

# MEMORANDUM

Planning Department

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**Date:** September 5, 2024  
**To:** Zoning Administrator  
**From:** Michael Fossati, AICP, Senior Planner

**Subject:** **BEER AND WINE SALES IN RESTAURANT – 50 Dixon Road - P-MC24-0003** – A Minor Conditional Use Permit to sell beer and wine for on-site consumption (ABC Type 41 License) within an existing restaurant in the Neighborhood Commercial (C1) Zoning District at 50 Dixon Road. The project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

**Location:** 50 Dixon Road (APN: 026-06-010)

**Zoning/GP:** Neighborhood Commercial (C1), Neighborhood Commercial Mixed Use (NCMU)

### Application

On June 27, 2024, Nathalie Resendez with La Escondida Business Solutions (applicant) applied on behalf of Lucky Soul Diner, to obtain a Minor Conditional Use Permit (MCUP) to sell beer and wine within their restaurant (Project), as required per Milpitas Municipal Code (MMC) Table XI-10-5.02-1. This type of MCUP requires Zoning Administrator approval. Lucky Soul Diner is a modern restaurant that serves the Milpitas community with traditional Korean foods, such as galbijjim and sizzling stone pot bibimbap, using traditional recipes and locally sourced ingredients. This cuisine is typically paired with beer and wine beverages. The restaurant wishes to obtain an alcohol license from the State of California Alcohol Beverage Control (ABC) Department. Prior to obtaining such a license, the restaurant must first obtain an MCUP from the City of Milpitas to allow alcoholic beverage sales.

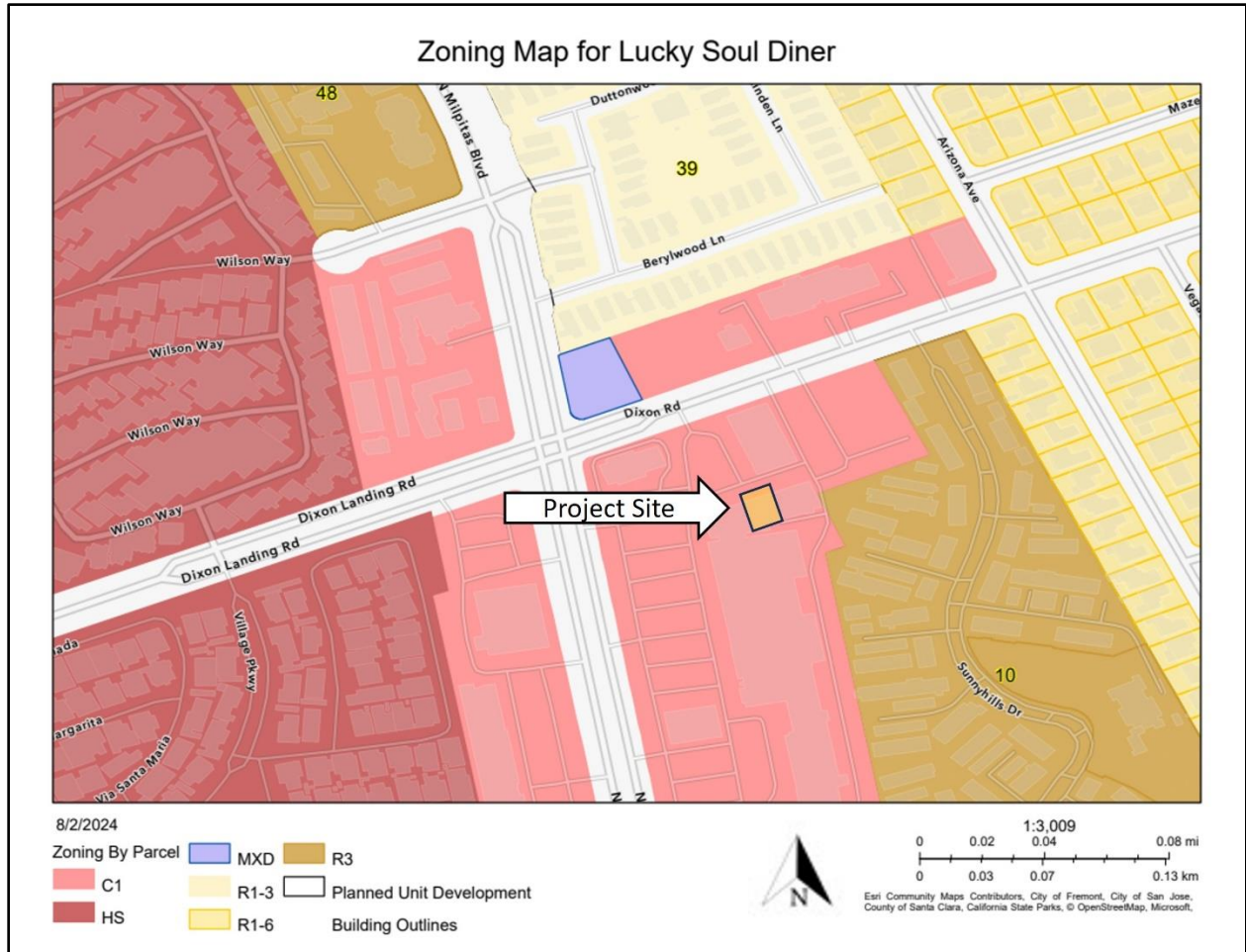
The following is a summary of the applicant’s request:

- Minor Conditional Use Permit: To allow the restaurant to sell beer and wine for consumption and obtain a Type 41 Liquor License (On-Sale Beer and Wine for Bona Fide Public Eating Place) from ABC.

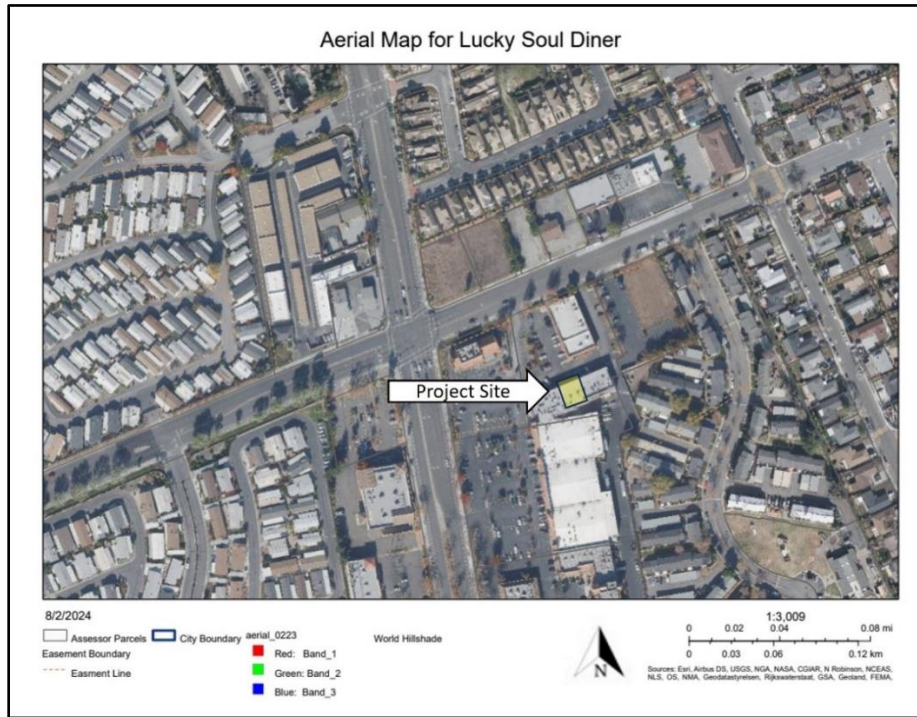


The project site is surrounded by other parcels zoned a mix of commercial/retail uses to the north, west, and south, and residential uses to the east as demonstrated in Map 1: Project Zoning, Map 2: Aerial View, and Table 1: Surrounding Zoning and Land Uses

**Map 1 – Project Zoning - 50 Dixon Road**



**Map 2 – Aerial Map - 50 Dixon Road**



**Table 1: Surrounding Zoning and Land Uses**

	General Plan	Zoning	Existing Uses
<b>Subject Site</b>	Neighborhood Commercial Mixed Use (NCMU)	Neighborhood Commercial (C1)	Lucky Soul Diner (dba JeonJu K-Cuisine)
<b>North</b>	Neighborhood Commercial Mixed Use (NCMU)	Neighborhood Commercial (C1)	Multi-Tenant Retail (Domino's Pizza, Cold Stone Creamery)
<b>South</b>	Neighborhood Commercial Mixed Use (NCMU)	Neighborhood Commercial (C1)	Multi-Tenant Commercial (Lion's Supermarket)
<b>West</b>	Neighborhood Commercial Mixed Use (NCMU)	Neighborhood Commercial (C1)	Food Service (McDonald's)
<b>East</b>	Neighborhood Commercial Mixed Use (NCMU)	Neighborhood Commercial (C1)	Vacant

Staff reviewed the entitlement application outlined above and found it to be consistent with the polices, standards, and processes outlined in the City of Milpitas General Plan and Zoning Ordinance.

## **BACKGROUND AND LOCATION**

Lucky Soul Dinner is located in the Sunnyhills Shopping Center, which is located on four parcels, totaling approximately nine acres in the Neighborhood Commercial (C1) Zoning District. Lucky Soul Diner is within an approximately 18,000 square foot building on one of those parcels within the shopping center. The restaurant shares the building with a Filipino bakery, a beauty salon, insurance office, and another Asian restaurant.

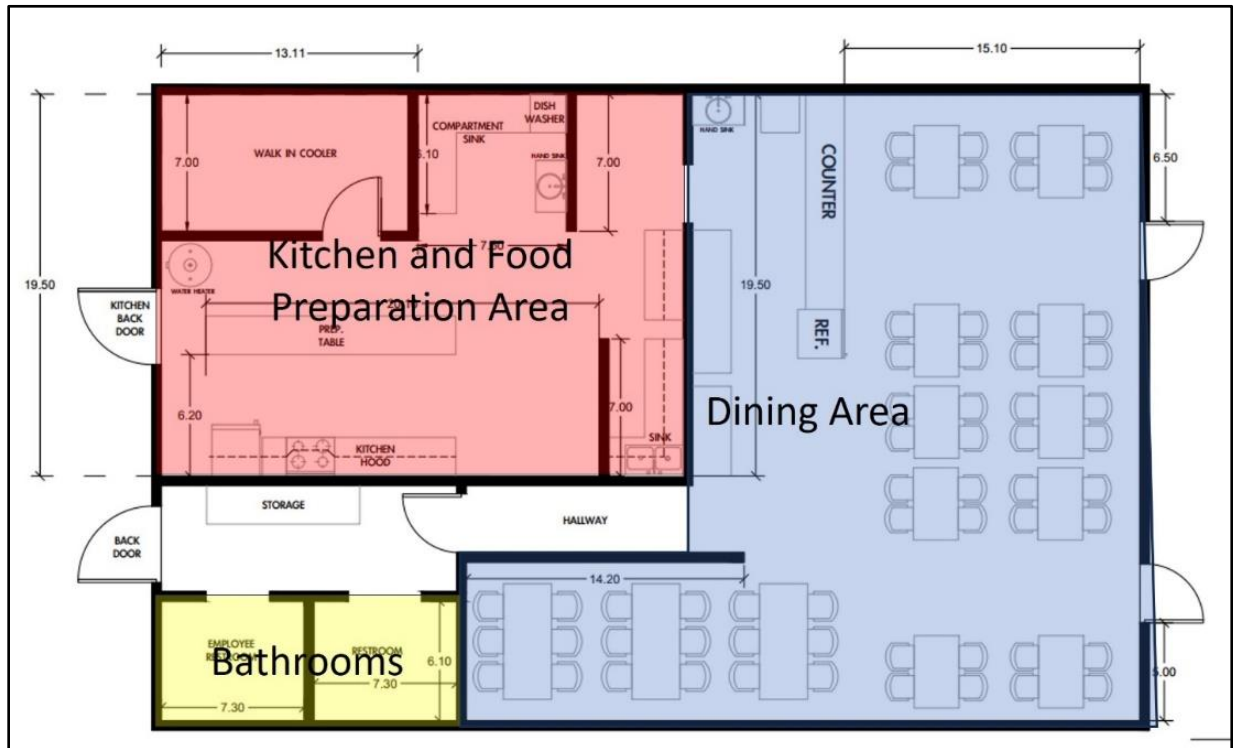
Lucky Soul Diner is a 1,600 square foot modern Korean restaurant within an approximately 18,000 square foot retail commercial building, which is one of six buildings in the Sunnyhills Shopping Center, built in 1964. The Sunnyhills Shopping Center is anchored by Lion's Supermarket as the main tenant, but also hosts a number of different businesses including restaurants, bakeries, beauty salons, dental offices, acupuncture clinics, dry cleaners, and a liquor store. Lucky Soul Diner has replaced "Thousand Tasty," a take-out Asian restaurant that was in operation for the past few years.

## **PROJECT DESCRIPTION**

### ***Overview/Project Details***

Lucky Soul Diner is currently operating under the name "JeonJu K-Cuisine." They are in the process of replacing the wall sign with the new name. Figure 1 demonstrates the floor plan of the existing restaurant, which includes approximately 650 square feet of dining area. In addition to the dining area, the restaurant's back-of-house operations will include a kitchen, walk-in cooler, prep table, and dishwashing area (550 square feet). The hallway, bathrooms, and storage areas take up the remaining 400 square feet of floor area. Alcohol will be stored either in the walk-in cooler. There will be no floor area addition or exterior modifications to the existing tenant space for the restaurant, apart from a new wall sign as previously discussed.

**Figure 1: Floor Plan**



**PROJECT ANALYSIS**

**General Plan Conformance**

The Project site is in the Neighborhood Commercial Mixed Use (NCMU) land use designation area. The NCMU designation “encourages active neighborhood serving uses at the ground level, including grocery stores, specialty retail, restaurants, plazas, or walk-in personal services such as banks and salons ....” Table 2 demonstrates the Project’s consistency with the NCMU General Plan land use goals and policies.

**Table 2: General Plan Consistency**

General Plan Goal / Policy	Consistency Finding
<p><i>Goal LU-1</i>  <i>Accommodate a well-balanced mix of land uses that meets the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched.</i></p>	<p><b>Consistent.</b> The Project will directly contribute to meeting the diverse needs of Milpitas residents by providing a safe, easily accessible dining experience through Asian inspired dishes. Allowing beer and wine sales will allow the restaurant to curate more broad beverage options and combinations with dishes, enhancing the dining experience while promoting a greater understanding and appreciate of the Korean culture.</p>
<p><i>Policy LU-4-4</i>  <i>Support conveniently located neighborhood-serving commercial centers that provide desired services to local neighborhood workers and visitors, reduce automobile dependency, and contribute positively to the surrounding neighborhoods.</i></p>	<p><b>Consistent.</b> The proposed ABC Type 41 beer and wine license for the existing restaurant will allow the shopping center to act as a social hub where local neighborhood workers and visitors can enjoy meals, celebrate occasions, and participate in community events that positively support the local community.</p>
<p><i>Policy LU-6-4</i>  <i>Maintain viable neighborhood-serving commercial uses throughout the city in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.</i></p>	<p><b>Consistent.</b> The proposed ABC Type 41 beer and wine license for the existing restaurant will be part of a diverse mix of commercial uses and services in the Sunnyhills Shopping Center, which includes seven other restaurants that currently serve alcohol. Each restaurant represents various cultures of cuisine, creating a diverse mix of dining options in the neighborhood.</p>

### **Zoning Conformance**

The Project site is in the C1 Neighborhood Commercial Zoning District. The purpose and intent of the C1 zone is to “*provide for general commercial needs of neighborhood areas of the city and to promote stable, attractive commercial development which will afford a pleasant shopping environment and will complement the essential residential character of the neighborhood. The Neighborhood Commercial District shall contain, as permitted uses, those activities which primarily provide for the day-to-day shopping needs of the residential neighborhood it is located in. It shall not include uses which generate loud noises or unpleasant odors. It shall not include retail stores, offices or service establishments which are not open to minors, or which are designed to attract customers and traffic from areas other than the neighborhood area in which they are located.*”

The proposed use is conditionally permitted in the Neighborhood Commercial (C1) Zoning District. According to MMC Section XI-10-57.04 (A)(1), *“the purpose and intent of the Conditional Use Permit process is to provide a review of land uses which would not otherwise be permitted as a matter of right in a zoning district because of their nature, have an impact on the surrounding environment and for the determination of where or not the proposed use is appropriate for its proposed location.”* To determine if the proposed conditional use is consistent with the Zoning Ordinance, Planning staff considered the following:

- Is the existing building where the use will operate a legal conforming structure per MMC Table XI-10-5.03-1 (Commercial Zone Development Standards)?
- Does the proposed use meet the parking requirements per MMC Section 53 (Off-Street Parking Regulations)?
- Is the proposed use considered a public convenience and necessity for the City of Milpitas?
- Will public safety be impacted by the proposed use?

Table 3 demonstrates the Project’s consistency with the development standards of the C1 zone as a legal conforming structure.

**Table 3: C1 Zoning District Development Standards**

<b>Standards</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
<b>Lot Area</b>	None	1.5 acres	Yes, no change from existing
<b>Lot Width</b>	None	200 ft.	Yes, no change from existing
<b>Front Yard Setback</b>	20 ft. min.	190 ft.	Yes, no change from existing
<b>Side Yard Setback</b>	0 ft. min.	0 ft.	Yes, no change from existing
<b>Rear Yard Setback</b>	0 ft. min.	10 ft.	Yes, no change from existing
<b>Building Height</b>	35 ft. or three stories	25 ft.	Yes, no change from existing
<b>Parking</b>	See Table 3	See Table 3	Yes, no change from existing
<b>Lot Coverage</b>	None	.27	Yes, no change from existing

<b>Floor Area Ratio</b>	.35	.27	Yes, no change from existing
<b>Landscaping</b>	None	None	Yes, no change from existing

There are no changes or expansion proposed for the building, apart from a new exterior wall sign, which will be reviewed and approved via a Minor Site Development Permit, and interior tenant improvements, which will be approved via a building permit.

#### *Parking Requirements*

Lucky Soul Diner has approximately 650 square feet of dining area. Per the City's Off-Street Parking Regulations, the restaurant requires 17 parking spaces. Sunnyhills Shopping Center have 135 parking spaces to be shared among similar uses. Since beer and wine sales for an existing restaurant do not increase the amount of parking required, the Project is compliant with the parking requirements. Table 4 demonstrates that Project has adequate parking to meet the City's requirements.

**Table 4: Off-Street Parking Conformance**

<b>Tenant</b>	<b>Address</b>	<b>GFA (sf)</b>	<b>Dining Area (sf)</b>	<b>Municipal Code Requirement</b>	<b>Spots Needed</b>
Lucky Soul Diner	50 Dixon Rd.	~1,600	650	1/39 sf	17
Total parking spaces (Sunnyhills Shopping Center)					135

#### *Public Convenience and Necessity*

The Project site is within census tract 5044.22. According to the State of California Alcohol Beverage Control (ABC) Department, seven (7) restaurants within census tract 5044.22 have active Type 41 liquor licenses. For ABC to grant another license, the applicant must demonstrate the proposed use would serve the public convenience or necessity, per Business and Professions Code Section 23958.4.

The City of Milpitas uses the Minor Conditional Use Permit (MCUP) and Conditional Use Permit (CUP) process to determine if a proposed use would serve the public convenience and necessity. In our findings, the City of Milpitas *encourages a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses*, and therefore recommends approval for the proposed use.

#### *Public Safety*

Planning staff rely on the Milpitas Police Department (MPD) to analyze uses that may have an impact on the health and safety of the community. MPD reviewed the business operation of the proposed use and determined that the proposed use will not create any

adverse impacts on the delivery of professional and responsive police services. MPD recommends the following actions to ensure the safety of patrons, which have been added to the MCUP permit conditions of approval:

- The beer and wine sold at the restaurant shall be kept in a location out of the reach of patrons to prevent any potential thefts from occurring.
- The applicant shall ensure all applicable City, County, and State permits are obtained and ABC laws enforced.
- Sales of alcoholic beverages shall only occur between 11:00 AM to 9:00 PM (restaurant hours per website) or during normal operating hours.
- All persons who serve alcoholic beverages shall be 21 years of age.
- Upon demand from a peace officer, the licensee or responsible person shall immediately surrender the license and cease all sales of alcoholic beverages, if applicable under the law.
- Applicant shall abide by all Milpitas Municipal Codes to include the noise ordinance (MMC V-213-3.03).
- Complete an emergency notification form.

Furthermore, the Planning Department has included conditions of approval for the operation of the facility to limit disturbances associated with alcohol sales. These conditions are as follows:

- Video surveillance within the interior and exterior of the restaurant.
- Permittee shall be solely responsible and liable for ensuring that all employees receive “Responsible Alcoholic Beverage Service” training as offered through programs established by the Alcoholic Beverage Control Department of the State of California; and
- Permittee shall provide an Alcohol Service Policy demonstrating how alcohol sales and services can be administered in a safe manner.

By the applicant agreeing to the aforementioned conditions, the Planning Department recommends the Zoning Administrator approve the proposed use of selling beer and wine beverages for the restaurant.

### **Findings for Approval:**

Findings shall identify the rationale behind the decision to take a certain action. Each required finding within the Milpitas Municipal Code Section XI-10-57.04(F) for a Minor Conditional Use Permit have been analyzed below:

*1. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The proposed use as the proposed location will not be detrimental or injurious to public health, safety and general welfare because it will operate in compliance of regulations established by both the State of California and the City of Milpitas. Those regulations include appropriate licensing, providing workers responsible alcohol service training, and installing video surveillance equipment to monitor the restaurant.

*2. The proposed use is consistent with the Milpitas General Plan; and*

The proposed use is consistent with the Milpitas 2040 General Plan policies, as stated within Table 2 above. The proposed use will directly contribute to meeting the diverse needs of Milpitas residents by providing a safe, easily accessible dining experience through Asian inspired dishes. Allowing beer and wine sales will allow the restaurant to curate more broad beverage options and combinations with dishes, enhancing the dining experience while promoting a greater understanding and appreciate of the Korean culture.

*3. The proposed use is consistent with the Milpitas Zoning Ordinance.*

The proposed use is consistent with the Milpitas Zoning Ordinance in that it will operate within a legal conforming commercial building surrounded by similar uses and is a permitted conditional use. The Project will be conditioned to operating in a manner that will preserve the health, safety, and welfare of the Milpitas community, while encouraging a diverse use of food and beverage services in the immediate area.

**California Environmental Quality Act (CEQA):**

The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). The proposed use is located in a commercial building that possesses the required infrastructure to allow the safe operation of a commercial eating place.

**Recommendation:**

Staff recommends that the Zoning Administrator approve P-MC24-0003 to sell beer and wine for on-site consumption (ABC Type 41 License) within an existing 1,600 square foot restaurant in the Neighborhood Commercial (C1) Zoning District located at 50 Dixon Road, subject to the findings outlined in this report and the attached Conditions of Approval.

**Attachments:**

- A. Conditions of Approval
- B. Project Plans

**ATTACHMENT A**

**RESOLUTION NO. 24-028**

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT NO. MC24-0003 TO ALLOW ANCILLARY ON-PREMISE BEER AND WINE SALES WITH NO SEPARATE BAR FOR ON-SITE CONSUMPTION (ABC TYPE 41 LICENSE) WITHIN AN EXISTING 1,600 SQUARE FOOT RESTAURANT (LUCKY SOUL DINER) LOCATED IN THE NEIGHBORHOOD COMMERCIAL (C1) ZONING DISTRICT AT 50 DIXON ROAD (APN 026-06-010)**

**WHEREAS**, on June 27, 2024, an application was submitted by La Escondida Business Solutions (“Applicant”), to allow an existing restaurant (Lucky Soul Diner) to obtain a Minor Conditional Use Permit (MCUP) to sell beer and wine for on-site consumption within their restaurant (“Project”), located at 50 Dixon Road (APN 026-06-010) (“Property”); and

**WHEREAS**, the property is located within the Neighborhood Commercial (C1) zoning district; and

**WHEREAS**, on July 8, 2024, the Applicant obtained conditional approval from the Milpitas Police Department for the Project; and

**WHEREAS**, the Planning Department completed an environmental assessment for the Project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Zoning Administrator determine this Project is categorically exempt; and

**WHEREAS**, on September 5, 2024, the Zoning Administrator held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

**NOW THEREFORE**, the Zoning Administrator of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities), and as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). As proposed, the Project includes allowing beer and wine to be served within a bona-fide eating place that has already been established as an existing restaurant.

**Section 3:** The Milpitas Municipal Code (MMC) requires approval of a Minor Conditional Use Permit (MCUP) for restaurants with ancillary on-premise beer & wine with no separate bars in Neighborhood Commercial zones (Table XI-10-5.02-1). In order

to approve an MCUP, the Zoning Administrator must make the following findings, per Municipal Code Section XI-10-57.04(F):

- a) *The proposed use, at the location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare:*

The proposed use as the proposed location will not be detrimental or injurious to public health, safety and general welfare because it will operate in compliance of regulations established by both the State of California and the City of Milpitas. Those regulations include appropriate licensing, providing workers responsible alcohol service training, and installing video surveillance equipment to monitor the restaurant.

- b) *The proposed use is consistent with the Milpitas General Plan.*

The proposed use is consistent with the Milpitas 2040 General Plan policies, as stated within Table 2 above. The proposed use will directly contribute to meeting the diverse needs of Milpitas residents by providing a safe, easily accessible dining experience through Asian inspired dishes. Allowing beer and wine sales will allow the restaurant to curate more broad beverage options and combinations with dishes, enhancing the dining experience while promoting a greater understanding and appreciate of the Korean culture.

- c) *The proposed use is consistent with the Milpitas Zoning Ordinance.*

The proposed use is consistent with the Milpitas Zoning Ordinance in that it will operate within a legal conforming commercial building surrounded by similar uses and is a permitted conditional use. The Project will be conditioned to operate in a manner that will preserve the health, safety, and welfare of the Milpitas community, while encouraging a diverse use of food and beverage services in the immediate area.

**Section 4:** The Zoning Administrator of the City of Milpitas hereby adopts Resolution No. 24-028 approving Minor Conditional Use Permit No. MC24-0003, to allow ancillary on-premise beer and wine sale with no separate bar for on-site consumption within an existing 1,600 square foot restaurant located at 50 Dixon Road, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Zoning Administrator of the City of Milpitas on September 5, 2024.

\_\_\_\_\_  
Lillian VanHua, AICP  
Principal Planner (Acting Zoning Administrator)

Date: \_\_\_\_\_

**EXHIBIT 1**

**MINOR CONDITIONAL USE PERMIT NO. MC24-0003  
LUCKY SOUL DINER  
50 DIXON ROAD (APN 026-06-010)**

The City of Milpitas Zoning Administrator approves Minor Conditional Use Permit No. MC24-0003 in accordance with Section XI-10-57.04 of the Milpitas Municipal Code, subject to and conditioned upon all applicable State and local laws and regulations and the Conditions of Approval outlined below. This Minor Conditional Use Permit entitlement is to allow the applicant to serve and sell beer and wine for on-site consumption (ABC Type 41 License) within an existing restaurant (Lucky Soul Diner) located within the Neighborhood Commercial (C1) Zoning District located at 50 Dixon Road, subject to all necessary reviews, approvals, studies, and inspections for the issuance of such building permits, if required.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:**

**General Conditions**

1. General Compliance. The applicant, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. This Minor Conditional Use Permit No. MC24-0003 ("Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. **(P)**
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following: **(P)**
  - i. Acceptance of this Permit by Permittee; and
  - ii. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all the terms, obligations, and conditions of this Permit.
4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the Project: **(P)**
  - i. Completes a foundation associated with the Project; or
  - ii. Dedicates any land or easement as required from the zoning action; or

- iii. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
6. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development Project shall be filed within ninety (90) days after the date of the approval of this Permit. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(CA)**
7. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Permit and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the approval of this Permit. **(P)**
8. Conditions. Each and every condition set forth in this Permit shall apply to the Project and continue to apply to the Project so long as the Permittee is operating the Project under the permits and approvals in this Permit. **(P)**
9. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
10. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(P)**
11. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the Project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with

such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**

12. Written Response to Conditions. The Permittee shall provide a written response to the Conditions of Approval indicating how each condition has been addressed with the building permit application submittal. **(ALL)**
13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code. **(P)**
14. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable. **(CA)**
15. Permittee shall develop the approved Project in conformance with the approved plans (date stamped on April, 16, 2024), approved by the Zoning Administrator on the date of the public hearing for the Project on September 5, 2024 in accordance with these Conditions of Approval. **(P)**

Any deviation from the approved site plan, elevations, materials, colors, operation of use, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Zoning Administrator or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

### **POLICE DEPARTMENT CONDITIONS**

16. The beer and wine sold at the restaurant shall be kept in a location out of the reach of patrons to prevent any potential thefts from occurring. **(PD)**
17. Since alcohol will be sold at this premise, the applicant shall ensure all applicable City, County, and State permits are obtained and ABC laws enforced. **(PD)**
18. Sales of alcoholic beverages shall only occur between 11:00 AM to 9:00 PM (restaurant hours per website) or during normal operating hours. **(PD)**
19. All persons who serve alcoholic beverages shall be 21 years of age. **(PD)**

20. Upon demand from a peace officer, the licensee or responsible person shall immediately surrender the license and cease all sales of alcoholic beverages, if applicable under the law. **(PD)**
21. Supervision of distribution, sales, and operation of alcoholic beverage areas shall remain under the control of your organization. No other person or entity shall have authority to sell or distribute alcohol. **(PD)**
22. Conditions may be imposed by the Milpitas Police Department in addition to the Department of Alcoholic Beverage Control conditions. In the event that a local law enforcement agency imposes conditions, the licensee must abide by the most restrictive conditions if there is a conflict in resolution. **(PD)**
23. Video/security cameras shall be required for the site with coverage at all access points into the restaurant. The video/security cameras shall record in high definition and cover the cash register area, entrances/exits, any hallway leading to the restrooms, and the exterior parking lot. The video/security system shall have the capacity to save/store footage for a minimum of thirty (30) days and have the capability to be downloaded. A copy of video/security footage shall be made available to law enforcement, upon request, for investigative purposes. It is recommended the employees of the business be properly trained on how to use the security surveillance camera system so that footage can be reviewed and collected in a timely fashion by the Police department if needed. **(PD)**
24. The cashier area for the business should be away from the front doors and windows of the business and not in plain view to help prevent burglaries when the business is closed. If the cashier area cannot be moved, window treatments such as shades or blinds preventing the area from being clearly visible from the outside should be considered. **(PD)**
25. Applicant shall file an emergency notification form with the Police Department so law enforcement can contact the applicant in the event of any major accident, emergency, or unforeseen circumstance. **(PD)**
26. Applicant shall abide by all Milpitas Municipal Codes to include the noise ordinance (MMC V-213-3.03). **(PD)**

(P) = Planning

(PD) = Police

**ACCEPTANCE**

*Permittee/Property Owner*

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the project property on the terms and conditions set forth in this resolution.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

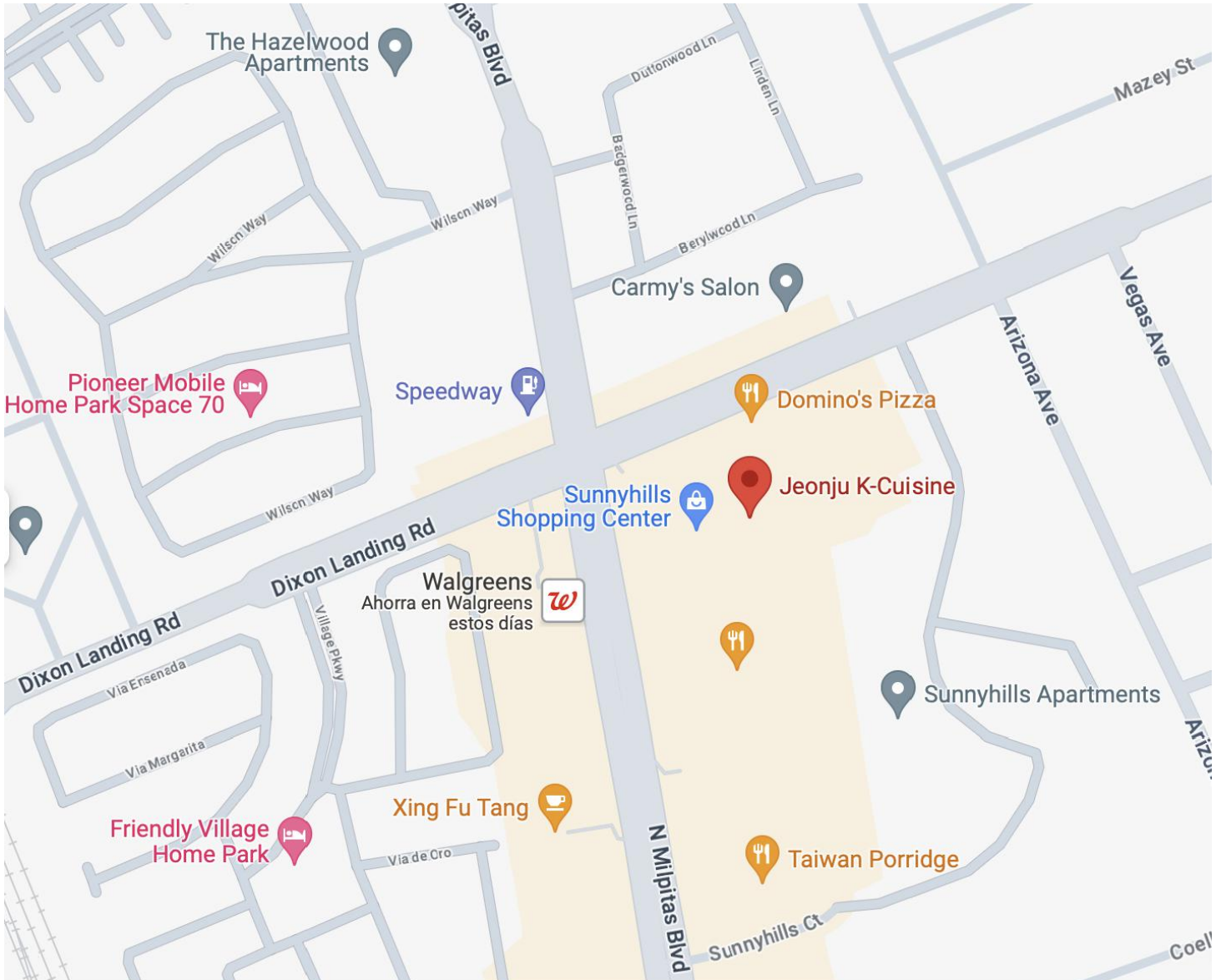
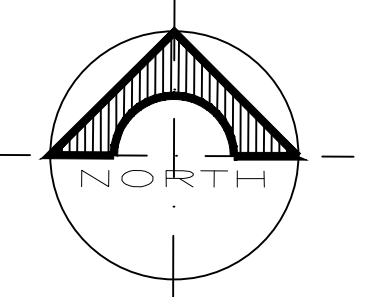
Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTICE OF RIGHT TO PROTEST**

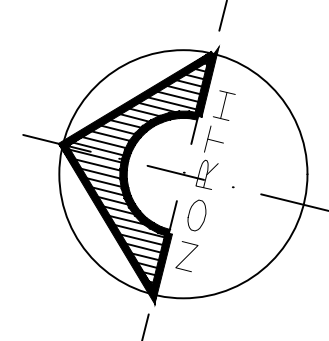
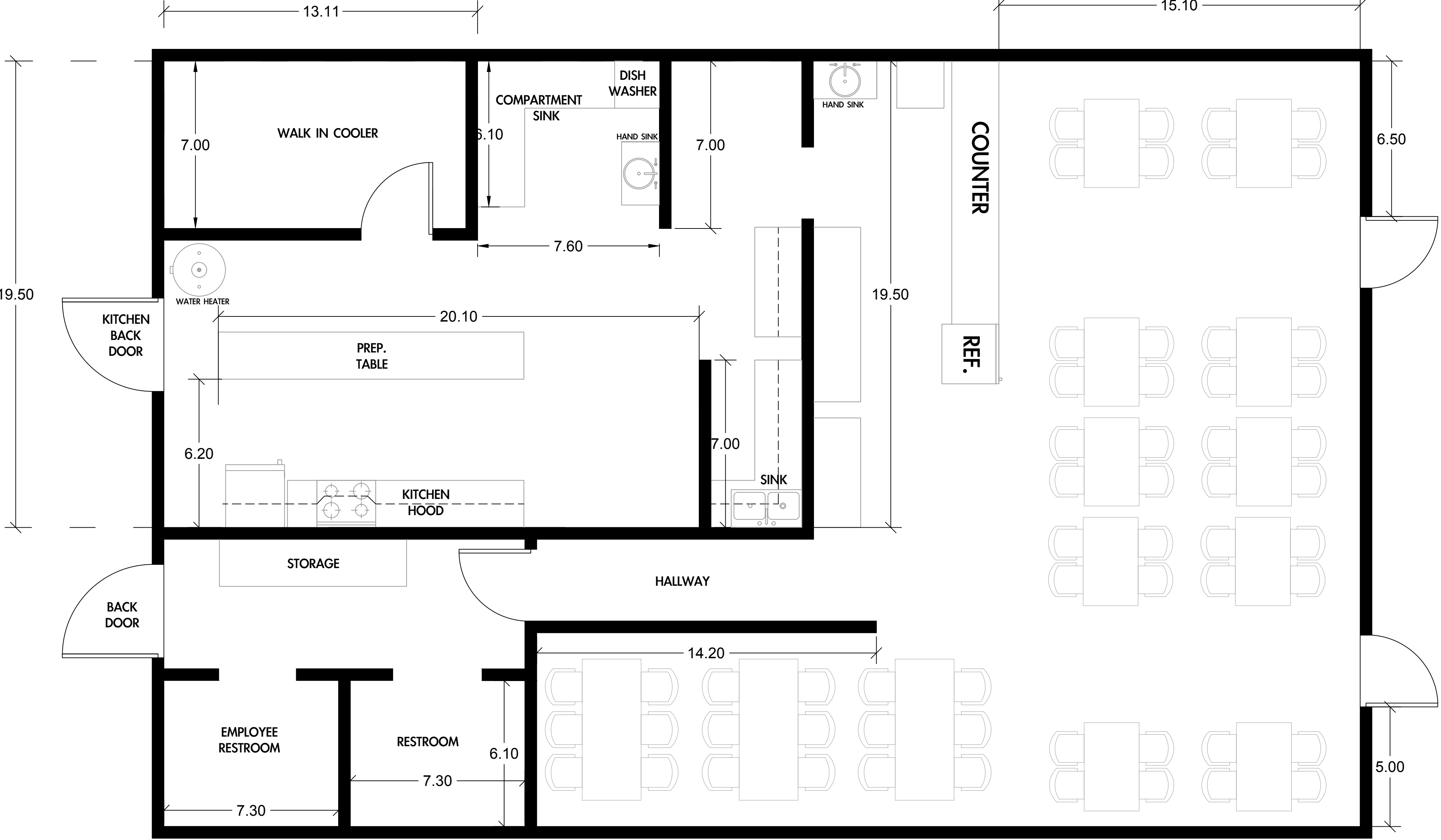
The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

SITE LOCATION MAP



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JEONJU K-CUISINE  
 50 DIXON RD. MILPITAS, CA  
 95035



FLOOR PLAN

NOTES:  
 - ALL DIMENSIONS AND LEVELS WILL BE PROVIDED IN FEET-INCHES.  
 - MEASUREMENTS WILL NOT BE TAKEN AT THE SCALE OF THE PLANS.  
 - THE PLANS MUST BE VERIFIED WITH THE CORRESPONDING INSTALLATION PLANS. ANY DISCREPANCY MUST BE CONSULTED WITH THE ARCHITECTURAL DESIGN DIRECTION.  
 - ALL DIMENSIONS WILL BE VERIFIED ON SITE. ANY DISCREPANCY MUST BE CONSULTED WITH THE ARCHITECTURAL DESIGN MANAGEMENT.

REVISION	DATE
1 REVISED	APR 16
2	
3	

SURIAM BAYONA | DESIGNER.  
 408.380.9707

FLOOR PLAN

A0.01

DATE: APRIL 25 | 2024.