant is located within 500 feet of residential properties.

Floor Plan

The restaurant's indoor dining area has seating for approximately 60 patrons at tables/booths and 20 at the bar located in the center of the room. Additionally, there is seating for 10 patrons outdoors adjacent to the building.

The new owners plan to also utilize the mezzanine area that was previously used for storage. They plan to have a foosball table and two dart boards for patron use. As long as the restaurant does not have three or more coin-operated games of skill and science, they can have these on the site. Otherwise, the facility will be classified as an arcade which is not allowed in the Historic Commercial Downtown zone. Data Sheet 1 includes conditions that

will limit any proposed coin-operated machines to no more than two and will prohibit any sporting game or games of competition.

The owners also plan to install seven big screen televisions in the restaurant, including one in the mezzanine area.

Alcoholic Beverage Service

The City has emphasized that for new restaurants, alcoholic beverage sales should be incidental to the sale of food. In order for a restaurant to serve alcoholic beverages it must have a full restaurant kitchen and the kitchen must be open and used for food preparation during all hours the establishment is open. The menu must include an assortment of foods that are normally offered in restaurants. The quarterly gross sales of alcoholic beverages cannot exceed 33% of the gross sales of all products during the same period. The standard conditions for alcoholic beverage service are included on Data Sheet No. 1 which will mitigate potential issues related to the request. The service of alcohol outdoors is available to the 10 seats that are adjacent to the building and are delineated with a moveable wooden planter box.

Business Operation

The Copper Still Grill plans to be open seven days a week from 6:00 am to 12:00 am. However, as required by Code (MMC §17.44.115 (2)(d)) the service of alcohol in the outdoor dining area will stop at 11:00 PM Sunday through Thursday and 12:00 midnight Friday and Saturday. Food will be served during all open hours.

There will be a total of 15 employees, including the on-site manager. The manager will be certified in the Alcohol Beverage Control's LEAD program to be aware of all ABC rules and regulations. The manager will be responsible for educating all on-site staff regarding alcohol servicing regulations.

Parking

Parking in the Old Town area can be found on the street and in the public parking lots. The closest public parking lot to this restaurant is located directly behind the restaurant. There are over 100 parking spaces in that area that service the businesses in the downtown.

Conclusion

The majority of restaurants in the downtown area provide either beer and wine or full alcohol service indoors and outdoors as part of their overall business operation. The nearby restaurants (Rudy's, T Philips, Chang Tai Bistro, Jakes, etc.) all serve alcoholic beverages. Permitting the sale of alcohol at the subject restaurant location allows this business the same opportunities as these nearby restaurants as well as the majority of restaurants in Old Town. The proposed conditions of approval for the sale of alcohol will ensure that the restaurant will not negatively impact surrounding properties.

RECOMMENDATION: Staff and the Development Review Committee recommend approval of CUP2014-02. If the Planning Commission concurs with this recommendation then, following the public hearing, the adoption of the following resolution is appropriate:

The Planning Commission of the City of Monrovia hereby finds, determines and resolves as follows:

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 CUP2014-02 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 CUP2014-02, which are incorporated herein by this reference.
4. The Planning Commission approves CUP2014-02 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:

Close the public hearing and adopt the Resolution approving CUP2014-02 as presented in the Staff Report.



DATA SHEET 1

Planning Conditions

CUP2014-02 (formerly 2013-16)

608-610 South Myrtle Avenue

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 CUP2014-02, allowing outdoor dining and the indoor and outdoor service of alcohol 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.

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, or unless 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. There shall not be more than two coin-operated games of skill and science at any time. Applicant may install one Foosball Game, and up to two dart boards (which shall not be coin-operated), in the Mezzanine area of the restaurant and the Foosball Game shall count as one of the permitted coin-operated games. The display, posting or airing via closed circuit television of any gambling odds shall be prohibited unless pre-empted by the State.
6. No patrons shall be on the premises during closed hours.

7. There shall be no uses or activities permitted of an adult-oriented nature as defined in Title 17 of the Monrovia Municipal Code.
8. The use of pornographic material in the form of videos, slides, magazines, or pictures shall be prohibited within the business establishment.
9. Only pre-recorded amplified music is permitted on the premises indoors, 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.
10. No locking devices shall be allowed on interior doors that enclose rooms open to the public.
11. 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.
12. If it is determined by the Community Development Director or Public Works 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.
13. 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 additional uniformed security guards as determined necessary by the DRC.
14. 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.
15. 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.
16. 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.
17. No happy hour, no drink specials or other bar promotions are permitted to be advertised outside or in the window/door area.
18. Hours of operation shall be limited to seven days a week from 6:00 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.

19. Outdoor dining with outdoor service of alcoholic beverages is permitted adjacent to the front of the building along Myrtle Avenue as delineated on the site plan.
20. 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) A minimum, unobstructed pedestrian clearance of at least 48" in width shall be maintained along the entire length of the sidewalk. If after commencement of operations, City Staff determines that 48" is inadequate based upon obstructions, pedestrian traffic volume, or other similar problems that may arise in the future, the DRC may review and require more clearance area based on the location of sidewalk obstructions, pedestrian traffic volumes, or other similar problems.
 - (d) Power washing shall be required for the outdoor dining area a minimum of one time per month. Any reduction in this standard shall first be reviewed and approved by the Public Works Director.
 - (e) 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.
 - (f) No music or entertainment is permitted outdoors without advance approval as required by the Monrovia Municipal Code.
 - (g) 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 the Applicant's use of City's public sidewalks for outdoor dining and alcoholic beverage service, 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 the 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.
 - (h) Insurance and Encroachment Permit Requirements. The Applicant shall carry, maintain, and keep in full force and effect at all times a policy or

policies of liability insurance in the amount, scope of coverage, endorsements and form required by the City's Risk Manager, including without limitation, an endorsement naming the City and its officers, officials, employees, agents, and volunteers as additional named insureds, and secure an encroachment permit from the City prior to placing any object, including without limitation, outdoor dining furniture and the portable barriers used to delineate outdoor dining areas, in the City's right-of-way.

- (i) Chairs and tables shall be arranged so as to be parallel to the sidewalk, in order to prevent chairs from encroaching into the required pedestrian clearance area on the sidewalk. The placement of approved outdoor dining furniture and the placement of approved portable barriers used for delineation of outdoor dining areas shall be in substantial conformance with the outdoor dining floor plan approved by the DRC. There shall be no change in the design of the outdoor dining floor plan without the approval of the DRC.
 - (j) The hours of operation for service of alcohol in the outdoor dining area shall be limited to the hours of 6:00 AM to 11:00 PM Sunday through Thursday and 6:00 AM to 12:00 midnight Friday and Saturday.
 - (k) 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.
 - (l) 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.
21. 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.
22. 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.
23. 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.

24. 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.
25. 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 Numbers 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.
26. The Planning Commission shall review each use permitted by this CUP one year from the date the use commences.
27. 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.
28. 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

CUP2014-02 (formerly 2013-16)

608-610 South Myrtle Avenue

CONDITIONAL USE PERMIT

As required by Section 17.52.290 of the Monrovia Municipal Code, the decision for granting CUP2014-02 to allow the indoor and outdoor service of alcohol for on-site consumption at a new restaurant located at 608-610 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 alcohol for on-site consumption in a new restaurant that will have indoor and outdoor dining. *The topography of this commercial area is relatively flat, and the interior building area and outdoor seating area are adequate in size to accommodate the service of alcohol 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.*
- C. The proposed sale of alcohol for on-site (indoor and outdoor) 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 alcohol in a bona fide eating place is consistent with the General Plan, including those General Plan requirements specific to the HCD (Historic Commercial Downtown) designation.*
- D. The proposed sale of alcohol for on-site (indoor and outdoor) consumption in a new restaurant will comply with the applicable provisions of the zoning ordinance. *There are no variances requested for this CUP.*
- E. The proposed location of the new restaurant with indoor and outdoor service of alcohol 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, *in that the applicant will be required to adhere to the conditions of approval on Data Sheet No. 1 to ensure the service of alcohol is not detrimental or injurious to the public and surrounding uses.*

CONDITIONAL USE PERMIT (alcohol service)

As required by Section 17.44.025 of the Monrovia Municipal Code, the decision for granting CUP2014-02 to allow the indoor and outdoor service of alcohol for on-site consumption at a new restaurant located at 608-610 South Myrtle Avenue is also based on the following findings:

- A. The proposed sale of alcohol for on-site consumption (indoor and outdoor) at a new restaurant will not adversely and seriously affect the peace, health, safety and welfare of residents of the community *with the conditions of approval insuring that the restaurant will operate as a “bona fide eating place.”*
- 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 sets forth regulations that are specific to the sale of alcohol and the overall business operation.*
- 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 business that is beneficial to the surrounding businesses.*
- D. The proposed use is adequately served by sufficient parking to serve the quantity of traffic such use generates in that *the restaurant is located in Old Town that is served by public parking lots.*
- E. The proposed use will not be incompatible with the adjoining uses as it relates to noise, traffic, and hours of operation, as *it is in a commercial area and with the conditions of approval it will be a restaurant use that will operate as a “bona fide eating place.” Alcohol will only be served in the approved areas that include the inside dining area and outdoor tables adjacent to the front of the restaurant.*
- F. The proposed use will not negatively impact nearby parks, schools, recreation centers, religious assembly facilities, and hospitals. *The nearby residential properties will not be negatively impacted with the conditions of approval in place because alcohol will only be served to restaurant patrons, and the use will be a “bona fide eating place.”*



DATA SHEET 4

Surrounding Land Uses

CUP2014-02 (formerly 2013-16)

608-610 South Myrtle Avenue

Property Description:

The subject property is located on the east side of Myrtle Avenue between Colorado Boulevard and Olive Avenue. The site measures 50' wide and approximately 82' deep and is developed with a 4,000 square foot building.

Zoning

Subject site: HCD (Historic Commercial Downtown)

Surrounding pattern:

north: HCD (Historic Commercial Downtown)

south: HCD (Historic Commercial Downtown)

east: PD-5 (Planned Development Area 5)

west: HCD (Historic Commercial Downtown)

Land Use

Subject site: Restaurant (Previously Sam's Deli)

Surrounding pattern:

north: Rudy's Mexican Restaurant

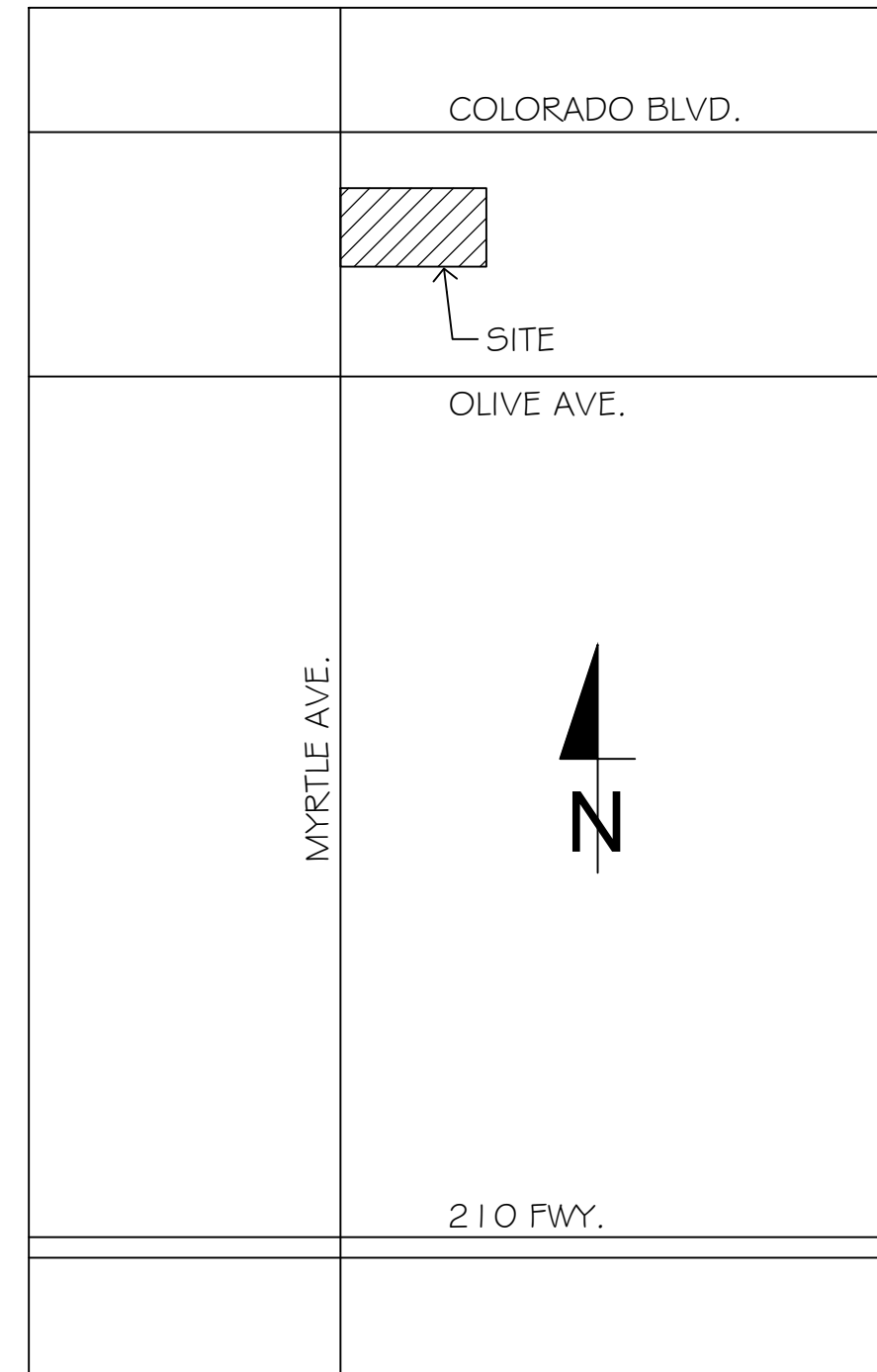
south: Pinkberry

east: Public Parking Lot

west: Santa Anita Family Service and T Philips

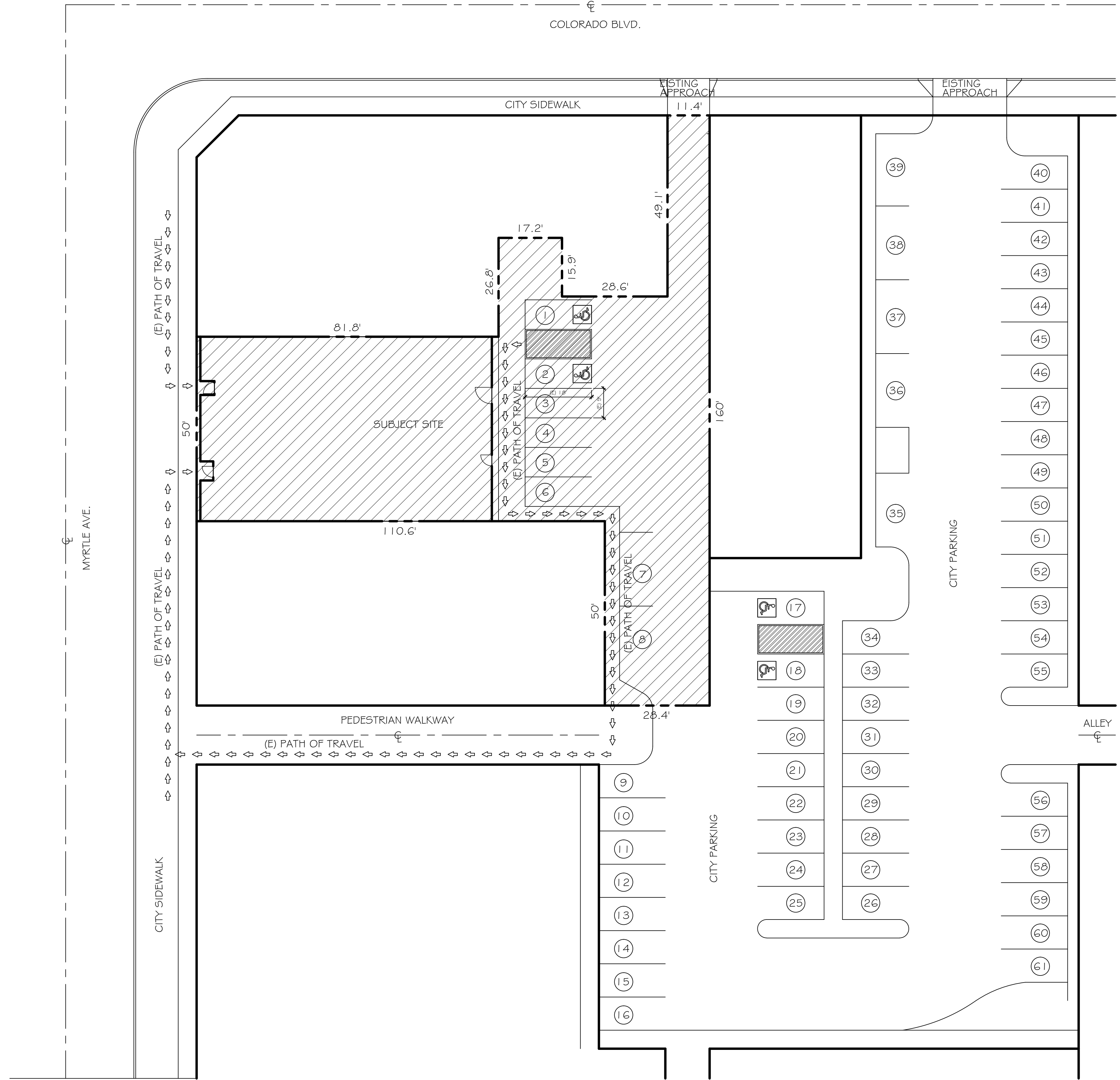
Environmental Determination: Categorical Exemption Class 1

Applicable Ordinance Regulations: MMC 17.52.020 Planning Commission Authority for CUP



VICINITY MAP

LOT AREA:	4065 S.F.
BUILDING FOOTPRINT:	4000 S.F.
DINING AREA:	2253 S.F.
KITCHEN AREA:	1034 S.F.
BATHROOM, CORRIDORS, AND OFFICE:	713 S.F.
MEZZANINE:	587 S.F.
TOTAL BUILDING AREA:	4587 S.F.



SITE PLAN
SCALE: 1"=30'-0"



PLANS TO COMPLY WITH THE 2013 EDITION OF THE CALIFORNIA BUILDING CODE (CBC), 2013 EDITION OF THE CALIFORNIA RESIDENTIAL CODE (CRC), 2013 EDITION OF THE CALIFORNIA MECHANICAL CODE (CMC), 2013 EDITION OF THE CALIFORNIA PLUMBING CODE (CPC), 2013 EDITION OF THE CALIFORNIA ELECTRIC CODE (CEC), 2010 EDITION OF THE CALIFORNIA ENERGY CODE (TITLE 24).

**COPPER STILL GRILL
TENANT IMPROVEMENT
INTERIOR REMODEL**

JOB ADDRESS: 608 AND 610 S. MYRTLE AVE.
MONROVIA, CA 91016

OWNER: STEVEN KWAN

PHONE: (323) 314-1617

APN: 8516-027-030

LEGAL: Lot: 12 Block: P Abbreviated Description: LOT:12 BLK:P

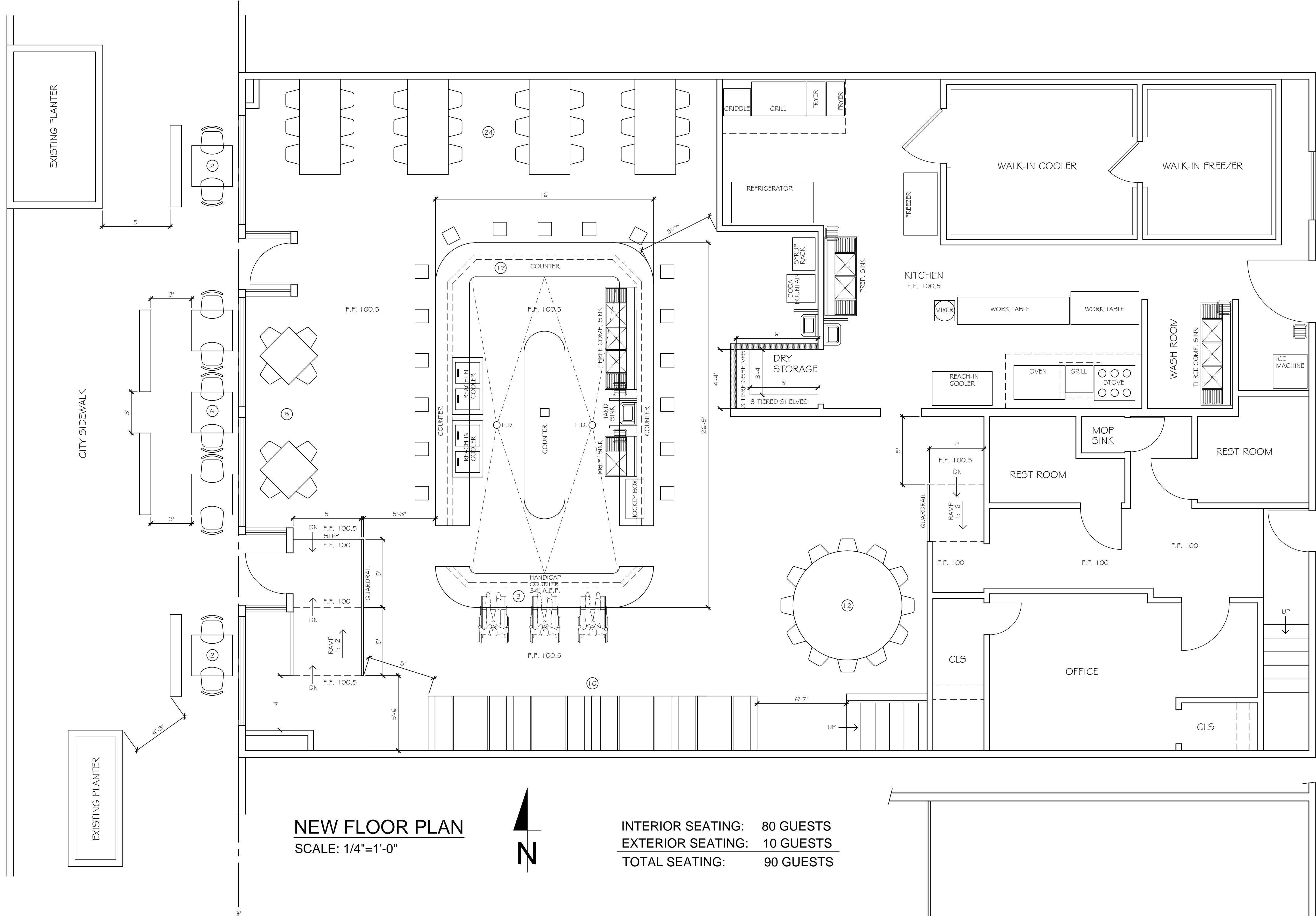
CITY:REGION/CLUSTER: 27/27662 SUBD:TOWN OF MONROVIA
*TR=MONROVIA LOT COM N ON E LINE OF MYRTLE AVE 50 FT FROM S
LINE OF LOT 12 TH E 110.9 FT N 1 FT W 29.10 FT THN 49 FT TH
City/Muni/Twp: REGION/CLUSTER: 27/27662

DATE: 1/12/14

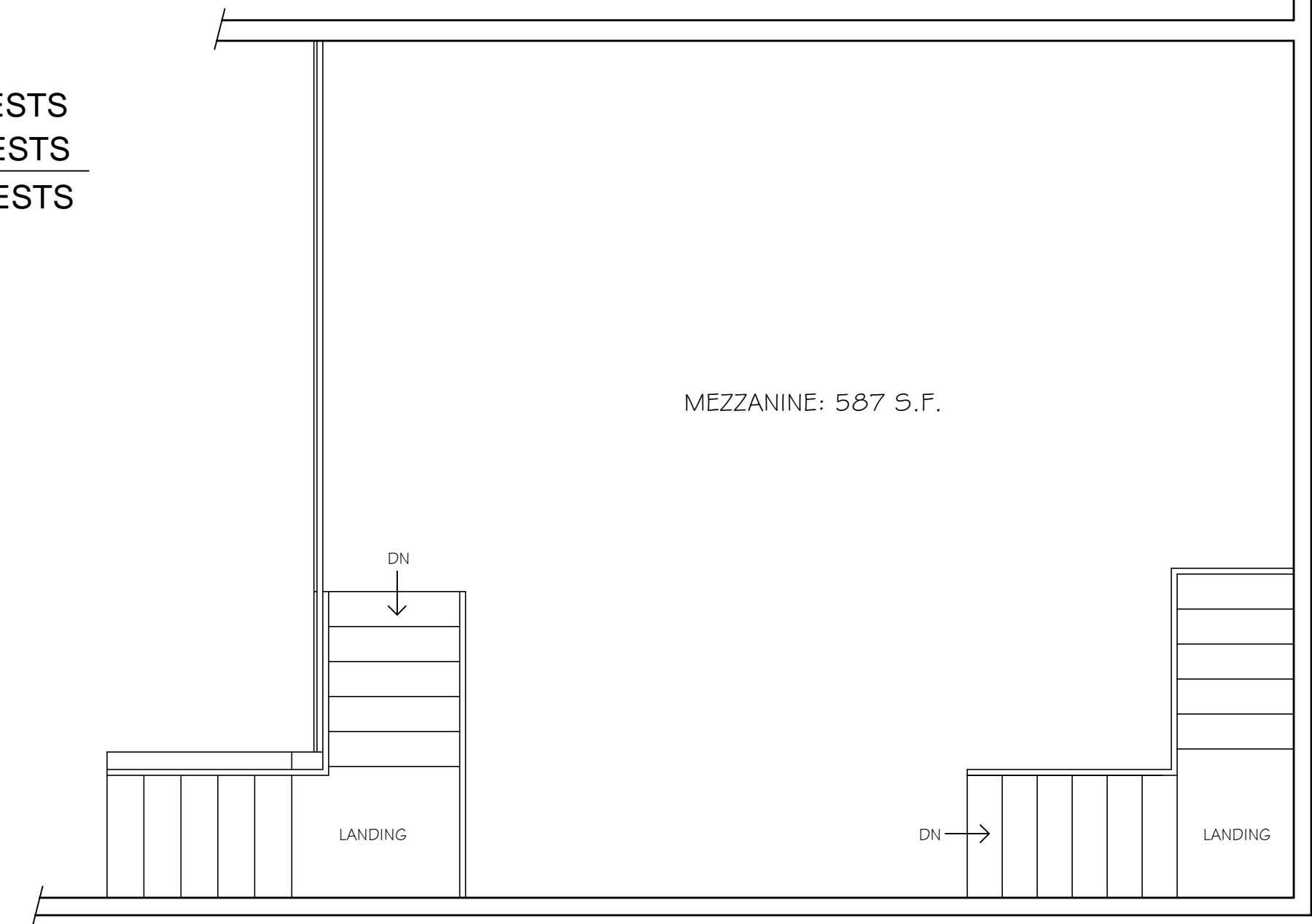
INDEX:
A-1 SITE PLAN
A-2 NEW FLOOR PLAN

MIAGANY DRAFTING AND DESIGN
9815 CARMENITA ROAD
UNIT D
WHITTIER, CA 90605
MOBIL: (562) 479-1896

MYRTLE AVE.



NOTE:
 OUTDOOR SEATING UMBRELLA
 SHALL HAVE A MINIMUM
 HEAD CLEARANCE OF 7'-6"



MIAGANY DRAFTING AND DESIGN
 9815 CARMENITA ROAD
 UNIT D
 WHITTIER, CA 90605
 MOBIL: (562) 479-1896

INDEX:
 A-1 SITE PLAN
 A-2 NEW FLOOR PLAN

DATE: 1/12/14

**COPPER STILL GRILL
 TENANT IMPROVEMENT
 INTERIOR REMODEL**
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 MONROVIA, CA 91016
 OWNER: STEVEN KWAN
 PHONE: (323) 314-1617
 APN: 8516-027-030
 LEGAL: Lot: 12 Block: P Abbreviated Description: LOT:12 BLK:P
 CITY:REGION/CLUSTER: 27/27662 SUBD:TOWN OF MONROVIA
 *TR=MONROVIA*LOT COM N ON E LINE OF MYRTLE AVE 50 FT FROM S
 LINE OF LOT 12 TH E 110.9 FT TH N 1 FT TH W 29.10 FT TH N 49 FT TH
 City/Muni/Twp: REGION/CLUSTER: 27/27662