



PLANNING COMMISSION STAFF REPORT

APPLICATION: CUP2014-10

AGENDA ITEM: PH-2

PREPARED BY: Craig Jimenez
Planning Division Manager

MEETING DATE: August 13, 2014

SUBJECT: Conditional Use Permit CUP2014-10
941 West Duarte Road

REQUEST: Allow the indoor and outdoor service of beer and wine at a new restaurant MoMo Bakery & Grill in the NC (Neighborhood Commercial) Zone.

APPLICANT: Winnie Hui-Min Chang
5702 Temple City Boulevard
Temple City, CA 91780

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

BACKGROUND: The applicant is requesting approval of a Conditional Use Permit (CUP) to serve beer and wine for indoor and outdoor dining at a new restaurant in the Mon-Arc Shopping Center. Approval of a CUP is required pursuant to Section 17.44.025 of the Monrovia Municipal Code to review and mitigate adverse conditions associated with establishments which sell or serve alcoholic beverages within 500 feet of any residential zone, park, school, recreation center, religious assembly or hospital.

SUBJECT PROPERTY: The Mon Arc Shopping Center was constructed in 1961 and recently went through a substantial renovation. The site is four acres in area and has approximately 558' of frontage on the north side of the 900 block of West Duarte Road. The shopping center backs up to the south side of Genoa Street. The property is zoned NC (Neighborhood Commercial).

The anchor, Hong Kong Supermarket is surrounded by small storefronts, roughly in a horseshoe configuration. The proposed restaurant will occupy a 3,600 SF storefront in the southwest corner of the center.

The uses surrounding the center include a daycare center, 7-11 store and multiple residential to the south, across Duarte Road. To the east and west are multifamily residential uses and a single family neighborhood to the north.

DISCUSSION/ANALYSIS: MoMo Bakery & Grill is proposing to open a new restaurant in the Mon-Arc Shopping Center. Their menu will include steaks, chops and seafood as well as baked goods. Their proposed hours of operation will be: Sunday – Thursday 7:30 AM to 11:00 PM and Friday and Saturday 7:30 AM to midnight.

Floor Plan

The submitted floor plan shows seating for 54 indoors and 64 on the patio. The customer area will be along the storefront (east) and the south portion of the building. Currently, the setback area between the building and Duarte Road is landscaped; the business owner has proposed constructing a patio area extending toward the sidewalk. On April 16, 2014, the Development Review Committee reviewed the proposal for the patio which included a minor exception to allow a fence enclosing the patio to encroach into the required front setback (4' in lieu of 10'). DRC approved the request which

also included a review of the outdoor furniture and recommended approval to the Planning Commission on the CUP for the service of beer and wine.

No concerns were raised at the DRC hearing, however, after notice of CUP2014-10 was distributed, an adjacent neighbor raised concerns over noise that may accompany the sale of alcohol in the outdoor patio area. Based on those concerns, Staff is recommending a modification to the proposed plan for the patio.

As proposed, the patio spans the length of the building along the Duarte Road frontage and is enclosed by a 42" metal fence. In order to address concerns about potential noise from the patio, Staff recommends that the west end of the patio be screened by a solid 6' high decorative wall using an architecturally compatible design. The wall would extend to the 10' setback line and then would transition to the 42" high metal fence.

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 will also be available outdoor on the new patio facing Duarte Road. Staff believes that the modification in the wall design addresses the potential impacts of the outdoor dining.

RECOMMENDATION: The Development Review Committee and Staff are recommending approval of CUP2014-10. 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 CUP2014-10 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 CUP2014-10, which are incorporated herein by this reference.
4. The Planning Commission approves CUP2014-10, 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 CUP2014-10 as presented in the Staff Report.



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 CUP2014-10, 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 or 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 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.
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 additional 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 Sunday through Thursday from 7:30am until 11:00pm, and Friday and Saturdays from 7:30am until midnight. 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 beer and wine is permitted in front of the building along Duarte Road as delineated on the site plan and subject pursuant to the modifications specified in condition 23.

22. 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 fencing 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, as modified by these Conditions of Approval.
 - (d) The placement of approved outdoor dining furniture 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.
 - (e) The hours of operation for service of beer and wine in the outdoor dining area shall be limited to the hours of 7:30 AM to 11:00 PM Monday through Thursday and Sunday, and 7:30 AM to midnight Friday and Saturday.
 - (f) 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.
 - (g) 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.

REQUIREMENTS FOR THE PATIO IMPROVMENTS

23. A six-foot tall decorative solid wall shall be constructed along the west end of the proposed patio and shall be extended to the boundary of the 10' front setback, and shall then continue as a 42 inch tall decorative fence, which 42 inch tall decorative fence shall enclose the remainder of the patio pursuant to the April 16, 2014 decision of the Development Review Committee (PMT2014-00416). The wall shall incorporate similar material(s) used in the shopping center. A solid gate for sound attenuation shall be provided at northwest corner of the patio. The design of the wall and the gate shall be submitted to the Planning Division for approval prior to construction.
24. No additional exterior lighting shall be installed without the approval of the Planning Division Manager. All exterior lighting shall be designed arranged, and installed so as to confine direct rays onto the premises and to direct light away from adjacent structures.

25. A Landscape and Irrigation Plan prepared by a licensed Landscape Architect or licensed Landscape Contractor shall be submitted to the Planning Division for plan check showing the size, type, and location of all planting areas and shall incorporate irrigation for the trees retained in the patio. The landscape plan shall provide planting and irrigation in all areas indicated for landscaping on the tenant improvement plan.

GENERAL REQUIREMENTS

26. 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.
27. In addition to Planning (Data Sheet No. 1) conditions of approval, the Applicant shall also comply with all requirements of the Building Division and Public Works Department and Fire Department that are directly applicable to the project.
28. 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.
29. 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.
30. 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.
31. The Development Review Committee shall review the use permitted by this CUP one year from the date the use commences.
32. 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.
33. 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.



CONDITIONAL USE PERMIT

As required by Section 17.52.290 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. CUP2014-10 to allow the indoor and outdoor service of alcohol for on-site consumption at a new restaurant, MoMo Bakery & Grill at 941 West Duarte Road, is based on the following findings:

- A. The project site is adequate in size, shape and topography for the sale of alcohol for on-site consumption in a new restaurant that has indoor and outdoor dining. *The site is located in the Mon Arc Shopping Center, a developed 4 acre commercial property with flat topography.*
- 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 restaurant will occupy a commercial storefront in the Mon Arc Shopping Center on Duarte Road. The entrance to the Shopping Center is at a signalized intersection. Duarte Road is a four lane street that is suited to support commercial uses and traffic loads. The new restaurant will have negligible impact on quantity or quality of traffic.*
- 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.*
- 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. *With the approval of a conditional use permit for the sale of alcoholic beverages, the proposed restaurant will be in compliances with the provisions of the zoning ordinance.*
- E. The proposed location of the 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.*

As required by Section 17.44.025 of the Monrovia Municipal Code, the decision for granting CUP2014-10 to allow the indoor and outdoor service of alcohol for on-site

consumption at a new restaurant located at 941 West Duarte Road is also based on the following findings:

- A. The proposed sale of alcohol for on-site consumption (indoors and outdoors) 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 the Mon Arc Shopping Center. A large parking field within the center is directly adjacent to the proposed location and is available for patrons of the restaurant.*
- 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 and outdoor 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 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

CUP2014-10

941 West Duarte Road

Property Description:

The 4 acre site is improved with approximately 57,000 square feet of commercial building space. It has 557.65' of frontage on Duarte Road and 332.7' of frontage on Genoa Street. The proposed restaurant will occupy a 3,600 SF storefront at the southwest corner of the site.

Zoning

Subject site:

NC (Neighborhood Commercial)

Surrounding pattern:

north: PD-11/RM7500 (Planned Development-Area 11)

south: RH (Residential High Density)

east: NC (Neighborhood Commercial)

west: RM 3000 (Residential Medium Density)

Land Use

Subject site:

Mon Arc Shopping Center

Surrounding pattern:

north: Single-family residential/ Multiple residential

south: Serendipity Daycare/7-11 store/Multiple residential

east: Condominium/single-family residential

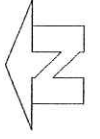
west: Apartment complexes

Environmental Determination:

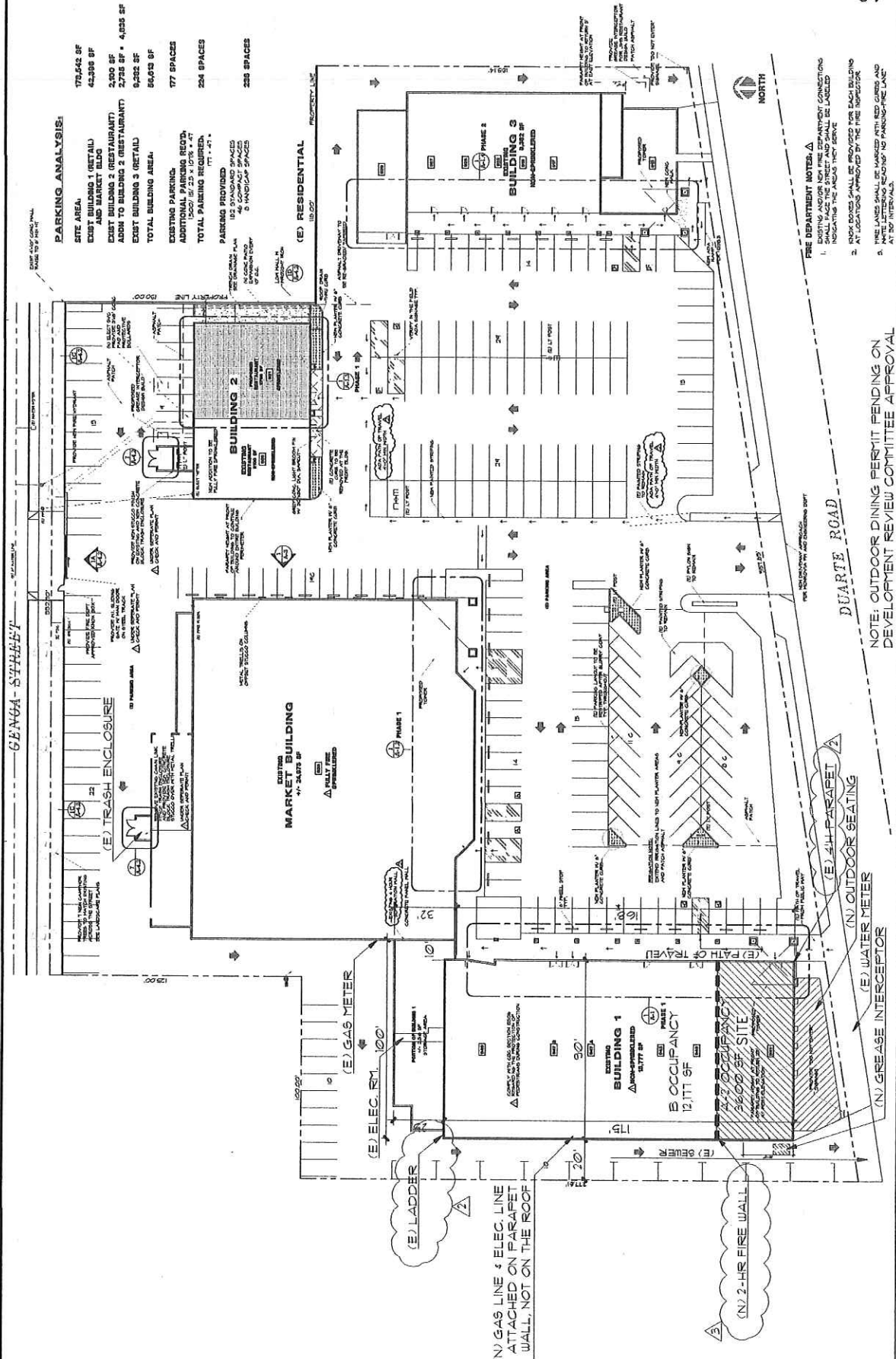
Categorical Exemption Class 1

Applicable Ordinance Regulations:

MMC 17.52.020 Planning Commission Authority for CUP



SITE PLAN

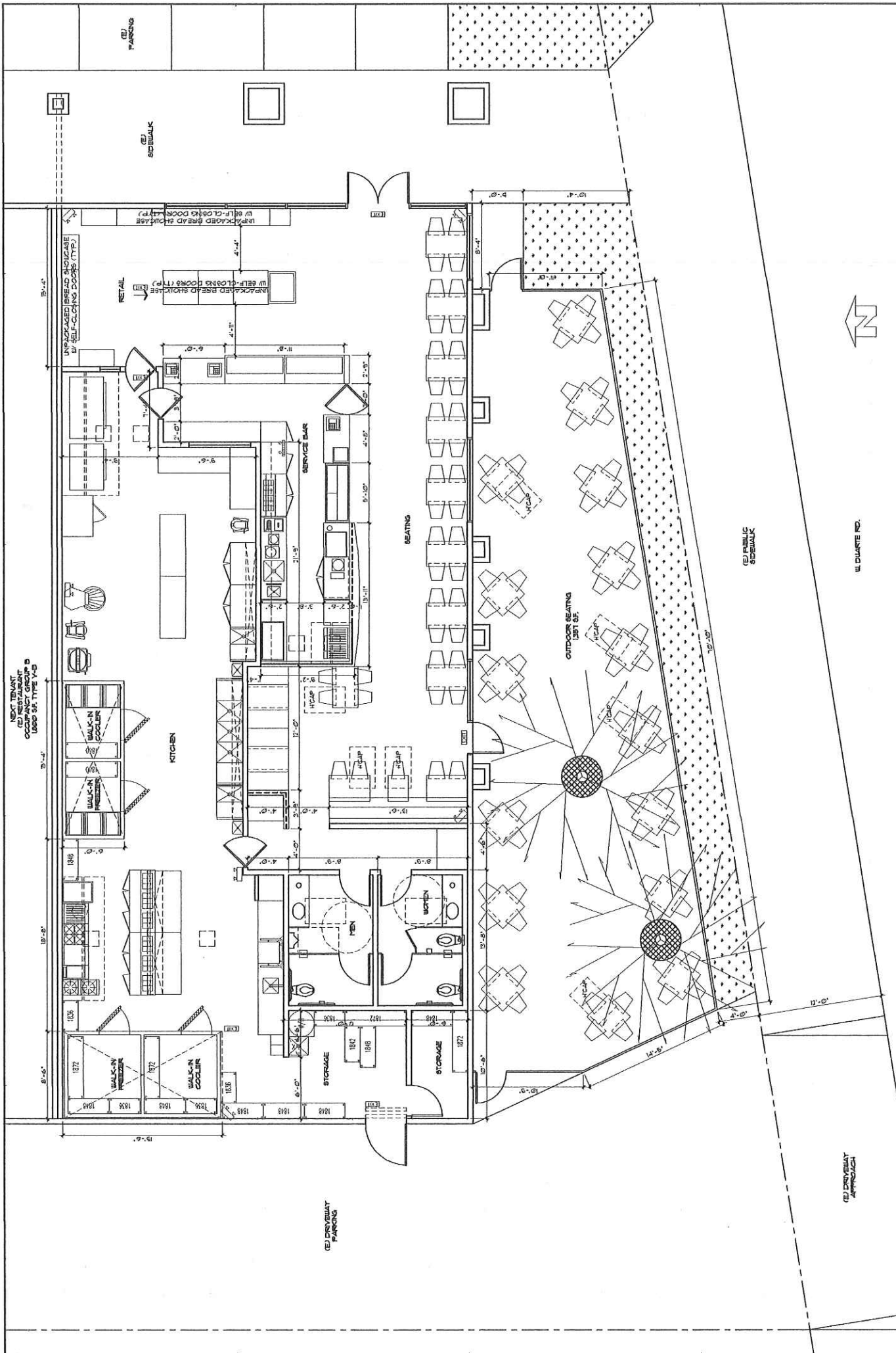


PARKING ANALYSIS:

SITE AREA	170,542 SF
EXIST'G BUILDING 1 (RETAIL)	42,906 SF
EXIST'G BUILDING 2 (RESTAURANT)	2,726 SF
ADDN TO BUILDING 2 (RESTAURANT)	2,726 SF = 4,835 SF
EXIST'G BUILDING 3 (RETAIL)	6,582 SF
EXIST'G BUILDING 4 (RETAIL)	6,619 SF
TOTAL BUILDING AREA	177 SPACES
EXISTING PARKING	234 SPACES
ADDITIONAL PARKING REQ'D	171 - 47 = 124
TOTAL PARKING REQUIRED	124 SPACES
PARKING PROVIDED	124 SPACES
ADDITIONAL PARKING REQ'D	171 - 47 = 124
TOTAL PARKING REQUIRED	124 SPACES
PARKING PROVIDED	124 SPACES
ADDITIONAL PARKING REQ'D	171 - 47 = 124
TOTAL PARKING REQUIRED	124 SPACES
PARKING PROVIDED	124 SPACES

- FIRE DEPARTMENT NOTES:**
1. ALL BUILDINGS SHALL BE FULLY FIRE SPRINKLERED. INDICATING THE AREAS THAT SERVE.
 2. FIRE LINES SHALL BE PROVIDED FOR EACH BUILDING AND LOCATIONS APPROVED BY THE FIRE INSPECTOR.
 3. FIRE LINES SHALL BE MARKED WITH RED CARDS AND WHITE LETTERING READING "NO PARKING-FIRE LINE" AT 50' INTERVALS.

NOTE: OUTDOOR DINING PERMIT PENDING ON DEVELOPMENT REVIEW COMMITTEE APPROVAL



NOTICE OF PUBLIC HEARING

**MONROVIA PLANNING COMMISSION
415 South Ivy Avenue
Monrovia, CA 91016**

This Notice is to inform you of a public hearing to determine whether or not the following request should be granted under Title 16 and/or 17 of the Monrovia Municipal Code:

APPLICATION: Conditional Use Permit CUP2014-10

REQUEST: Allow the indoor and outdoor service of beer and wine at a new restaurant (MoMo Bakery and Grill) in the NC (Neighborhood Commercial) Zone.

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

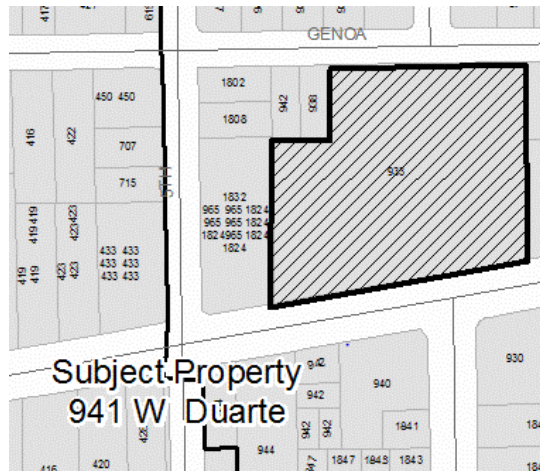
APPLICANT: Winnie Hui-Min Chang
5702 Temple City Boulevard
Temple City, CA 91780

PROPERTY ADDRESS: 941 West Duarte Road

DATE AND HOUR OF HEARING: Wednesday, August 13, 2014 at 7:30 PM

PLACE OF HEARING: Monrovia City Hall, Council Chambers, 415 South Ivy Avenue, Monrovia, California

AREA MAP:



If you challenge this application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Division at, or prior to, the public hearing. This application will not alter the zoning status of your property. For further information regarding this application, please contact the Planning Division at (626) 932-5565.

Staff Report pertaining to this item will be available on Thursday, August 7, 2014 after 4 p.m. on the City's website: www.cityofmonrovia.org or in person at Monrovia City Hall, 415 South Ivy Avenue, Monrovia.

Este aviso es para informarle sobre una junta pública acerca de la propiedad indicada mas arriba.

Si necesita información adicional en español, favor de ponerse en contacto con el Departamento de Planificación al número (626) 932-5587.

Craig Jimenez, AICP
Planning Division Manager

PLEASE PUBLISH ON JULY 31, 2014