



MONTCLAIR

CITY OF MONTCLAIR  
PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS

5111 Benito Street, Montclair, California 91763

REGULAR ADJOURNED MEETING  
Monday, January 10, 2011  
7:00 p.m.

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*It is respectfully requested that you please silence your cell phones and other electronic devices while the meeting is in session. Thank you.*

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**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Chairman Luis Flores, Vice Chairman Sergio Sahagun, Commissioner Tenice Johnson, Commissioner Maynard Lenhert, and Commissioner Don Vodvarka

**4. APPROVAL OF MINUTES**

The minutes of the November 22, 2010 Planning Commission meeting are presented for consideration.

**5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS**

The public is invited to address the Planning Commission regarding any items that are not on the agenda. Comments should be limited to matters under the jurisdiction of the Planning Commission. It is respectfully requested that speakers limit their comments to no more than three minutes in length.

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete a speaker's card and submit it to the City Planner. Speaker's cards are available at the entrance to the Council Chambers.

## **6. AGENDA ITEMS**

- a. PUBLIC HEARING - CASE NUMBER 2010-17  
Project Address: 5461 Holt Boulevard, Unit G  
Project Applicant: Maria Guadalupe Moreno/Mariscos  
Culiacan, a Mexican Seafood Restaurant  
Project Planner: Silvia Gutierrez, Assistant Planner  
Request: Conditional Use Permit (CUP) request for  
on-sale beer and wine in conjunction with  
a bona fide eating establishment

## **7. INFORMATION ITEMS**

Although the Planning Commission is prohibited from taking action on or discussing items not on the posted agenda, a member of the Planning Commission may ask for information, request a report back or to place a matter of business on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly report on his or her own activities, provided the foregoing are related to, or within the jurisdiction of, the Planning Commission.

## **8. PUBLIC INSPECTION OF MATERIALS**

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

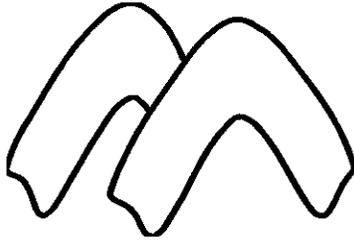
## **9. ADJOURNMENT**

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of January 24, 2011 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California

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### **CERTIFICATION OF AGENDA POSTING**

I, Laura Berke, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the south door of Montclair City Hall on January 6, 2011.



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 01/10/11**

**AGENDA ITEM 6.a**

**Case No. 2010-17**

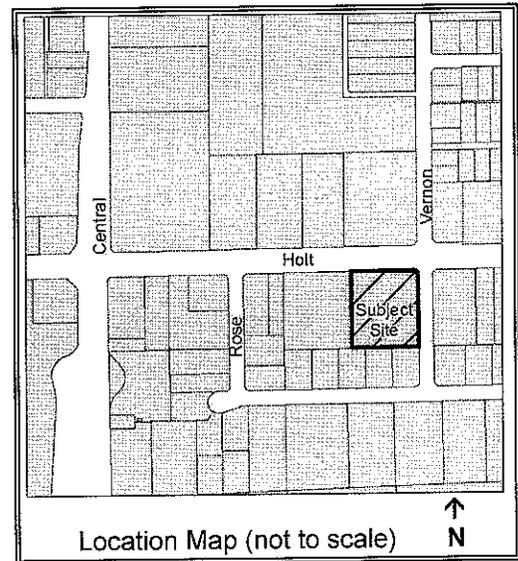
**Application:** CUP for on-sale of beer and wine in conjunction with a bona fide eating establishment (ABC License Type 41)

**Project Address:** 5461 Holt Boulevard, Unit G

**Property Owner:** Lee Living Trust for Mariscos Culiacan Mexican Seafood Restaurant

**General Plan:** General Commercial

**Zoning:** "Business Park" per Holt Boulevard Specific Plan



**Assessor Parcel No.:** 1011-061-17

**EXISTING SITE FEATURES/CONDITIONS**

**Structure:** 24,500 square-foot multi-tenant commercial center

**Parking:** 98 paved parking spaces, including 3 disabled-accessible stalls

**City or other public utility easements:** Typical easements

**ADJACENT LAND USE DESIGNATIONS AND USES**

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
<b>Site</b>	General Commercial	"Business Park" per Holt Blvd. Specific Plan	Multi-tenant commercial center
<b>North</b>	General Commercial	"Auto Mall" per Holt Blvd. Specific Plan	Commercial building
<b>South</b>	Industrial Park	"M-1" (Limited Manufacturing)	Industrial building
<b>East</b>	General Commercial	"Business Park" per Holt Blvd. Specific Plan	Montclair Gas & Wash
<b>West</b>	General Commercial	"Business Park" per Holt Blvd. Specific Plan	Thrift Store

## Report on Item Number 6.a

### PUBLIC HEARING - CASE NUMBER 2010-17

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Lee Living Trust for Mariscos Culiacan Mexican Seafood Restaurant
LOCATION OF PROPERTY	5461 Holt Boulevard, Unit G
GENERAL PLAN DESIGNATION	General Commercial
EXISTING ZONE DISTRICT	"Business Park" per Holt Boulevard Specific Plan
EXISTING LAND USE	Retail Shopping Center
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT COORDINATOR	Silvia Gutierrez

#### **Project Description**

The applicant is requesting approval of a Conditional Use Permit (CUP) to allow on-sale beer and wine (Type 41 – ABC License) in conjunction with a bona fide eating establishment in an existing 5,875 square-foot tenant space located at 5461 Holt Boulevard, Unit G. Mariscos Culiacan, a Mexican seafood restaurant, has been in operation within the existing shopping center located at the southwest corner of Holt Boulevard and Vernon Avenue since February 2010, and offers a seafood focused menu that features shrimp and fish entrées available for lunch and dinner. A new CUP is required to allow on-sale of beer and wine with a bona fide restaurant since the previous restaurant use with on-sale beer and wine was discontinued for more than six months.

The hours of operation are 10:00 a.m. to 8:00 p.m., Monday through Thursday; 10:00 a.m. to 10:00 p.m., Friday and Saturday, and 10:00 a.m. to 9:00 p.m. Sunday. The applicants have provided a site plan, floor plan and menu, which are included in the Commission packets.

#### **Background**

- Based on City records, the 24,500 square-foot multi-tenant commercial center was built in 1987.
- In June 1991, the City Council adopted the Holt Boulevard Specific Plan, which rezoned the subject property from C-3 (General Commercial) to "Business Park."
- The overall appearance of the center is dated but generally in sound condition. The building is divided into multiple lease spaces.
- In May 2006, La Casa de Alvarado Mexican Seafood Restaurant moved into the subject tenant space after remodeling the 5,875 square-foot lease space. The

restaurant was approved with a maximum of 96 seats. On August 28, 2006, the Commission granted a CUP to the property owner, Susan Lee, to allow on-sale beer and wine in conjunction with the bona fide restaurant. However, economic difficulties prompted the closure of the restaurant in late 2009.

### **Planning Division Comments**

Staff's inspection of the premises confirms that it is indeed a bona fide restaurant offering sit-down family dining for lunch and dinner during the hours stated above. Servers take orders and would deliver alcoholic beverages directly to patrons with their meals. As depicted on the floor plan, a dining area containing 96 seats is located at the northerly portion of the tenant space, and the kitchen and storage area is at the southerly portion of the tenant space. The restaurant is an existing use that requires a minimum of 24 parking spaces. The site has 98 parking spaces, which are adequate to support the subject use and other existing tenants, including a liquor store, a family billiard center, dental office, hair salon, retail uses and various vacant spaces. No problems with parking have been reported or were noted during site inspections.

Staff is supportive of this CUP request given the full-service menu and lack of bar counter, dance floor, entertainment or pool tables, and the reasonable hours of operation. The sale and consumption of beer and wine in conjunction with a bona fide restaurant at this location is a compatible and consistent land use when compared to the other commercial retail type businesses in the surrounding area. Accordingly, conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.

### **Conditional Use Permit Findings**

Staff believes the necessary findings for granting the CUP for on-sale beer and wine in conjunction with a bonafide restaurant can be made, as follows:

- A. The proposed on premises sale of beer and wine in conjunction with the full menu and food service provided within a bona fide eating establishment (restaurant) is beneficial to the public convenience and public welfare, in that the inclusion of beer and wine would make the dining experience more enjoyable to the general public of legal drinking age. Such availability of alcoholic beverages is common among other restaurants in the vicinity.
- B. Granting the CUP for the proposed on-sale of beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be conducted in a well-established family restaurant in a shopping center that has adequate security, lighting, and operational maintenance standards. Moreover, the proposed use will be located entirely within the lease space and can be well accommodated on the site. Lastly, such use is compatible to surrounding commercial uses and will not negatively impact any sensitive land uses in the surrounding area.

- C. The proposed on-sale of beer and wine at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-sale of beer and wine in the "Business Park" land use district of the Holt Boulevard Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the sale of beer and wine, so that it does not detract from the general quality of the shopping center and surrounding area.
- D. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.

### **Department of Alcoholic Beverage Control (ABC) Finding**

The project site is located within Census Tract Number 3.01, which allows up to seven (7) on-sale ABC licenses. According to ABC records, as of December 2010, there are currently 12 licenses existing within the census tract, and therefore ABC requires a finding of public convenience or necessity in order to issue a new license.

City staff and the Police Department support this request for on-sale beer and wine in conjunction with a bona fide restaurant as desirable to the public convenience and necessity in that the inclusion of beer and wine would make the dining experience more enjoyable to the general public of legal drinking age. Such availability of alcohol is common among other restaurants in the vicinity. The restaurant is well established and offers a full menu table service and does not have a late closing hour. Lastly, local law enforcement indicated that the area in which the restaurant is located has not had significant calls for service within the last 12 months. Conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.

### **Comments from the Public**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on December 31, 2010 as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property. In addition, courtesy notices were also distributed to all the tenants at the center. At the time the staff report was completed, staff had not received any comments or correspondence from the public regarding this application.

### **Environmental Assessment**

The project qualifies as Class 1 exempt under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. The proposed project does not involve any site changes. The existing restaurant lease space is designed for an eating establishment and can accommodate the proposed on premises sale of beer and wine (Type 41). Ample parking is provided to support the restaurant use and the

addition of ancillary on-sale beer and wine. A DeMinimis finding of no impact on fish and wildlife will be prepared.

**Planning Division Recommendation**

Staff recommends that the Planning Commission take the following actions(s):

1. Move that, based on the evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little or no expansion of existing structures or use. As such, a De Minimis finding of no impact on fish and wildlife will be prepared.
2. Move to approve a Conditional Use Permit under Case No. 2010-17, approving the on premises sale of beer and wine (Type 41) within a bona fide eating establishment at 5461 Holt Boulevard, Unit G, subject to making the required findings, and subject to the conditions of approval as described in attached Resolution No. 11-1735.

Respectfully Submitted,



Michael Diaz  
City Planner

SG/lb

Attachments: Draft Resolution of Approval for Case 2010-17

**RESOLUTION NUMBER NO. 11-1735**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2010-17 TO ALLOW THE ON-SALE OF BEER AND WINE (TYPE 41 ABC LICENSE) IN CONJUNCTION WITH A BONA FIDE EATING ESTABLISHMENT IN THE "BUSINESS PARK" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN AT 5461 HOLT BOULEVARD, UNIT G (APN 1011-061-17)**

A. Recitals.

**WHEREAS**, Lee Living Trust, property owner, filed an application for a Conditional Use Permit (CUP) for on-sale beer and wine in conjunction with a bona fide eating establishment on behalf of Mariscos Culiacan Restaurant, at 5461 Holt Boulevard, Unit G, on September 30, 2010; and

**WHEREAS**, Chapter 11.42.020.B of the Montclair Municipal Code requires a CUP for on-sale beer and wine in conjunction with a bona fide eating establishment (restaurant); and

**WHEREAS**, staff has determined that the proposed on premises sale of beer and wine in conjunction with a bona fide eating establishment meets the intent and requirements of the ordinance for such use and the applicable development standards of the "Business Park" land use district of the Holt Boulevard Specific Plan and the Alcoholic Beverages Ordinance; and

**WHEREAS**, staff has determined that the proposed on-sale of beer and wine in conjunction with a bona fide eating establishment is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1) in that the proposal does not involve any site changes. The existing restaurant lease space is designed for an eating establishment and can accommodate the proposed on-sale of beer and wine (Type 41). Ample parking is provided to support the restaurant use and the addition of on-sale beer and wine. A DeMinimis finding of no impact on fish and wildlife will be prepared.

**WHEREAS**, a notice of public hearing was duly given and posted in the manner and for the time frame prescribed by law; and

**WHEREAS**, on January 10, 2011, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP were heard, and said CUP was fully studied.

B. Resolution.

**NOW, THEREFORE,** it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all the facts set forth in Part A ("Recitals") of this Resolution are true and correct.
2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced public hearing on January 10, 2011, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - a. The proposed on-sale of beer and wine in conjunction with the full menu and food service provided within a bona fide eating establishment (restaurant) is essential or desirable to the public convenience and public welfare, in that the inclusion of beer and wine would make the dining experience more enjoyable to the general public of legal drinking age. Such availability of alcoholic beverages is common among other restaurants in the vicinity.
  - b. The granting of the CUP for proposed on-sale of beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be conducted in a well-established family restaurant in a shopping center that has adequate security, lighting, and operational maintenance standards. Moreover, the proposed use will be located entirely within the lease space and can be well accommodated on the site. Lastly, such use is compatible to surrounding commercial uses and will not negatively impact any sensitive land uses in the surrounding area.
  - c. That the proposed on-sale of beer and wine at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-sale of beer and wine in the "Business Park" land use district of the Holt Boulevard Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the sale of beer and wine so that it does not detract from the general quality of the shopping center and surrounding area.
  - d. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.

- e. The Planning Commission finds the proposed on-sale of beer and wine (Type 41 ABC license) associated with the bona fide family eating establishment desirable to the public convenience and necessity in that the inclusion of beer and wine would make the dining experience more enjoyable to the general public of legal drinking age. Such availability of alcohol is common among other restaurants in the vicinity. The restaurant is well established and offers a full menu table service and does not have a late closing hour. Lastly, the Montclair Police Department has indicated that the area in which the restaurant is located has not had significant calls for service within the last 12 months. Conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.
3. Planning Division staff has determined the project is Categorical Exempt from the requirements of the California Environmental Quality Act and CEQA Guidelines. The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. The proposed project does not involve any site changes. The existing restaurant lease space is designed for an eating establishment and can accommodate the proposed on-sale of beer and wine (Type 41). Ample parking is provided to support the restaurant use and the ancillary on premises sale of beer and wine. A DeMinimis finding of no impact on fish and wildlife will be prepared.
  4. Based upon the findings and conclusions set forth in paragraphs 1, 2, and 3 above, this Commission hereby approves the application subject to the following conditions set forth below:

#### Planning

1. This Conditional Use Permit (CUP) approval is to allow the on-premises sale of beer and wine (Type 41) in conjunction with a bona fide eating establishment, known as Mariscos Culiacan, a Mexican seafood restaurant, within a 5,875 square-foot lease space at 5461 Holt Boulevard, Unit G. Any substantial changes to the operation, increase in floor area of the demised space, physical location, or upgrade of license to full alcohol (distilled spirits) sales shall require prior City review and approval. Any discontinuation or substantial changes to the full service restaurant without City approval shall be a violation of this CUP and may be cause for revocation.
2. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The

applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.

3. This decision or any aspect of this decision, may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
4. Within five (5) working days of approval by the Planning Commission, the applicant shall submit a check in the amount of \$50.00 to cover the County of San Bernardino administrative filing fee for a notice of exemption as required by the California Environmental Quality Act (CEQA). The check shall be made payable to "Clerk of the Board of Supervisors."
5. The restaurant shall be operated, maintained and open to the general public as a full service (bona fide) eating establishment, serving meals at all times that beer and wine are offered for sale and consumption on the premises.
6. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar, sports bar, entertainment venue, night club, dance hall or banquet hall operated by either the restaurant owner or outside vendors or promoters. Occasional rental of the dining room for private functions where meals are also served may be permitted.
7. Live entertainment is not included as part of this approval and requires separate review and approval from the City.
8. Approved hours of operation for the restaurant are 10:00 a.m. to 8:00 p.m., Monday through Thursday; 10:00 a.m. to 10:00 p.m. on Friday and Saturday, and 10:00 a.m. to 9:00 p.m. on Sunday. The applicant may close the restaurant earlier than stated herein. Any changes to the restaurant hours require written notification to the Planning Division and are subject to City approval.
9. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase.
10. The non-conforming sign panels on the center's monument sign shall be replaced with approved panels within 30 days of this approval. All sign panels shall have routed-out copy with opaque background. Scaled drawings shall be submitted to the Planning and Building Divisions for review and approval prior to installation.
11. Outdoor display areas for merchandise are prohibited.

12. No outdoor patio seating area shall be allowed as part of this approval.
13. All graffiti and vandalism and damage to subject site and structure shall be removed or repaired within 72 hours of notice from the City.
14. The maximum number of seats shall be limited to the 96 existing seats.
15. This CUP for on-sale beer and wine may be modified or revoked for failure to abide by these conditions or in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
16. The following mandatory conditions are hereby imposed as part of the CUP approval for on-sale beer and wine:
  - a. The premises shall be maintained at all times in a neat and orderly manner.
  - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.
  - c. No beer and wine shall be sold, dispensed or offered for consumption outside of the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission. Applicant shall post notification of this limitation in English and Spanish within plain view of employees and customers.
  - d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as to not cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
  - e. The permittee shall comply with all California Department of Alcohol Beverage Control statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
  - f. The permittee shall acknowledge and agree the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e) above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:

- i. The specific land use requested by the permittee and authorized by the City;
  - ii. The compatibility of permittee's authorized land use with adjacent land uses;
  - iii. The welfare and safety of the general public within the City.
  - iv. In view of such deleterious secondary effects, permittee shall acknowledge the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a State statute, rule or regulation concerning the sale to or consumption of beer and wine by a minor.
- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
17. No outdoor amplified sound shall be used on the property.
18. The existing jukebox shall be removed from the restaurant.
19. Any violations to the conditions of approval may result in the revocation or modification of this permit, including the imposition of fines, in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
20. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to the following:
- a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
  - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
  - c. At no time shall pennants, inflatable signs, "human" signs, or other similar advertising devices be utilized on the property or off-site.
21. A copy of the CUP approval letter and resolution with all conditions of approval related to the application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy, and shall be made available to law enforcement officers, and/or fire and building inspectors in the course of conducting inspections of said premises.

22. The applicant/property owner shall submit to the Planning Division a signed copy of the Resolution in which he acknowledges acceptance of the conditions of approval within 30 days from the date of approval by the Planning Commission.
23. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 10TH DAY OF JANUARY, 2011.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Luis Flores, Chair

ATTEST: \_\_\_\_\_  
Steve Lustro, Secretary

I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 10th day of January, 2011, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\2010-17\MARISCOS\CULIACAN\RESO11-1735