

CITY OF MONTEREY PARK
PLANNING COMMISSION AGENDA

REGULAR MEETING
Monterey Park City Hall Council Chambers
320 West Newmark Avenue
Monterey Park, CA 91754

TUESDAY
APRIL 22, 2014
7:00 PM

MISSION STATEMENT

**The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.**

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 are available for public inspection in the City Clerk's Office 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://ci.monterey-park.ca.us/home/index.asp>. Copies of staff reports and/or written documents pertaining to any item on the Agenda are on file in the Community and Economic Development Department – Planning Division and are available for public inspection during regular business hours.

PUBLIC COMMENTS ON AGENDA ITEMS

For members of the public wishing to address the Planning Commission regarding any item on this Agenda, including Oral Communications, please fill out a speaker card and return it to Planning staff before the announcement of the Agenda Item.

Speakers are provided five (5) minutes per individual on each published agenda item. Individual speakers may consolidate time with another speaker's time; the total consolidated time cannot exceed two (2) minutes per speaker giving up time. However in the interest of ensuring that all members of the Public have an equal opportunity to participate, a single speaker cannot speak for more than ten (10) minutes on an individual Agenda item. If there are a large number of speakers on a particular agenda item, the Chairperson, as confirmed by the Planning Commission, may reduce the amount of time allotted to each speaker or limit the total amount time allowed for speakers to address the agenda item. At the conclusion of that period of time, the speaker will be asked to please conclude their remarks so that the next speaker may begin their comments.

In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall, (626) 307-1359. Please notify the Community and Economic Development Department twenty-four hours prior to the meeting so that reasonable arrangements can be made to ensure availability of audio equipment for the hearing impaired. Council Chambers are wheelchair accessible.

CALL TO ORDER – Chairperson Larry Sullivan

ROLL CALL – Commissioners Choi, Hamner, Garcia and Lam

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

ORAL AND WRITTEN COMMUNICATIONS

MINUTES – March 25, 2014

[1.] PUBLIC HEARINGS

1-A. TENTATIVE MAP NO. 071737 – 608 NORTH HUNTINGTON AVENUE (PM-12-02)

The applicant, Ben Kwok, is requesting approval for a subdivision of air rights to establish and maintain a two-unit condominium project at 608 North Huntington Avenue in the R-2 (Medium Density Residential) Zone.

The Project is categorically exempt from the requirements of CEQA pursuant to CEQA Guidelines § 15315 Class 15 categorical exemption (Minor Land Divisions). The project consists of a tentative map to allow for the subdivision of air space for separate ownership of each of the four units. The property will remain as one lot.

It is recommended that the Planning Commission consider taking the following actions:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the attached Resolution approving Tentative Map No. 071737 (PM-12-02), subject to conditions contained therein; and
- (5) Taking such additional, related, action that may be desirable.

1-B. CONDITIONAL USE PERMIT – 220 WEST GARVEY AVENUE (CU-14-01)

The applicant, Steven Chen, is requesting approval to allow on-sale beer and wine (Type 41) in conjunction with a retail eating establishment at 220 West Garvey Avenue in the C-B, P-D (Central Business, Planned Development) Zone.

The Project is categorically exempt from the requirements of CEQA pursuant to CEQA Guidelines § 15301 (Existing Facilities).

It is recommended that the Planning Commission consider taking the following actions:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving the requested Conditional Use Permit (CU-14-01) subject to conditions of approval contained therein; and
- (5) Take such additional, related, action that may be desirable.

[2.] UNFINISHED BUSINESS

[3.] NEW BUSINESS

[4.] COMMISSION COMMUNICATIONS AND MATTERS – Commissioner Choi requested to discuss the matter of expanding the public notification radius from the current State requirement of 300 feet (Government Code § 65091(4)) to 500 feet.

[5.] CLOSED SESSION

ADJOURN

APPROVED BY:

MICHAEL A. HUNTLEY	
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Planning Commission Staff Report

DATE: April 22, 2014

AGENDA ITEM NO: 1-A

TO: The Planning Commission
FROM: Michael A. Huntley, Community and Economic Development Director
SUBJECT: A Public Hearing to consider Tentative Map No. 071737 (PM-12-02) to subdivide air rights to establish and maintain a two-unit condominium project in the R-2 (Medium Density Residential) zone – 608 North Huntington Avenue.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the attached Resolution approving Tentative Map No. 071737 (PM-12-02), subject to conditions contained therein; and
- (5) Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The applicant, Ben Kwok, is requesting approval of a tentative map for the subdivision of air rights to establish and maintain a two-unit condominium project at 608 North Huntington Avenue. The subject property is zoned R-2 (Medium Density Residential), has a lot area of 10,386 square feet, and has a lot width is 50 feet and the depth is 207.73 feet.

Per R-2 zoning standards, a maximum building density of 1 unit per 4,356 square feet of lot area applies to this property. The property owner is permitted to build up to two units on the property. The property owner proposes to maintain the two new residential units currently under construction on the property and subdivide the air rights for condominium purposes. Under California law, a tentative map is required to allow the subdivision of air space for separate ownership of each of the units.

The two new residential units under construction are two-stories with four bedrooms. The front unit is 2,367 square feet and the rear unit is 2,351 square feet. The dwelling units will meet the required setbacks of 25 feet for the front and rear yards, 5 feet for the first floor side yard, and 10 feet for the second floor side yard. Each unit is two-stories, with a maximum height of 26 feet.

According to Monterey Park Municipal Code (MPMC) § 21.22.050, condominium units with four or more bedrooms require 2 enclosed garage spaces, plus 1 guest parking per 1 dwelling unit. Overall, 4 enclosed garage spaces and 2 guest parking spaces are required. Each unit will have a three-car garage plus three guest parking spaces that will be shared by both units, exceeding the off-street parking requirement. The driveway has a width of 18 feet, and each parking space has a back-up space of 26 feet. Each enclosed parking space is required to have a minimum width of 9 feet, and a minimum depth of 20 feet.

Per MPMC § 21.08.080(O), the minimum usable open space area required for units over 800 square feet is 600 square feet, or 1,200 square feet total for this project. The front and rear units have approximately 1,535 square feet of total usable open space. Private open space is provided adjacent to each unit with the front unit's open space area in the front yard and the rear unit's open space in the rear yard. The minimum private open space area required is 250 square feet. The front unit will have approximately 290 square feet of private open space and the rear unit will have approximately 375 square feet of private open space. The private and usable open space total provided is in excess of the minimum requirements. The common open space area will be maintained by a Homeowner's Association ("CC&Rs") that must be recorded.

This proposal will allow for the subdivision of air rights for condominium purposes only. The project is in compliance with residential development standards.

OTHER ITEMS:

Legal Notification

The legal notice of this hearing was posted at the subject site, City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **March 5, 2014** and published in the Monterey Park Progress on **March 5, 2014**, with affidavits of posting and publication on file. The legal notice of this hearing was mailed to **75** property owners within a 300 foot radius and current tenants of the property concerned on **March 5, 2014**.

Environmental Assessment

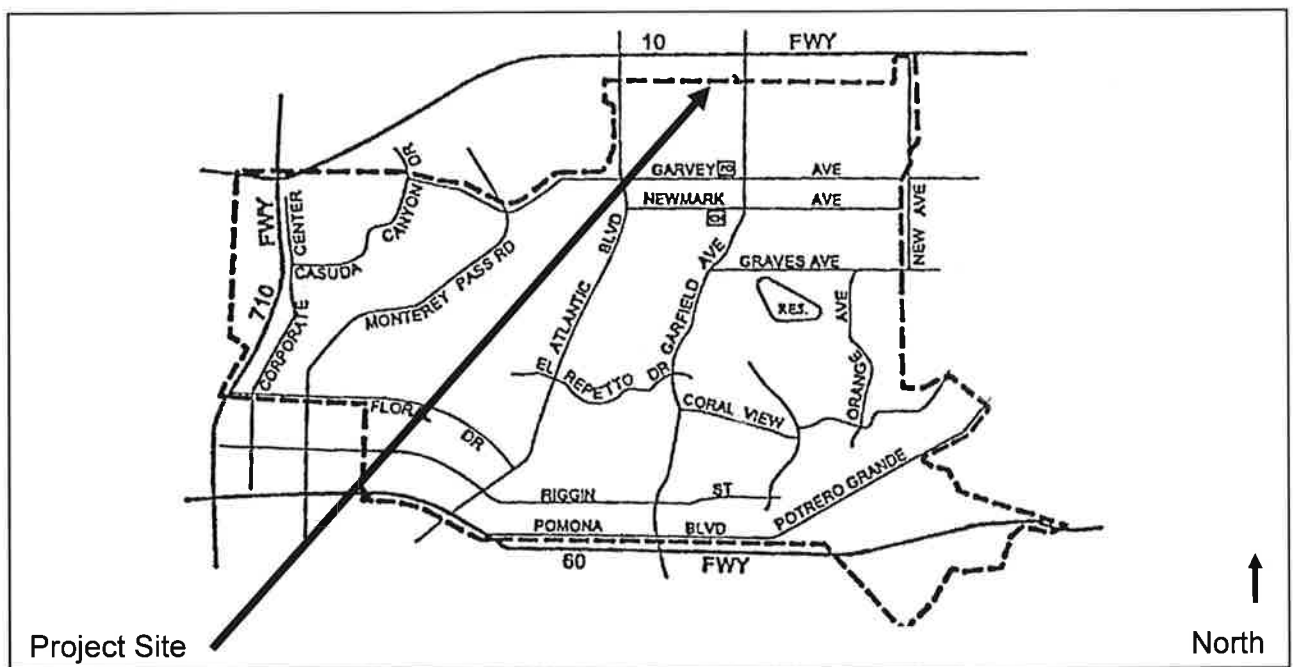
Pursuant to the guidelines of the California Environmental Quality Act (CEQA), the project is categorically exempt from additional CEQA review pursuant to CEQA Guidelines § 15315, Class 15 (Minor Land Subdivisions) because the project consists of the division of property in an urbanized area that is zoned for residential use into four or fewer parcels. The project conforms with the General Plan because according to the Land Use Element, the Medium Density Residential land use category provides for moderate density housing either as attached or detached units at a density range of 0 to 16 units per acre. The project is the subdivision of air rights to establish and maintain a two-unit condominium development. The project is consistent with the zoning because the project complies with all the building standards set forth in the Monterey Park

Municipal Code. No variances or exceptions are required for this project, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The subject property is relatively flat.

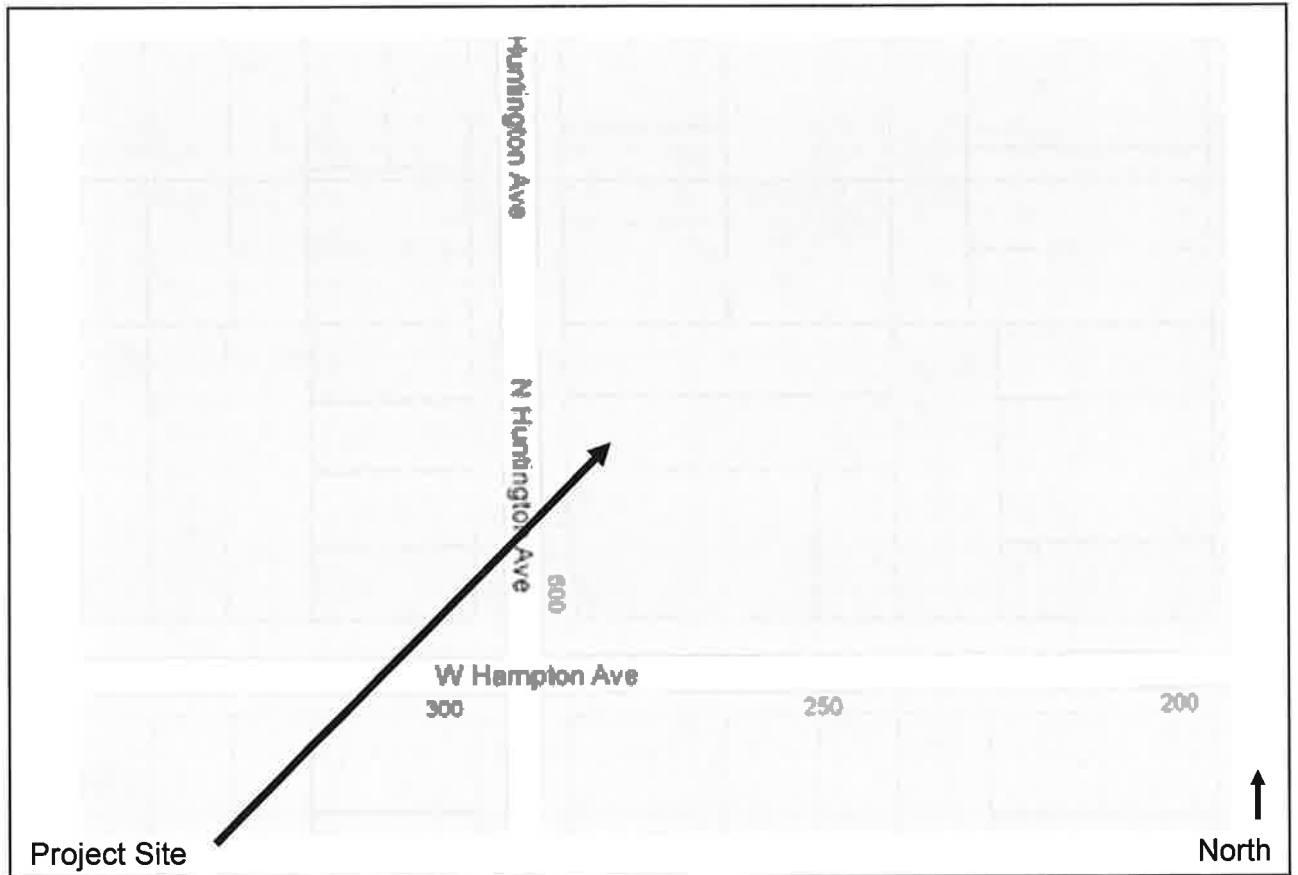
General Plan Consistency

The proposed subdivision is consistent with the City's General Plan because the project is a two-unit condominium development, which is compatible with the moderate density housing allowed in the Medium Density Residential land use category. The subject property is proposed to be developed at a maximum density of 10 dwelling units per acre, which will not exceed the maximum allowed standard of 16 dwelling units per acre for Medium Density Residential areas.

Vicinity Map



Street Map



Aerial Map



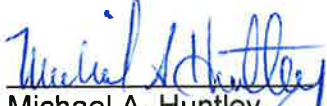
ALTERNATIVE COMMISSION CONSIDERATIONS:

None.

FISCAL IMPACT:

No fiscal impacts.

Respectfully submitted,


Michael A. Huntley
Community and Economic
Development Director

Staff Report
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Prepared by:


Samantha Tewasart
Senior Planner

Reviewed by:


Karl H. Berger
Assistant City Attorney

Attachments:

- Exhibit A: Draft Resolution
- Exhibit B: Site, floor, and elevation plans
- Exhibit C: Tentative Parcel Map No. 071737

EXHIBIT A

Draft Resolution

EXHIBIT B

Site, floor, and elevation plans

EXHIBIT C

Tentative Parcel Map No. 071737

RESOLUTION NO.

A RESOLUTION APPROVING TENTATIVE MAP NO. 071737 (PM-12-02) TO SUBDIVIDE AIR RIGHTS FOR A TWO-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT AT 608 NORTH HUNTINGTON AVENUE

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

SECTION 1: The Planning Commission finds and declares that:

- A. On March 28, 2012, Ben Kwok submitted an application pursuant to Title 20 of the Monterey Park Municipal Code ("MPMC"), requesting approval of Tentative Map No. 071737 (PM-12-02) to subdivide air rights to establish and maintain a two-unit condominium project at 608 North Huntington Avenue ("Project");
- B. The proposed Project was reviewed by the Community and Economic Development Department for, in part, consistency with the General Plan and conformity with the 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");
- D. The Community and Economic Development Department completed its review and scheduled a public hearing regarding the proposed Project, before the Planning Commission for April 22, 2014. Notice of the public hearing on the proposed Project was posted and mailed as required by the MPMC;
- E. On April 22, 2014, 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 Ben Kwok; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its April 22, 2014 hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant seeks to subdivide the air rights for condominium purposes;
- B. 608 North Huntington Avenue is zoned R-2 (Medium Density Residential) and designated Medium Density Residential in the General Plan;
- C. The Project property is located on the east side of North Huntington Avenue. To the north, south, east and west of the subject property are residential uses;

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- D. The Project property is 10,386 square feet (0.24 acres) in area and is currently being developed with two new residential dwelling units.

SECTION 3: *Environmental Assessment.* Because of the facts identified in Section 2 of this Resolution, the Project is categorically exempt from the requirements of CEQA pursuant to CEQA Guidelines § 15315 as a Class 15 categorical exemption (Minor Land Divisions). The project consists of the division of property in an urbanized area that is zoned for residential use into four or fewer parcels. The project conforms with the General Plan because, according to the Land Use Element, the High Density Residential land use category allows a broad range of dwelling unit types which may be attached or detached. The residential units consist typically of apartments, condominiums, and townhomes built at a maximum density of 25 units per acre. The project is the subdivision of air rights to establish and maintain a three-unit condominium development. The project is consistent with the zoning. No variances or exceptions are required for this project, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The subject property is relatively flat.

SECTION 4: *Tentative Map Findings.* The Commission finds as follows pursuant to Government Code § 66474 and MPMC Title 20:

1. The proposed map is consistent with applicable general and specific plans as required by Government Code § 66473.5. The proposed Tentative Map is consistent with the City's General Plan in that the subject property is proposed to be developed at a maximum density of 10 dwelling units per acre, which will not exceed the maximum allowed standard of 16 dwelling units per acre for medium density residential uses. The property is located on North Huntington Avenue, a local street with a 50-foot right-of-way, which is adequate in size and capacity to accommodate the anticipated traffic that will be generated by the proposed development. There is no specific plan adopted for this area.
2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. The design of the proposed subdivision is consistent with the General Plan in that the project is a two-unit condominium project, which is compatible with the medium density housing either attached or detached allowed in the high density residential category. There is no specific plan adopted for this area.
3. The site is physically suitable for the type of development and the proposed density of the development. The size of the property is 10,386 square feet (0.24 acres) and adequate in size to accommodate a two-unit condominium project because in the R-2 Zone, one dwelling unit is allowed for every 4,356 square feet of lot area on lots of 9,000 square feet or more and having a front lot line of at least fifty feet.
4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife

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or their habitat. The subject property is bordered by residentially developed lots to the north, south, east, and west. There are no rare plants, wild animals nor cultural, historical or scenic aspects within the surrounding area.

5. The design of the subdivision or the type of improvements is not likely to cause serious public health problems. The proposed subdivision will not cause any public health problems in that the subject development will be constructed according to all City, State, and Federal regulations and specifications.
6. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within proposed subdivision. There are no public easements for access within the proposed development.

SECTION 5: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Tentative Map No. 071737 (PM-12-02).

SECTION 6: *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 7: *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 8: *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 9: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 10: A copy of this Resolution will be mailed to Ben Kwok and to any other person requesting a copy.

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SECTION 11: This Resolution may be appealed within nineteen (19) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 12: Except as provided in Section 9, this Resolution is the Planning Commission's final decision and will become effective immediately upon adoption.

ADOPTED AND APPROVED this 22nd day of April 2014.

Chairperson Larry Sullivan

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 22nd day of April 2014, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Michael A. Huntley, Secretary

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

By: _____
Karl H. Berger,
Assistant City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

608 NORTH HUNTINGTON AVENUE

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Ben Kwok agrees that he will comply with the following provisions as conditions for the City of Monterey Park's approval of Tentative Map No. 071737 (PM-12-02) ("Project Conditions").

PLANNING:

1. Ben Kwok (the "Applicant"), agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of PM-12-02 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of PM-12-02, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.
2. The tentative map expires twenty-four months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of three, one year, extensions may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the Community and Economic Development Department.
3. All conditions of approval must be listed on the plans submitted for plan check and on the plans for which a building permit is issued.
4. The real property subject to PM-12-02 must remain well-maintained and free of graffiti.
5. Landscaping/irrigation must be maintained in good condition at all times.
6. A final map must be approved and recorded before the City issues a certificate of occupancy.
7. The units must not be sold until after recordation.

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8. All enclosed garage spaces must be used for off-street parking only. There cannot be any personal storage or conversion of this space that would prevent the parking of vehicles in the enclosed garage. This condition must be included in the conditions, covenants and restrictions ("CC&Rs") recorded for this property.

ENGINEERING:

9. The applicant must record the Final Map after the City Council approves the final map and the City Council accepts any applicable bonds or agreements. A refundable \$191 cash deposit must be submitted to guarantee that developer will provide the City with one (1) transparent 4 mil thick mylar tracing, one (1) electronic file of approved final map tracings transferable to City's AutoCAD and GIS systems and two (2) blueprints of the recorded map which must be filed with the City Engineer's Office within three (3) months of recordation. If recorded copy is not submitted by the end of the three-month time period, developer will forfeit the \$191 cash deposit.
10. The applicant/property owner must provide written proof that there are no liens against the subdivision for unpaid taxes or special assessments and submit Los Angeles County tax bill, tax payment receipt, and copy of cancelled check before filing a Final Map with the City for approval.
11. The developer/owner is responsible for paying all applicable City development impact fees as required by the MPMC.
12. A homeowner's association must be established.
13. Covenants Conditions & Restrictions must be prepared and filed with the City to obtain City Attorney and the City Engineer approval. Developer/owner is responsible for securing the CC&R guidelines from the Office of the City Engineer. A copy of the recorded CC&Rs must be submitted before final inspection and clearance of the building permit. The applicant must pay for the City's costs associated with reviewing the CC&Rs including, without limitation, legal costs.
14. All improvement plans, including grading and public improvement plans must be based upon City approved criteria. Benchmark references to be obtained from the Engineering Division.
15. The applicant must provide survey monuments denoting the new property boundaries and lot lines to the satisfaction of the City Engineer. All maps must be prepared from a field survey. Compiled maps are not permitted unless prior approval is granted by the City Engineer. Whenever possible, lot lines must be located to coincide with the top of all man-made slopes. Any deviation from this requirement must be approved by the City Engineer.

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16. All storm drainage facilities serving the development must accommodate a 50 year storm. If existing storm drain facilities are inadequate they must be enlarged as necessary. All storm drain facilities must be designed and constructed to Los Angeles County Department of Public Works standards and specifications and also the satisfaction of the City Engineer before the City approves grading and drainage plans.
17. Any damage done to existing street improvements and utilities during construction must be repaired before the City issues certificates of occupancy. Pre-existing damaged, deteriorated, substandard or off-grade curb, gutter, driveways and sidewalk must be repaired or replaced to the satisfaction of the City Engineer.
18. All public works improvements must comply with the standards and specifications of the City and to the satisfaction of the City Engineer. All public works improvements must be completed and accepted by the City or a public works improvement guarantee and agreement posted before final map approved by the City Council.
19. Modify and/or correct the tentative map in accordance with the adopted conditions of approval of the tentative map and also in accordance with the specific criteria noted by the City Engineer verify and submit correct drainage pattern of adjacent property.
20. The City reserves the right to restrict driveway access to and from the project in the event future traffic conditions warrant such restricted turn movements.

FIRE:

21. When security gates are provided, maintain a minimum access width of 20 feet. The security gates must be provided with an approved means of emergency operations, and must be maintained operation at all times. Electric gate operators, where provided, must be listed in according with UL325. Gates intended for automatic operation must be designed, constructed and installed to comply with the requirements of ASTM F220 per CFC § 503.6. Indicate the access width of the security gates on the site plan. means for emergency operation, and the requirement that it be maintained at all times.
22. Manually operated gates and barriers must have a weather resistant Knox-key box. The key box must be placed four to five feet above the roadway surface at the right side of the access gate in a conspicuous location that is readily and visibly accessible. The key box must be clearly labeled "FIRE DEPT" per CFC § 506.
23. Electrically operated gates and barriers must have an operable Knox-key switch. The key switch must be placed between 42 inches and 48 inches above the

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roadway surface at the right side of the access gate within two feet of the edge of the roadway. The key switch must be readily visible and unobstructed from the fire land leading to the gate. The key must be clearly labeled "FIRE DEPT" per CFC § 506 and Appendix D.

24. Gate and barrier locks must be reviewed and approved before installation on any new and/or existing access gate or barrier. Authorization/order forms for Knox products may be obtained through the Monterey Park Fire Department Fire Prevention Division at (626) 307-1308 per CFC § 506 and Appendix D.
25. Provide approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE. Signs must be provided for fire apparatus access roads, to clearly indicate the entrance to such road, or prohibit the obstruction thereof, as required per CFC Appendix D. Provide a note on the site plan and show the location of each "Fire Lane – No Parking Sign" and the dimensions of the roadway width.
26. Minimum road widths must be measured from top face of curb for standard vertical curbs or flow line to flow line for rolled, ramped, or other curb types. Parking prohibited on roadway less than 28 feet and the roadway is required to be posted as a fire lane. If roadway is at least 28 feet but less than 36 feet, parking is permitted on one side only and roadway is required to be posted as a fire lane. If roadway is 36 feet or wider, parking will be permitted on both sides. Indicate roadway width and the requirement that it be maintained at all times.

POLICE:

27. Adequate exterior lighting must be provided so that the units are visible from the street during the hours of darkness.
28. The shrubbery on the property must be installed and maintained in such condition to permit good visibility of the units from the streets. Any shrubbery surrounding the complex and in the courtyard areas must be planted and maintained where the height of the greenery would not easily conceal persons.
29. The driveway leading into the complex must be constructed and maintained in such a condition that traffic is easily visible to those entering or leaving the location.

By signing this document, Ben Kwok, certifies that the Applicant read, understood, and agrees to the Project Conditions listed in this document.

Ben Kwok, Applicant



Planning Commission Staff Report

DATE: April 22, 2014

AGENDA ITEM NO: 1-B

TO: The Planning Commission
FROM: Michael A. Huntley, Community and Economic Development Director
SUBJECT: A Public Hearing to Consider a Conditional Use Permit (CU-14-01) to permit on-sale beer and wine in conjunction with a bona fide retail eating establishment – 220 West Garvey Avenue.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving the requested Conditional Use Permit (CU-14-01) subject to conditions of approval contained therein; and
- (5) Take such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The applicant, Steven Chen, is requesting approval of a Conditional Use Permit to allow on-sale beer and wine (Type 41) in conjunction with a retail eating establishment (i.e., Younique Café) at 220 West Garvey Avenue. The property is zoned C-B, P-D (Central Business, Planned Development) and is designated Mixed-Use I in the General Plan. The subject property is located on the south side of West Garvey Avenue, two lots east of Ramona Avenue. The lot is 34,718 square feet in size, and is currently developed with a one-story, multi-tenant commercial building. Building 1 is 7,224 square feet and made up of 8 units; building 2 is 2,508 square feet and made up of 3 units; building 3 is 3,923 square feet and made up of 5 units; and building 4 is 4,615 square feet and is made up of 1 unit. The commercial center was originally approved as a 16 unit retail center with one restaurant. The project site has 80 parking stalls located below grade. To the north, south, east and west are commercially zoned properties.

According to the floor plan, the subject unit is 3,727 square feet. The dining area is comprised of 6 tables and 29 fixed booths. The remaining area includes the kitchen, service area, restrooms, and an employee locker room. The restaurant will continue to serve lunch and dinner while maintaining its current hours of operation, seven days a week from 10:00 a.m. to 3:00 p.m. and 6:00 p.m. to 10:00 p.m. The serving of alcoholic beverages will complement the restaurant's meals. No separate bar area is indicated on

the floor plan of the restaurant, nor is any entertainment proposed for the business. On-site parking is located at a subterranean parking level with ingress and egress provided at two separate driveways accessible from Garvey Avenue.

Based on a population of 1,061 in the census tract, the Department of Alcoholic Beverage Control (ABC) allows 3 on-sale licenses in this census tract and currently licenses 4 establishments. New licenses that exceed the threshold are permissible with the adoption of a finding of 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 Monterey Park Municipal Code. Based on Staff's discussion with ABC, if the CUP is approved by the City, and because this is a bona fide eating establishment, ABC will issue the PCN as a matter of routine.

According to MPMC § 21.10.230(G), 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 MPMC § 21.10.230(C). 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 interior walkway building walls. The existing exterior lights provide adequate lighting without disturbing the adjacent properties.

The Police Department has included condition numbers 23 through 32 in the Resolution to address security and alarm requirements. The Police Department will monitor the subject property relative to safety items such as hours of operation, whether complaints are received, and alcohol must be served along with food only.

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 it does 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.

OTHER ITEMS:

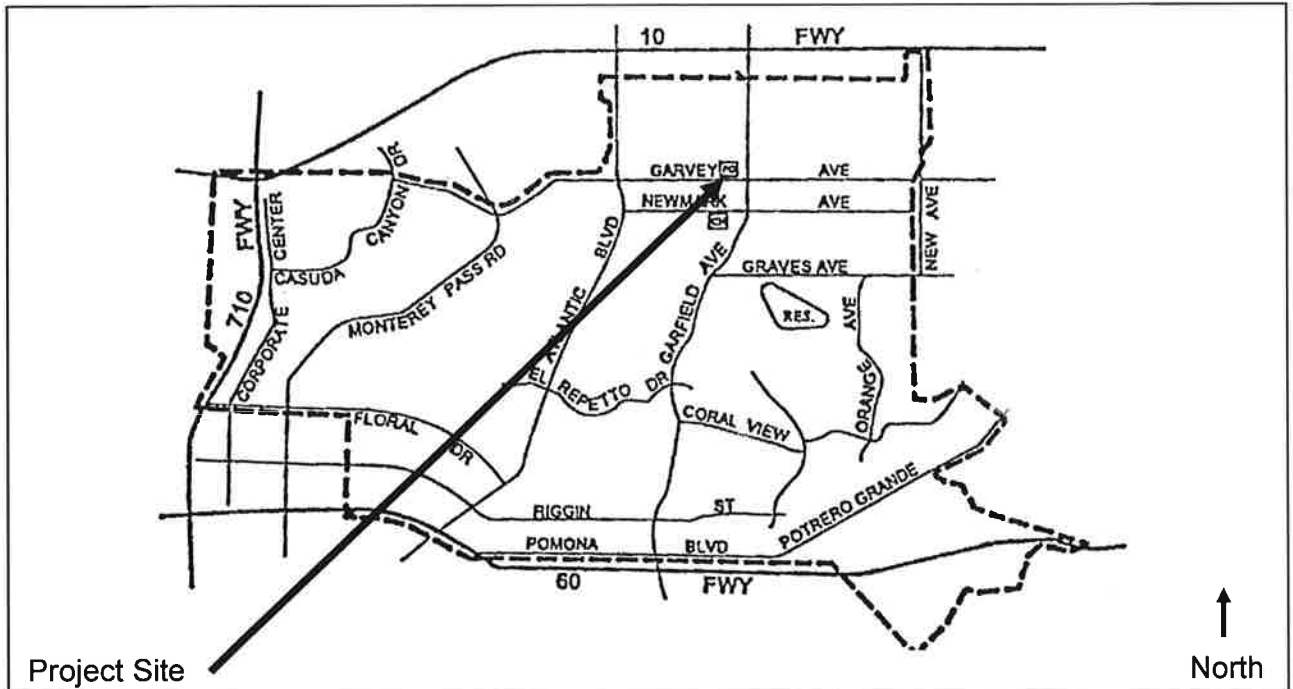
Legal Notification

The legal notice of this hearing was posted at the subject site, City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **April 9, 2014**, with affidavits of posting on file. The legal notice of this hearing was mailed to property owners within a 300 foot radius and current tenants of the property concerned on **April 9, 2014**.

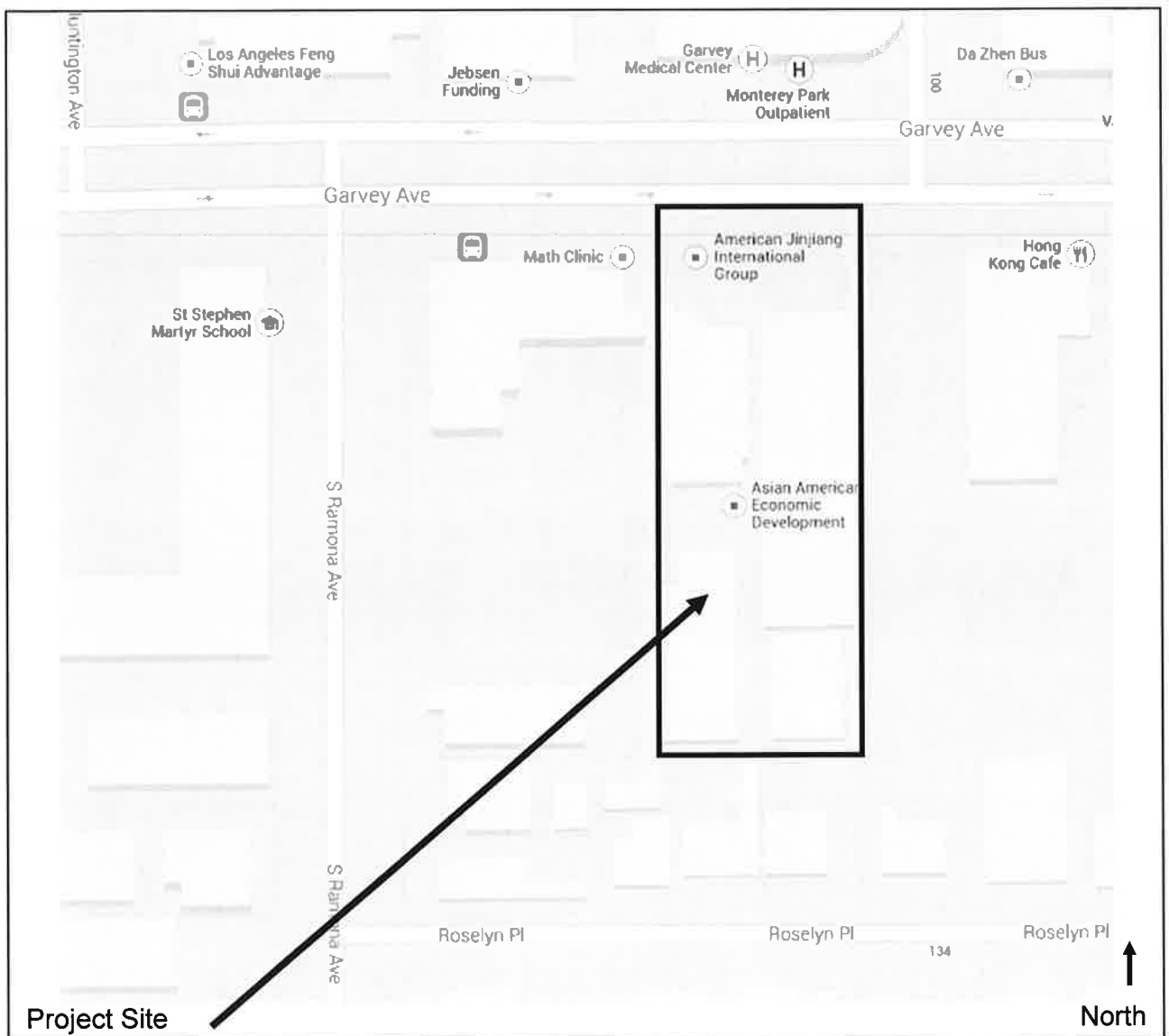
Environmental Assessment

This project was determined to be a Class 1 (Existing Facilities) Categorical Exemption pursuant to CEQA Guidelines § 15301.

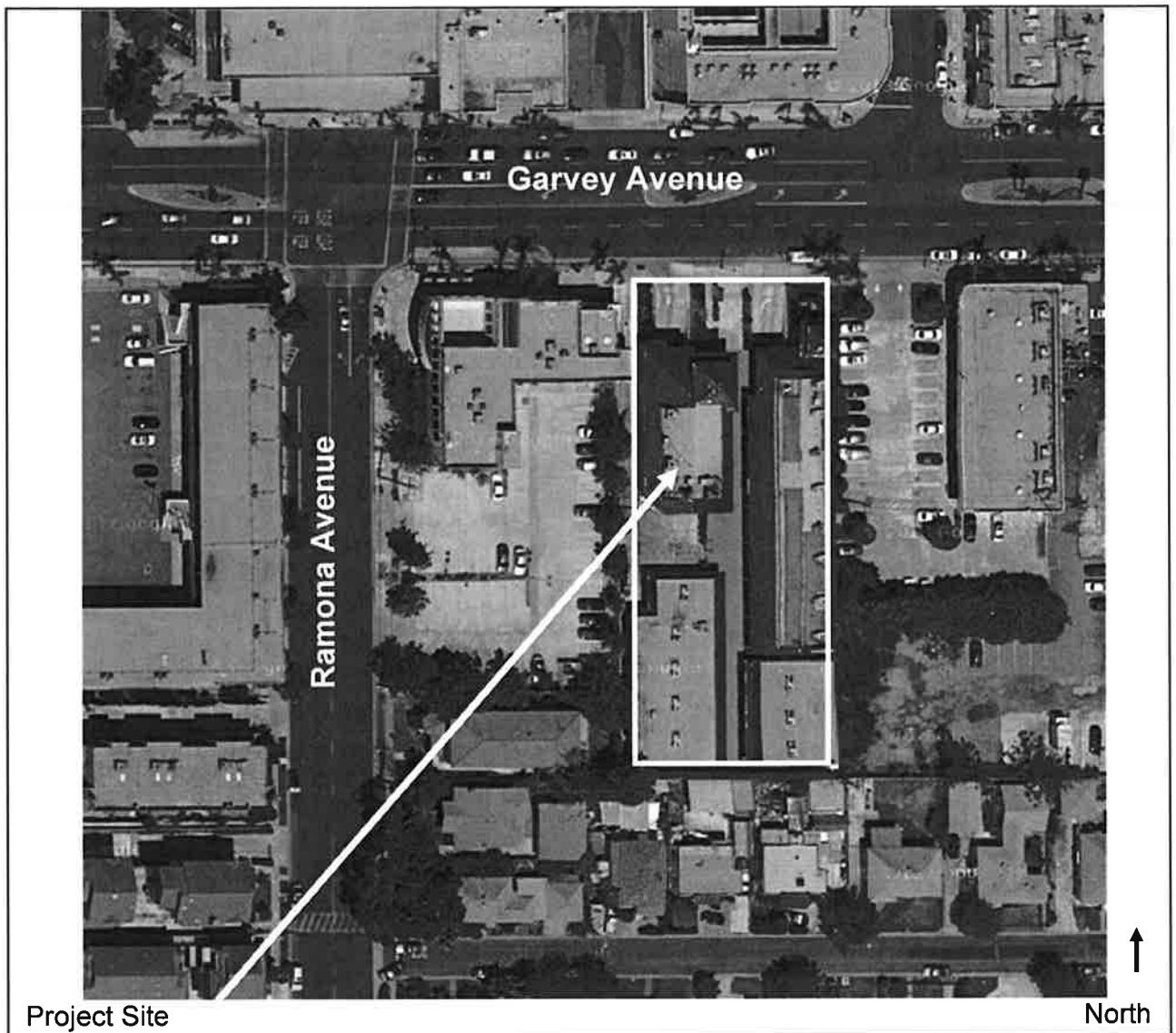
Vicinity Map



Street Map



Aerial Map



ALTERNATIVE COMMISSION CONSIDERATIONS:

None.

FISCAL IMPACT:

No fiscal impacts.

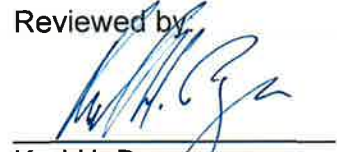
Respectfully submitted,


Michael A. Huntley
Community and Economic
Development Director

Prepared by:


Samantha Tewasart
Senior Planner

Reviewed by:


Karl H. Berger
Assistant City Attorney

Attachments:

- Exhibit A: Draft Resolution
- Exhibit B: Site, floor, and elevation plans

EXHIBIT A

Draft Resolution

EXHIBIT B

Site, floor, and elevation plans

RESOLUTION NO.

A RESOLUTION APPROVING CONDITIONAL USE PERMIT (CU-14-01) TO PERMIT ON-SALE ALCOHOLIC BEVERAGES (BEER AND WINE) IN CONJUNCTION WITH A BONA FIDE PUBLIC EATING ESTABLISHMENT AT 220 WEST GARVEY AVENUE

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

SECTION 1: The Planning Commission finds and declares that:

- A. On March 11, 2014, Steven Chen, on behalf of the property owner, submitted an application, pursuant to Monterey Park Municipal Code ("MPMC") §§ 21.10.230 and 21.30.020, requesting approval of Conditional Use Permit (CU-14-01) to permit on-sale alcoholic beverages (beer and wine) in conjunction with a bona fide public eating establishment at 220 West Garvey Avenue, ("Project");
- B. The proposed Project was reviewed by the City of Monterey Park Community and Economic Development 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 Community and Economic Development Department completed its review and scheduled a public hearing regarding the proposed Project, before the Planning Commission for April 22, 2014; notice of public hearing on such proposed Project was posted and mailed as required by the MPMC;
- E. On April 22, 2014, 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 Steven Chen; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its April 22, 2014 hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant seeks to serve beer and wine in conjunction with an existing retail eating establishment;

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RESOLUTION NO.
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- B. 220 West Garvey Avenue is zoned C-B, P-D (Central Business, Planned Development) and designated Mixed-Use I (MU-I) in the General Plan;
- C. The Project property is located on the south side of West Garvey Avenue. To the north, east and west of the subject property are commercial uses and south are residential uses; and
- D. The Project property is 34,718 square feet (0.80 acres) in area and is currently developed with a one-story, multi-tenant commercial building.

SECTION 3: *Environmental Assessment.* Because of the facts identified in Section 2 of this Resolution, the Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines §§ 15301 (Existing Facilities).

SECTION 4: *Conditional Use Permit Findings.* Pursuant to MPMC §§ 21.10.030 and 21.32.020, the Planning Commission finds as follows:

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 the addition of beer and wine sales to an existing restaurant. 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 West Garvey Avenue, a 100 foot wide right-of-way minor 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 serves objectives of the general plan and the zoning regulations and conforms thereto. The subject property is designated Mixed-Use I in the General Plan. The Mixed-Use I land use category applies both to Downtown and the North Atlantic area and provides opportunities for complementary service and retail commercial businesses, professional offices, and residential uses to locate within the City's core business districts. The proposed use is the addition of beer and wine sales to accompany meals at an existing retail eating establishment. On-sale alcoholic beverage sales are permitted in the C-B, P-D (Central Business, Planned Development) 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.

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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 the addition of on-sale beer and wine in conjunction with an existing restaurant. The property is developed with a 34,718 square feet, one-story multi-tenant building. There are 80 parking spaces provided on the property. The parking areas are accessible from West Garvey Avenue. The nearest highway is the Interstate 10 Freeway located less than a mile north of the subject property. The Institute of Transportation Engineers does not distinguish a difference 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 C-B, P-D (Central Business, Planned Development). A retail eating establishment is a permitted principle use in the C-B Zone. Surrounding properties include C-B zoned lots to the north, east and west and an R-3 zoned lot to the south. The properties to the north, east and west 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 establishment. The suitability of any nearby commercial-zoned properties for commercial use will remain the same.

4. The use does 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.

Based on a population of 2,551 in the census tract, the Department of Alcoholic Beverage Control (ABC) allows 2 on-sale licenses in the tract and currently licenses 13 establishments. New licenses that exceed the threshold are permissible with the adoption of a finding of 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 MPMC. Based on Staff's discussion with ABC, if the CUP is approved by the City, and because this is a bona fide eating establishment, ABC will issue the PCN as a matter of routine.

According to MPMC § 21.10.230(G), 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 MPMC § 21.10.230(C). Some of the requirements include limiting the

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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 interior walkway building walls. The existing exterior lights provide adequate lighting without disturbing the adjacent properties. The Police Department has included conditions numbers 23 through 32 in the Resolution to address security and alarm requirements.

SECTION 5: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Conditional Use Permit (CU-14-01).

SECTION 6: *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 7: *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 8: *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 9: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 10: A copy of this Resolution will be mailed to Steven Chen and to any other person requesting a copy.

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SECTION 11: This Resolution may be appealed within nineteen (19) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 12: Except as provided in Section 9, this Resolution is the Planning Commission's final decision and will become effective immediately upon adoption.

ADOPTED AND APPROVED this 22nd day of April 2014.

Larry Sullivan, Chairperson

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 22nd day of April 2014, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Michael A. Huntley, Secretary

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

By:

Karl H. Berger,
Assistant City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

220 WEST GARVEY AVENUE

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Bih-Chung Yang, Kao-Chang Yang, and Kao-Ping Yang agree that he will comply with the following provisions as conditions for the City of Monterey Park's approval of Conditional Use Permit (CU-14-01) ("Project Conditions").

PLANNING:

1. Steven Chen (the "Applicant"), agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of CU-14-01 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of CU-14-01, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.
2. This approval is for the project as shown on the plans reviewed and approved by the Planning Commission and on file. Before the City issues a building permit, the Applicant must submit plans, showing that the project substantially complies with the plans and conditions of approval on file with the Planning and Building and Safety Divisions. Any subsequent modification must be referred to the Director of Community and Economic Development for a determination regarding the need for Planning Commission review and approval of the proposed modification.
3. The conditional use permit expires twelve months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of a year extension may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the Community and Economic Development Department.
4. All conditions of approval must be listed on the plans submitted for plan check and on the plans for which a building permit is issued.

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5. Before building permits are issued, the applicant must obtain all the necessary approvals, licenses and permits and pay all the appropriate fees as required by the City.
6. Building permits are required for any interior tenant improvements.
7. Landscaping/irrigation must be installed and maintained in good condition at all times.
8. The applicant and property owner are responsible for maintaining the area adjacent to the business location and the site in general, including any parkways and alleys.
9. The property must 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.
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 must 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 applicant/owner of the establishment must 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.
13. The service of alcohol is intended for consumption with food service only. Therefore, no separate bar area is permitted.
14. No entertainment uses including, without limitation, karaoke, dancing, or live music, are permitted at this location unless a modification to the Conditional Use Permit is approved for such use.

LICENSING:

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

POLICE:

16. The sale of alcoholic beverages for consumption off the premise is prohibited.

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17. Food service must be required at all hours that the establishment is open for business.
18. The restaurant must 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 must 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 must 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.
19. All conditions of the Alcoholic Beverage Control Board must be adhered to at all times.
20. The quarterly gross sales of alcoholic beverages cannot exceed the gross sales of food during the same period.
21. The manager/owner is responsible for maintaining the property free of litter and graffiti.
22. Three or more complaints substantiated by City staff within any one year period[HOW IS THIS CALCULATED?] regarding disturbances caused by patrons of the restaurant (whether inside or within close proximity of the restaurant) provides grounds for the City to revoke this Conditional Use Permit.
23. The restaurant must 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 may be obtained by calling the Monterey Park Police Community Relations Bureau at (626) 307-1215.
24. If the establishment may be open for business past midnight (12:01 a.m.), the restaurant will employ one licensed security guard to remain on the premises during the hours of 6:00 p.m. to closing. The security guard will cooperate with the Police Department in any official police investigations or other related