



# PLANNING COMMISSION STAFF REPORT

**APPLICATION:** CUP2016-10

**AGENDA ITEM:** PH-2

**PREPARED BY:** Jose Barriga  
Assistant Planner

**MEETING DATE:** May 11, 2016

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**SUBJECT:** Conditional Use Permit CUP2016-10  
1602 South Myrtle Avenue

**REQUEST:** Allow the sale of beer and wine for off-site consumption (Type 20 California State Alcoholic Beverage Control (ABC) License) at an existing convenience/service station in the PD-12 (Planned Development Area 12) zone.

**APPLICANT:** Field Myrtle Oil, Inc.  
1907 Cañada Boulevard  
Glendale, CA 91208

**ENVIRONMENTAL DETERMINATION:** Categorical Exemption (Class 1)

**BACKGROUND:** The Applicant is requesting approval of a Conditional Use Permit (CUP) for the sale of beer and wine for off-site consumption (Type 20 ABC License) at an existing convenience/service station (76 Gasoline Station) located at 1602 South Myrtle Avenue. In February of 2013, the Commission approved two CUPs for the convenience store expansion and a new three-bay garage structure for light automotive repair that are currently under construction. Additionally, the project also proposed additional landscaping and an exterior building remodel.

The existing business, Field Myrtle Oil Inc., has been located at the subject site since 2010. The Applicant is now seeking a Type 20 license to expand its convenience store operation by providing incidental retail sales of beer and wine. Monrovia Municipal Code (MMC) Section 17.44.025 was established to review and mitigate adverse conditions associated with establishments which sell 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 of the city and surrounding properties. A CUP is required 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 subject property is within 500 feet of Station Square to the west and a residential zone to the north, requiring a CUP for the sale of beer and wine.

**SUBJECT PROPERTY:** The subject site, as shown in the aerial, is located on the southeast corner of South Myrtle Avenue and East Pomona Avenue. The lot



measures approximately 160' of frontage on Myrtle Avenue and 153' of depth on East Pomona Avenue, totaling 24,428 square feet in size. This property is currently improved with a service station building with a new 3-bay garage structure, two pump islands covered by a canopy, and an above ground propane tank. The surrounding properties are developed with industrial businesses and residential uses to the north, industrial/manufacturing uses to the east and south, and a park-and-ride lot to the west.

## **DISCUSSION/ANALYSIS:**

### **Business Operation**

The convenience store, including the gas station, is a 24 hour operation. Once constructed, the auto repair service in the three-bay garage structure will operate from 8:00 AM to 6:00 PM Monday through Saturday. The Applicant proposes to lock the main entrance to the convenience store between 10:00 PM to 6:00 AM. Any sales that occur while the doors are locked shall be made using the 'pass through window' only. The sale of beer and wine is allowed to occur only between the hours of 6:00 AM to 12:00 AM (midnight). As stated in Condition of Approval No. 14, outlined in Data Sheet 1, any change made to the hours of operation relating to alcohol sales shall be reviewed and approved by the Development Review Committee. Additional conditions of approval are attached to the Staff Report to ensure that the establishment will not be detrimental to public health, safety or welfare.

### **Floor Plan**

Once completed the 1,952 square foot convenience store will provide a retail floor space, a restroom, a pay counter with a private office, and a walk-in refrigerator with private storage. The retail floor space is the only area accessible to patrons. The main entrance of the retail floor space is located on the west side of the building that faces South Myrtle Avenue. The retail floor space offers a wide variety of products that consists soft drinks, canned goods, over the counter medications, and small toiletries. The proposed floor plan indicates that a 216 square foot walk-in refrigerator will store all cold food and drink items which will be displayed from ten glass doors. The proposed location for the display of beer and wine is located in the south end of the building, furthest from the entrance to the convenience store.

The area occupied by the three coolers is approximately 19 square feet, or less than 1% of the total floor area of the convenience store. No more than three of the refrigerator display cases will be designated for the sale of beer and wine, as indicated on the proposed floor plan. The attached conditions of approval indicate the requirements for the type and size of alcohol to be sold. Condition No. 10 requires that bottles or cans of beer less than 32 ounces in size shall be sold only in six packs or greater. Additionally, single containers of beer sold shall not be less than 32 ounces in size. Condition No. 11 requires that No wine shall be sold in bottles or containers smaller than 750 ml except "wine coolers." Wine coolers shall only be sold in four packs or larger. Displaying or selling beer and wine from an ice tub is prohibited and shall be displayed away from the doors.

### **Conclusion**

The sale of beer and wine for off-site consumption will be incidental to the overall convenience store operation at the subject site. The convenience store would provide a wide range of products with less than 1% of the floor area designated for the sale of beer and wine. The ability to conduct retail sales of beer and wine will allow the business the same opportunity similar businesses have been approved for in the City. The proposed conditions of approval for sale of beer and wine for off-site consumption will ensure that the existing

convenience/service station will not negatively impact surrounding properties nor adversely affect the peace, health, safety and welfare of residents of the community.

**RECOMMENDATION:** Staff and the Development Review Committee (DRC) recommend approval of CUP2016-10. 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 CUP2016-10 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 CUP2016-10, which are incorporated herein by this reference.
4. The Planning Commission approves CUP2016-10, 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:**

**Approve CUP2016-10 pursuant to the recommendations in the Staff Report.**



# DATA SHEET 1

# Planning Conditions

CUP2016-10

1602 South Myrtle Avenue

The sale of alcoholic beverages (beer and wine) approved for this site must remain in substantial conformance at all times with the request and application forms and plans submitted by the applicant for CUP2016-10, allowing the sale of beer and wine (Type 20 ABC License) for off-site consumption at an existing convenience/service station, 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 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.
2. Alcohol sales shall be limited to the area designated on the approved floor plan.
3. 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.
4. All rooms, including office space, shall be available for inspection by the Police Department or other designated City officials during all open business hours to the extent allowed by law.
5. 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.
6. 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.
7. 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 be required to provide employees to pick-up and properly dispose of all litter.

8. All conditions set forth by ABC with regard to the "Off Sale Beer and Wine Sales Permit" shall be strictly adhered to. All requirements and appropriate licenses of the State of California and California State Department of Alcohol Beverage Control shall be complied with and maintained at all times. No alcohol is to be sold for the purpose of onsite consumption. Loitering, open containers, and other signs specified by Alcohol Beverage Control shall be posted as required.
9. Employees will verify that the sale of all alcoholic beverages are made to persons that are 21 years of age or older.
10. Bottles or cans of beer less than 32 ounces in size shall be sold only in six packs or greater. Single containers of beer sold shall not be less than 32 ounces in size.
11. No wine shall be sold in bottles or containers smaller than 750 ml except "wine coolers." Wine coolers shall only be sold in four packs or larger. Wine coolers shall not contain more than 10% alcohol by volume.
12. The sale of fortified wines shall be prohibited unless such wines have aged two or more years and are sealed in corked bottles.
13. The management and employees shall not sell alcoholic beverages to obviously intoxicated persons.
14. Sales of beer and wine shall be limited to the following hours of operation 6:00 AM to 12:00 AM 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.
15. The convenience store doors shall remain open (unlocked) between the hours of 6:00 a.m. to 10:00 p.m., daily. The convenience store doors shall remain locked between the hours of 10:00 p.m. and 6:00 a.m. daily. All sales transactions taking place between the hours of 10:00 p.m. and 6:00 a.m. shall be made using the "pass through window" only. The hours of operation of shall be posted in the front window or door.
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. Displaying or selling beer from an ice tub is prohibited.
18. Advertising alcoholic beverage products on the fuel islands, windows or the building is prohibited.
19. The exterior of the property and interior of the convenience store shall remain well-lit during all business hours.

20. Prominent, permanent signs stating: (1) "No loitering is allowed on or around these premises" and, (2) "No open alcoholic beverage containers are allowed on these premises" shall be posted in places clearly visible to patrons in common areas, immediate parking lots, courtyards and the entry breezeway. Prior to posting, all signs shall be submitted to the City for review and approval to ensure compliance with the Monrovia Municipal Code.
21. The owner and manager of the establishment shall be strictly accountable for compliance with each and every condition imposed as part of the CUP, whether or not the owner or manager is personally present at the location.
22. Any violation of these conditions of approval or the Monrovia Municipal Code may be subject to the Administrative Fine Ordinance, other available remedies and/or revocation or modification of this permit at the discretion of the City Attorney and City Prosecutor.
23. In addition to Planning (Data Sheet No. 1) conditions of approval, the Applicant shall also comply with all requirements of the Building Division, the Fire Department and the Police Department that are directly applicable to the project.
24. This CUP may be called for review, including modification or revocation, at any time by City Staff, the City Council, or Planning Commission if a violation of the approved conditions or the Monrovia Municipal Code (MMC) is alleged, or if it is alleged that the establishment, or its patrons, are creating a public nuisance, and such violation or public nuisance is verified as valid by the Police Department, Code Enforcement, or any other City department. In addition to any other remedy available to the City, security measures may be required such as adding an additional employee to monitor the area where problems are occurring.
25. Indemnification. As a condition of approval, Applicant agrees to defend, indemnify, protect and hold harmless City, its officers, officials, employees, agents and volunteers from and against any and all claims, suits, demands, actions, losses, damages, judgments, settlements, penalties, fines, defensive costs or expenses (including without limitation, interest, attorneys' fees and expert witness fees), or liability of any kind or nature arising out of or attributable to the acts or omissions of Applicant, or Applicant's officers, officials, employees, or agents which in any way arise out of, result from, or are in any way related to sale of alcoholic beverages at the property, excepting only liability arising out of the sole negligence or willful misconduct of City, its officers, officials, employees, agents, or volunteers. The City shall promptly notify the Applicant of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at Applicant's expense.
26. 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 CUP2016-10 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.

27. The Development Review Committee shall review each use permitted by this CUP one year from the date the use commences.
28. 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.
29. 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 2016-10 (Sale of Beer and Wine)**

As required by Section 17.52.290 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. 2016-10 to allow the sale of beer and wine for off-site consumption (Type 20 ABC License) at an existing convenience/service station located at 1602 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 beer and wine for off-site consumption at an existing convenience/service station. *The topography of this subject site is relatively flat. The proposed sale of beer and wine for off-site consumption will occupy the designated area within the 1,952 square foot remodeled convenience store.*
- 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 sale of beer and wine for off-site consumption at an existing convenience/service station. *The proposed use is located in an industrial area near residential development, which is suited to support these types of uses and traffic loads. The sale of beer and wine for off-site consumption is not expected to generate a significant increase in traffic. The site is access via four driveways and provides sufficient area onsite for vehicular and pedestrian circulation.*
- C. The proposed sale of beer and wine for off-site consumption at an existing convenience/service station is compatible with the General Plan, and will not adversely impact the objectives of the General Plan. *The project site is located the PD-12 (Planned Development Area 12) zone. The General Plan PD-12 Guidelines indicates that uses shall be subject to the provisions of the O/RD/LM (Office/Research and Development/Light Manufacturing) zone, where an automobile service station requires a CUP. Several conditions of approval have been incorporated to allow for inspection by the Police Department or other designated City officials during all open business hours to the extent allowed by the law.*
- D. The proposed off-site sales of beer and wine for off-site consumption at an existing convenience/service station 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 sales of alcohol will apply.*
- E. The proposed location of the existing convenience/service station with sale of beer and wine for off-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 sales of beer and wine for off-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. The floor area dedicated to the sale of beer and wine is limited to no more than 3 coolers located on the south side of the convenience store building. The proposed location for the sale of beer and wine is approximately 19 square feet or 0.97 percent of the 1,952 square foot convenience store.*

Further, as required by Section 17.44.025 of the Monrovia Municipal Code, the decision for granting Conditional Use Permit No. 2016-10 to allow the sale of beer and wine for off-site consumption (Type 20 ABC License) at an existing convenience/service station located at 1602 South Myrtle Avenue is based on the following findings:

- A. The proposed sale of beer and wine for off-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 establishment will operate by all conditions and appropriate licenses of the Department of Alcoholic Beverage Control (ABC) for the issuance of Type 20 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 sale of beer and wine for off-site consumption 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 sale of beer and wine for off-site consumption (Type 20 ABC License) at an existing convenience/service station 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 sale of beer and wine for off-site consumption will not create serious adverse impacts to the commercial district. *The sale of beer and wine at the existing convenience/service station will not create adverse impacts due to the conditions of approval recommended. The exterior of the premises shall be illuminated with sufficient lighting to easily discern the appearance and conduct of all persons on or about the establishment. Additionally, within forty-eight hours any graffiti painted or marked on the premises shall be eradicated.*
- D. The proposed sale of beer and wine for off-site consumption at an existing convenience/service station is adequately served by sufficient parking to serve the quantity of traffic such use generates. *The convenience/service station site provides a total of 18 parking spaces, which exceeds the minimum parking requirement by 3 spaces. The sale of beer and wine for off-site consumption is not expected to significantly increase the demand for on-site parking. The sale of beer and wine will be incidental to the overall operations of the existing business.*
- E. The proposed sale of beer and wine for off-site consumption at an existing convenience/service station will not be incompatible with the adjoining uses as it relates to noise, traffic, and hours of operation. *The sale of beer and wine is not expected to significantly increase noise, traffic or the hours of operation that may negatively impact the adjoining uses. The establishment shall provide signage stating that no loitering is allowed on or around the premises. The sale of beer and wine will be incidental to the wide range of products the convenience store offers.*
- F. The proposed sale of beer and wine for off-site consumption at an existing convenience/service station will not negatively impact nearby parks, schools, recreation centers, religious assembly facilities, and hospitals. *Adjacent properties and uses 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 the 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.*



# DATA SHEET 4

# Surrounding Land Uses

CUP2016-10

1602 South Myrtle Avenue

## Property Description:

Located on the southwest corner of South Myrtle Avenue and East Pomona Avenue. The lot measures approximately 160' of frontage on Myrtle Avenue and 153' of depth totaling 24,428 square feet in size. The parcel is developed with a service station building with a new 3-bay garage structure, two pump islands covered by a canopy and an above ground propane tank.

## Zoning

Subject site:

PD-12 (Planned Development Area 12) Zone Industrial Neighborhood

Surrounding pattern:

- north: PD-12 (Planned Development Area 12) Zone Eastern Gateway Neighborhood
- south: PD-12 (Planned Development Area 12) Zone Industrial Neighborhood
- east: PD-12 (Planned Development Area 12) Zone Industrial Neighborhood
- west: PD-12 (Planned Development Area 12) Zone Station Square North Neighborhood

## Land Use

Subject site:

Commercial Building

Surrounding pattern:

- north: Manufacturing and Residential
- south: Industrial/Manufacturing
- east: Industrial/Manufacturing
- west: Public Park-and-Ride Lot

Environmental Determination:

Categorical Exemption Class 1

Applicable Ordinance Regulations:

MMC 17.52.020 Planning Commission Authority for CUP

**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 CUP2016-10

**REQUEST:** Allow the sale of beer and wine for off-site consumption (Type 20 ABC License) at an existing convenience/service station in the PD-12 (Planned Development Area 12) zone.

**ENVIRONMENTAL DETERMINATION:** Categorical Exemption (Class 1)

**APPLICANT:** Field Myrtle Oil, Inc.

**PROPERTY ADDRESS:** 1602 South Myrtle Avenue

**DATE AND HOUR OF HEARING:** Wednesday, May 11, 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.

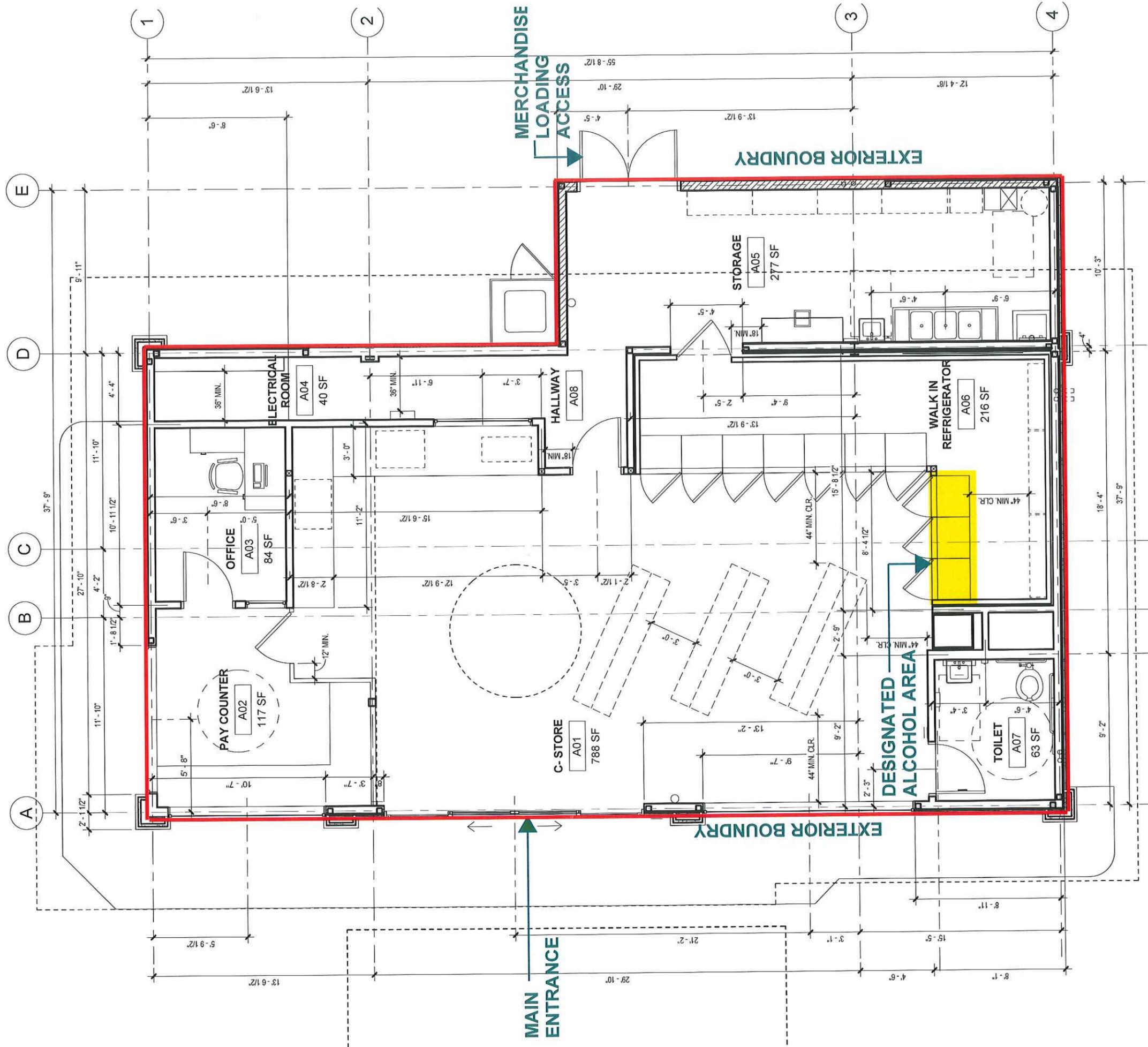
Staff Report pertaining to this item will be available on Thursday, May 5, 2016 after 4 p.m. at:  
Monrovia City Hall  
415 South Ivy Avenue  
Monrovia, CA 91016

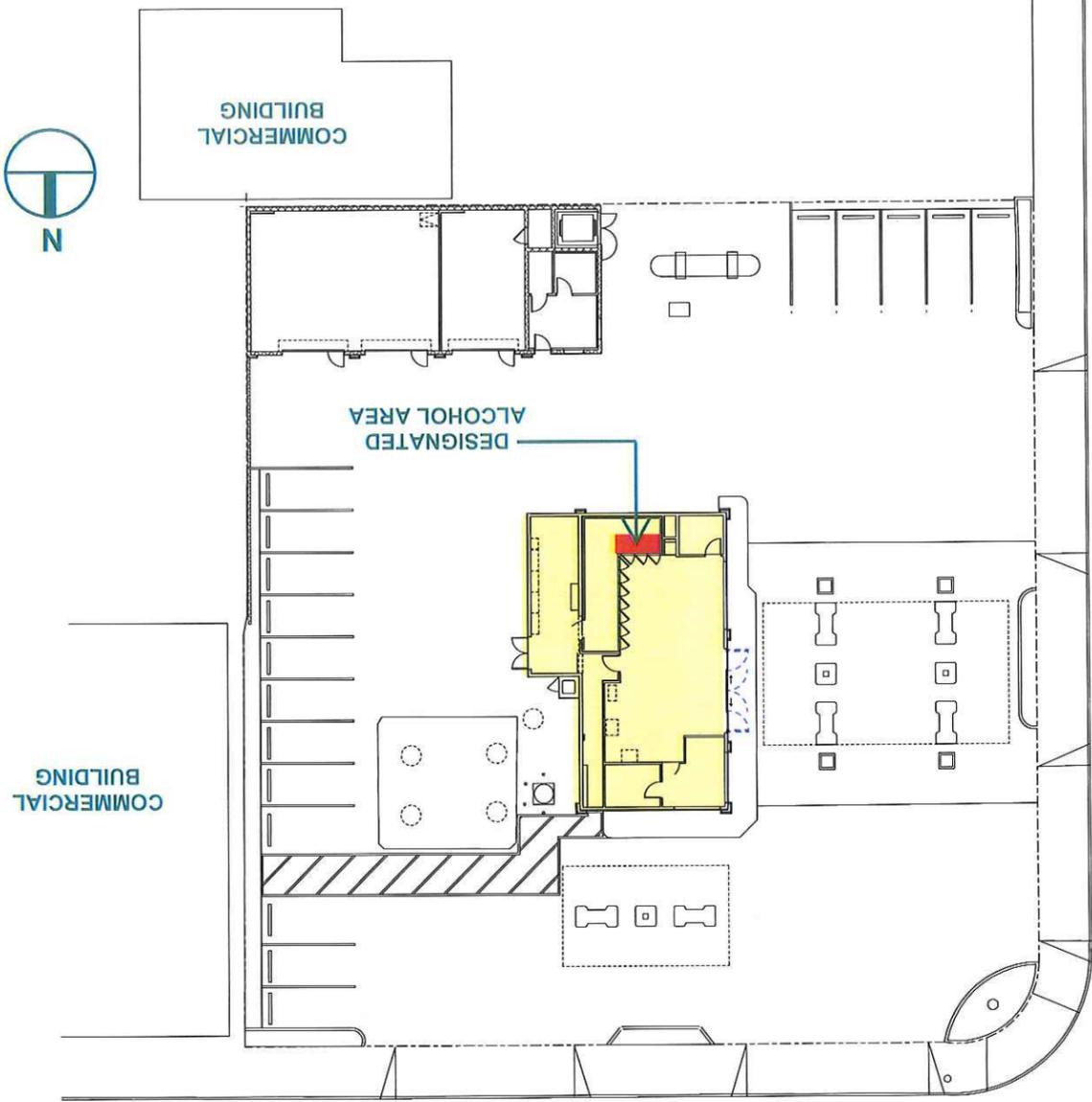
Este aviso es para informarle sobre una junta pública acerca de la propiedad indicada más arriba.

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 APRIL 28, 2016**





COMMERCIAL BUILDING

COMMERCIAL BUILDING

DESIGNATED ALCOHOL AREA

POMONA AVENUE

MYRTLE AVENUE

PARKING LOT

RESIDENTIAL BUILDING

RESIDENTIAL BUILDING

COMMERCIAL BUILDING

COMMERCIAL BUILDING