

**PLANNING COMMISSION OF MONTEREY PARK
AGENDA**

**REGULAR MEETING
Monterey Park City Hall Council Chambers
320 West Newmark Avenue**

**Tuesday
March 12, 2019
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.**

Documents related to an Agenda item are available to the public in the Community and Economic Development Department – Planning Division located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at www.montereypark.ca.gov.

PUBLIC COMMENTS ON AGENDA ITEMS

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Board Chair and Board Members may change the amount of time allowed for speakers.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER

Chairperson

FLAG SALUTE

Chairperson

ROLL CALL

Delario Robinson, Theresa Amador, Ricky Choi, Eric Brossy De Dios, and Margaret Leung

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS. While all comments are welcome, the Brown Act does not allow the Commission to take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

[1.] PRESENTATIONS – None

[2.] CONSENT CALENDAR – None

[3.] PUBLIC HEARING

3-A. CONDITIONAL USE PERMIT (CU-18-07) TO ALLOW ON-SALE (TYPE 41 – BEER AND WINE) LICENSE FOR A BONA FIDE PUBLIC EATING PLACE AT 301 NORTH GARFIELD AVENUE SUITE D

It is recommended that the Planning Commission:

- (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 (CUP-18-07), subject to conditions of approval contained therein; and
- (5) Taking such additional, related, action that may be desirable.

California Environmental Quality Act (CEQA):

The proposed project is categorically exempt from the provision of the California Environmental Quality Act (CEQA) per State CEQA guidelines CEQA Guidelines § 15301 (Class 1 – Existing Facilities), because the project consists of a use permit for the sale of alcoholic beverages at an existing private establishment. The addition of alcohol sales at an existing establishment is a negligible expansion of an existing use beyond that which currently exists. It can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed project will have a significant adverse effect on the environment. The project does not propose any physical improvements to the site or any physical changes to the existing building.

3-B. CONDITIONAL USE PERMIT (CU-18-06) TO ALLOW A MESSAGE BUSINESS AT 523 SOUTH ATLANTIC BOULEVARD #C

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 (CUP-18-06), subject to conditions of approval contained therein; and
- (5) Taking such additional, related, action that may be desirable.

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), per CEQA Guidelines § 15301 (Class 1 – Existing Facilities), because the project entails the leasing of tenant space within an existing private structure and involves a negligible or no expansion of use beyond that which currently exists. It can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed project will have a significant adverse effect on the environment. The project does not propose any physical improvements to the site or any physical changes to the existing building.

[4.] OLD BUSINESS - None

[5.] NEW BUSINESS - None

[6.] COMMISSION COMMUNICATIONS AND MATTERS

[7.] STAFF COMMUNICATIONS AND MATTERS

ADJOURN

Next regular scheduled meeting on March 26, 2019.

APPROVED BY:

MICHAEL A. HUNTLEY	
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Planning Commission Staff Report

DATE: March 12, 2019

AGENDA ITEM NO: 3-A

TO: The Planning Commission
FROM: Michael A. Huntley, Community and Economic Development Director
SUBJECT: A Public Hearing to Consider a Conditional Use Permit (CU-18-07) to permit on-sale (Type 41 beer and wine) license for a bona fide public eating place – 301 North Garfield Avenue Suite D.

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 (CUP-18-07), subject to conditions of approval contained therein; and
- (5) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act)

The proposed project is categorically exempt from the provision of the California Environmental Quality Act (CEQA) per State CEQA guidelines CEQA Guidelines § 15301 (Class 1 – Existing Facilities), because the project consists of a use permit for the sale of alcoholic beverages at an existing private establishment. The addition of alcohol sales at an existing establishment is a negligible expansion of an existing use beyond that which currently exists. It can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed project will have a significant adverse effect on the environment. The project does not propose any physical improvements to the site or any physical changes to the existing building.

EXECUTIVE SUMMARY:

The Applicant is requesting approval of a Conditional Use Permit to allow on-sale beer and wine (Type 41 license) in conjunction with the operation of an existing bona fide public eating place located at 301 North Garfield Avenue Suite D. Staff finds that the proposed use permit for the sale of alcoholic beverages at an existing an existing bona fide public eating place is consistent with the City's Municipal Code and the General Plan and recommends approval of Conditional Use Permit (CUP-18-07), subject to the conditions contained in the Resolution.

BACKGROUND AND DISCUSSION:

Ms. Mei Ying Tian of Yunnan Restaurant ("Applicant") is requesting approval of a Conditional Use Permit to allow on-sale beer and wine (Type 41 license) in conjunction with the operation of an existing bona fide public eating place located at 301 North Garfield Avenue Suite D. The property is zoned C-B, P-D (Central Business, Planned Development) and is designated Mixed-Use I (MU-I) in the General Plan. The project is also located in Business Improvement District No. I (Downtown).

Yunnan Restaurant is currently operational and is located in the Garfield Center complex. The Garfield Center complex is located on the northwest corner of North Garfield Avenue and Garcelon Avenue and is surrounded to the north, south, east and west by other commercial uses. It is a completely built-out 32,264 square foot lot (0.74 acres) currently developed with a 9,417 square foot, one-story multi-tenant commercial building (its tenants include a restaurant, bakery, pharmacy and retail store). The Garfield Center is accessible from both N. Garfield and Garcelon and includes 53 on-site parking spaces.

Yunnan Restaurant is 5,120 square feet; the dining area is less than one-half (1,670 square feet) of the restaurant. The interior dining area is made up of four 6-seat circular tables, seven 4-seat rectangular tables, and 11 booth seats. The remaining area includes the kitchen service area, storage and restrooms. No separate bar area is indicated on the floor plan of the restaurant.

In 2014, Yunnan Restaurant was issued Conditional Use Permit (CU-14-05) which allowed on-sale beer and wine at the property under a Type 41 alcohol license; however, it did not complete its application with the Department of Alcohol Beverage Control ("ABC") before CU-14-05 became null and void in 2015 from lack of use.¹ Therefore, in order to permit on-sale beer and wine at Yunnan Restaurant, a new Conditional Use Permit is required.

Pursuant to the ABC, a Type 41 license authorizes the sale of beer and wine for consumption on or off the premises where sold; distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes); and minors are allowed on the premises. Furthermore, a Type 41 licensee must operate and maintain the premises as a "bona fide eating place," must maintain suitable kitchen facilities and must make actual and substantial sales of meals for consumption on the premises. A "bona fide eating place" is defined by the Business and Professions Code as a restaurant maintained in good faith and used for the regular service of an assortment of foods commonly ordered at various hours of the day to patrons.²

With that said, the CUP prohibits the Applicant from the sale of alcoholic beverages for consumption outside or off the premises; and the Applicant has indicated that on-site beverage services are meant to compliment the restaurant's meals. Additionally, the Applicant has clearly stated that it does not wish to provide entertainment uses.

¹ See MPMC § 21.32.160, any conditional use permit will be null and void if the use permitted is not exercised within one-year from the date the conditional use permit is granted.

² See Business and Professions Code §§ 23038 and 23787.

(However, if a request were to be submitted at any future date, the applicant would have to request a modification to the CUP.) The Applicant's proposed business operating, meal service and alcohol service hours would be from 11:00 a.m. to 9:30 p.m. Monday through Sunday. The Police Department will monitor the subject property relative to safety items such as hours of operation, whether complaints are received, and whether alcohol is being served along with food, only.

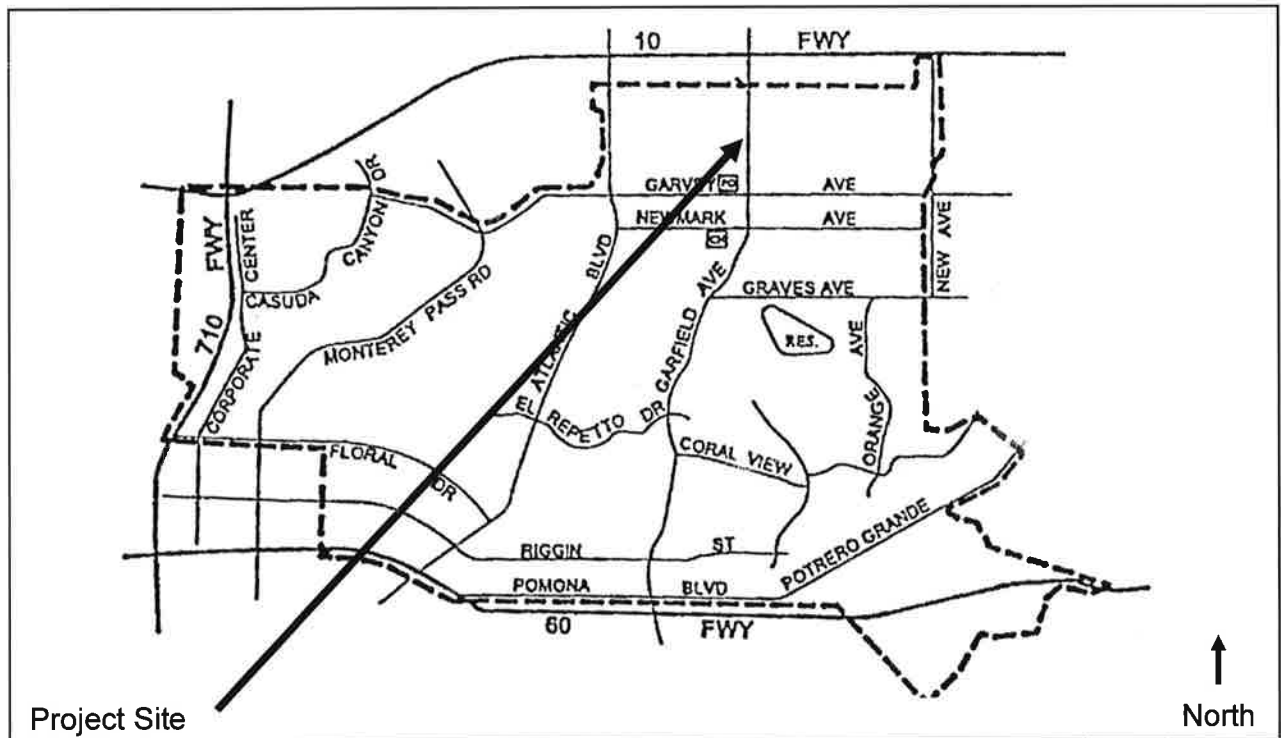
Lastly, the Applicant would be required to adhere to the regulations and criteria for on-sale alcoholic beverage sales and use per MPMC § 21.10.230.³ Specifically, on-site sale uses must comply with the list of requirements enumerated in MPMC § 21.10.230(C) including, limiting the exterior lighting of the parking area to intensities between one and two foot-candles and special security measures. Staff conducted a site inspection and found that the subject property has adequate exterior lighting attached the building walls and parking lot area. The existing exterior lights provide adequate lighting without disturbing the adjacent properties. To address security and alarm requirements, the Police Department included condition numbers 22 through 28 in the Resolution.

Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **February 1, 2019**, with affidavits of posting on file. The legal notice of this hearing was mailed to **34** property owners within a 300 feet radius and current tenants of the property concerned on **February 1, 2019**.

³ Notably, MPMC § 21.10.230(G), does not impose distancing requirements for on-sale alcoholic beverages that are sold in conjunction with a bona fide retail eating establishment.

Vicinity Map



Aerial Map



FISCAL IMPACT:

There may be an increase in sales tax revenue and business license tax revenue. Calculations of the exact amount would be speculative.

Respectfully submitted,



Michael A. Huntley
Community and Economic
Development Director

Prepared by:



Samantha Tewart
Senior Planner

Reviewed by:



Natalie C. Karpeles
Deputy City Attorney

ATTACHMENTS:

- Attachment 1: Draft Resolution
- Attachment 2: Site and floor plans

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION APPROVING CONDITIONAL USE PERMIT (CUP-18-07) TO ALLOW ON-SALE ALCOHOLIC BEVERAGES (BEER AND WINE) IN CONJUNCTION WITH A BONA FIDE PUBLIC EATING PLACE AT 301 NORTH GARFIELD AVENUE SUITE D.

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

SECTION 1: The Planning Commission finds and declares that:

- A. On November 28, 2018, Mei Ying Tian of Yunan Restaurant ("Applicant"), submitted an application, pursuant to Monterey Park Municipal Code ("MPMC") §§ 21.10.230 and 21.32.020, requesting approval of Conditional Use Permit (CUP-18-07) to permit on-sale alcoholic beverages (beer and wine) for a bona fide public eating place at 301 North Garfield Avenue Suite D ("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 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 Project before the Planning Commission for March 12, 2019. Notice of the public hearing was posted and mailed as required by the MPMC;
- E. On March 12, 2019, 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 Applicant; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its March 12, 2019 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. The addition of alcohol sales at an existing establishment is a negligible expansion of an existing use. It can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed project will have a significant adverse effect on the environment. The project does not

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propose any physical improvements to the site or any physical changes to the existing building;

- B. 301 North Garfield Avenue Suite D is zoned C-B, P-D (Central Business, Planned Development) and designated MU-I (Mixed-Use I) in the General Plan. The project is also located in Business Improvement District No. 1 (Downtown). The Mixed-Use I land use category allows for retail, service, office, and entertainment and dining establishments. On-sale alcoholic beverage sales are permitted in the C-B, P-D Zone with Conditional Use Permit approval;
- C. The subject property is located on the northwest corner of North Garfield Avenue and Garcelon Avenue in the Garfield Center complex. Properties located to the north, south, and east of the subject property are zoned C-B, P-D. Properties located to the west are zoned R-3 (High Density Residential);
- D. The lot is 32,264 square feet (0.74 acres) in size and is currently developed with an 9,417 square feet, one-story multi-tenant commercial building; and
- E. The subject property is completely built out with 53 on-site parking spaces accessible from Garcelon Avenue and North Garfield Avenue.
- F. No separate bar area is indicated on the floor plan of the restaurant, nor is any entertainment proposed for the business at this time.
- G. According to the Applicant, the operating hours will be from 11:00 a.m. to 9:30 p.m. for lunch and dinner and will not be later than 9:30 p.m. The existing commercial plaza has adequate on-site parking and will not impact on-street parking. The plaza and parking areas are adequately lit. The sales and consumption of beer and wine will occur within the restaurant.

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 §§ 21.10.230 (B) and 21.32.020, the Planning Commission finds as follows:

- A. That the proposed use complies with all requirements as set forth for the issuance of a conditional use permit, pursuant to MPMC § 21.32.020:
 - (1) 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 for on-site consumption to an existing restaurant. No physical changes are proposed to the site.

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- (2) 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 subject property is completely built out with 53 on-site parking spaces accessible from North Garfield Avenue and Garcelon Avenue. Garfield Avenue is the main access and Garcelon Avenue is the secondary access. Garfield Avenue is a principal arterial that serves as a regional truck route, accommodating through trips and linking the local street system to through routes. In Monterey Park, principal arterials have a width ranging from 84 to 100 feet curb-to-curb within a 100- to 120-foot right-of-way. Garcelon Avenue is a local street with two-lane undivided roadways designed to serve local circulation. Local streets provide a 36-foot curb-to-curb width within a 50-foot right-of-way. The addition of alcohol sales at an existing establishment is a negligible expansion of an existing use. The proposed use is not expected to significantly increase traffic.
- (3) The proposed use is consistent with the General Plan and conforms to objectives of the General Plan and the Monterey Park Municipal Code zoning regulations. The subject property is designated Mixed-Use I in the General Plan. The Mixed-Use I land use category allows for retail, service, office, and entertainment and dining establishments. 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.
- (4) The proposed use will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City. Properties located to the north, south, and east of the subject property are zoned C-B, P-D. Properties located to the west are zoned R-3 (High Density Residential). The properties located to the north and west are existing 2-story multi-unit apartment buildings. The proposed use is a request for on-sale beer and wine to compliment food at an existing restaurant in an existing multi-tenant commercial plaza. The unit abutting the subject unit to the west is a bakery and the unit to the north is a job agency business and followed by another retail eating establishment. The proposed use does not include expanding the existing restaurant or physically altering the restaurant space or commercial plaza. All business activities including the sale of beer and wine will be restricted to the inside of restaurant and will not create any conditions are atypical of a restaurant use.
- (5) 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. The addition of alcohol sales at an existing establishment is a negligible expansion of an

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existing use. Properties located to the north, south, east, and west of the subject property are commercial uses. 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.

- (6) That the use applied for at the location set forth in the application is properly one authorized by conditional use permit pursuant to the Zoning Code. MPMC § 21.10.230 allows for the consideration of a Conditional Use Permit.

- B. That the proposed use will not present adverse secondary impacts, including, without limitation, 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-site beer and wine sales in conjunction with an existing retail eating establishment. On-sale alcoholic beverage uses are permitted with a conditional use permit. The MPMC require properties to be adequately maintained and condition numbers 22 and 28 are included to address security concerns. The Police Department will monitor the subject property relative to safety items such as hours of operation, whether complaints are received, and alcohol to be served along with food only.

- C. That the proposed use is consistent with 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 (P-D) Zone. Properties located to the north, south, east, and west of the subject property are commercial uses. The property is accessible from North Garfield Avenue and Garcelon Avenue. The suitability of any nearby commercial-zoned properties for commercial use will remain the same.

- D. 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.

The applicant's request to add beer and wine sales (Type 41 alcohol license) for on-site consumption in conjunction with the existing eating establishment will enhance the business and will not adversely affect the welfare of area residents since the addition of beer and wine sales, as mentioned, will be incidental to the primary use. 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. The subject unit is located one block south of medical office buildings and the Garfield Medical Hospital, and one block north of a supermarket and other eating

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establishments that provide on-sale beer and wine service to the south in the City's downtown area.

- E. The applicant has borne the burden of proving that the proposed use will not adversely affect the welfare of nearby residents, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby residentially zoned communities. According to the Applicant, the operating hours will be from 11:00 a.m. to 9:30 p.m. for lunch and dinner and will not be later than 9:30 p.m. The existing commercial plaza has adequate on-site parking and will not impact on-street parking. The plaza and parking areas are adequately lit. The sales and consumption of beer and wine will occur within the restaurant.

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 (CUP-18-07).

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 Yongshun Wang and to any other person requesting a copy.

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SECTION 11: This Resolution may be appealed within ten (10) 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 12th day of March 2019.

Chairperson Delario Robinson

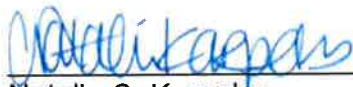
I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 12th day of March 2019, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Michael A. Huntley, Secretary

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

By:



Natalie C. Karpeles,
Deputy City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

301 NORTH GARFIELD AVENUE SUITE D

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Mei Ying Tian of Yunnan Restaurant, agrees to comply with the following conditions of approval for Conditional Use Permit (CUP-18-07) ("Project Conditions").

PLANNING:

1. Mei Ying Tian of Yunnan Restaurant (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 CUP-18-07 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 CUP-18-07, 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 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 Director, or designee.
3. The property owner is responsible for maintaining the area adjacent to the business location and the site in general, including any parkways and alleys.
4. 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 will cause the City to abate the graffiti at the cost of the applicant/property owner.
5. A copy of the Conditions of Approval for Conditional Use Permit (CUP-18-07) must be kept on the premises of the establishment and presented to any authorized City official upon request.

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6. 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.
7. The applicant/owner of the establishment must comply with all applicable law. The applicant must obtain and maintain a valid Alcoholic Beverage Control (ABC) Type 41 (On-Sale Beer and Wine – Eating Place) License. All conditions of the Alcoholic Beverage Control license must be maintained at all times and failure to do so will be grounds for revocation.
8. The service of alcohol is only allowed with the consumption of food.
9. 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.
10. Alcoholic beverages must be served in containers that are distinguishable from containers used for non-alcoholic beverages.
11. The sale of alcoholic beverages for consumption outside or off the premises is prohibited. Signs must be posted at all entrances and exits of the premises indicating that the sale of alcoholic beverages for consumption outside or off the premises is prohibited.
12. The restaurant business hours of operation will be Monday through Sunday from 11:00 a.m. to 9:30 p.m.
13. Hours of operation for alcohol service at the restaurant are limited to the hours of Monday through Sunday from 11:00 a.m. to 9:30 p.m.
14. The applicant must obtain and maintain all licenses required by the Alcohol Beverage Control Act (Business & Professions Code §§ 23300, *et seq.*). The applicant must obtain and maintain a Type 41 license.
15. The applicant must post a sign in a clear and conspicuous location listing a phone number at which a responsible party may be contacted during all open hours of the establishment to address any concerns of the community regarding noise at the restaurant. Said contact's name and phone number must also be available through restaurant staff at all times.
16. The applicant must, at all times, display a *Designated Driver* sign of at least ten inches by ten inches (10" X 10") within the dining room lobby at eye level. The sign must be worded in a way that reminds patrons who are consuming alcohol to designate a *non*-drinking driver.
17. There must be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of

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alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible to public view from the exterior constitute a violation of this condition.

18. All employees serving alcoholic beverages to patrons must enroll in and complete a certified training program approved by the State Department of Alcoholic Beverages Control (ABC) for the responsible sales of alcohol. The training must be offered to new employees on not less than a quarterly basis.
19. Any and all employees hired to sell alcoholic beverages must provide evidence that they have either:
 - a. Completed training from the State of California Department of Alcoholic Beverage Control (ABC), Monrovia District Office administered *Leadership and Education in Alcohol and Drugs* (LEAD) Program in the form of an ABC-issued certificate; or
 - b. Completed an accepted equivalent by the ABC, Monrovia District Office to ensure proper distribution of beer, and wine to adults of legal age. If any prospective employee designated to sell alcoholic beverages does not currently have such training, then the ABC-licensed proprietors must have confirmed with the Community and Economic Development Department within fifteen (15) days of the Director's decision, or by final project approval, that a date certain has been scheduled within the local ABC Office to complete the LEAD course; and
 - c. Within thirty (30) days of taking said course, the employees, or responsible employer must deliver each required certificate showing completion to the Police Department.
20. If complaints are received regarding excessive noise, lighting, building access, or other disturbances associated with alcohol service at the restaurant, the city may, in its discretion, take action to review the Conditional Use Permit, including without limitation, adding conditions or revoking the Conditional Use Permit.

LICENSING:

21. Additional business license tax must be paid upon approval of license from Alcoholic Beverage Control (ABC) pursuant to MPMC § 5.12.230.

POLICE:

22. Food service is required at all hours that the establishment is open for business.
23. The restaurant must have security video cameras operating during all hours that the business is open. All cameras must record onto a media device, such as a videotape, digital storage CPU, DVR or similar recording device. The recordings of the security video cameras must be maintained for a minimum period of 30

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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, 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. The quarterly gross sales of alcoholic beverages cannot exceed the gross sales of food during the same period.
25. The manager/owner is responsible for maintaining the property free of litter and graffiti.
26. Three or more violations of applicable law including, without limitation, these conditions within a one-year period (as calculated starting on the resolution approval date and every anniversary date thereafter) may result in the City commencing revocation of this Conditional Use Permit.
27. 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 Department 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 must 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.
28. If the establishment is 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 matters. If at any time, the Chief of Police deems that the security guard/company is inadequate, the Chief may require the owner to retain additional security guards or a new security company. If such a situation arises, the Chief of Police must notify the restaurant owner/manager in writing and the manager/owner will have 7 business days to make the necessary changes.

By signing this document, Mei Ying Tian of Yunnan Restaurant, that he read, understood, and agrees to the Project Conditions listed in this document.

**PLANNING COMMISSION
RESOLUTION NO.**

Mei Ying Tian of Yunnan Restaurant, Applicant

ATTACHMENT 2

Site, floor, elevation plans



Planning Commission Staff Report

DATE: March 12, 2019

AGENDA ITEM NO: 3-B

TO: The Planning Commission
FROM: Michael A. Huntley, Community and Economic Development Director
SUBJECT: A Public Hearing to Consider Conditional Use Permit (CU-18-06), a Request to allow for the operation of a new foot massage business at 523 South Atlantic Boulevard #C.

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 (CUP-18-06), subject to conditions of approval contained therein; and
- (5) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), per CEQA Guidelines § 15301 (Class 1 – Existing Facilities), because the project entails the leasing of tenant space within an existing private structure and involves a negligible or no expansion of use beyond that which currently exists. It can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed project will have a significant adverse effect on the environment. The project does not propose any physical improvements to the site or any physical changes to the existing building.

EXECUTIVE SUMMARY:

The Applicant, Ms. Jie Xiao, is requesting approval of a Conditional Use Permit to allow the operation of a new foot massage establishment at 523 South Atlantic Boulevard #C. The proposed business would occupy tenant space of approximately 614 square feet within an existing commercial strip. Approval of a CUP is required in order to operate a massage establishment in the City, pursuant to the Monterey Park Municipal Code ("MPMC").

Staff finds that the proposed foot massage establishment is consistent with the City's Municipal Code and the General Plan and recommends approval of Conditional Use Permit (CUP-18-06), subject to the conditions contained in the Resolution.

BACKGROUND:

523 South Atlantic Boulevard ("Subject Property") is zoned C-P (Commercial Professional) and designated Commercial in the General Plan. The Subject Property is 50 feet wide and 120 feet deep, totaling 6,000 square feet. The Subject Property is situated on the west side of South Atlantic Boulevard and is currently developed with a one-story commercial building comprised of three tenant spaces (Units A, B and C).

Based on the existing square footage, a total of 8 parking spaces are required and there are 8 existing parking spaces for the Subject Property. The Subject Property is accessible from an alleyway to the west. Located to the north and south of the Subject Property are one-story, multi-tenant commercial buildings, east is a one-story church and two-story hotel, and west are one- and two-story residential dwelling units.

The proposed foot massage establishment will be located within Unit C of the Subject Property ("Unit C") and is a conditionally allowed use in the C-P zone. Unit C is 614 square feet, which will be relatively small and generate minimal impacts to traffic and parking demands. No physical changes are proposed to the Unit.

Unit C will have an open floor plan and will include a receptionist's desk and six foot-massage chairs. The remaining areas of the Unit include a restroom and storage/utility area. The business operating hours will be Monday through Sunday from 8:00 a.m. to 8:00 p.m.

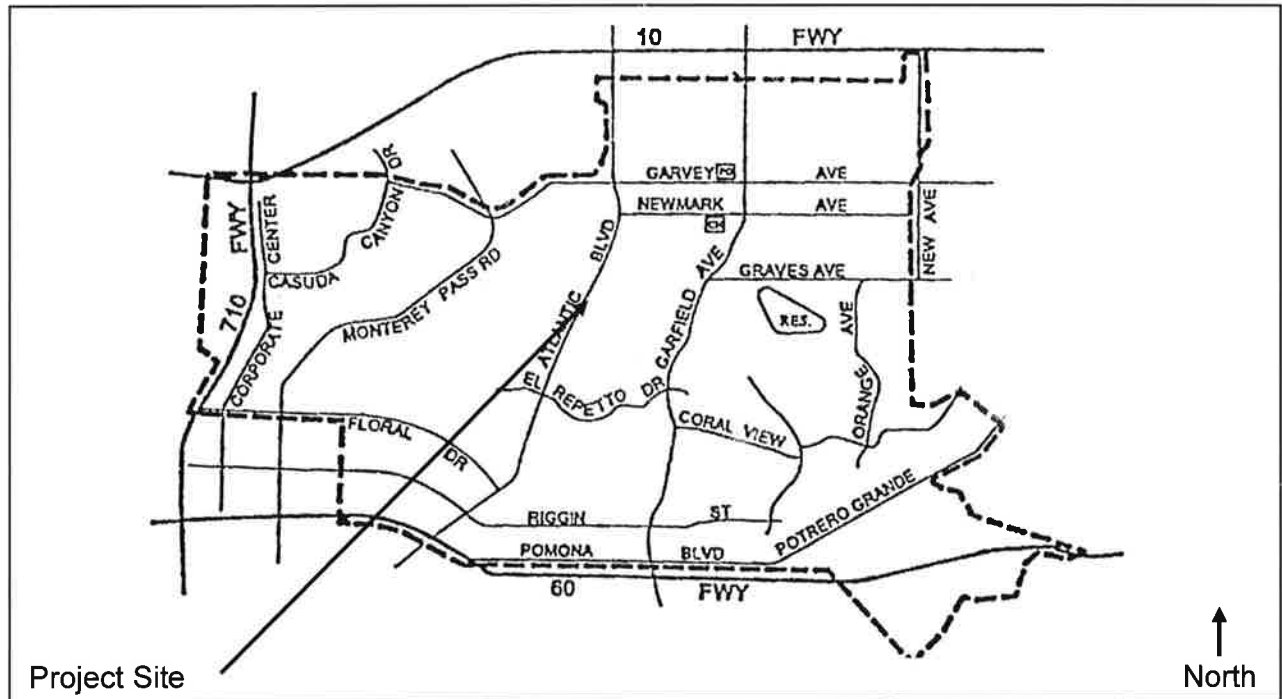
According to MPMC § 21.12.030, a massage establishment is subject to the approval of a conditional use permit and must comply with the regulations in MPMC Chapter 5.28. Specifically, per MPMC § 5.28.110, massage businesses must comply with a list of specified requirements including, without limitation, minimum lighting, necessary ventilation and the provision of mandatory restrooms – in accordance with the California Building Code. Currently, the Applicant is only proposing to provide foot massage services – not body massage services – therefore separate dressing and toilet facilities for men and women are not required. However, if the business operations were to be modified to include body massage at any future date, the Applicant would have to request a modification to the Conditional Use Permit and provide the dressing facilities required by MPMC § 5.28.110(g).

To date, the Police Department has not received any complaints regarding any of the existing massage establishments in the City, and the Crime Impact Team has been conducting routine, random checks to ensure compliance with the MPMC. Nevertheless, condition numbers 7 through 18 in the attached Resolution have been recommended by the Police Department to include security and alarm requirements. As with any other massage establishment in the City, the Police Department will monitor Unit C relative to safety considerations including, without limitation, hours of operation and required certifications. Lastly, the business owner must be responsible for maintaining an up-to-date roster of employees and copies of all required licenses from the California Massage Therapy Council for each technician administering massage services prior to the issuance of a business license.

Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **February 1, 2019**, with affidavits of posting on file. The legal notice of this hearing was mailed to **67** property owners within a 300 feet radius and current tenants of the property concerned on **February 1, 2019**.

Vicinity Map



Aerial Map



ALTERNATIVE COMMISSION CONSIDERATIONS:

None.

FISCAL IMPACT:

There may be an increase in sales tax revenue and business license tax revenue. Calculations of the exact amount would be speculative.

Respectfully submitted,


Michael A. Huntley
Community and Economic
Development Director

Prepared by:



Samantha Tewart
Senior Planner

Reviewed by:



Natalie C. Karpeles
Deputy City Attorney

Attachments:

- Attachment 1: Draft Resolution
- Attachment 2: Site and floor plans

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION APPROVING CONDITIONAL USE PERMIT (CUP-18-06) TO ALLOW A FOOT MASSAGE BUSINESS AT 523 SOUTH ATLANTIC BOULEVARD #C

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

SECTION 1: The Planning Commission finds and declares that:

- A. On November 26, 2018, Ms. Jie Xiao ("Applicant"), submitted an application, pursuant to Monterey Park Municipal Code ("MPMC") §§ 5.28.050 and 21.32.020, requesting approval of Conditional Use Permit (CUP-18-06) to allow a foot massage establishment at 523 South Atlantic Boulevard ("Project");
- B. The proposed Project is located in the C-P zone, where such massage use is permitted with a CUP for the specified zoning district. 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 MPMC and 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"));
- C. The Community and Economic Development Department completed its review and scheduled a public hearing regarding the Project before the Planning Commission for March 12, 2019;
- D. On March 12, 2019, 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
- E. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its March 12, 2019 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 is requesting approval of a CUP to establish a foot massage establishment within an existing multi-tenant commercial property. The tenant space will have an open floor plan with six foot-massage chairs and a receptionist's desk. The remaining areas include a restroom and storage/utility area. The business operating hours will be Monday through Sunday from 8:00 a.m. to 8:00 p.m.;
- B. 523 South Atlantic Boulevard is zoned C-P (Commercial Professional) and designated Commercial in the General Plan. A foot massage business is a conditionally allowed use in the C-P zone;

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PAGE 2 OF 5**

- C. The lot is 50 feet wide and 120 feet deep, totaling 6,000 square feet. The subject property is situated on the west side of South Atlantic Boulevard and is currently developed with a one-story commercial building comprised of three tenant spaces.
- D. Based on the existing square footage, a total of 8 parking spaces are required and there are 8 existing parking spaces on the property. The subject property is accessible from an alleyway abutting the west side of the property.
- E. Located to the north and south of the subject property are one-story, multi-tenant commercial buildings, east is a one-story church and two-story hotel, and west are one- and two-story residential dwelling units.
- F. The proposed tenant space is 614 square feet, which will be relatively small and generate minimal impacts to traffic and parking demands. No physical changes are proposed to the site.
- G. Condition numbers 7 through 18 in the attached Resolution have been recommended by the Police Department to address security and alarm requirements. The Police Department will monitor the subject property relative to safety considerations including, without limitation, such as hours of operation and required certifications.

SECTION 3: Environmental Assessment. The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), per State CEQA Guidelines § 15301 (Class 1 – Existing Facilities), because the project entails the leasing of tenant space within an existing private structure and involves a negligible or no expansion of use beyond that which currently exists. It can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed project will have a significant adverse effect on the environment. The project does not propose any physical improvements to the site or any physical changes to the existing building.

SECTION 4: Conditional Use Permit Findings. Pursuant to MPMC §§ 5.28.050 and 21.32.020(B), the Planning Commission finds as follows:

- A. The site is adequate in size, shape and topography for the proposed use in that the proposed use is a massage business within an existing commercial plaza with multiple tenant spaces. The tenant space of approximately 614-square feet is adequate in size and shape to accommodate the operation of the proposed primary foot massage business. No additional square footage would be added to the building footprint and no physical changes are proposed to the site;
- B. 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. South Atlantic Boulevard will continue to be able to accommodate the amount of

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traffic generated by the proposed massage use that is to occupy tenant space within an existing commercial building. The proposed use is not expected to significantly increase traffic;

- C. The proposed use is consistent with the General Plan and conforms to objectives of the General Plan and the Monterey Park Municipal Code zoning regulations. The subject property is designated Commercial in the General Plan. The Commercial land use category allows for a broad range of retail and service commercial and professional office uses. The proposed use is a massage establishment within an existing commercial building;
- D. The proposed use will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other uses in the City. 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. The massage business is to provide distinctive and appropriate use within the C-P zone and it is professional in nature and consistent with the low-impact businesses nearby, such as an insurance agency, travel agency and hair salon.
- E. 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. Conditions have been included in the Resolution to address concerns relating to safety and security and the massage business will be designed and operated in accordance with City standards. Additionally, the Police Department will monitor the subject property relative to safety considerations include, without limitation, hours of operation and required certification.
- F. The proposed use applied for at the location is properly one authorized by conditional use permit pursuant to the Zoning Code. MPMC §§ 5.28.050 and 21.12.030 specifically allow for a massage establishment in the C-P (Commercial Professional) Zone with Conditional Use Permit approval.

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 (CUP-18-06).

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.

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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 John Wu and to any other person requesting a copy.

SECTION 11: This Resolution may be appealed within ten (10) 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 11, this Resolution is the Planning Commission's final decision and will become effective immediately upon adoption.

ADOPTED AND APPROVED this 12th day of March 2019.

Chairperson Delario Robinson

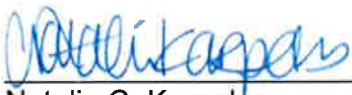
I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 12th day of March 2019, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

**PLANNING COMMISSION
RESOLUTION NO.
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Michael A. Huntley, Secretary

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

By: 

Natalie C. Karpeles,
Deputy City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

523 SOUTH ATLANTIC BOULEVARD #C

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Ms. Jie Xiao, agrees that he will comply with the following conditions of approval for Conditional Use Permit (CUP-18-06) ("Project Conditions").

PLANNING:

1. Ms. Jie Xiao (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 CUP-18-06 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 CUP-18-06, 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 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 one 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 Director, or designee.
3. The applicant and/or business operator successors must comply with the provisions established in Monterey Park Municipal Code Chapter 5.28 Massage.
4. The property owner is responsible for maintaining the area adjacent to the business location and the site in general, including any parkways and alleys.
5. 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 will cause the City to abate the graffiti at the cost of the applicant/property owner.
6. A copy of the Conditions of Approval for Conditional Use Permit (CUP-18-06) must be kept on the premises of the establishment and presented to any authorized City official upon request.

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POLICE:

7. Adequate exterior lighting must be provided so that all outside perimeter area are visible during the hours of darkness. All lighting locations and intensity must conform to appropriate codes and are subject to the approval of the Police Department.
8. The business must have security video cameras operating during all hours of business. All cameras must record onto a media device, such as a videotape, digital storage CPU, DVR 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, including the entrance/exits and all interiors of each room. 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.
9. No alcoholic beverages are permitted.
10. Access to the roof of the building must be locked and secured and restricted to maintenance personnel, building management, or other authorized personnel.
11. The business 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 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 Service Bureau.
12. The business should participate in the Monterey Park Police Department's Business Watch Program, a free service designed to educate business about minimizing criminal activity.
13. 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 business, whether inside or within close proximity, revocation proceedings will be initiated by the City.

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14. The manager/owner is responsible for maintaining the property free of litter and graffiti.
15. The business must comply with federal, state, and local laws governing business licensing and noise levels. The business must obtain the appropriate license(s) from the regulating agency in order to conduct business in the City of Monterey Park.
16. The Chief of Police reserves the right to revoke any or all permits issued to the establishment for violations of federal, state, or local law, deemed to be a nuisance to the community due to continued negative contact with law enforcement or failure to comply with these and/or subsequent provisions.
17. The hours of operation for the business must be restricted from 8:00 a.m. to 8:00 p.m. Monday through Sunday. Hours of operation are subject to change and are at the discretion of the Chief of Police.
18. No tinting of the windows of the business or any material to obscure the view into the business in any way will be allowed.

By signing this document, Ms. Jie Xiao, certifies that the Applicant read, understood, and agrees to the Project Conditions listed in this document.

Ms. Jie Xiao, Applicant

ATTACHMENT 2

Site and floor plans