



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

REGULAR ADJOURNED MEETING  
Monday, September 12, 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 Sergio Sahagun, Vice Chairman Luis Flores, Commissioner Tenice Johnson, Commissioner Maynard Lenhert, and Commissioner Don Vodvarka

**4. APPROVAL OF MINUTES**

The minutes of the August 22, 2011 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 2011-9  
Project Address: 4770 Mission Boulevard  
Project Applicant: Martha Hernandez  
Project Planner: Silvia Gutiérrez, Assistant Planner  
Request: Conditional Use Permit request to allow  
and re-establish a restaurant with on-sale  
beer and wine

## **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.

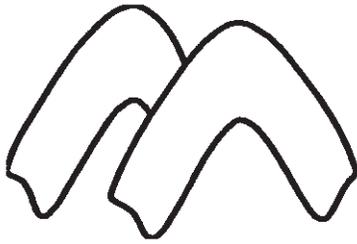
## **9. ADJOURNMENT**

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of September 26, 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 September 8, 2011.



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 09/12/11**

**AGENDA ITEM 6.a**

**CASE NUMBER: 2011-9**

**PROJECT ADDRESS: 4770 Mission Boulevard**

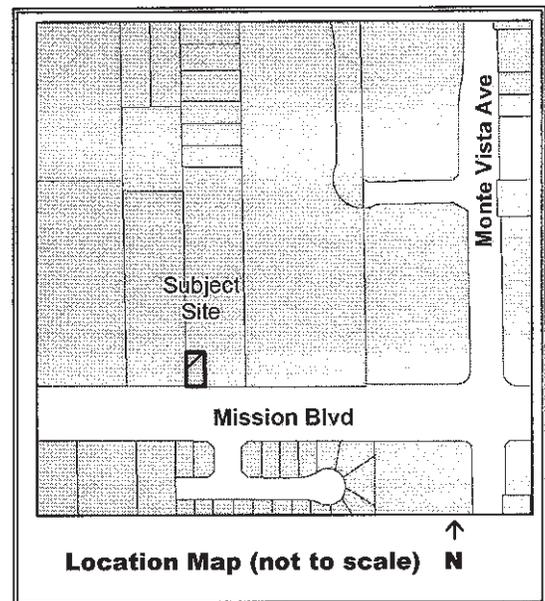
**ASSESSOR PARCEL NUMBER: 1012-121-02**

**APPLICANT: Martha Hernandez**

**PROJECT DESCRIPTION:** Request for a Conditional Use Permit (CUP) to re-establish and allow on-sale of beer and wine at the Tacos Los Carnales restaurant and a Precise Plan of Design (PPD) for the remodel of the restaurant and related exterior site improvements.

**ZONING:** "MIP" (Manufacturing Industrial Park)

**GENERAL PLAN:** Business Park



**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** 4770 Mission Boulevard – 1,210 square-foot restaurant

**Parking:** 4 paved parking spaces

**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>	Business Park	"MIP" (Manufacturing Industrial Park)	Freestanding building (4770 Mission)
<b>North</b>	Business Park	"MIP" (Manufacturing Industrial Park)	Former motel converted to industrial use
<b>South</b>	Residential Low	Residential Low	Single family residential
<b>East</b>	Business Park	"MIP" (Manufacturing Industrial Park)	Former motel converted to industrial use
<b>West</b>	Business Park	"MIP" (Manufacturing Industrial Park)	Mobile Home Park

## Report on Item Number 6.a

### PUBLIC HEARING – CASE NUMBER 2011-09

APPLICATION TYPE(S)	Conditional Use Permit and Precise Plan of Design
NAME OF APPLICANT	Martha Hernandez
LOCATION OF PROPERTY	4770 W. Mission Boulevard
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	Manufacturing Industrial Park (MIP)
EXISTING LAND USE	Restaurant (Fire Damaged)
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	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 at 4770 W. Mission Boulevard. A restaurant use has been in existence on the site when the property was under the jurisdiction of San Bernardino County. In 2006, the property and surrounding area was annexed to the City.

Tacos Los Carnales was opened in 2005 and has been licensed to sell beer and wine with meals (Type 41 License), but did not have a CUP issued by the County. In January of this year, a fire significantly damaged the restaurant resulting in its closure. Since the restaurant use with on-sale beer and wine was discontinued for more than six months, a new CUP is required to re-establish and allow on-sale of beer and wine at the restaurant as required by City of Montclair regulations.

Tacos Los Carnales offers a menu that features Mexican food entrées available for lunch and dinner, as well as catering services for off-site events. The hours of the restaurant operation are 10:00 a.m. to 10:00 p.m. daily. No bar counter, dance floor, entertainment, or pool tables are proposed. A copy of the restaurant's menu is included in the Commission packets.

#### **Exterior Site Improvements and Building Remodel**

To accommodate the re-opening of the restaurant, the site and building will be improved and remodeled, as follows:

- The parking area is proposed to be restriped to meet ADA requirements, including the addition of a path of travel, a pedestrian walk area, and a new disabled-accessible parking space.

- The removal of the existing pole sign and support posts, and small remnant planter areas at the west end of the property.
- The addition of a new grease interceptor (in the parking lot) and a covered trash enclosure (rear).
- A reorganized interior floor plan to meet ADA access and restroom requirements, and to create a more efficient layout, including the following:
  - Replacement of the substandard (unapproved) enclosed area at the rear of the original building with a building addition that meets current building code requirements.
  - A new food preparation, cooler storage, and office areas that would be concentrated in the rear (north) of the lease space.
  - A dining area designed for a maximum of 10 tables and 40 seats.
- A new facade design for the restaurant, including the following changes:
  - A raised parapet (arched at the center of the front facade) to screen any roof-mounted equipment and provide a location for a new wall sign.
  - A new window and door storefront. Access to the front door entry is proposed from both stairs and a ramp incorporated into the building's design.
  - A projecting "visor" roof element set below the top of the parapet to add visual interest and provide some protection to the windows, stairs and access ramp. The visor roof element will be covered in "terracotta" colored concrete tile.
  - An updated color scheme, new decorative exterior light fixtures, and new wall mounted sign centered on the front facade. The applicant will submit a separate application for new signs for administrative review and approval by City staff.

Plans for the project are provided in the Commission packets for reference.

### **Background**

- The subject site is approximately 4,600 square feet in size. Based on property profile records, the existing building was built in 1958 under the jurisdiction of the County of San Bernardino and permit records are unavailable. Staff believes the restaurant has been in operation since the mid 1980's.

- On October 24, 2006, the existing site, use, and the immediately adjacent properties were annexed to the City of Montclair (Annexation No. 26).
- The easterly property line is approximately 6'5" from the easterly wall of the existing building. An existing block wall is located approximately 2'-5" to 3'-0" feet the property line. Since acquiring the property in 2005, the current property owners of the restaurant have utilized this area for pedestrian access to the rear of the property. As depicted on the submitted site plan, this area will continue to be utilized as a pedestrian access. The applicant contacted the adjacent owner who did not have an opposition to the continued use of this area.
- Section 11.42.040.A of the Montclair Municipal Code requires approval of a CUP for the on-premises sale of beer, wine and distilled spirits in conjunction with a bona fide eating establishment.

### **Planning Division Comments**

Staff is supportive of the request to serve alcoholic beverages in conjunction with meals served at the site. Typically, restaurant uses with or without on-premises alcohol sales are not of significant concern, especially when they are not set-up with a bar or intended to be an entertainment venue. Accordingly, staff's recommended conditions of approval have been developed to ensure the safety and general welfare of the surrounding area would be maintained.

The sale and consumption of beer and wine with meals at this location has been without significant issue. The business is largely separated from other retail businesses and other sensitive uses, so the reopening of the restaurant with beer and wine service is not expected to cause any major impacts. The only area of concern regarding the business is that on occasion (usually weekends) the restaurant operator has setup pop-up tents in the parking lot (and the adjacent property to the east) to sell food to passersby. Not only does this type of operation use up parking spaces necessary for the business, but the parking lot (or on other properties) is not an authorized place of business. Outdoor sales are only permitted on the subject site with a Special Event Permit (SEP) after staff has determined the property is adequate in size and shape to support the event without adverse effects. Given the size of the property and lack of on-site parking, the approval of outdoor events is not likely.

A second concern is the potential for parking/storing of catering and/or delivery trucks/vans/trailers/containers in the parking lot. The lot is simply not large enough to store these vehicles to begin with, and would, if allowed, further reduce the already sub-standard number of parking spaces on the site. Except for delivering and/or loading of food or supplies, staff recommends that these vehicles/trailers must, as a condition of approval, be parked at another off-site location.

Staff is especially pleased to see the site and appearance of the building is proposed to be significantly improved. The applicant has worked with staff to resolve a number of

existing deficiencies with the property, including the addition of a new trash enclosure, grease interceptor, and the removal of old non-conforming pole signs. Moreover, the new parking lot improvements and remodel of the existing building will positively contribute to the appearance of the property and adjacent streetscape.

With regard to parking and its placement on the property, staff acknowledges that it is less than ideal. Given the small size of the site and its development, there is literally no room in which to expand and provide the amount of parking spaces that would have been typically required for the use, or to organize them in a different fashion than they are. However, the restaurant is a permitted use in the MIP district, been used as a restaurant for a number of years without significant issues, and is not being expanded in size. Parking is also available on the street and there are not many other business establishments in the immediate area to compete with. With this project, the property is able to pick up at least one more on-site parking space for a total of 5 spaces, which will include an ADA compliant disabled-accessible parking space.

### **Conditional Use Permit Findings**

Staff believes the necessary findings for granting the CUP for on-sale beer, wine, and distilled spirits can be made, as follows:

- A. The proposed on-sale of beer and wine in conjunction with the existing bona fide eating establishment (restaurant) use is essential or desirable to the public convenience and public welfare. The restaurant provides a dining choice for members of the community some of whom may desire to consume beer or wine with their meals eaten at the restaurant. When the repair and remodel of the existing restaurant building is completed, it will reopen and resume offering beer and wine with meals as it did previously before it was damaged by fire.
- B. The granting of the CUP for proposed on-sale of beer and wine in conjunction with an existing restaurant use will not be materially detrimental to the public welfare and to other property in the vicinity. Prior to the fire, which temporarily shut down operations, the restaurant was well established in the community, did not have a bar, offered a full menu of food items, and does not have a late closing hour. In addition, the proposed exterior remodeling of the existing building and other site improvements will be significant and result in major upgrade in the appearance of the restaurant, which would contribute to the overall physical improvement and appearance of the streetscape along Mission Boulevard.
- C. That the proposed on-sale of beer and wine at the subject site conforms to good zoning practice, in that a restaurant use is a permitted use in the "MIP" land use district, and the on-sale of beer and wine with meals is not typically a source of major concern like other types of establishments serving alcoholic beverages. Moreover, 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 3.04, which allows up to three (3) on-sale ABC licenses. According to ABC records, as of August 2011, there are currently four (4) licenses existing within the census tract, one of which is the license belonging to the subject use. However, since the number is over ABC limits, a finding of public convenience or necessity will be required.

City staff and the Police Department support this request for the on-premises sale of beer, wine, and distilled spirits in conjunction with the existing restaurant as desirable to the public convenience and necessity. The restaurant does not propose late closing hours and proposed to continually serve hot meals made to order for consumption on the premises. The sale of alcoholic beverages is not a major portion of the business, but offers customers a choice if desired.

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 published as a public hearing in the Inland Valley Daily Bulletin newspaper on August 26, 2011, as prescribed by law for this discretionary land use entitlement. Public hearing notices for the September 12 meeting were mailed to all property owners within 300 feet from the boundaries of the subject property on September 2, 2011. As of the writing of this report, no comments from the public have been received.

### **Environmental Assessment**

The proposed on-sale of beer, wine, in conjunction with a bona fide eating establishment and related exterior 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. The project involves the restoration of a fire damaged structure and does not result in an expansion of the restaurant use that previously existed before the fire. Moreover, the proposed remodel of the building only involves changes to the existing floor plan to comply with ADA

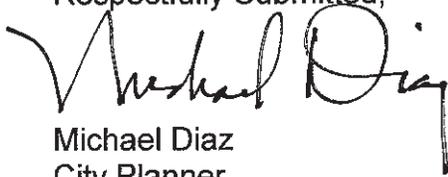
access and restroom requirements, to achieve a more efficient kitchen layout, and to create a new facade to update the appearance of the existing building; and

**Planning Division Recommendation**

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

- A. Move that, based upon 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.
  
- B. Move to approve Conditional Use Permit and Precise Plan of Design under Case No. 2011-09 approving the on-premises sale of beer, wine (ABC Type 41 License) in conjunction with a bona fide eating establishment and related site and tenant improvements at 4770 Mission Boulevard, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 11-1746.

Respectfully Submitted,



Michael Diaz  
City Planner

MD/lb

Z:\COMMDEV\SG\CASES\2011-9 TACOS LOS CARNALES\2011-9 RPT

RESOLUTION NUMBER NO. 11-1746

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2011-09 TO ALLOW THE ON-SALE OF BEER AND WINE (TYPE 41 ABC LICENSE) IN CONJUNCTION WITH A BONA FIDE EATING ESTABLISHMENT WITHIN THE "MANUFACTURING INDUSTRIAL PARK (MIP)" LAND USE DISTRICT, AT 4770 MISSION BOULEVARD (APN 1012-121-02).**

A. Recitals.

**WHEREAS**, on August 3, 2011, Martha Hernandez, 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 Tacos Los Carnales Restaurant, at 4770 Mission Boulevard; and

**WHEREAS**, this application applies to a restaurant business within a single story building, approximately 1,786 square-feet in area; and

**WHEREAS**, on July 25, 2005, the existing restaurant business (Taco Los Carnales) obtained a Type 41 ABC License for on-sale of beer and wine in conjunction with meals while under the jurisdiction of San Bernardino County (the County); and

**WHEREAS**, City records do not indicate that a Conditional Use Permit (CUP) was required or issued by the County for the on-sale beer and wine license for the existing restaurant use, and

**WHEREAS**, on October 24, 2006, the existing site, use, and the immediately adjacent properties, were annexed to the City of Montclair (Annexation No. 26), thereby subjecting the property to City development requirements and standards; and

**WHEREAS**, on January 9, 2011, the existing restaurant building was damaged by fire and subsequently closed for business pending the preparation of plans to repair and reopen the restaurant business; and

**WHEREAS**, on August 3, 2011, the applicant submitted plans in conjunction with this CUP application for extensive remodeling of the existing building and site to re-establish the restaurant business; and

**WHEREAS**, Chapter 11.30.020.B.9 of the Montclair Municipal Code allows restaurants as a permitted land use in the Manufacturing Industrial Park (MIP); 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**, the existing business has not been operational for a period greater than six (6) months, thereby requiring compliance with City of Montclair requirements, including the approval of a CUP for the on-sale of beer and wine, in conjunction with a bona fide eating establishment; and

**WHEREAS**, a "bona fide public eating establishment " is generally defined as a licensed restaurant use with suitable kitchen facilities to provide regular service of meals to patrons commonly ordered at various hours of the day; and

**WHEREAS**, City staff has determined that the existing restaurant use meets the requirements of a bona fide public eating establishment to allow the on-sale of beer and wine in conjunction with meals and the applicable development standards of the "Manufacturing Industrial Park (MIP)" land use district in which the subject site and use are located 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 project involves the restoration of a fire damaged structure not involving the expansion of the restaurant use that previously existed before the fire. Moreover, the proposed remodel of the building only involves changes to the existing floor plan to comply with ADA access and restroom requirements, to achieve a more efficient kitchen layout, and to create a new façade to update the appearance of the existing building; 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 September 12, 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 September 12, 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 existing bona fide eating establishment (restaurant) use is essential or desirable to the public convenience and public welfare. The restaurant provides a dining choice for members of the community, some of whom may desire to consume beer or wine with their meals eaten at the restaurant. When the repair and remodel of the existing restaurant building is completed, it will reopen and resume offering beer and wine with meals as it did previously before it was damaged by fire.
  - b. The granting of the CUP for proposed on-sale of beer and wine in conjunction with an existing restaurant use will not be materially detrimental to the public welfare and to other property in the vicinity. Prior to the fire, which temporarily shut down operations, the restaurant was well established in the community, does not have a bar, offers a full menu of food items, and does not have a late closing hour. In addition, the proposed exterior remodeling of the existing building and other site improvements will be significant and result in major upgrade in the appearance of the restaurant, which contributes to the overall physical improvement of the streetscape along Mission Boulevard.
  - c. The proposed on-sale of beer and wine at the subject site conforms to good zoning practice, in that a restaurant use is a permitted use in the "MIP" land use district, and the on-sale of beer and wine with meals is not typically a source of major concern like other types of establishments serving alcoholic beverages. Moreover, 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. The availability of alcohol served in conjunction with meals is common among other restaurants in the immediate vicinity and around the City. Since its opening in 2005, there have been no reported issues or violations of applicable rules and requirements, including those mandated by ABC. 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 the safety and general welfare of the surrounding area would be maintained.

3. Planning Division staff has determined the project is Categorically 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 involves the restoration of a fire damaged structure and does not result in the expansion of the existing building and restaurant use that operated before the fire. The proposed interior and exterior remodel of the building only involves changes to the existing floor plan to comply with ADA access and restroom requirements, to achieve a more efficient kitchen layout, and to create a new façade to update the appearance of the existing building does not involve any major site changes. When completed, the existing restaurant will resume business, including the on-sale of beer and wine (Type 41 ABC License) with meals.
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 shall allow the on-premises sale of beer and wine (Type 41) in conjunction with meals in a bona fide eating establishment, known as Tacos Los Carnales, a Mexican food restaurant, at 4770 Mission Boulevard. Any substantial changes to the operation, increase in floor area or upgrade of license to full alcohol (distilled spirits) sales shall require prior City review and approval.
2. Approval of this CUP shall not waive compliance with any regulations as set forth in the Uniform Building Code and/or City Ordinances or by the San Bernardino County Health Department and/or California State Department of Alcoholic Beverage Control (ABC).
3. 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.

4. 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.
5. Within five (5) working days of approval by the Planning Commission, the applicant shall submit a check to the Planning Division 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."
6. The applicant/property owner shall submit to the Planning Division a signed copy of the approval letter in which he/she acknowledges acceptance of the conditions of approval within 15 days from the date of approval by the Planning Commission.
7. The serving of alcoholic beverages shall be allowed only in conjunction with the operation of a bona-fide restaurant as defined by Section 23038 of the California Business and Professions Code. The restaurant shall be in operation and shall provide a full service menu to customers during regular business hours. The business shall employ not less than one full-time cook that is engaged in the preparation of meals for patrons during the permissible hours of operation.
8. At no time shall the premises be modified to add or converted into other uses where minors are 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.
9. Approved business hours for the restaurant are daily between the hours 10:00 a.m. to 10:00 p.m. The applicant may close the restaurant earlier than stated herein. Any requests to extend restaurant hours shall require written notification to the Planning Division and are subject to City approval.
10. The approved restaurant use shall be subject to the following operating requirements:

- a. The maximum number of seats within the dining room shall be limited to a maximum of 10 tables and 40 seats, as shown on the approved floor plan.
  - b. Alcoholic beverages shall be sold to customers only when food is ordered and consumed within the subject restaurant. The sale and serving of alcoholic beverages for consumption outside the restaurant is prohibited.
  - c. No signs (temporary or permanent) or banners, advertising alcoholic beverage "specials" or any similar promotions shall be displayed or allowed on exterior walls, fascia, or in windows (either inside or outside) which are visible to the street.
  - d. No outdoor patio seating or product display areas for food and/or merchandise shall be allowed.
  - e. No exterior sound systems for music or paging shall be allowed.
  - f. No public telephones, vending machines, collection boxes, children's rides or other coin-operated machines shall be located on the exterior of the site or building.
  - g. The restaurant shall have no coin operated amusements, such as pool tables, juke boxes, video games or other similar equipment at any time.
  - h. Storage of crates, boxes, or canisters shall be neatly stored behind the building and periodically removed so as to maintain a clean and orderly condition at all times. The use of large storage (sea) containers, or similar structure, on the property shall be prohibited.
11. No catering trucks/vans/trailers/ or other temporary vehicle and/or structure shall be placed, stored, or located on the site for the purposes of selling food or merchandise outside the restaurant building. Except during non-business hours, delivery or catering trucks may be allowed on the site for a temporary time period to deliver or load/unload cooked food items/supplies.
12. Live entertainment is not included as part of this approval and requires separate review and approval from the City.
13. Prior to the issuance of building permits, the applicant shall submit catalog cuts for any and all exterior light fixtures. All wall mounted fixtures shall be set at 90 degrees to the building wall and incorporating full cut-off lenses so as to direct illumination down to the surface to be illuminated. All soffit lighting installed within the building shall be flush-mounted so that the lens or

bottom of the fixture is flush with the underside of the soffit. The use of wall packs, barnlighters, or other similar unshielded luminaires on the property shall be prohibited.

14. Prior to the issuance of a Certificate of Occupancy, the applicant shall complete the following, subject to the approval of the City Planner:
  - a. All exterior site and building improvements as per approved plans. The finish quality of exterior design elements including, but not limited to, building façade, exterior lighting, and landscaping.
  - b. Ensure that all roof top equipment, including, but not limited to, ducts, vents, hoods, filters, air conditioners, utility meters, and repair equipment etc., are fully screened from view in a manner that is compatible with the architectural design of the building. Wooden lattice or fencelike screens/covers are not appropriate.
  - c. Remove the existing non-conforming pole sign and vertical support posts from the site.
  - d. Complete construction of a trash enclosure in the area depicted on the approved site plan. Construction of the trash enclosure shall conform to the City's standard drawing, including a standing seam metal roof and fire sprinklers, if required.
15. All building exteriors (walls, windows, doors, roofs, paint, etc.), exterior lighting, trash enclosure, signs, drainage facilities, driveways and parking, and landscaping areas shall be maintained in good repair and/or condition at all times.
16. All graffiti and vandalism and damage to the subject site and structures shall be removed and/or repaired within 72 hours notice from the City.
17. 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.
18. 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.
19. 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.
  20. 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.
  21. 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.

#### Building

22. Submit four complete sets of plans, including the following:
  - a. Site/Plot Plan
  - b. Floor Plan
  - c. Reflected Ceiling Plan
  - d. Electrical Plans, including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams.
  - e. Plumbing plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
  - f. Provide an existing plan of the building, including all walls to be demolished.
  - g. Waste recycling plan, recycling 50% of all construction debris.

23. Submit two sets of structural calculations, if required, and two sets energy conservation calculations.
24. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
25. 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.
26. Contractors must show proof of State and city licenses and Workers' Compensation coverage to the city prior to permit issuance.
27. Separate permits are required for fencing and/or walls.
28. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance. Separate permits are required for fencing and/or waAll utility services to the project shall be installed underground.
29. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project Case Number.
30. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
31. Prior to issuance of building permits for a new commercial or industrial development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fees, Permit and Plan Check Fees, and/or School Fees. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance.
32. Construct trash enclosure(s) per City Standard (available at the Building and Safety Division's public counter).
33. Provide and clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible parking lot signs. Sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).

34. Construction drawings submitted to the Building and Safety Division for plan review shall comply with the Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
  - a. Install a numerical address on the south building elevation. Address numerals shall be in Helvetica font, a minimum of ten inches in height, a minimum of 1½ inches in depth, and be contrasting in color, which adequately contrasts to the background to which they are attached.
35. Provide and maintain a minimum illumination level of one (1) foot-candle from dusk until dawn everyday.
36. Install approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
37. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from other departments and/or agencies.
38. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
  - a. Submit to the Building and Safety Division electronic images of all plans and records, which were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Archiving Policy.
  - b. Complete all on- and off-site improvements.
  - c. Install all disabled-accessible parking stalls and parking lot signage.
39. Before the final inspection can be conducted, a written acceptance from the neighboring property owner to the east giving permission for continuous use of their property for disabled-accessible access.

Environmental/Engineering

40. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
41. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact Nicole Greene, Environmental Manager, at 909/625-9446 for fees.

42. 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 Nicole Greene, Environmental Manager, at 909/625-9446 for fees.
43. A 750-gallon grease interceptor with a sample box must be installed and operational prior to occupancy. Used fry oil generated from the restaurant must be secondary spill contained and covered (i.e., in an approved secondary containment tallow bin).
44. City of Montclair Environmental Manager shall complete inspections for the interior and exterior rough plumbing, 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 and the Building Division at 909/625-9448 to schedule all inspections in advance.

#### Fire

45. Commercial occupancies with cooking areas require an approved, fixed fire extinguishing system for protection of the hood and duct system and overall cooking areas. This system shall be equipped with an automatic fuel shutoff to all equipment protected by this system. Three (3) complete sets of drawings of this system shall be submitted to the Fire Marshal's office prior to issuance of a permit.
46. Commercial/industrial occupancies shall install approved emergency lighting to provide adequate illumination in the event of any interruption of electrical service.
47. Fire extinguisher location(s) to be determined by the Montclair Fire Department.
48. Three (3) sets of plans shall be submitted to the Montclair Fire Department for approval prior to the relocation or addition of sprinklers for tenant's improvements.
49. All Montclair Fire Department fees are due prior to any permit issuance.

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

APPROVED AND ADOPTED THIS 12TH DAY OF SEPTEMBER, 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 12th day of September, 2011, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

z:\COMMDEV\SG\2011-09 TACOSLOS CARNALES\RESO11-1746