



PLANNING COMMISSION STAFF REPORT

APPLICATION: CUP2016-08/CUP2016-09 **AGENDA ITEM:** PH-4
PREPARED BY: Teresa Santilena **MEETING DATE:** April 13, 2016
Assistant Planner

SUBJECT: Conditional Use Permit CUP2016-08 (Alcohol Service)
Conditional Use Permit CUP2016-09 (Live Entertainment)
109 East Lemon Avenue

REQUEST: Allow the indoor and outdoor service of alcohol and live entertainment in a new 2150 square foot restaurant (The Diplomat Eatery and Tavern) in an existing building in the Historic Commercial Downtown Zone.

APPLICANT: Joe Kouchakian, Red Apple Enterprise
450 Patrician Way
Monrovia, CA 91016

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

BACKGROUND: The applicant is requesting approval of two Conditional Use Permits for the service of alcohol and live entertainment in a proposed restaurant to locate in the Historic Commercial Downtown (HCD) Zone. The new restaurant will be located in the commercial space most recently occupied by Bull Taco. Prior to that, this location was operated by Restaurant Devon. In 1998, Restaurant Devon received approval of a Conditional Use Permit (CUP) to serve alcohol at this location. This license was then transferred to Bull Taco. The Monrovia Municipal Code (MMC) requires approval of a new CUP for service of alcohol if a restaurant establishment ceases operation for a period of 30 days or longer (§17.44.025). Since Bull Taco closed more than 30 days ago, a new CUP is required. The applicant also proposes live entertainment during weekend hours. A second CUP is required for live entertainment facilities, in order to mitigate any adverse impacts to the surrounding neighborhood (§17.44.055).

SUBJECT PROPERTY: The subject site is located on the north side of East Lemon Avenue, between South Myrtle and South Ivy Avenues. The lot measures 53 feet wide and 150 feet deep, for a total lot area of approximately 7,950 square feet. It is improved with two commercial buildings (The Baxter Building and The Keefer Building) that total 13,900 square feet. The proposed use will occupy one tenant space in the Keefer Building that totals 2,150 square feet. The subject property is surrounded on all sides by commercial uses that support the HCD Zone.

DISCUSSION/ANALYSIS: Monrovia Municipal Code Section 17.44.025 was established to review and mitigate adverse conditions associated with establishments which sell or serve alcoholic beverages and to establish reasonable conditions which will ensure the establishment of such a use is not detrimental to public health, safety or welfare. It requires a

CUP 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. Since the HCD Zone allows for residential uses, a CUP is required when any facility within that zoning designation proposes to sell or serve alcohol.

Monrovia Municipal Code Section 17.44.055 was established to provide an appropriate review process for entertainment facilities and to mitigate adverse impacts associated with such establishments through the CUP process. The definition of entertainment facilities includes nightclubs, restaurants, and coffee houses with live entertainment and/or dancing.

Business Operation

The Diplomat Eatery and Tavern would offer indoor and outdoor dining of Mediterranean cuisine and a full bar (Type 47 Department of Alcoholic Beverage Control license) in a casual atmosphere. The proposed hours of operation are 11:00 AM to 12:00 AM (midnight), seven days per week. There will be up to six employees on site at a time. As a condition of approval, the restaurant must operate as a “Bona Fide Eating Place” as defined by the Department of Alcoholic Beverage Control (ABC). Therefore, the kitchen must be open and used for food preparation during all hours the establishment is open. Additionally, the quarterly gross sales of alcoholic beverages shall not exceed 33 percent of all gross sales of all products during the same period. Other conditions of approval related to the service of alcohol require that restaurant staff be educated to recognize signs of overconsumption, and that all areas of the restaurant be available for inspection by the Police Department and the Community Development Department during all open business hours.

Floor Plan

The floor plan includes seating both indoors and outdoors, with a bar located in the center of the dining room. There will be seating for up to 99 patrons indoors, including 20 tables with seating for up to four patrons each, two communal tables, and bar seating. The kitchen and restrooms will be located in the rear.

The proposed outdoor dining includes seating for up to 14 patrons. The Development Review Committee (DRC) has reviewed and approved the preliminary outdoor dining floor plan and furniture, with the condition that Planning Staff conduct a field inspection for final approval. Since alcohol service is proposed outside, the outdoor area must have delineation from the sidewalk. A 48” clearance must be maintained at all times to allow for ADA access at the entrance to the building and along the sidewalk.

Live Entertainment

The Applicant would also like to provide occasional live indoor entertainment in the form of a three-person band, or a disc jockey, or up to two belly dancers, in the proposed restaurant. Only one type of live entertainment would be allowed at any one time. The table below outlines the days and times proposed for each form of entertainment:

	Friday	Saturday	Sunday
Band	8:00 PM – midnight	8:00 PM – midnight	1:00 PM – 8:00 PM
DJ	8:00 PM – midnight	8:00 PM – midnight	1:00 PM – 8:00 PM
Belly Dancer(s)	Two shows between 8:00 PM and midnight	Two shows between 8:00 PM and midnight	Two shows between 1:00 PM and 8:00 PM

The Applicant is proposing a 25 square foot area within the restaurant to use as a stage for the band or the disc jockey. The belly dancers would be free to move around the restaurant as they perform. As conditions of approval, the live entertainment must be conducted within the facility and all exterior doors shall be kept closed during live entertainment, no dance floor is permitted, and the live entertainment shall not be audible outside the boundaries of the establishment and shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration).

Parking

Parking in the Old Town area can be found on the street and in the public parking lots. There is one public parking lot in close proximity to the proposed restaurant, with an entrance in the 100 block of East Lemon Avenue. There are well over 100 parking spaces in this lot that serve the businesses in Old Town.

Conclusion

The proposed restaurant is a permitted use within the HCD Zone and is consistent with surrounding uses. Many of the popular restaurants in Old Town include alcohol on their menus. However, the service of alcohol, as well as the live indoor entertainment require CUPs to mitigate any adverse impacts related to those aspects of the restaurant operations. The proposed conditions of approval for the indoor and outdoor service of alcohol and live indoor entertainment will ensure that the restaurant will not negatively impact surrounding properties.

RECOMMENDATION: Staff and the DRC recommend approval of CUP2016-08 and CUP2016-09. 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 CUP2016-08 and CUP2016-09 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 CUP2016-08 and CUP2016-09, which are incorporated herein by this reference.
4. The Planning Commission approves CUP2016-08 and CUP2016-09, 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 CUP2016-08 and CUP2016-09 pursuant to the recommendations in the Staff Report.



DATA SHEET 1

Planning Conditions

CUP2016-08 (Alcohol Service)
CUP2016-09 (Live Entertainment)

109 East Lemon Avenue

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 CUP2016-08, allowing outdoor dining and the indoor and outdoor service of alcohol in a new restaurant, and Conditional Use Permit CUP2016-09 allowing live entertainment with music and dancing indoors, 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.

CUP2016-08

1. The establishment shall be operated as a "Bona Fide Eating Place" as defined by the Department of Alcoholic Beverage Control (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. Serving of alcoholic beverages must be accompanied by the sale of food based on the everyday dining menu. Alcoholic beverages cannot be sold or consumed to a patron who is not seated or to anyone when the restaurant kitchen is closed.
3. 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.
4. 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.
5. All areas in the restaurant shall be available for inspection by the Police Department and the Community Development Department during all open business hours.

6. No sporting game or games of competition shall be permitted in conjunction with the business unless approved as part of the CUP application.
7. The display, posting or airing via closed circuit television of any gambling odds shall be prohibited unless pre-empted by the State.
8. No patrons shall be on the premises during closed hours.
9. There shall be no uses or activities permitted of an adult-oriented nature as defined in Title 17 of the Monrovia Municipal Code.
10. The use of pornographic material in the form of videos, slides, magazines, or pictures shall be prohibited within the business establishment.
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 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 happy hour, no drink specials or other bar promotions are permitted to be advertised outside or in the window/door area.
19. Alcoholic beverages sold at the bar shall be accompanied by the sale of food.

20. The Applicant shall provide education to restaurant staff pertaining to service of alcoholic beverages, including common indications that a patron has been overserved.
21. Hours of operation shall be limited to 11AM to 12AM (Midnight) Monday through Sunday. 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.
22. The hours of operation for service of alcohol in the dining area shall be limited to the hours of 11:00 AM to 12:00 AM (midnight) Monday through Sunday.
23. Outdoor dining with outdoor service of alcohol is permitted in front of the building along Lemon Avenue as delineated on the site plan/floor plan.
24. Outdoor dining with the service of alcohol 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) If it is determined that the sidewalks are not being maintained in a cleanly manner, then additional maintenance measures may be required as determined by the Public Services 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) The final outdoor dining floor plan shall be reviewed in the field and approved by staff.
 - (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 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. 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 11:00 AM to 11:00 PM Sunday through Thursday and 11:00 AM to 12:00 AM (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.

CUP2016-09 (Live Entertainment)

All Planning Conditions applicable to CUP2016-08 shall apply to CUP2016-09. In addition to the Planning Conditions on this Data Sheet 1 for CUP2016-08, the following shall also apply when entertainment takes place:

25. All live entertainment activities shall be conducted within the facility and all exterior doors shall be kept closed during live entertainment.
26. A maximum of a three (3) person ensemble, including instrumentalists and/or vocalists, or two (2) belly dancers, or one (1) DJ may perform at one time. No increase in the number of performers is permitted until reviewed and approved by the Development Review Committee.
27. No cover charge shall be permitted.
28. No dance floor shall be permitted. This condition shall not preclude the belly dancers from performing within the dining area.
29. The hours of operation for live entertainment activities shall be limited to 8:00 PM to 12:00 AM (midnight) Friday and Saturday, and 1:00 PM to 8:00 PM Sunday.
30. The hours of operation for live entertainment 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. 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.
31. The live entertainment/amplified music shall not be audible outside the boundaries of the establishment and shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration).
32. The applicant is prohibited from operating the entertainment activities in any way that adversely and seriously affects the peace, health, safety and welfare of residents of the community, and the entertainment activities must not 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 to the commercial district.

33. 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 indoor entertainment activities, 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 Applicant's expense.
34. Insurance. 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, prior to commencing indoor entertainment activities.

GENERAL

35. 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.
36. In addition to Planning (Data Sheet No. 1), the Applicant shall also comply with all requirements of the Building Division and Fire Department that are directly applicable to the project.
37. These CUPs 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 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.
38. Additional 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.

39. 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 Permits and his/her written consent to all of the conditions of approval contained in Data Sheet Number 1. These CUPs 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.
40. The Development Review Committee shall review each use permitted by these CUPs one (1) year from the date the use commences.
41. 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.
42. 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 2016-08 (Service and Sales Alcohol)

As required by Section 17.52.290 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. 2016-08 to allow the indoor and outdoor service and sales of alcohol at a new restaurant in an existing building located at 109 East Lemon Avenue is based on the following findings:

- A. The project site is adequate in size, shape and topography for the proposed indoor and outdoor service and sales of alcohol for on-site consumption in a new restaurant. *The topography of this commercial area is relatively flat. The proposed restaurant will occupy a 2,150 square foot unit on a parcel that is improved with two existing commercial buildings, totaling 13,900 square feet.*
- 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 new restaurant with indoor and outdoor service and sales of alcohol for on-site consumption. *The proposed use is located in a commercial area, which is suited to support these types of uses and traffic loads.*
- C. The proposed restaurant with indoor and outdoor service and sales of alcohol for on-site consumption is compatible with the General Plan, and will not adversely impact the objectives of the General Plan. *The project site is located the Historic Commercial Downtown (HCD) zone. The General Plan HCD designation encourages well-designed, pedestrian-oriented commercial uses, such as small shops, banks, and restaurants.*
- D. The proposed restaurant with indoor and outdoor service and sales of alcohol for on-site consumption will comply with the applicable provisions of the zoning ordinance. *There are no variances requested for this CUP. The standard Monrovia Municipal Code conditions of approval for service and sales of alcohol will apply.*
- E. The proposed location of the restaurant with indoor and outdoor service and sales of alcohol for on-site consumption 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 be required to adhere to the conditions of approval on Data Sheet No. 1 to ensure service and sales of alcohol for on-site consumption is not detrimental or injurious to the public and surrounding uses. A condition of approval further requires that all areas in the establishment be available for inspection by the Police Department and Community Development Department during all open business hours. 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.

Further, as required by Section 17.44.025 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. 2016-08 for the proposed restaurant to provide service and sales of alcohol for on-site consumption located at 109 East Lemon Avenue is based on the following findings:

- A. *The proposed restaurant with indoor and outdoor service and sales of alcohol for on-site consumption (the "proposed use") 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", and all conditions of the Department of Alcoholic Beverage Control (ABC) for the issuance of Type 47 license. Sufficient safeguards exist that will allow the City to exercise control measures that will protect the peace, health, and safety of surrounding residents and businesses.*
- 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 proposed restaurant will be required to adhere to the conditions of approval that set forth regulations that are specific to the sale of alcohol and the overall business operation. 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. 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. 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.*
- C. *The proposed use will not create serious adverse impacts to the commercial district. Restaurants are an approved use in the HCD zone. The proposed restaurant with indoor and outdoor service and sales of alcohol for on-site consumption 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. The restaurant is located in the Historic Commercial Downtown zone that is served by public parking lots. There is one public parking lot in close proximity to the proposed restaurant, with an entrance in the 100 block of East Lemon Avenue. There are well over 100 parking spaces in this lot that service the businesses in Old Town.*

- E. The proposed use will not be incompatible with the adjoining uses as it relates to noise, traffic, and hours of operation. *The restaurant will be located within a commercial area of the City and is a compatible use to the surrounding businesses.*
- F. The proposed use will not negatively impact nearby parks, schools, recreation centers, religious assembly facilities, and hospitals. *The residential properties will not be negatively impacted because 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 the establishment or its customers creating a public nuisance.*

CONDITIONAL USE PERMIT 2016-09 (Live Entertainment)

As required by Section 17.52.290 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. 2016-09 to allow live indoor entertainment located at 109 East Lemon Avenue is based on the following findings:

- A. The project site is adequate in size, shape and topography for live indoor entertainment at the proposed restaurant. *It is located in a commercial area that is relatively flat, and the live entertainment will be limited to 8:00 PM to 12:00 AM (midnight) Friday and Saturday, and 1:00 PM to 8:00 PM Sunday within an enclosed building.*
- 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 live indoor entertainment. *The Diplomat Eatery and Tavern will primarily operate as a restaurant and the live entertainment has limited hours of operation. The proposed use is located in a commercial area, which is suited to support these types of uses and traffic loads.*
- C. The restaurant with indoor and outdoor sales and service of alcohol and live indoor entertainment is compatible with the General Plan and will not adversely impact the objectives of the General Plan. *The project site is located the Historic Commercial Downtown (HCD) zone. The General Plan HCD designation encourages well-designed, pedestrian-oriented commercial uses, such as small shops, banks, and restaurants. As conditions of approval, the live entertainment must be conducted within the facility and all exterior doors shall be kept closed during live entertainment, no dance floor is permitted, and the live entertainment shall not be audible outside the boundaries of the establishment and shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration).*
- D. The proposed live indoor entertainment associated with The Diplomat Eatery and Tavern will comply with the applicable provisions of the zoning ordinance. *There are no variances requested for this CUP. A project condition of approval will further*

require that the live entertainment shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration).

- E. The proposed location of live indoor entertainment at The Diplomat Eatery and Tavern 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 providing live entertainment as part of the restaurant operation. A project condition of approval will further require that the live entertainment shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration).*

Further, as required by Section 17.44.055 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. 2016-09 to allow live indoor entertainment at The Diplomat Eatery and Tavern located at 109 East Lemon Avenue is based on the following findings:

- A. The proposed live indoor entertainment (the "proposed use") 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 live entertainment will take place indoors only during limited hours.*
- 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 live indoor entertainment will be required to adhere to the conditions of approval that set forth regulations that are specific to the sale of alcohol, live entertainment and the overall business operation. No cover charge shall be permitted, and no dance floor shall be permitted.*
- C. The proposed use will not create serious adverse impacts to the commercial district. *The Diplomat Eatery and Tavern will primarily operate as a restaurant facility, with occasional live indoor entertainment and will provide a business that is beneficial to the surrounding businesses. A condition of approval requires that the hours of operation for live entertainment activities shall be limited to 8:00 PM to 12:00 AM (midnight) Friday and Saturday, and 1:00 PM to 8:00 PM Sunday.*
- D. The proposed use is adequately served by sufficient parking to serve the quantity of traffic such use generates. *The restaurant is located in the Historic Commercial Downtown zone that is served by public parking lots. There is one public parking lot in close proximity to the proposed restaurant, with an entrance in the 100 block of East Lemon Avenue. There are over 100 parking spaces in this lot that service the businesses in Old Town.*
- E. The proposed use will not be incompatible with the adjoining uses as it relates to noise, traffic, and hours of operation, as *the restaurant will be located within a commercial area of the City and is a compatible use to the surrounding businesses. Conditions of approval require that the live entertainment shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration),*

and that all live entertainment activities shall be conducted within the facility only during limited hours and all exterior doors shall be kept closed during live entertainment.

- 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 because sufficient safeguards exist that will allow the City to exercise control measures that will protect the peace, health, and safety of surrounding properties. Conditions of approval will require that the live entertainment shall comply with MMC §17.32.030 (Performance Standard, Noises) and MMC §17.32.040 (Vibration), and that all live entertainment activities shall be conducted within the facility and all exterior doors shall be kept closed during live entertainment.*



DATA SHEET 4

Surrounding Land Uses

CUP2016-08/CUP2016-09

109 East Lemon Avenue

Property Description:

The subject project is located on the north side of East Lemon Avenue, between South Myrtle and South Ivy Avenues. The lot measures 53 feet wide and 150 feet deep, for a total lot area of approximately 7,950 square feet and is improved with two commercial buildings (The Baxter Building and The Keefer Building) that total 13,900 square feet. The proposed use will occupy one tenant space in the Keefer Building that totals 2,150 square feet.

Zoning

Subject site:

HCD (Historic Commercial Downtown)

Surrounding pattern:

north: HCD (Historic Commercial Downtown)

south: HCD (Historic Commercial Downtown)

east: PD (Planned Development) Area - 5

west: HCD (Historic Commercial Downtown)

Land Use

Subject site:

Commercial Building

Surrounding pattern:

north: Restaurant (Bella Sera Trattoria)

south: Commercial Building (Florsheim Shoes)/Restaurant (Saigon Avenue)

east: Movie Theater (Krikorian)

west: Commercial Building (Puff Monkey)

Environmental Determination:

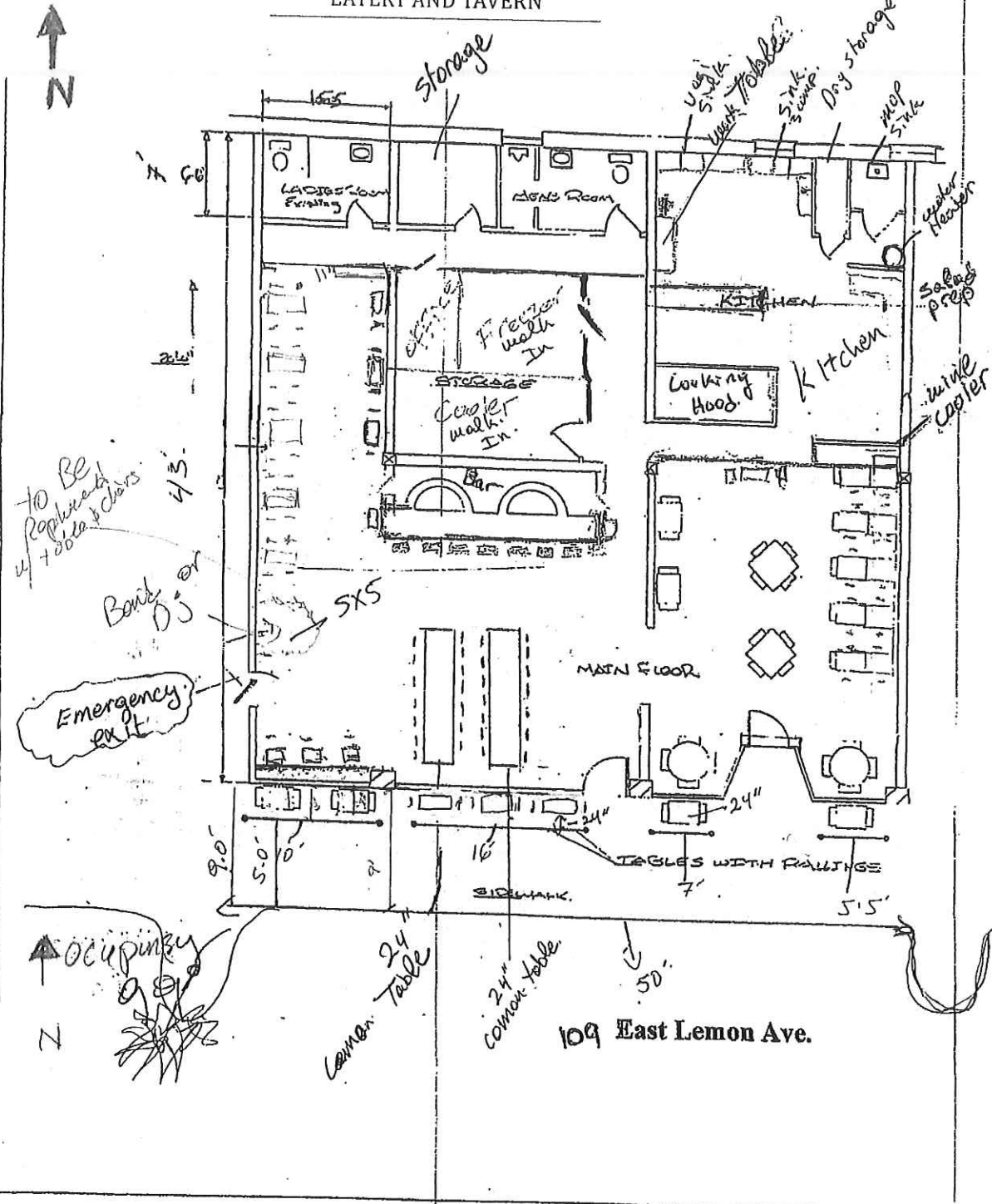
Categorical Exemption Class 1

Applicable Ordinance Regulations:

MMC 17.52.020 Planning Commission Authority for CUP

THE DIPLOMAT

EATERY AND TAVERN



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 CUP2016-08 (alcohol service)/Conditional Use Permit CUP2016-09 (live entertainment)

REQUEST: Allow the indoor and outdoor service of alcohol and live entertainment in a new restaurant (The Diplomat Eatery and Tavern) in an existing building in the Historic Commercial Downtown (HCD) zone.

ENVIRONMENTAL DETERMINATION: Categorical Exemption (Class 1)

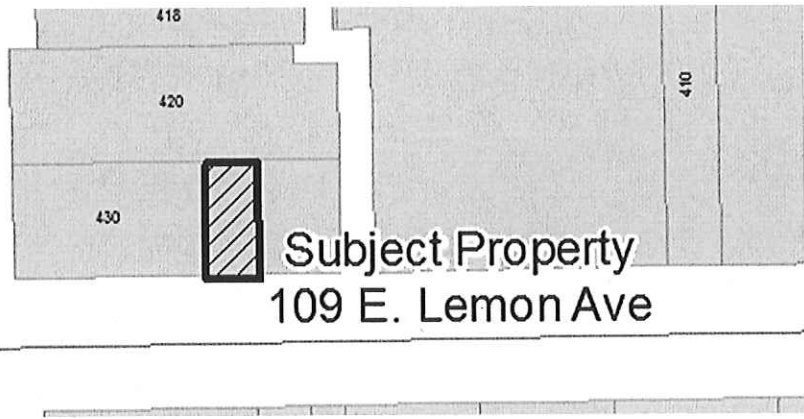
APPLICANT: Joe Kouchakian, Red Apple Enterprise

PROPERTY ADDRESS: 109 East Lemon Avenue

DATE AND HOUR OF HEARING: Wednesday, April 13, 2016 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, April 7, 2015 after 4 p.m. at:
Monrovia City Hall
415 South Ivy Avenue
Monrovia, CA 91016

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

Si necesita información adicional en español, favor de ponerse en contacto con el Departamento de Planificación al número (626) 932-5565.

Sheri Bermejo
Planning Division Manager

PLEASE PUBLISH ON MARCH 31, 2015