

1. Agenda For September 11, 2012

Documents: [9-11-12.PDF](#)

2. Item For September 11, 2012

Documents: [9-11-12 ITEM.PDF](#)



CITY OF MONTEREY PARK PLANNING COMMISSION AGENDA

REGULAR MEETING
CITY HALL—COUNCIL CHAMBERS
320 W. NEWMARK AVENUE
September 11, 2012
7:00 P.M.

Planning Commission

Michael Hamner, Chairperson
Larry Sullivan, Vice-Chair
Hans Liang
Peter Ruiz
Vacant

Staff

Jim Basham, Director of Community Development
Elizabeth M. Calciano, Assistant City Attorney
Samantha Tewasart, Associate Planner
Crystal Landavazo, Assistant Planner

CALL TO ORDER:

ROLL CALL:

ORAL AND WRITTEN COMMUNICATIONS:

The public may at this time address the members of the Planning Commission on any matters within the jurisdiction of the Planning Commission, prior to any action taken on the agenda. No action may be taken on off-agenda items except as authorized by law. Speakers are requested to limit their comments to no more than **five minutes** each.

If you would like to address the Planning Commission, please complete the **white speaker's card**. The card is available at the speaker's podium or from the Secretary. Please identify on the card your name, address and the item on which you would like to speak and return to the Secretary. The **speaker's card** assists the Chairperson in ensuring that all persons wishing to address the Commission are recognized. If you wish to speak on an agenda item, your name will be called at the time the matter is heard by Planning Commission.

AGENDA CHANGES AND ADOPTION:

APPROVAL OF MINUTES: None

PUBLIC HEARING:

UNFINISHED BUSINESS: None

NEW BUSINESS:

1. CONDITIONAL USE PERMIT – 2000 SOUTH ATLANTIC BOULEVARD (CU-12-06)

The applicant, Michael Liu, on behalf of Niko Niko Sushi, is requesting approval of a Conditional Use Permit to permit on-sale beer and wine (Type 41) in conjunction with a bona fide retail eating establishment in the S-C (Shopping Center) Zone.

ENVIRONMENTAL: The proposed project is categorically exempt in accordance with California Environmental Quality Act (CEQA) Guidelines § 15301 (Class 1 – Existing Facilities) as CEQA only applies to projects that have the potential to cause a significant effect on the environment. The project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving no expansion of the existing commercial building.

RECOMMENDATION: It is recommended that the Planning Commission 1) adopt the Resolution approving the requested Conditional Use Permit (CU-12-06), subject to conditions of approval contained therein; and 2) take such additional, related action that may be desirable.

ITEMS FROM COMMUNITY DEVELOPMENT:

ITEMS FROM THE COMMISSION:

ADJOURNMENT:

Next regular meeting on September 25, 2012, at 7:00 p.m.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, YOU SHOULD CONTACT CITY HALL, (626) 307-1359 OR TTD/TTY (626) 307-2540. PLEASE NOTIFY THE CITY CLERK'S OFFICE TWENTY-FOUR HOURS PRIOR TO THE MEETING SO THAT REASONABLE ARRANGEMENTS CAN BE MADE TO ASSURE ACCESSIBILITY TO THIS MEETING. STAFF REPORTS, WRITINGS, OR OTHER MATERIALS RELATED TO AN ITEM ON THIS AGENDA, WHICH ARE DISTRIBUTED TO THE PLANNING COMMISSION LESS THAN 72 HOURS BEFORE THIS SCHEDULED MEETING SHALL BE AVAILABLE FOR PUBLIC INSPECTION IN THE PLANNING DIVISION LOCATED AT 320 WEST NEWMARK AVENUE, MONTEREY PARK, CA 91754, DURING NORMAL

BUSINESS HOURS. SUCH STAFF REPORTS, WRITINGS, OR OTHER MATERIALS ARE ALSO ON THE CITY'S WEBSITE SUBJECT TO STAFF'S ABILITY TO POST THE MATERIALS BEFORE THE MEETING. THE CITY'S WEBSITE IS LOCATED AT [HTTP://WWW.CI.MONTEREY-PARK.CA.US](http://www.ci.monterey-park.ca.us).

APPROVED BY:

JIM BASHAM

A handwritten signature in black ink, appearing to read 'Jim Basham', is written over a rectangular box. The signature is stylized and cursive.



PLANNING COMMISSION STAFF REPORT

ITEM NUMBER

1

TO: Planning Commission

FROM: Director of Community Development

MEETING DATE: September 11, 2012

SUBJECT: PUBLIC HEARING
CONDITIONAL USE PERMIT (CU-12-06) TO PERMIT
ON-SALE ALCOHOLIC BEVERAGES (BEER AND
WINE) IN CONJUNCTION WITH A BONA FIDE
EATING ESTABLISHMENT

LOCATION: 2000 South Atlantic Boulevard

APPLICANT: Michael Liu
1163 N Kraemer Boulevard
Anaheim CA 92806

PROJECT PLANNER: Samantha Tewasart
Associate Planner

RECOMMENDATION: After holding the public hearing, 1) adopt the Resolution approving the requested Conditional Use Permit (CU-12-06) subject to conditions of approval contained therein; and 2) take such additional, related action that may be desirable.

ZONE: S-C (Shopping Center)

GENERAL PLAN DESIGNATION: Commercial

ASSESSORS PARCEL NUMBER: 5266-003-032

SITE DESCRIPTION:

Property Size: 226,948 sq ft (5.20 acres)

Surrounding Properties:

North:	S-C (Shopping Center); vacant commercial lot
South:	S-C (Shopping Center); commercial center
East:	R-1 (Single Family Residential); single family dwelling
West:	S-C (Shopping Center); commercial center

PROJECT SITE BACKGROUND/PAST CITY APPLICATIONS:

None

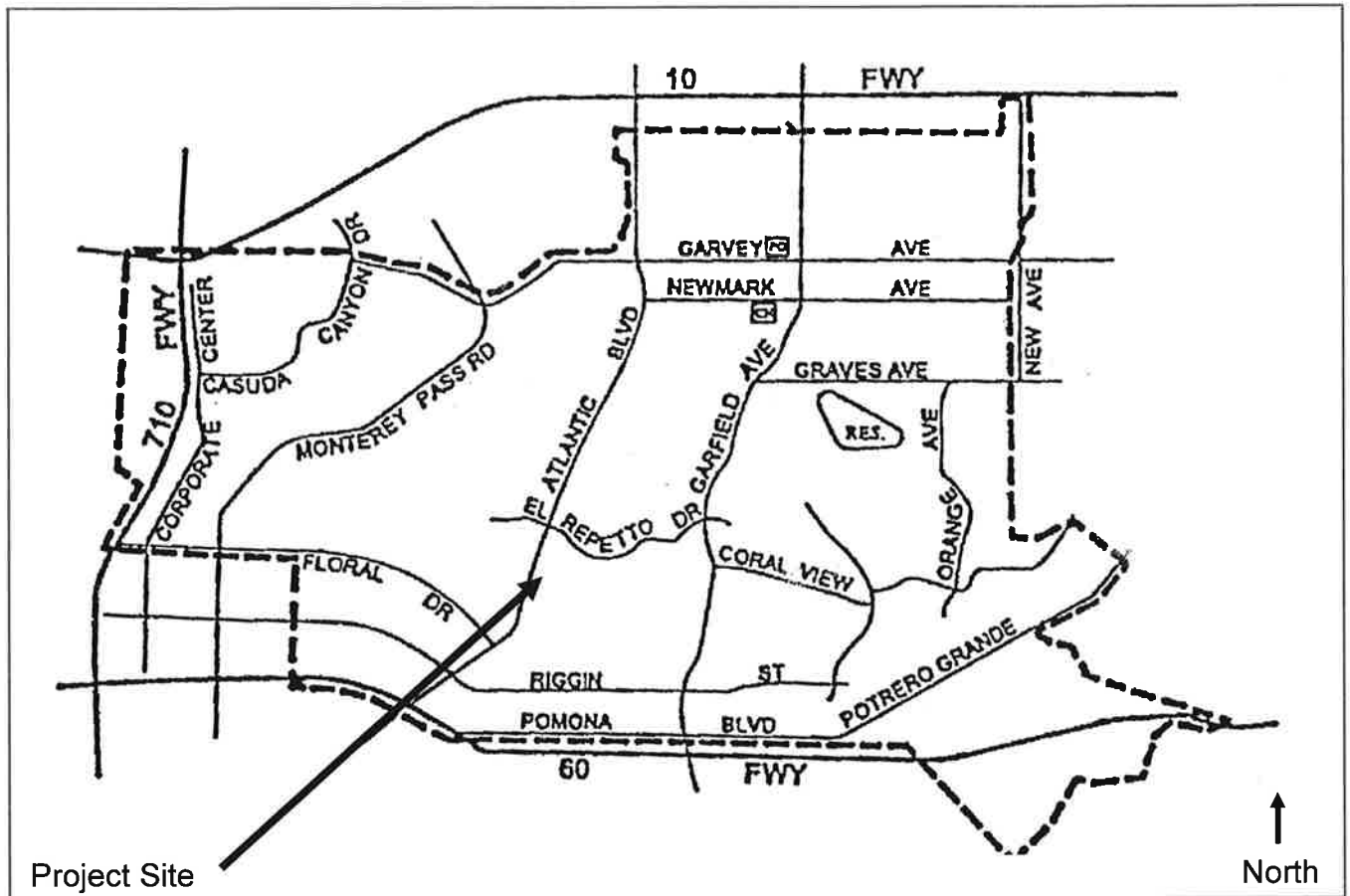
LEGAL NOTIFICATION:

The legal notice of this hearing was posted at the subject site, City Hall, Bruggemeyer Memorial Library, and Langley Center on **August 29, 2012**, with affidavits of posting on file. The legal notice of this hearing was mailed to **195** property owners within a 300 feet radius and current tenants of the property concerned on **August 29, 2012**.

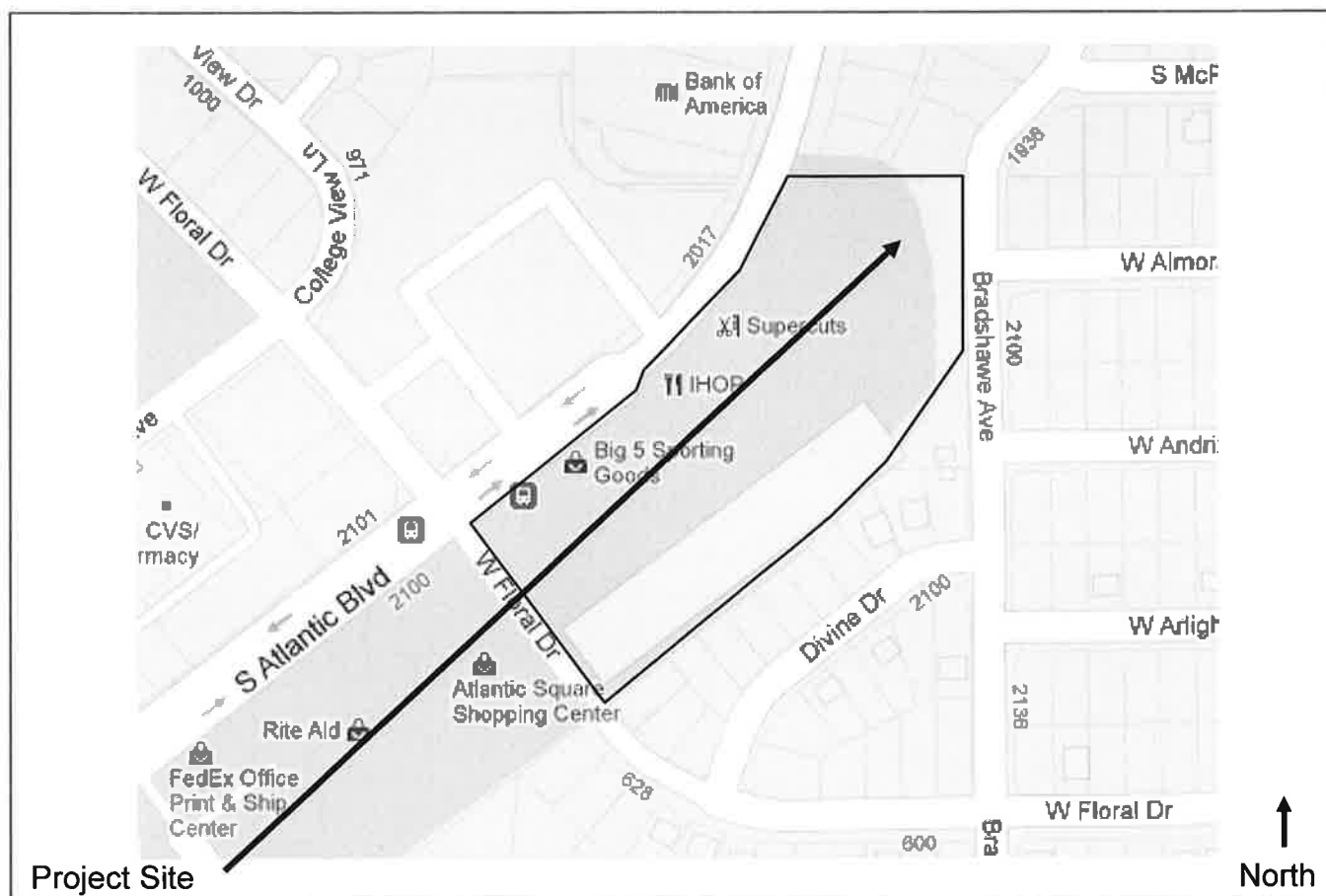
ENVIRONMENTAL ASSESSMENT:

This project was determined to be a Class 1 (Existing Facilities) Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act of 1970, as amended.

VICINITY MAP:



STREET MAP:



AERIAL MAP



ANALYSIS AND EVALUATION OF PROJECT:

The applicant, Michael Liu, on behalf of Niko Niko Sushi, is requesting approval of a Conditional Use Permit to allow on-sale of beer and wine (Type 41) in conjunction with a bona fide public eating place. The subject business is an existing eating place located on the east side of South Atlantic Boulevard, between Brightwood Street and Floral Drive. The lot is 226,948 square feet (5.20 acres) in area and is developed with a 73,938 square feet, one-story multi-tenant building. The subject unit is 3,647 square feet in area. The property is zoned S-C (Shopping Center) and designated Commercial in the General Plan. To the north, south, and west of the subject property are commercial uses and to the east are single-family dwellings.

According to the floor plan, less than half of the restaurant will be used for dining purposes. The remaining area includes the kitchen, restrooms, storage, employee break room, and the entry/waiting area. The restaurant will continue to serve lunch and dinner while maintaining their current hours of operation, seven days a week from 11:00 a.m. to 10:00 p.m. The serving of alcoholic beverages will complement the restaurant's meals. The

restaurant will have a sushi bar area and will not have a separate drinking bar area, nor is any entertainment proposed for the business.

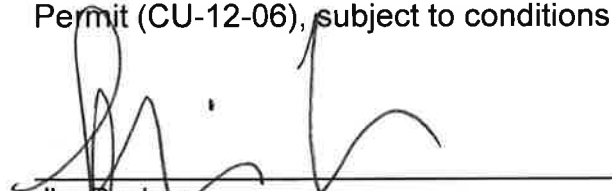
Based on a population of 4,295 in the census tract, the Department of Alcoholic Beverage Control (ABC) allows 4 on-sale licenses in the tract and currently licenses 5 establishments. New licenses that exceed the threshold are permissible with the adoption of a Public Convenience and Necessity (PCN). As an eating establishment, ABC assumes this responsibility and no action is required of the City in this regard other than as specified in the Municipal Code. Based on Staff's discussion with ABC, if the CUP is approved by the City, and because this is an eating establishment, ABC will issue the PCN as a matter of routine.

Pursuant to Section 21.52.080 of the Monterey Park Municipal Code, there are no distance requirements for on-sale alcoholic beverages when sold in conjunction with a bona fide retail eating establishment. However, on-sale uses must comply with the list of requirements specified in the Section 21.52.050 of the Monterey Park Municipal Code. Some of the requirements include limiting the exterior lighting of the parking area to intensities between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas and special security measures, such as security guards and alarm systems. Staff conducted a site inspection and found that the subject property has adequate exterior lighting attached to the front and rear building walls. The exterior lights provide lighting to the parking area. The existing exterior lights provide adequate lighting without disturbing the senior housing development to the north. The Police Department has included conditions numbers 21 through 30 in the Resolution to address security and alarm requirements.

This application is for a Type 41 on-sale license for the serving of beer and wine in conjunction with a bona fide public eating place. The applicant has clearly stated that they do not wish to provide entertainment uses, however if a request were to be submitted at any future date, the applicant would have to request a modification to the Conditional Use Permit.

CONCLUSION:

Staff recommends adopting the Resolution approving the requested Conditional Use Permit (CU-12-06), subject to conditions contained therein.



Jim Basham
Director of Community Development

Attachments:

1. Draft Resolution
2. Plans

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTEREY PARK, CALIFORNIA APPROVING CONDITIONAL USE PERMIT (CU-12-06) TO PERMIT ON-SALE ALCOHOLIC BEVERAGES (BEER AND WINE) IN CONJUNCTION WITH A BONA FIDE PUBLIC EATING PLACE AT 2000 SOUTH ATLANTIC BOULEVARD

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On July 18, 2012, Michael Liu, on behalf of Niko Niko Sushi, submitted an application, pursuant to Tile 21, Chapter 21.70 of the Monterey Park Municipal Code, requesting approval of Conditional Use Permit (CU-12-06) to permit on-sale alcoholic beverages (beer and wine) in conjunction with a bona fide public eating place at 2000 South Atlantic Boulevard, ("Project");
- B. The proposed Project was reviewed by the City of Monterey Park Development Services Department for, in part, consistency with the General Plan and conformity with the Monterey Park Municipal Code ("MPMC");
- C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines") and determined the proposed project to be exempt from environmental review pursuant to Section 15301 of the CEQA Guidelines which is a Class 1 (Existing Facilities) Categorical Exemption;
- D. The Development Services Department completed its review and scheduled a public hearing regarding the proposed Project, before the Planning Commission for September 11, 2012; notice of public hearing on such proposed Project was posted and mailed as required by the MPMC;
- E. On September 11, 2012, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed Project, including, without limitation, information provided to the Planning Commission by City staff and public testimony, and representatives of Michael Liu; and,
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its September 11, 2012 hearing including, without limitation, the staff report submitted by the Development Services Department.

SECTION 2: The Planning Commission hereby determines that Conditional Use Permit (CU-12-06) is **APPROVED**, subject to the Conditions listed in Section 3 below, based upon the following findings:

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1. That the proposed use complies with all requirements as set forth for the issuance of a conditional use permit.

The proposed use complies with all requirements for the issuance of the conditional use permit. First, the site is adequate in size, shape and topography for the proposed use because the proposed use is on-sale beer and wine service in conjunction with a retail eating place. No changes are proposed to the site. Second, the 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 proposed use. The site is accessible from South Atlantic Boulevard, a 100 foot wide right-of-way principal arterial street. The proposed use is not expected to significantly increase traffic. Third, the proposed use is deemed to be part of the general plan and shall subserve the objectives of the general plan and the zoning ordinance and conform thereto. The subject property is designated Commercial in the General Plan. The Commercial land use category provides opportunities for a broad range of retail and service commercial and professional office uses intended to meet the needs of the Monterey Park residents and businesses, as well as regional demand. The project site is also located in the South Atlantic Focus Area. According to the Focus Area, students from nearby East Los Angeles Community College help fuel restaurant and retail sales in the area. Given the success of South Atlantic, the City will continue the retail focus that attracts local and regional tax dollars. Goal 5.0 in the General Plan states to maintain South Atlantic Boulevard as a successful retail commercial destination. The proposed use is on-sale beer and wine in conjunction with a restaurant, which will add to the variety of uses offered in the South Atlantic Boulevard area and contribute to maintaining South Atlantic Boulevard as a successful retail commercial destination. The proposed use is the addition of beer and wine sales to accompany meals at an existing retail eating place. On-sale beer and wine services is permitted in the S-C (Shopping Center) Zone with Conditional Use Permit approval. Fourth, the proposed use, as conditioned, will not have an adverse effect on the use, enjoyment or valuation of property in the neighborhood as required security measures will minimize the potential for any negative impacts. Lastly, the proposed use will not have an adverse effect on the public health, safety, and general welfare because security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.

2. That the proposed use will not present problems, including, but not limited to, loitering, obstruction of pedestrian traffic, vehicular traffic, parking, crime interference with children on their way to school, interference with shoppers using streets, defacement and damage to structures.

The proposed use is on-sale beer and wine services in conjunction with a retail eating place. The property is developed with a one-story multi-tenant commercial building. There are 798 parking spaces provided on the property. The parking area is accessible from South Atlantic Boulevard. The nearest highway is the Pomona 60 Freeway located less than a mile north of the subject property. The Institute of Transportation

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Engineers does not distinguish between the classification of restaurants and restaurants with alcohol sales in the trip generation report, which indicates that trip generation is not significantly affected by the on-sale of alcoholic beverage uses. No changes are proposed to the existing layout as part of the proposed use. On-sale of alcoholic beverage uses is permitted with a conditional use permit.

3. That the proposed use will not lessen the suitability of any nearby commercially-zoned properties for commercial use.

The subject property is zoned S-C (Shopping Center). A retail eating establishment is a permitted principle use in the S-C Zone. Surrounding properties include S-C zoned lots to the north, south, and west and R-1 zoned lots to the east. The properties to the north and south are permitted to have a retail eating establishment use and to apply for a conditional use permit for on-sale beer and wine in conjunction with a bona fide public eating place. The suitability of any nearby commercial-zoned properties for commercial use will remain the same.

4. The use shall not adversely affect the welfare of area residents or result in undue concentration in the neighborhood of establishments dispensing alcoholic beverages including beer and wine. Consideration shall be given regarding whether the proposed use will detrimentally affect nearby residentially-zoned communities, considering distance to residential buildings, churches, schools, hospitals, public playgrounds and other establishments dispensing alcoholic beverages.

Based on a population of 4,295 in the census tract, the Department of Alcoholic Beverage Control (ABC) allows 4 on-sale licenses in the tract and currently licenses 5 establishments. New licenses that exceed the threshold are permissible with the adoption of a Public Convenience and Necessity (PCN). As an eating establishment, ABC assumes this responsibility and no action is required of the City in this regard other than as specified in the Municipal Code. Based on Staff's discussion with ABC, if the CUP is approved by the City, and because this is an eating establishment, ABC will issue the PCN as a matter of routine.

Pursuant to Section 21.52.080 of the Monterey Park Municipal Code, there are no distance requirements for on-sale alcoholic beverages when sold in conjunction with a bona fide retail eating establishment. However, on-sale uses must comply with the list of requirements specified in the Section 21.52.050 of the Monterey Park Municipal Code. Some of the requirements include limiting the exterior lighting of the parking area to intensities between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas and special security measures, such as security guards and alarm systems. Staff conducted a site inspection and found that the subject property has adequate exterior lighting attached to the front and rear building walls. The exterior lights provide lighting to the parking areas. The existing exterior lights provide adequate lighting without

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disturbing the senior housing development to the north. The Police Department has included conditions numbers 21 through 31 in the Resolution to address security and alarm requirements.

SECTION 3: The Planning Commission hereby determines that the approval of the Conditional Use Permit (CU-12-06) is subject to the following conditions:

PLANNING:

1. That the applicant and property owner and each successor in interest to the property which is the subject of this project shall defend, indemnify and hold harmless the City of Monterey Park and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or null any approval of the City, City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.
2. The project shall substantially conform to submitted plans date-stamped July 18, 2012 except as modified herein. Future modifications that are not in substantial conformance, as determined by the Planner, shall require modification of this approval subject to the provisions of MPMC Section 21.70.170.
3. The dining area shall not exceed fifty percent of the total unit area and 11 tables and 7 counter seats as indicated on the floor plan. Revisions to the floor plan shall be subject to the review and approval of the Planner.
4. Approval of this Conditional Use Permit shall be null and void if the use hereunder is not exercised by obtaining all necessary permits within one year. A single one-year extension may be approved by the granting body upon application, payment of fee, and finding of good cause.
5. The applicant/property owner shall establish and execute a monthly maintenance program that calls for the cleaning and deodorizing of the trash enclosure in a manner that does not violate NPDES regulations. The program shall be established in writing and a copy submitted to the City for review and approval. The program shall include any attachments such as a current contract for services to do such work.
6. The applicant/property owner shall establish and execute a maintenance program that calls for the cleaning of the grease interceptor in a manner that does not violate NPDES regulations. The program shall be established in writing and a copy submitted to the City's Fire and Development Services Departments for review and approval. The program shall include any attachment such as a current contract for services to do

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such work. The applicant/property owner shall submit to the City's Fire Department any confirmation of periodic clean out work and any annual inspection fee.

7. The applicant and property owner shall be responsible for maintaining the area adjacent to the business location and the site in general, including any parkways and alleys.
8. The property shall remain well maintained and free of graffiti. Failure of the applicant/property owner to remove graffiti within 24 hours written notice by the City shall authorize the City to remove or mask said graffiti at the cost of the applicant/property owner.
9. The applicant and property owner shall sign a notarized Affidavit of Acceptance of all conditions of approval and return it to the Planning Division within 30 days after the effective date of this approval.
10. A copy of the Conditions of Approval for the Conditional Use Permit must be kept on the premises of the establishment and presented to any authorized City official upon request.
11. The exterior lighting of the parking area shall be kept at an intensity of between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas.
12. The sale of alcoholic beverages for consumption off the premises shall be prohibited.
13. Food is required to be served at all hours that the establishment is open.
14. The applicant/owner of the establishment shall comply with all state requirements. The applicant must obtain and maintain a valid Alcoholic Beverage License for On-Sale Beer and Wine – Eating Place. All conditions of the Alcoholic Beverage Control license must be maintained at all times and failure to do so will be grounds for revocation.
15. The quarterly gross sales of alcoholic beverages shall be required to not exceed the gross sales of food during the same period.
16. There shall be no exterior advertising of any type including advertising directed to the exterior within, promoting or indicating the availability of alcoholic beverages.
17. The service of alcohol is intended for consumption with food service only. Therefore, no separate bar area is permitted.
18. No entertainment uses, including but not limited to karaoke, dancing, or live music, shall be permitted at this location unless a modification to the Conditional Use Permit is approved for such use.

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19. The business must obtain a rating of a minimum of "B" or higher in the County of Los Angeles Health Department letter grade restaurant health inspection rating system within 6 months from the effective date of this Resolution. Failure to achieve or maintain this rating shall constitute grounds for potential revocation of this Conditional Use Permit for beer and wine sales at a bona fide eating establishment.

LICENSING

20. Additional business license fees must be paid upon approval of license from Alcoholic Beverage Control (ABC) pursuant to MPMC Section 5.12.230 (29)(B)

POLICE

21. The sale of alcoholic beverages for consumption off the premise is prohibited.
22. Food service shall be required at all hours that the establishment is open for business.
23. The restaurant shall have security video cameras operating during all hours that the business is open. All cameras must record onto a videotape or similar recording device. The recordings of the security video cameras shall be maintained for a minimum period of 30 days, and the recordings must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras shall be located to cover the main areas that are accessible to the public and all areas of the cash register/cashier and all areas where cash is stored. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the manager/owner of the business must comply with the request within 7 days. The Chief of Police can also require the position of the video cameras to be changed if it is determined that the position of the camera does not meet security needs. The manager/owner of the business must comply with the request within 7 days. The picture quality of the video cameras and recording devices installed on the complex must meet the approval of the Chief of Police.
24. All conditions of the Alcoholic Beverage Control Board must be adhered at all times.
25. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period.
26. There shall be no exterior advertising of any type including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
27. The applicant/operator shall be responsible for maintaining, free of litter, the area adjacent to the premises which they operate.
28. If three or more substantiated complaints within any one year period are received by the Monterey Park Police Department regarding disturbances caused by patrons of the

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restaurant (whether inside or within close proximity of the restaurant), revocation proceedings will be initiated by the City.

29. The restaurant shall not be used as a place of entertainment unless such application is approved by the City.
30. The restaurant shall be equipped with an alarm system that covers break-ins and robberies. The alarm must be monitored by an alarm monitoring company who will notify the Monterey Park Police of any break-ins or robberies. Employees must have access to a hidden button that will trigger a silent alarm, notifying the alarm monitoring company that a robbery is taking place. The restaurant manager/owner will obtain an alarm permit from the Monterey Park Police Department. The permit be my obtained by calling the Monterey Park Police Community Relations Bureau at (626) 307-1215.

SECTION 4: *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 5: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 6: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 7: This Resolution will remain effective until superseded by a subsequent resolution.

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SECTION 8: The Secretary shall certify to the adoption of this Resolution and forward a copy hereof to the City Council.

ADOPTED AND APPROVED this 11th day of September 2012.

Chairperson Michael Hamner

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 11th day of September 2012, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Jim Basham, Staff Liaison
Director of Community Development

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: _____
Elizabeth M. Calciano,
Assistant City Attorney