



PLANNING COMMISSION STAFF REPORT

APPLICATION: CUP2014-01

AGENDA ITEM: PH-2

PREPARED BY: Barbara Lynch
Senior Planner

MEETING DATE: February 12, 2014

SUBJECT: Conditional Use Permit CUP2014-01
215 East Foothill Boulevard

REQUEST: Allow the indoor service of beer and wine at a restaurant (Sakura Sushi House) in the Certified Market Shopping Center. This property is located in the NC (Neighborhood Commercial) Zone.

APPLICANT: Ping Zhao and Chaoping Guo

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

BACKGROUND: The applicant is requesting approval of a Conditional Use Permit to serve beer and wine (Type 41 ABC License) for indoor dining at the "Sakura Sushi House", a new restaurant that opened four months ago in the Certified Market Shopping Center.

SUBJECT PROPERTY: The subject property is located on the north side of Foothill Boulevard between Ivy and May Avenues. The restaurant is located in the storefront closest to Foothill Boulevard, on the south end of the multi-tenant commercial building. The shopping center site has 100' of frontage on Foothill Boulevard and 133' of depth on May Avenue, totaling 13,300 square feet in size. The parking lot has 27 spaces with three points of access. There is one driveway approach on Foothill Boulevard and there are two driveway approaches on May Avenue.

Directly north of the shopping center is a single-family residential neighborhood and to the west is "The Gables" an assisted living senior apartment building. Across the street (May Avenue) to the east is a condominium complex and across the street (Foothill Boulevard) to the south is a mixture of commercial businesses and multiple-residential development.

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. The purpose of this Code Section is to establish reasonable conditions which will prevent undesirable community impacts associated with such uses. It requires a conditional use permit when alcoholic beverages are sold or served on-site and the facility is located within 500 feet of any residential zone, park, school, recreation center, religious assembly or hospital. The new restaurant location is within 500 feet of Clifton Middle School and residential properties.

Floor Plan

The proposed service of beer and wine will be for indoor dining only with seating for approximately 40 patrons. There is an upper dining area (with tables and chairs) at the front

of the restaurant and in the middle is a lower dining area (with booths), sushi bar and two restrooms. The kitchen and storerooms are located at the rear.

Business Operation

The Sakura Sushi House is open seven days a week. Sunday through Thursday the restaurant hours are 11:00 AM to 10:30 PM and Friday and Saturday 11:00 AM to 11:00 PM.

The menu offers a variety of Japanese dishes which includes soups and salads, sushi and dishes that include chicken, beef and fish entrées (see attached menu).

Alcoholic Beverage Service

The City has emphasized that alcoholic beverage sales at restaurants 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.

Conclusion

Over time more and more restaurants in the City are providing beer and wine or full alcohol service as part of their business operation. The majority of the nearby restaurants in Old Town serve alcoholic beverages. Permitting the sale of beer and wine at the subject restaurant location allows this business the same opportunities as other restaurants that serve alcoholic beverages. There will be no outdoor service and with the proposed conditions of approval for the indoor service of beer and wine it ensures that the restaurant will be compatible with and not cause adverse impacts on the surrounding properties.

RECOMMENDATION: The Development Review Committee and Staff recommend approval of the Conditional Use Permit. 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 CUP 2014-01 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 CUP2014-01, which are incorporated herein by this reference.

4. The Planning Commission approves CUP2014-01, 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 CUP2014-01 as presented in the Staff Report.



DATA SHEET 1

Planning Conditions

CUP2014-01

215 East Foothill Boulevard

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 CUP2014-01, allowing the indoor service of beer and wine 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. 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, 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 Sunday through Thursday 11:00 AM to 10:30 PM and Friday and Saturday 11:00 AM to 11:00 PM. 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. 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.

20. 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.
21. 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.
22. 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.
23. 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.
24. The Planning Commission shall review the use permitted by this CUP one year from the date the use commences.
25. 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.
26. 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

CUP2014-01

215 East Foothill Boulevard

CONDITIONAL USE PERMIT

As required by Section 17.52.290 of the Monrovia Municipal Code, the decision for granting CUP2014-01 to allow the indoor service of beer and wine for on-site consumption at a restaurant located at 215 East Foothill Boulevard 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 an existing restaurant that has indoor dining. *The topography of this commercial area is relatively flat, and the beer and wine will only be served inside the existing restaurant with seating for approximately 40 patrons.*
- 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 beer and wine for on-site indoor 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 alcohol in a bona fide eating place is consistent with the General Plan, including those General Plan requirements specific to the NC (Neighborhood Commercial) designation.*
- D. The proposed sale of beer and wine for on-site indoor consumption in an existing 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 restaurant with indoor 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, *in that the applicant will be required to adhere to the conditions of approval on Data Sheet No. 1 to safeguard the surrounding uses from any negative impacts.*

CONDITIONAL USE PERMIT (alcohol service)

As required by Section 17.44.025 of the Monrovia Municipal Code, the decision for granting CUP2014-01 to allow the indoor service of beer and wine for on-site consumption at an existing restaurant located at 215 East Foothill Boulevard is also based on the following findings:

- A. The proposed sale of beer and wine for on-site consumption (indoors) at an existing 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 beer and wine 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 a shopping center that has a 27 space parking lot.*
- 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.” Beer and wine will only be served in the approved areas that include the inside dining areas 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 and Clifton Middle School will not be negatively impacted with the conditions of approval in place because beer and wine will only be served to restaurant patrons, and the use will be a “bona fide eating place.”*



DATA SHEET 4

Surrounding Land Uses

CUP2014-01

215 East Foothill Boulevard

Property Description:

The subject property is located on the north west corner of Foothill Boulevard and May Avenue. The site measures 100' wide and 133' deep, totaling 13,300 square feet. It is developed with a commercial shopping center (Certified Market).

Zoning

Subject site: NC (Neighborhood Commercial)

Surrounding pattern:

north: RM3000 (Residential Medium Density)

south: RH (Residential High Density)

east: RM3000 (Residential Medium Density)

west: NC (Neighborhood Commercial)

Land Use

Subject site: Shopping Center

Surrounding pattern:

north: Single-family residence

south: Commercial plumbing and construction/renovation businesses, multiple residential

east: Condominium development

west: The Gables senior assisted living apartment complex

Environmental Determination: Categorical Exemption Class 1

Applicable Ordinance Regulations: MMC 17.52.020 Planning Commission Authority for CUP