



CITY OF MONTCLAIR
PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS
5111 Benito Street, Montclair, California 91763

REGULAR ADJOURNED MEETING
Monday, April 11, 2011
7:00 p.m.

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

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

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

4. APPROVAL OF MINUTES

The minutes of the February 14, 2011 and March 14, 2011 Planning Commission meetings 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 2010-19

Project Address: 10550 Ramona Avenue, Units B-1, C, D, and E
Project Applicant: Richard C. Hunsaker / Hector Lopez
Project Planner: Silvia Gutiérrez, Assistant Planner
Request: Conditional Use Permit (CUP) Amendment to allow the expansion of an existing restaurant (Mariscos Licenciado) into two adjacent lease spaces (Units B-1 and C) and to allow the on-premises sale of beer and wine (ABC Type 41) with live band entertainment

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

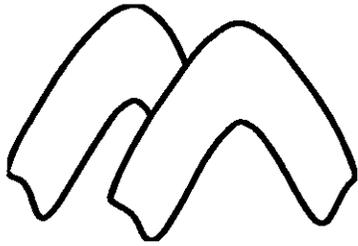
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of April 25, 2011 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California

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 April 7, 2011.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 04/11/11

AGENDA ITEM 6.a

Case No.: 2010-19

Project Address: 10550 Ramona Avenue
 Units B-1, C, D and E

Applicants: Richard C. Hunsaker / Hector Lopez

Project Description: A request to amend an existing Conditional Use Permit (CUP) under Case No. 2008-1 to allow the expansion of an existing restaurant (Mariscos Licenciado) into two adjacent lease spaces (Units B-1 and C) and allow on-site consumption of beer and wine (ABC Type 41) with live band entertainment.

Assessor Parcel No.: 1012-061-01-0000

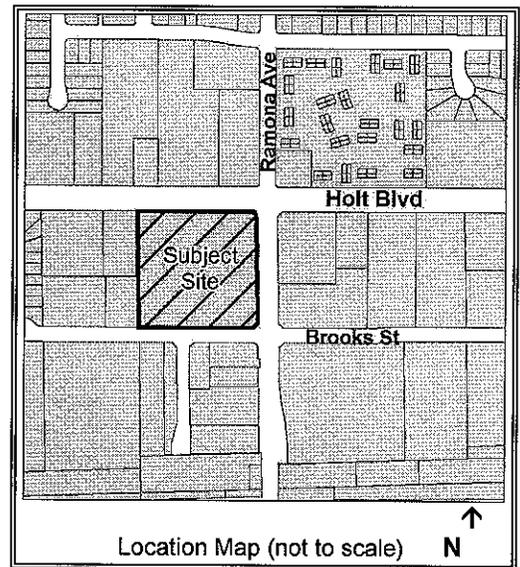
Existing Conditions/Site features:

Structures: 16,600 square-foot multi-tenant commercial building (Units A-H) and three other commercial buildings

Parking: 220 standard parking spaces and 9 disabled-accessible parking spaces

City or other public utility easements: Typical easements

Trees and/or other significant vegetation: Street trees and parking lot landscaping



ADJACENT LAND USE DESIGNATIONS AND USES

	General Plan	Zoning	Use of Property
Site	General Commercial and Industrial Park	"Business Park" per Holt Boulevard Specific Plan	Multi-tenant commercial / Multi-tenant industrial
North	General Commercial	"Commercial" per Holt Boulevard Specific Plan	Vacant land
South	Industrial Park and Conservation Basins	M-2 (General Manufacturing)	Multi-tenant auto service center and Brooks Street Basin
East	General Commercial	"Business Park" per Holt Boulevard Specific Plan	CVS Pharmacy and vacant land
West	General Commercial and Industrial Park	"Business Park" per Holt Boulevard Specific Plan	Reeder Ranch

Report on Item Number 6.a

PUBLIC HEARING - CASE NUMBER 2010-19

APPLICATION TYPE(S)	Conditional Use Permit Amendment
NAME OF APPLICANT	Richard C. Hunsaker / Hector Lopez
LOCATION OF PROPERTY	10550 Ramona Avenue, Units B-1, C-E
GENERAL PLAN DESIGNATION	Business Park
ZONING DISTRICT	"Business Park" per Holt Boulevard Specific Plan
EXISTING LAND USE	Restaurant
ENVIRONMENTAL DETERMINATION	Categorically Exempt, Section 15301
PROJECT COORDINATOR	Silvia Gutiérrez

Project Description

The applicant, on behalf of the Mariscos Licenciado Restaurant, is requesting approval of an amendment to a Conditional Use Permit (CUP) granted under Case No. 2008-1 for the subject restaurant. The proposed CUP would allow the following changes:

1. Expand the floor area of the existing restaurant into two (2) adjacent lease spaces (Units D and E) for use during specified times when proposed entertainment is offered. With the expansion, the restaurant would be doubled in size from 2,444 square feet to approximately 4,888 square feet in area. Only minor interior tenant improvements are proposed, which include the addition of tables and chairs, and retractable doors to separate the expansion area when not in use. Seating in the expansion area would be approximately 46 seats.
2. Allow live musical (band) entertainment within a 200 square-foot performance area (no stage) within the proposed expansion area. Live musical entertainment would be ancillary to the restaurant use and occur only on Fridays from 5 p.m. to 9 p.m. and on Sundays from 4 p.m. to 9 p.m.
3. Extend the service of beer and wine (Type 41) with meals to the proposed expansion area during specified times when entertainment is allowed.

Mariscos Licenciado Restaurant specializes in seafood prepared in the Sinaloa style of Mexico, and has been in operation for approximately 14 years. The current hours of operation for the existing restaurant are 9:00 a.m. to 9:00 p.m. daily, and are not proposed to be changed. Allowed seating for the existing restaurant is 48 seats.

No exterior remodeling, outdoor seating, or separate bar area are being proposed. A site plan, floor plan and menu are included in the Commission packets for reference.

Background

- Based on City records, the 16,600 square-foot multi-tenant commercial building was built in 1990. The overall site contains 220 parking spaces.
- The existing restaurant is located in the multi-tenant commercial center on the southwest corner of Holt Boulevard and Ramona Avenue. Other existing tenants within the subject commercial building include Pomona Valley Workshop, Mi Taquería restaurant, a car audio and video store, and an auto body parts supplier.
- The existing Mariscos Licenciado Restaurant is located within an approximately 2,444 square-foot lease space. The restaurant was approved with a maximum of 48 seats.
- 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 February 2008, the Commission granted a CUP (Case No. 2008-1) to the property owner, to allow on-sale beer and wine (ABC Type 41) in conjunction with the existing bona fide restaurant.

Planning Division Comments

Overall, staff finds the proposed CUP amendment request to be reasonable. The proposed request is generally consistent with the scope and intent of business along the Holt Boulevard corridor of the Holt Boulevard Specific Plan. Staff's inspection of the premises indicates that the existing restaurant use is operating as a bona fide restaurant offering casual sit-down family dining with a full menu. Staff has also determined that the proposed restaurant expansion with alcohol sales and ancillary live entertainment during restricted hours will be a compatible and consistent land use when compared to other commercial type uses/businesses in the immediate area.

The live entertainment proposed with this request will be limited to musical acts, performed by bands not exceeding eight (8) persons. Moreover, public dancing is not requested nor will be allowed with this proposal. The 200 square-foot "performance area" will be delineated and conditions of approval will require that adequate separation and circulation in front the performance area is maintained. Additionally, the restaurant operator will be required to comply with all applicable noise regulations and those imposed by conditions of approval. That means the restaurant owner will be responsible to ensure that proper sound/noise levels are maintained at all times to ensure that adverse noise impacts to the exterior areas of the property or to adjacent uses are not created by the live music occurring within the building.

The restaurant would be required to comply with conditions of approval to ensure that potential impacts to surrounding properties are minimized. The adjacent office use (Pomona Valley Workshop) contacted staff with their concerns regarding impacts to their business because they are immediately adjacent to the performance area. In response to their concerns, staff has worked with the applicant to develop the proposed hours. Staff anticipates the proposed hours will for live entertainment will mitigate this concern. Other than this call staff has not received any other complaints. The existing restaurant currently operates without any reported complaints or known issues. As such, the expansion of the restaurant floor area to accommodate limited live musical entertainment during specified hours is not expected to create adverse impacts to adjacent uses. Use of the expansion area will be limited to particular days and times when most of the adjacent businesses are closed for regular business.

The expanded dining area and sale of beer and wine in conjunction with meals is not expected to cause a significant negative impact to the surrounding properties or businesses. The service of beer and wine in conjunction with meals already occurs at the restaurant without reported problems from the Montclair Police Department or Department of Alcoholic and Beverage Control (ABC) officials. Given the limited use of the expansion area, lack of a bar and/or pool tables, and the requirement to offer meals with drinks, staff believes there will be no significant impacts with the proposal.

Staff also calculated the amount of required parking for the proposal to be 24 parking spaces, which was initially believed to create a possible parking issue. However, the overall site contains 220 parking spaces, and 43 spaces exist within the immediate parking area nearest the restaurant's entry. In addition, a number of the other existing tenants adjacent to the use are closed during the evening or on weekends (e.g., Friday 5 p.m. to 9 p.m. and Sunday 4 p.m. to 9 p.m.) when the restaurant would offer live entertainment and potentially be at full capacity. Moreover, the adjacent food establishment, Mi Taquería, closes at 6 p.m. every day and has not indicated any opposition to the proposal. When not in use, the expansion area will be closed and separated from the main restaurant dining area.

Lastly, a new grease interceptor will be installed to accommodate the restaurant use and expanded dining area. Used fry oil will be stored within the building in a grease barrel that would be picked up monthly by a recycling vendor.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP amendment for on-sale beer and wine and live band entertainment within the bona fide restaurant use can be made, as follows:

- A. That the proposed expansion of the existing restaurant use, including the on-premises sale of beer and wine (ABC Type 41 license) in conjunction with a full menu and food service, and live musical entertainment without public dancing, is essential or desirable to the public convenience and public welfare, in that the

proposal provides the general public, including families, with a location to obtain cooked meals, drinks, and musical entertainment within a properly designed facility. Moreover, the service of alcoholic beverages is tied specifically to the requirement that prepared meals be offered by the existing restaurant at all times that alcoholic beverages are served.

- B. That granting the amendment to the CUP for the proposed expansion of the existing restaurant, including the ability to serve beer and wine and have live musical entertainment during specified hours, will not be materially detrimental to the public welfare and to other property in the vicinity, in that these activities are associated with a family-oriented restaurant in a properly designed facility with adequate on-site parking. In addition, the proposed changes to the existing use will be compatible with surrounding commercial uses and, subject to conditions of approval, will not negatively impact any sensitive land uses and/or adjacent businesses in the surrounding area.
- C. That the proposed CUP amendment for the proposed expansion of the existing restaurant, including the ability to serve beer and wine and have live musical entertainment during specified hours, conforms to good zoning practice, in that the Municipal Code and Holt Boulevard Specific Plan permit both allow the on-premises sale of beer and wine in a bona fide restaurant and live musical entertainment, subject to CUP approval. The CUP process also allows the City to place reasonable conditions to govern the overall operation of the restaurant use with on-sale beer and wine and live musical entertainment.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area. The proposal builds upon the successful restaurant business at the subject location.

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. Since this location already holds an ABC Type 41 license, this proposal will not add to the number of licenses within the census tract.

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.

Public Notice and Comments from the Public

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on April 1, 2011, 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 on March 31, 2011. In addition, courtesy notices were mailed on March 31, 2011, to tenants within the adjacent portion of the center in which the subject tenant space is located.

Environmental Assessment

The proposed expansion of a restaurant to allow on-sale beer and wine in conjunction with a bona fide eating establishment with ancillary live band entertainment is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes that will not involving grading. Accordingly, 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):

- A. 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.
- B. Move to approve a Conditional Use Permit Amendment under Case No. 2010-19, approving the on-premises sale of beer and wine (ABC Type 41) in conjunction with an existing bona fide eating establishment at 10550 Ramona Avenue Unit B-1, and C-E, and including live musical entertainment during specified times, subject to making the required findings, and subject to the conditions of approval as described in attached Resolution No. 11-1740.

Respectfully Submitted,


Michael Diaz
City Planner
MD/lb

Z:\COMMDEV\SG\CASES\2010-19 MARISCOS LICENCIADO\2010-19PCRPT

RESOLUTION NUMBER 11-1740

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING CASE NO. 2010-19, AMENDING A CONDITIONAL USE PERMIT UNDER CASE NO. 2008-1, TO ALLOW THE EXPANSION OF AN EXISTING RESTAURANT (MARISCOS LICENCIADO) INTO TWO ADJOINING TENANT SPACES (UNITS B-1 AND C) WITH ON-PREMISES SALE OF BEER AND WINE (ABC TYPE 41 LICENSE) AND RESTRICTED LIVE BAND ENTERTAINMENT FOR THE PROPERTY LOCATED AT 10550 RAMONA AVENUE, UNITS B-1, C, D, AND E, IN THE "BUSINESS PARK" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN (APN 1012-061-01).

A. Recitals.

WHEREAS, on October 25, 2011, Richard Hunsaker, LLC, property owner, filed an application to allow the expansion of an existing restaurant (Mariscos Licenciado) into two adjacent lease spaces (Units B-1 and C) and allow the on-premises sale of beer and wine (ABC Type 41) with live band entertainment within the expanded area; and

WHEREAS, the application applies to a combined lease space of approximately 4,888 square feet located at 10550 Ramona Avenue, Unit B-1, C, D, and E; and

WHEREAS, the site is located within the "Business Park" land use district of the Holt Boulevard Specific Plan; and

WHEREAS, the Holt Boulevard Specific Plan and Chapter 11.78.100.C.4 of the Montclair Municipal Code (MMC) require a CUP for on-sale beer and wine upon review of development standards and land use compatibility with surrounding properties; and

WHEREAS, the proposed restaurant expansion is consistent with the use and development standards of the underlying "Business Park" land use district and the intent and requirements of the Municipal Code; and

WHEREAS, Chapter 11.42.040.A of the Montclair Municipal Code requires a CUP for on-sale beer, wine, and distilled spirits in conjunction with a bona fide eating establishment (restaurant); and

WHEREAS, Chapter 11.78.030.F of the Montclair Municipal Code requires a CUP for activities for which no provision is made in the Code (such as for live entertainment); 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 Chapter 11.42 MMC ("Alcoholic Beverages – Regulation of Sale"); and

WHEREAS, the Planning Commission has reviewed the Planning Division's determination that the proposed on-premises sale of beer and wine (ABC Type 41) in conjunction with a bona fide eating establishment with ancillary live band entertainment and associated building and site improvements is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines and based on its own independent judgment, concurs with staff's determination of said exemption and finding of no significant effect on the environment. The project qualifies because it is on a fully developed site and involves minor interior improvements and limited site changes not involving grading. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared; and

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 April 11, 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 of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon the substantial evidence presented to this Commission during the above-referenced hearing on April 11, 2011, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. That the proposed expansion of the existing restaurant use, including the on-premises sale of beer and wine (ABC Type 41 license) in conjunction with a full menu and food service, and live musical entertainment without public dancing, is essential or desirable to the public convenience and public welfare, in that the proposal provides the general public, including families, with a location to obtain cooked meals, drinks, and musical entertainment within a properly designed facility. Moreover, the service of alcoholic beverages is tied specifically to the requirement that prepared meals be offered by the existing restaurant at all times that alcoholic beverages are served.
 - b. That granting the amendment to the CUP for the proposed expansion of the existing restaurant, including the ability to serve beer and wine and have live

musical entertainment during specified hours, will not be materially detrimental to the public welfare and to other property in the vicinity, in that these activities are associated with a family-oriented restaurant in a properly designed facility with adequate on-site parking. In addition, the proposed changes to the existing use will be compatible with surrounding commercial uses and, subject to conditions of approval, will not negatively impact any sensitive land uses and/or adjacent businesses in the surrounding area.

- c. That the proposed CUP amendment for the proposed expansion of the existing restaurant, including the ability to serve beer and wine and have live musical entertainment during specified hours, conforms to good zoning practice, in that the Municipal Code and Holt Boulevard Specific Plan permit both allow the on-premises sale of beer and wine in a bona fide restaurant and live musical entertainment, subject to CUP approval. The CUP process also allows the City to place reasonable conditions to govern the overall operation of the restaurant use with on-sale beer and wine and live musical entertainment.
- d. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area. The proposal builds upon the successful restaurant business at the subject location.

Planning

1. This approval is for a CUP amendment to allow on-sale beer and wine (ABC Type 41) and live entertainment in conjunction with a bona fide eating establishment, Mariscos Licenciado, a Mexican restaurant, at 10550 Ramona Avenue, Units B-1 and C-E, based on a finding of public convenience and necessity. 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 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. Upon transfer, sale or re-assignment of the restaurant to another individual or entity, the applicant shall make full disclosure of the CUP requirements and restrictions to future buyers, transferees or assignees.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six months 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. Within five days of approval, the applicant shall submit a check in the amount of \$50 to cover the County administrative fee for filing a Notice of Exemption as required the California Environmental Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
4. Units D and E (2,444 square feet) of the existing restaurant shall be operated, maintained and open to the general public during the hours of 9 a.m. to 9 p.m. daily 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. There shall be a maximum of 48 seats within this portion of the dining area at all times.
5. Units B-1 and C (2,444 square feet), which make up the expanded dining area of the existing restaurant, shall be open to the general public only on Fridays from 5 p.m. to 9 p.m. and on Sundays 4 p.m. to 9 p.m. The expanded dining area shall have no more than a 200 square-foot performance area (no stage) for live musical performances as delineated by means of reflective floor tape. The stage shall be separated from adjacent chairs and tables by a minimum of 6-feet in all directions and kept clear of any obstructions at all times. There shall be a maximum of 46 seats within this portion of the dining area at all times.
6. Total occupancy of the restaurant shall not exceed 130 at any one time.
7. The applicant may close the restaurant earlier than the hours stated herein. Any extension of the restaurant hours shall require written notification to the Planning Division for review and City approval.
8. The expanded lease area (Units B-1 and C) shall not used for dining or entertainment until a Certificate of Occupancy is issued by the Building Official.
9. The live musical band entertainment shall comply with following:
 - a. All live band entertainment shall remain within the approved 200 square-foot performance area (no stage).
 - b. Public dancing shall be prohibited and is not a part of this approval.
 - c. Entertainment shall only be permitted only on Fridays between 5 p.m. and 9 p.m., and on Sundays between 4 p.m. and 9 p.m.
 - d. No more than eight (8) band members shall be permitted to perform at any time.

- e. During hours of live entertainment, all doors of the restaurant shall remain closed, but unlocked, including the rear doors.
 - f. Noise from entertainment shall not be audible beyond the area controlled by the occupant at all times.
 - g. Tables and chairs shall be provided within the dining area at all times.
10. The business owner shall be responsible to apply for a separate entertainment permit reviewed and approved by the Montclair Police Department. Entertainment Permit applications shall be obtained at the Finance Department at City Hall (909/625-9423). The application shall be submitted along with a signed copy of the Planning Commission's Resolution of Approval for the project. Prior to commencing entertainment activities, a copy of an approved Entertainment Permit must be submitted to the Planning Division.
 11. The business and/or premises shall not be converted into other uses where minors are generally excluded, such as a bar, sports bar, night club, dance hall or banquet hall operated by either the restaurant owner or outside vendors or promoters.
 12. Occasional rental of the dining room for a private event/function may be allowed only when the event/function is hosted by the restaurant owner and not contracted out to a third party. Entry fees or cover charges for entertainment shall be prohibited. All conditions of this approval shall continue to apply, including day and time restrictions, and requirements to serve full meals with alcoholic beverages.
 13. Take-out, off-sale, or "to go" beer and wine sales shall not be permitted under this approval. Furthermore, no alcoholic beverage is allowed to be served or consumed outside of the restaurant premises. Applicant shall post notification of this limitation in English and Spanish within plain view of employees and customers. This CUP approval does not include patio dining.
 14. Prior to the serving of beer and wine within the expanded area on the subject premises, the applicant shall obtain the appropriate license from the Department of Alcoholic Beverage Control (ABC), and demonstrate to the Planning Division that all necessary conditions have been met.
 15. No permanent building-mounted, wall-mounted or monument signs are approved as part of this entitlement. Should the applicant desire to install any business identification signs, plans shall be submitted to the Planning and Building Divisions for review and approval prior to installation of said sign(s).

16. 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.
 - a. At no time shall pennants, inflatable signs, "human" signs, other similar advertising devices be utilized on the property or off-site.
17. No window signs either inside or outside, illuminate or not, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase.
18. This CUP for on-sale beer and wine may be modified or revoked for failure to abide by these conditions or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
19. The following mandatory conditions are hereby imposed as part of the CUP approval for the proposed expansion and approval to allow 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 except within the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission.
 - d. The exterior appearance of the premises shall be designed and maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as not to cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
 - e. The permittee shall comply with all State statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.

f. The permittee shall acknowledge and agree that 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.

In view of such deleterious secondary effects, permittee shall acknowledge that 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.

20. 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.

Police

21. The applicant may be required to provide a security guard at the discretion of the Montclair Police Department if security concerns warrant such adjustment.

Building

22. The restaurant upgrades (tenant improvement construction) currently exist. After inspection of the premises, construction items were noted that were in violation of the California Building Code. The following items are required to be completed for a Certificate of Occupancy to be issued:
 - a. The applicant shall comply with the latest adopted California Building Code and other applicable codes, ordinances and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans.
 - b. A Certificate of Occupancy is required prior to the occupancy of Units B-1 and C. Issuance of the Certificate of Occupancy shall be contingent upon Fire Department inspection and final approvals from other departments and or agencies.
23. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records that were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Imaging Policy.
24. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
25. Contact the Building Official for plan check submittal requirements at 909/625-9437.
26. Obtain a Building Permit for all construction.
27. The walls that have been partially removed in Units B-1, C, D, and E are required to be removed completely. The original walls continued from floor to ceiling and only the bottom portion has been removed.
28. One disabled-accessible parking stall and unloading area shall be required to meet the current disabled accessibility requirements of Chapter 11 of the California Building Code (CBC). The space and unloading zone shall have no more than a 2% slope in any direction.

Fire Department

29. Maintain a 20-foot wide access drive aisle to the rear of the property.
30. Maintain the fire alarm in good working order.
31. Provide fire extinguishers per Fire Inspector requirements.

32. In those structures covered by CAC Title 19, all drapes, hangings, curtains, drops, and all other decorative material shall be made from non-flammable material, or shall be treated and maintained in a flame-retardant condition, by means of a flame retardant solution or process approved by the State Fire Marshal.

Environmental/Engineering

33. The applicant shall install a grease interceptor for the kitchen facility for this restaurant. The size and location of the grease interceptor shall be shown on plans submitted for plan check review and are subject to the review and approval of the Environmental Manager and the Building Official.
34. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
35. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact Michael Hudson, City Engineer, at 909/625-9441 for fees.
36. Regional Sewerage Supplemental Capital Outlay fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency (IEUA). Contact Michael Hudson, City Engineer, at 909/625-9441 for fees.
37. City of Montclair Environmental Manager shall complete inspections for the grease interceptor rough plumbing and the grease interceptor rings and covers to grade prior to issuance of a Certificate of Occupancy. The applicant shall contact Nicole Greene, Environmental Manager, at 909/625-9446 to schedule all inspections in advance.

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

APPROVED AND ADOPTED THIS 11TH DAY OF APRIL, 2011.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Sergio Sahagun, 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 11th day of April, 2011, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\CASES\2010-19\RESO