



MONTCLAIR

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

REGULAR ADJOURNED MEETING  
Monday, May 14, 2012  
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**

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

**4. APPROVAL OF MINUTES**

The minutes of the March 26, 2012 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 2012-3  
Project Address: 5363 Arrow Highway  
Project Applicant: Russell and Robin Whelan Trust  
Project Planner: Silvia Gutiérrez, Assistant Planner  
Request: Request for a Conditional Use Permit to allow a sports bar
  
- b. PUBLIC HEARING - CASE NUMBER 2012-5  
Project Address: 5301 Holt Boulevard  
Project Applicant: Southeast Statesboro, LLC for 7-Eleven Inc.  
  
Project Planner: Michael Diaz, City Planner  
Request: Request for a Conditional Use Permit to allow off-sale beer and wine in conjunction with a convenience market
  
- c. PUBLIC HEARING - CASE NUMBER 2012-7  
Project Address: 10440 Central Avenue  
Project Applicant: Silletto Investment Corporation  
Project Planner: Silvia Gutiérrez, Assistant Planner  
Request: Request for a Conditional Use Permit to allow used car sales with outdoor display

## **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.

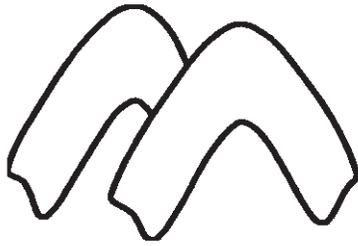
**9. ADJOURNMENT**

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of May 28, 2012 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 May 10, 2012.



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 05/14/12**

**AGENDA ITEM 6.a**

**Case No. 2012-03**

**Application:** Conditional Use Permit

**Project Address:** 5363 Arrow Highway Boulevard

**Property Owner:** Russell and Robin Whalen

**General Plan:** General Commercial

**Zoning:** "Manufacturing Industrial Park" (MIP) within the North Montclair Specific Plan (NMSP)

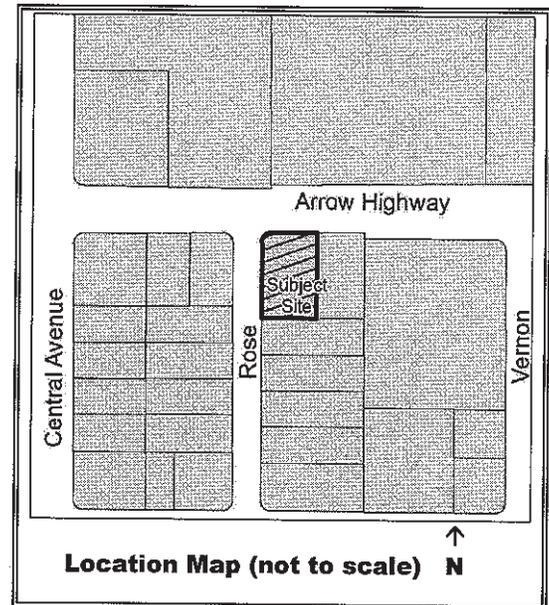
**Assessor Parcel No.:** 1008-032-06

**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** 7,028 square-foot multi-tenant building (subject bar is 2,632 square feet)

**Parking:** 30 paved parking spaces

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



**ADJACENT LAND USE DESIGNATIONS AND USES**

	<b>General Plan</b>	<b>Zoning</b>	<b>Use of Property</b>
<b>Site</b>	General Commercial	"Manufacturing Industrial Park" (MIP) within the North Montclair Specific Plan " (NMSP)	Multi-tenant commercial building
<b>North</b>	General Commercial	"Manufacturing Industrial Park" (MIP) within the North Montclair Specific Plan " (NMSP)	Vacant
<b>South</b>	General Commercial	Manufacturing Industrial Park" (MIP) within the North Montclair Specific Plan " (NMSP)	Commercial Building
<b>East</b>	Business Park	Manufacturing Industrial Park" (MIP) within the North Montclair Specific Plan " (NMSP)	Auto Repair
<b>West</b>	General Commercial	Manufacturing Industrial Park" (MIP) within the North Montclair Specific Plan " (NMSP)	Auto Repair

## Report on Item Number 6.a

### PUBLIC HEARING – CASE NUMBER 2012-03

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Russell and Robin Whalen
LOCATION OF PROPERTY	5363 Arrow Highway
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	Manufacturing Industrial Park (MIP) per North Montclair Specific Plan
EXISTING LAND USE	Multiple Tenant Building
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez

#### **Project Description**

The applicant is requesting approval of a Conditional Use Permit (CUP) to re-establish a sports bar at the above location, where previously the Knockers Sports Bar had operated. The new bar owners intend to operate the business as The Sand Bar.

Initially, the new bar owners had intended to simply take over the existing business as part of a routine change of ownership. When the applicant submitted an application for a new business license in June 2011, staff recognized that the existing bar (and Type 48 license) did not have an existing CUP and was considered to be a legal non-conforming use based on the current underlying MIP zoning designation per the North Montclair Specific Plan (NMSP). Since the applicant intended an immediate "takeover" of the existing business, no further City review (i.e., a CUP) was deemed to be required at that time, and a business license application was approved.

However, due to significant difficulties with the previous business owner that delayed the opportunity to take over the business, the 6-month time frame for continuing legal non-conforming uses had expired. In addition, the Department of Alcoholic Control (ABC) now required the applicant to obtain a Letter of Public Convenience and Necessity (PCN) from the City, which could not be issued without an approved CUP. In light of the circumstances leading to the existing situation, staff agreed to support a CUP for the re-opening of the bar provided that, as a condition of approval, the applicants agree to convert the bar use to a restaurant use (serving alcoholic beverages) within a specified time frame after opening. A restaurant use is a permitted use in the MIP zone of the NMSP.

The subject lease space is approximately 2,600 square feet in size and is located at the north end (facing Arrow Highway) of an existing 7,000 square foot building that also houses two auto repair businesses. The proposed floor plan indicates a bar counter and several pub tables with a total of 88 seats, two (2) pool tables, and a shuffle board

area. No dance floor or live entertainment has been requested. The proposed business hours are 12:00 p.m. to 2:00 a.m. daily. The Type 48 ABC License requested with this application would allow the on-sale of beer, wine and distilled spirits, but does not require the service of meals.

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

### **Background**

- Based on City records, the existing building was built in 1964. A bar use was established soon afterward in 1965, which has since continued to operate under various names and changes in ownership. The last two bars operating at the site included Foxy's (1983-2006) and Knockers Sports Bar (2006 to May 30, 2011). When Knockers Sports Bar closed, the existing ABC Type 48 license was surrendered to ABC.
- In 1998, The North Montclair Specific Plan (Specific Plan 97-1) was adopted for the commercial and industrial areas that are generally located north of the I-10 freeway up to the northern City boundary.
- The adoption of the North Montclair Specific Plan changed the zoning for the subject site from C-3 to MIP. In the MIP zone, bars are not a permitted use, but restaurants serving alcohol are subject to an approved CUP. As such, the status of the existing bar use changed to a "legal non-conforming" use. A legal non-conforming use may be continued so long as there is no significant expansion or an abandonment of the use for a time period greater than 6 months.
- Section 11.42.020 of the Montclair Municipal Code requires a Conditional Use Permit (CUP) for all sales of alcoholic beverages within the boundaries of the City whether for consumption on-site or off-site.
- ABC requires that the local governing agency determine that public convenience and necessity be made for the proposed alcoholic beverage license at this location.

### **Planning Division Comments**

Staff is generally supportive of the re-opening of the bar at the subject site, provided the use is expanded to include a bona fide restaurant component whereby the service of alcoholic beverages becomes incidental to the business. Staff recognizes that a bar use has been at this location for many years. However, this change would make the use conforming to the requirements of the underlying zoning designation and give the applicants time to plan for and implement the restaurant expansion. The time frame required for this improvement is no later than July 1, 2014.

When plans are submitted for the restaurant use, the operation of the bar will be evaluated to determine if there have been any problems or issues in need of attention.

In the meantime, the Fire Department is requiring the installation of a fire sprinkler system in anticipation of the coming tenant changes for the restaurant use. As always for any CUP approval, the failure to fully abide with all the conditions of approval is grounds for revocation of the CUP.

The exterior design of the center is modest, but the buildings and site are well maintained. New signs for the business would require City review and approval as any other exterior changes should they be proposed. Unfortunately, there is no significant opportunity to add on-site landscaping without further reducing on-site parking and making on-site traffic flow more difficult.

#### Sale of Alcoholic Beverages

The sale and consumption of alcoholic beverages in conjunction with a bona fide restaurant at this location is a desirable use and typically results in little adverse impacts to the area and surrounding businesses. The subject location is largely separated from other retail businesses and other sensitive uses, so the re-opening of the bar and added restaurant component is not anticipated to cause any major impacts. Since no residential properties are within close proximity to the proposed bar/restaurant, neighborhood impact is not a major concern.

The previous bar (Knocker Sports Bar) held a similar Type 48 license but operated solely as a bar/nightclub. According to Police Department records from May 2007 through February 2011, there was a high level of calls-for-service involving violence, weapons violations, injured and/or intoxicated patrons, and various property crimes. Although the applicant does not have an apparent association with the previous owner(s), the Police Department is concerned that "The Sandbar" could attract and/or cater to similar patrons. By having a restaurant use introduced to the business, it is expected to have a positive effect on the operation of the business and is supported by both Planning and Police Department staff. Nevertheless, conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area be maintained.

#### Parking

The site currently has 30 on-site parking spaces which are shared by the three existing lease spaces. The existing parking is striped but not up to current standards, nor does the site have sufficient room to add more parking. In addition, approximately two (2) spaces will be lost to meet ADA requirements, leaving 28 spaces available for use. There are some on-street parking spaces available on Rose Avenue to handle some overflow conditions, but these spaces are not typically factored into required parking standards. On-street parking along the Arrow Highway frontage of the site will be designated as "No Parking" so that fire and police responders have a place to pull up to the site and building during an emergency.

Although the other uses in the center (auto repair) operate during normal daytime hours and do not store vehicles on-site, there will be approximately 6 hours a day when all businesses are open and have to share available parking. Staff identified approximately 15 parking spaces nearest to the bar/restaurant use which would most likely be the spaces used by its patrons. Based on these "available on-site parking spaces" and the Montclair Municipal Code requirement of 1 parking space for every 4 seats, the bar/restaurant could have up to a maximum of 60 patrons. Staff believes this number of patrons is reasonable for the business and is the recommended maximum number allowed at least during "daytime" hours when all businesses are operating.

During the later evening hours, after the other businesses have closed for the day, the entire parking lot would likely be available for use by bar/restaurant patrons with a lower risk of conflict. However, staff would be open to consider an increase in the number of patrons allowed if it can be demonstrated after re-opening and after the restaurant use begins operation, that there are no parking conflicts occurring on or surrounding the site.

### **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. That the proposed on-premises sale of beer, wine, and distilled spirits (ABC Type 48 license) in conjunction with a future bona fide eating establishment (restaurant) at the subject site is essential or desirable to the public convenience and public welfare, in that the sale of beer, wine, and distilled spirits has long been an established use at this site and would provide the general adult public with an additional choice for dining with alcoholic beverages if so desired.
- B. That granting the CUP for the proposed on-premises sale of beer, wine, and distilled spirits for a bar and future expansion to restaurant will not be materially detrimental to the public welfare and to other property in the vicinity. The proposed bar use has been at this location since the mid 1960's and has operated mostly without incident. The site is located away from any sensitive users and not proximate to any residential neighborhoods.
- C. That the granting of the proposed CUP approval for the on-premises sale of beer, wine, and distilled spirits within the bar and future restaurant conforms to good zoning practice, in that the bar and restaurant use will now conform to the land use requirements of the MIP zoning designation of the North Montclair Specific Plan. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the sale of beer, wine, distilled spirits so that it does not detract from the general quality of the surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, or the North Montclair Specific Plan which was designed

to allow for a range of uses within designated land use districts resulting in an orderly arrangement of uses and development of property in the areas governed by these plans.

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

The project site is located within Census Tract Number 2.01, which, according to ABC records, has 20 alcoholic beverage licenses. Given this number of existing alcoholic beverage licenses within the census tract, ABC requires a finding of public convenience or necessity in order to issue a new license. The re-establishment of the ABC license for the subject site is not really a new license as the site has been licensed for alcoholic beverages for over 45 years.

City staff and the Police Department are not particularly opposed to this request to re-establish an ABC license at the subject location, particularly since this approval is tied to the condition that the premises be changed into a bona fide restaurant in conjunction with the ABC license by July 1, 2014.

### **Public Notice and Comments from the Public**

This item was published as a public hearing item in the Inland Valley Daily Bulletin newspaper on May 4, 2012, 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.

### **Environmental Assessment**

The proposed on-sale of beer, wine, and distilled spirits in conjunction with a bar and future bona fide eating establishment 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 qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes that will not involve 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 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, because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

- B. Move to approve Conditional Use Permit and Precise Plan of Design under Case No. 2012-03 approving the on-premises sale of beer, wine, and distilled spirits (ABC Type 48 license) in conjunction with a bar and future bona fide eating establishment and related site and tenant improvements at 5363 Arrow Highway, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 12-1759.

Respectfully Submitted,



Michael Diaz  
City Planner

MD/lb

Z:\COMMDEV\SG\CASES\2012-03 THE SAND BAR\2010-03PDRPT

## RESOLUTION NUMBER 12-1759

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING CASE NO. 2012-3, A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER, WINE, AND DISTILLED SPIRITS (ABC TYPE 48 LICENSE) IN A BAR AT 5363 ARROW HIGHWAY, IN THE MIP (MANUFACTURING INDUSTRIAL PARK ) ZONING DISTRICT WITHIN THE NORTH MONTCLAIR SPECIFIC PLAN (APN 1008-032-06).**

### A. Recitals.

**WHEREAS**, on April 16, 2012, Russell and Robin Whalen, property owners, filed an application for a Conditional Use Permit (CUP) for a bar use offering alcoholic beverages (beer, wine, and distilled spirits – ABC Type 48 license) at the subject site; and

**WHEREAS**, application applies to a lease space of approximately 2,632 square feet in size and located at 5363 Arrow Highway; and

**WHEREAS**, based on City records, the existing building was built in 1964. A bar use was established soon afterward in 1965, which has since continued to operate under various names and changes in ownership. The last two bars operating at the site included Foxy's (1983-2006) and Knockers Sports Bar (2006 to May 30, 2011). When Knockers Sports Bar closed, the existing ABC Type 48 license was surrendered to ABC.

**WHEREAS**, in 1998, The North Montclair Specific Plan (Specific Plan 97-1) was adopted for the commercial and industrial areas that are generally located north of the I-10 freeway up to the northern City boundary.

**WHEREAS**, the adoption of the North Montclair Specific Plan changed the zoning for the subject site from C-3 to MIP. In the MIP zone, bars are not a permitted use, but restaurants serving alcohol are subject to an approved CUP. As such, the status of the existing bar use changed to a "legal non-conforming" use.

**WHEREAS**, a legal non-conforming use may be continued so long as there is no significant expansion or an abandonment of the use for a time period greater than 6 months. However, the applicants were not able to re-establish the use before the 6-month expiration due to conditions not entirely under their full control; and

**WHEREAS**, the proposed bar, with the added restaurant component, is consistent with the use and development standards of the underlying MIP - Manufacturing Industrial Park land use designation of the North Montclair Specific Plan and the intent and requirements of the Montclair Municipal Code; and

**WHEREAS**, Section 11.42.020 of the Montclair Municipal Code requires a Conditional Use Permit (CUP) for all sales of alcoholic beverages within the boundaries of the City whether for consumption on-site or off-site.

**WHEREAS**, the Department of Alcoholic Beverage Control (ABC) requires that the local governing agency determine that public convenience and necessity be made for the proposed alcoholic beverage license at this location.

**WHEREAS**, the Planning Commission has reviewed the Planning Division's determination that the proposed on-sale of beer, wine, and distilled spirits (ABC Type 48 license), in conjunction with a future bona fide eating establishment and related 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 exterior and 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 May 14, 2012, 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 the Recitals, Part A, 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 May 14, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - a. That the proposed on-premises sale of beer, wine, and distilled spirits (ABC Type 48 license) in conjunction with a future bona fide eating establishment (restaurant) at the subject site is essential or desirable to the public convenience and public welfare, in that the sale of beer, wine, and distilled spirits has long been an established use at this site and would provide the general adult public with an additional choice for dining with alcoholic beverages if so desired.

- b. That granting the CUP for the proposed on-premises sale of beer, wine, and distilled spirits for a bar and future expansion to restaurant will not be materially detrimental to the public welfare and to other property in the vicinity. The proposed bar use has been at this location since the mid 1960's and has operated mostly without incident. The site is located away from any sensitive uses and not proximate to any residential neighborhoods.
    - c. That the granting of the proposed CUP approval for the on-premises sale of beer, wine, and distilled spirits within the bar and future restaurant conforms to good zoning practice, in that the bar and restaurant use will now conform to the land use requirements of the MIP zoning designation of the North Montclair Specific Plan. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the sale of beer, wine, distilled spirits so that it does not detract from the general quality of the surrounding area.
    - d. That such use in such location is not contrary to the objective of any part of the adopted General Plan, or the North Montclair Specific Plan, which was designed to allow for a range of uses within designated land use districts resulting in an orderly arrangement of uses and development of property in the areas governed by these plans.
    - e. With regard to Public Convenience or Necessity (ABC finding), the Commission finds the proposed ABC Type 48 license (On-Sale beer, wine, and distilled spirits) associated with this proposed bar/restaurant use to be located within Census Tract Number 2.01, with 20 alcoholic beverage licenses. The re-establishment of the ABC license for the subject site continues a use which has existed on the site for over 45 years. Moreover, the Commission finds the request to re-establish an ABC license at the subject location to be appropriate since this approval is tied to the condition that the bar use be expanded to include a bona fide restaurant in conjunction with the ABC license by July 1, 2014.
3. The Planning Commission has reviewed the Planning Division's determination that the proposed bar with on-sale of beer, wine, and distilled spirits in conjunction with a future bona fide eating establishment and related 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 exterior and interior

improvements and limited site changes not involving grading. As such, 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 conditions set forth below:

Planning

5. This Conditional Use Permit (CUP) approval shall allow the re-establishment of a bar use with a ABC Type 48 license (on-premises sale of beer, wine, and distilled spirits) at 5363 Arrow Highway. This approval shall be contingent on the requirement that a restaurant use shall be added to the business and be operational no later than July 1, 2014.
6. This approval shall apply to a lease space approximately 2,632 square feet in size, with a maximum seating/dining capacity of 60 patrons, per approved plans on file with the Planning Division. A request to increase the number of patrons allowed at the establishment may be considered by the Planning Commission if it can be demonstrated that after re-opening and after the restaurant use begins operation, that there are no parking conflicts occurring on or surrounding the site.
7. The applicant/property owner shall submit necessary tenant improvement plans to the City for the required restaurant. Said expansion shall accommodate a full service bonafide restaurant use where entrée meals are served in conjunction with the sale of alcoholic beverages. Failure to meet this requirement by the aforementioned time frame in Condition No. 1 will result in immediate CUP revocation proceedings.
8. The restaurant use required by this approval, shall be operated, maintained as a full service (bona fide) eating establishment, serving meals at all times that beer, wine, and distilled spirits are offered for sale and consumption on the premises.
9. Any substantial changes to the operation, increase in floor area of the demised space, or physical location 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.
10. The ABC Type 48 license may be modified or revoked for failure to abide by the conditions of this approval or in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
11. Any future changes to the use, layout, or operation of the subject business shall require Planning Commission review and approval. Further, the

applicant shall notify the City, in writing, of any changes in ownership or partnership of the establishment prior to the change taking effect.

12. Any future changes to the type of ABC License issued for this use, shall be subject to Planning Commission review and approval.
13. 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."
14. 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.
15. 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.
16. Approved hours of operation for the bar shall be 12:00 noon to 2:00 a.m. daily. Any extension of the restaurant hours beyond the limits stated herein shall require written notification to the Planning Division and are subject to City approval.
17. Live entertainment is not included as part of this approval and shall require separate review and approval from the City.
18. Public dancing, or the creation of a dance floor, shall be prohibited within the establishment.
19. Noise generated from this business, whether from live entertainment, amplification system, televised sports events or other sources, shall not exceed the noise level established under Ordinance No. 92-706 'A'. Violation of the ordinance shall be grounds for revocation of this CUP. The applicant shall ensure that all doors and openings to the tenant space shall remain closed during business hours, except when customers are entering or exiting, while goods are being delivered, or while trash disposal is occurring.
20. At no time shall outside vendors or promoters be permitted to conduct events at the subject site.

21. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer, wine, or distilled spirits for purchase.
22. All graffiti and vandalism and/or damage to the subject site and/or structure shall be removed or repaired within 72 hours of notice from the City.
23. The following mandatory conditions are hereby imposed as part of the CUP approval:
  - 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 alcoholic beverages shall be offered for sale for off-premises consumption. Alcoholic beverages shall not be allowed outside of the permitted premises, which shall consist of the demised lease space described herein and the adjoining outdoor dining area as permitted by the Planning Commission. Applicant shall post notification of this limitation 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.
24. No outdoor amplified sound shall be allowed.
25. All rooftop or roof-mounted equipment shall be fully screened from view to the satisfaction of the City Planner.
26. All exterior building-mounted lighting shall not create any nuisance glare to the adjacent parking areas, private roadways, public rights-of-way, or neighboring properties. The use of wall packs, barnlighters, or other similar unshielded luminaires on the property shall be prohibited.
27. All satellite dish antennas, microwave receivers and transmitters, and other forms of communication equipment shall be located in a manner in accordance with the provisions of Chapter 11.46 of the Montclair Municipal Code.
28. Mechanical equipment, including, but not limited to, utility meters, air conditioners, kitchen vents or hoods, repair equipment, etc., shall be located within the building or screened in a manner that is compatible with the architectural design of the building to the satisfaction of the Planning Division. Wooden lattice or fence-like screens/covers are not appropriate within the context of a commercial or industrial development and are therefore not allowed.
29. No surface-mounted exposed conduit or electrical lines shall be allowed. Electrical switchgear, meters, etc. must be screened or housed in an enclosure, to the extent allowed by the utilities.
30. Trash enclosure shall be constructed to City standard drawings, including a roof cover and fire sprinklers if required by the Montclair Fire Department.

Trash enclosure shall be completed per approved plans prior to issuance of a Certificate of Occupancy or opening of the restaurant.

31. No public telephones, vending machines, children's rides or other coin-operated machines shall be located on the exterior of any building within the center.
32. 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.
33. Prior to occupancy and the installation of any signs, the applicant shall submit an application for a Sign Permit to the Planning Division for review and approval, subject to the following:
  - a. All signs shall comply with the approved sign program for the center and City of Montclair Sign Code (Chapter 11.72 MMC).
  - b. Wall signs shall utilize individual channel letters.
  - c. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
  - d. All signs shall be maintained at all times in a safe and secure manner. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.
34. 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, Code Enforcement officers, and/or fire and building inspectors in the course of conducting inspections of said premises.
35. 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 10 days from the date of approval by the Planning Commission.

36. 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

37. Prior to issuance of building permits, the applicant shall:
  - a. Submit three complete sets of plans for the project, including building elevations, colors and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details, plus two sets of soils, structural and Title 24 calculations for review and approval by the Building and Planning Divisions. Contact the Building Division at 909/625-9477 for an appointment to submit plans.
  - b. 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%).
  - c. Accessible P\parking space design shall be 9' x 20' with a loading zone located on the passenger side. The unloading zone shall be 5' x 20' for a standard accessible stall and 8' x 20' for a van accessible stall. The space and unloading zone shall have no more than 2% slope in any direction. The unloading zone cannot include ramps. The space and unloading zone shall be striped in blue with the applicable design as called out in the 2010 California Building Code Section 1129B.
38. Exposed raceways shall be prohibited on all building-mounted and freestanding signs or for any electrical otherwise utilized. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
39. All concrete and asphalt work shall be of a well fit and durable nature. The proper grading of walks, sidewalks, drives and yards shall be required. A minimum thickness of 3 ½ inches for flat concrete work and 2 ½ inches for

asphalt paving is required. All exterior flat work shall include such breaks for expansion.

40. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
41. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
42. Fire sprinkler risers and roof access ladders shall be located entirely within the enclosed buildings. Double-detector check facility shall be adequately screened by landscaping or an architectural screen wall.
43. All trash enclosures shall be constructed of a material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.
44. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system with automation rain sensing watering devices.
45. Landscape maintenance shall be subject to immediate and periodic inspections by the City. The property owner shall be required to remedy any defects in grounds maintenance and replace any trees, shrubs, vines, or groundcover with a similar species, size, and quantity that are lost due to unauthorized removal, disease, windstorm, or other natural disaster, as indicated by the City inspector, within two weeks after notification. Inspections shall be based on automatic landscape irrigation schedule, plant maintenance, weed and rubbish control, landscape plan approval, and any other area that is incidental to grounds maintenance.
46. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.

47. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
  - d. The numerical address of the building shall be displayed in two locations on the south and west facing elevation as follows:
  - e. Numerals shall be Helvetica font, minimum 10 inches in height, minimum 1½ inches in depth, and in a color that adequately contrasts with the background to which they are attached.
  - f. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
48. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
49. 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.
50. 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.
51. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
52. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
53. An approved, emergency-keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
54. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions. Prior to issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records, which are submitted for the purpose of obtaining a building permit,

to the Building Division. Electronic images shall meet the City's Electronic Archiving Policy.

Fire

55. All Fire Department access and fire lanes, shall be posted "No Parking, Fire Lane." Signs shall be designed and mounted in accordance with Montclair Fire Department Standards. Arrow Highway curb shall be painted red to provide 24 hour access to the site.
56. The proposed commercial structure(s) shall require an approved automatic fire sprinkler system. The system shall conform to all local and national standards. Three complete sets of the sprinkler system plans shall be submitted directly to the Fire Marshal's Office for approval prior to installation of the system in commercial structures. The system shall be so equipped as to provide a signal to UL listed monitoring station in the event of the water flow or tampering.
57. Commercial occupancies with cooking areas shall 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.
58. Fire extinguisher location(s) to be determined by the Montclair Fire Department.
59. Contact the Fire Marshal's Office for further requirements.

Environmental/Engineering

60. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
61. 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.
62. 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.
63. A Wastewater Discharge Survey must be completed and submitted to the Environmental Manager for approval prior to completion of the Plan Check

Process. Contact Nicole Greene, Environmental Manager at 909-625-9446 for more information.

64. 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 to schedule all inspections in advance.

Police Department

65. There shall be no dancing or live entertainment of any type, including, but not limited to, live music, disc jockey, karaoke, performers, or fashion shows.
66. One licensed and bonded uniformed security guard is required to be on-duty on the premises during all hours of operation after 6:00 pm. The security guard shall remain on the premises until all patrons have left the establishment and parking lot.
67. The rear and side door(s) shall remain closed during business hours. Absent exigent circumstances, patrons shall be required to enter and exit via the front/main door(s).
68. Patrons' motorcycles shall be parked within designated parking stalls. Parking on sidewalks, drive aisles, and fire lanes is strictly prohibited.
69. All owners and employees of the establishment shall be required to expeditiously report to the Police Department any actual or suspected criminal activity or intoxicated persons, and shall cooperate with members of the Police Department and other law enforcement officers in the performance of their duties.

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

APPROVED AND ADOPTED THIS 14TH DAY OF MAY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Tenice Johnson, Chair

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

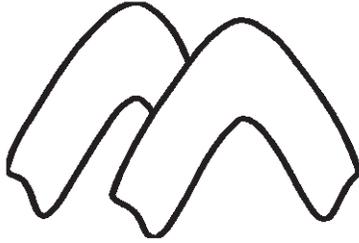
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 14th day of May, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\2012-03\THESANBAR\RESO12-1759



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 05/14/12**

**AGENDA ITEM 6.b**

**Case No.: 2012-5**

**Application:** Conditional Use Permit (CUP) to allow a 3,128 square-foot convenience market with off-sale beer and wine (7-Eleven)

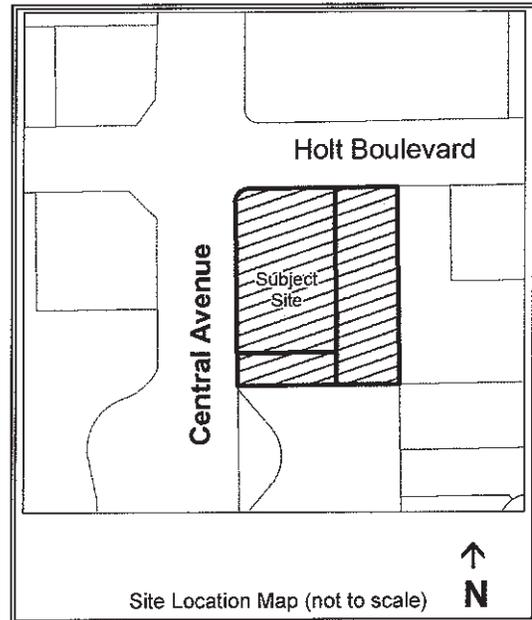
**Project Address:** 5301 Holt Boulevard

**Property Owner:** Southeast Statesboro, LLC

**General Plan:** Specific Plan

**Zoning:** "Commercial" per Holt Boulevard Specific Plan

**Assessor Parcel Nos.:** 1011-052-14, 15 & 16



**ADJACENT LAND USE DESIGNATIONS AND USES**

	<b><i>General Plan</i></b>	<b><i>Zoning</i></b>	<b><i>Use of Property</i></b>
<b>Site</b>	Specific Plan	"Commercial" per Holt Boulevard Specific Plan	Multi-tenant retail
<b>North</b>	Specific Plan	"Auto Mall" per Holt Boulevard Specific Plan	Used Auto Sales
<b>East</b>	Specific Plan	"Commercial" per Holt Boulevard Specific Plan	Motel
<b>South</b>	Specific Plan	"Commercial" per Holt Boulevard Specific Plan	Monte Vista Water District headquarters
<b>West</b>	Specific Plan	"Commercial/Office" per Holt Boulevard Specific Plan	Carl's Jr. & vacant parcel across Central Avenue

## Report on Item Number 6.b

### PUBLIC HEARING - CASE NUMBER 2012-5

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Southeast Statesboro, LLC
LOCATION OF PROPERTY	5301 Holt Boulevard
GENERAL PLAN DESIGNATION	Specific Plan
ZONING DESIGNATION	"Commercial" per Holt Boulevard Specific Plan
EXISTING LAND USE	Multi-tenant retail center
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15301 (Existing Facilities)
PROJECT PLANNER	Michael Diaz

### Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) to open a convenience market with off-sale beer and wine (Type 20 ABC license) in the westernmost tenant space at the existing multi-tenant retail center at the southeast corner of Holt Boulevard and Central Avenue. The convenience store would be approximately 3,128 square feet in size and operated by the 7-Eleven Corporation. All merchandise would be displayed inside the store and all sales would be conducted inside the store.

7-Eleven is a convenience market chain specializing in an assortment of individual grocery store and general merchandise items including fresh foods, such as fruits, vegetables, and sandwiches. If approved, the proposed location would be the fourth 7-Eleven store in Montclair. Like other 7-Eleven stores in the City, the proposed store would be open seven days a week, 24 hours a day. The proposed store layout includes merchandise-stocked shelves, cooler and frozen product areas, a fresh food "island" and cashier counter. No major exterior changes are proposed for the existing building, except for modifications to existing storefront window/door assembly. A second exit door on the west side of the lease space facing Central Avenue is proposed.

No alcoholic beverages would be sold between the hours of 2:00 a.m. to 6:00 a.m. The store would employ approximately 8-15 employees. Lastly, the proposed 7-Eleven store would be equipped with a security surveillance system.

### Background

- The subject retail center was constructed in 1979, and consists of two buildings with approximately 20,500 square feet in overall lease space and 80 on-site parking spaces (including 4 disabled-accessible spaces). Approximately half of the center is

currently occupied with four (4) businesses, including a bar, a Subway sandwich shop, hair salon, and a motorcycle accessory store.

- 7-Eleven, Inc. was founded in 1927 in Dallas, Texas. 7-Eleven now has more than 35,000 stores in 17 countries. The store may be sold to a franchisee at some time in the future if and when 7-Eleven finds the right candidate to operate the store according to corporate standards.
- Section 11.42.020 of the Montclair Municipal Code requires a Conditional Use Permit (CUP) for all sales of alcoholic beverages within the boundaries of the City whether for consumption on-site or off-site.
- Neighborhood convenience market is defined by the Montclair Municipal Code as a retail facility less than 8,000 square feet in size that provides a limited variety of food, sundries, and off-sale liquor for day-to-day shopping convenience located within 300 feet of neighboring residential zones.
- An ABC Type 20 license (Off-Sale Beer & Wine) allows the sale of beer and wine for consumption off the subject premises. Minors are allowed on the premises but are not allowed to purchase beer or wine. In addition to City requirements, the applicant must comply with all applicable requirements of the Department of Alcoholic Beverage Control (ABC).
- ABC requires that the local governing agency determine that public convenience and necessity be made for the proposed alcoholic beverage license at this location.

### **Planning Division Comments**

In general, staff finds the proposed 7-Eleven convenience store to be an appropriate use for the subject site and a key element in the economic revitalization and appearance of the existing center. All merchandise would be displayed inside the store and all sales would be conducted indoors. Staff does not believe the availability of beer and wine will be a major concern at this location so long as this element remains a minor portion of the business and the display of beer and wine products within the store is limited. Staff has prepared a number of conditions of approval that are intended to prevent this establishment from changing into a different use such as a liquor store rather than the convenience store envisioned by the applicant and supported by the City.

After many years of experience, 7-Eleven has developed a security program for their stores that would be implemented at this location. The security program consists of electronic hardware (e.g., motion detectors, audio alarm, and closed-circuit television and security cameras inside and outside of the premises) and employee policies to promote public safety and minimize problems. Moreover, staff has added conditions of approval that require beer and wine displays be placed at the rear of the store, that aisles and the pay counter be clutter free, and that window signs be limited to promote

the highest visibility possible. Staff believes that conditions of approval, in conjunction with the store owner's security program, will be sufficient to adequately address public safety concerns.

Given the lack of major supermarkets within the City, convenience markets serve the community with neighborhood sources where residents and commuters can obtain essential groceries and sundry items. As a national corporate tenant, 7-Eleven will have the resources to operate and maintain a clean and efficient store in full compliance with the proposed conditions of approval.

### Hours of Operation

As mentioned above, the proposed market would operate 24 hours a day, seven days a week. The other 7-Elevens in the City that are open 24 hours a day have operated without significant or apparent problems to their neighbors. Since no residential properties are within close proximity to the proposed store, neighborhood impact is not a major concern.

Although customer activity generally declines in the late night/early morning hours, the presence of an existing nightclub/restaurant within the center presents some concern to the Planning Division and Police Department. During weekends (Friday through Sunday), the nightclub is very active and draws large crowds to the center. To prevent nightclub patrons from obtaining alcoholic beverages from the store and dissuade them from loitering in the parking lot after the nightclub closes, staff has included a condition of approval which prohibits the sale of any alcoholic beverages between 2:00 a.m. and 6:00 a.m. Further, staff has added a condition that requires coolers containing alcoholic beverages be locked during the same time period.

### Exterior Illumination

An area of concern is the lack of adequate illumination in the parking lot. The center was built in 1979 and has two freestanding poles each with a double head light fixture. These fixtures appear to concentrate light generally at the center of the lot but not sufficiently across the outer areas of the parking area. The Police Department has indicated their concern that the existing low light levels in the parking lot encourages loitering and consumption of alcohol in the parking lot during late evening hours. Staff concurs with the Police Department's assessment. When staff visited the site during the evening hours exterior illumination was dim and the existing pole lights were not fully operational (only one (1) of the double head lights on each pole was operational).

One way to improve the current situation is to ensure that the existing lights are operational to increase overall illumination levels across the entire parking lot to discourage unwanted behavior and improve nighttime visibility of the parking lot by officers on patrol. A condition of approval requiring that the applicant (property owner) increase lighting in the parking lot to meet minimum illumination levels as specified in the Montclair Security Ordinance has been added. It should be noted that this condition

will likely require that the applicant contract with a lighting professional to perform a photometric analysis to determine what measures need to be pursued to meet minimum illumination levels. In addition, the applicant will be required to install signs stating "No Loitering or Consumption of Alcoholic Beverages on the Premises" on the exterior of the building and within all parking areas in plain view of store employees and customers.

### Traffic & Deliveries

To a great degree, 7-Eleven is an "impulse purchase" retailer; that is, most customers visiting the store are already on their way to or from another destination. Typically, peak hours are weekdays in the early morning (7:00 a.m. to 9:00 a.m.), at lunch, and during the weekday early evening hours (4:00 p.m. to 6:00 p.m.) According to the City Engineer, the surrounding streets are classified as fully improved and signalized arterial roadways designed to adequately accommodate traffic to and from and exiting the commercial center where the store is proposed. Moreover, no off-site roadway improvements will be required.

Vendor deliveries would occur at various times throughout the week. Off-loading of merchandise or supplies typically occurs relatively quickly (5-15 minutes per delivery). Deliveries are made in smaller delivery trucks (rather than semi-trailers) that would have little impact on the other tenants. Since the proposed store would be in the end cap of the south building, its deliveries would be away from the majority of other businesses in the center.

### Parking

Parking at the existing site was designed to support a variety of retail and service uses within the center. Based on the overall size of the building and parking standards in effect at the time of construction (1979), a minimum of 82 on-site spaces would have likely been required. Staff counted 80 on-site parking spaces, the shortfall being likely because of subsequent changes in the dimensional requirements for disabled-accessible parking spaces.

Per the Montclair Municipal Code, retail uses require one parking space for each 250 square feet of gross floor area. With a tenant space of approximately 3,128 square feet, 13 parking spaces would be required for 7-Eleven. Available parking is present directly in front of the subject lease space and in nearby parking bays within the lot. Staff has visited the subject site on numerous occasions at various times and found that there was ample available parking during weekdays (anytime) and on weekends during daytime/early evening hours. Patrons of 7-Eleven stores are not typically there to shop, but to quickly purchase highly desired items such as coffee, drinks, and snack items. As such, staff anticipates that the proposed 7-Eleven store will not adversely impact parking in the center.

During weekend evenings (Friday-Sunday), the existing nightclub/restaurant is in full operation and demand for on-site parking is at its highest, resulting in more cars on the

site. The nightclub/restaurant use (La Selva) has been on-site since 1998 and has not had to share the parking lot during its peak hours of operation. Staff drove through the parking lot between 9:30 p.m. and 10:00 p.m. on a Saturday evening and observed 34 parked vehicles, which left an ample amount to support the 7-Eleven business during the late evening hours.

To ensure that some parking spaces remain available for the 7-Eleven store during weekends, some restricted parking may be necessary. Staff would recommend that roughly half (6 spaces) of the required 13 spaces be reserved for the store and that these spaces be the six directly in front of the subject lease space.

### Property Maintenance

As part of any Conditional Use Permit review, staff evaluates the general condition of the property to address substandard conditions and bring the property up to the City's minimum expectations with regard to appearance and maintenance. During visits to the subject property by staff, a number of property maintenance items in need of attention were observed. The deficient items observed which are in need of repair or replacement includes the following:

- Replace existing non-conforming "cube" monument sign with new monument sign, per City standards;
- Remove unpermitted Subway sign facing Holt Boulevard and all abandoned business signs on building and windows;
- Inspect and repair all exterior wood siding, posts and trim to ensure these items are in good condition, free of weather and termite damage;
- Repair trash enclosure doors per City standards;
- Completely remove pay phone that exists near the Subway store, including pedestal and associated conduit.
- Add mulch or groundcover to planters in the parking lot;
- Repaint or touch-up paint around the buildings in a uniform manner to eliminate the blotchy appearance of paint on the building that currently exists (the elevations facing Holt Boulevard and Central Avenue should be completely repainted);
- Comply with disabled-accessible parking requirements as determined by the Building Official.

The majority of the items listed above can and should be immediately addressed before a business license is issued for the proposed business. Items such as the trash enclosure doors, signs, and disabled-accessible parking improvements can be given more time for compliance, subject to approval by the City Planner and Building Official.

### **Conditional Use Permit Findings**

- A. The proposed convenience store will be an essential and desirable use for the general public convenience and welfare, in that the market use will make available a convenient location for members of the public to purchase general groceries and sundry items, including packaged beer and wine products when desired. Convenience stores selling groceries, food stuffs, and various sundry products play an essential role in areas of the City where major grocery stores are non-existent.
- B. Granting of the CUP for the proposed convenience market selling beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed market is not in close proximity to residential neighborhoods, and the existing center has adequate parking to support the proposed business and other existing uses. Moreover, all the activities of the proposed convenience market will be conducted entirely indoors and not interfere with adjacent uses.
- C. The proposed convenience store at the subject site conforms to good zoning practice, in that the Holt Boulevard Specific Plan and Montclair Municipal Code allow the off-premises sale of beer and wine in conjunction with a convenience store in the "Commercial" land use district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the sale of beer and wine so that it does not detract from the general quality of the shopping center and surrounding area. In addition, the streets leading to the site are designed per City standards and are signalized to provide safe access into and out of the site. The City Engineer concluded that the additional trips this use would generate would not be significant and that no public street improvements were required.
- 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.

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

With regard to Public Convenience or Necessity (ABC finding), the Commission finds that the proposed ABC Type 20 license (Off-Sale Beer & Wine) associated with this proposed convenience market is not in an area with an "undue concentration" of retail alcohol outlets. The convenience market provides local residents with a nearby location to purchase general groceries, including packaged beer and wine products (when desired) in an underserved portion of the City with no traditional grocery stores. Moreover, the area in which the proposed convenience market would be located is not within a geographical region identified as a high crime area by local law enforcement.

## **Public Notice**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on May 4, 2012. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no public comments or opposition had been received.

## **Environmental Assessment**

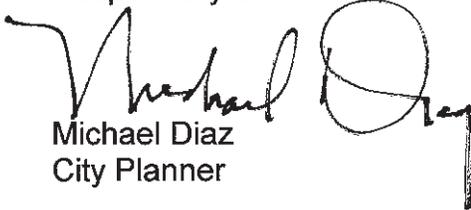
The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

## **Planning Division Recommendation**

Staff recommends that the Planning Commission take the following actions:

- 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 a Conditional Use Permit for a convenience market with off-sale beer and wine at 5301 Holt Boulevard under Case No. 2012-5, subject to making the required findings and subject to the conditions in attached Resolution Number 12-1757.

Respectfully Submitted,



Michael Diaz  
City Planner

- c: Southeast Statesboro LLC, Property Owner  
Sherrie Olson, 7-Eleven, Inc.  
Verna Joseph, Department of Alcoholic Beverage Control

## RESOLUTION NUMBER 12-1757

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2012-5 TO ALLOW THE OFF-PREMISES SALE OF BEER AND WINE (ABC TYPE 20) IN CONJUNCTION WITH A CONVENIENCE MARKET IN THE "COMMERCIAL" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN AT 5301 HOLT BOULEVARD (APNs 1011-052-14, 15, & 16).**

### A. Recitals

**WHEREAS**, on March 12, 2012, 7-Eleven Inc., with the consent of the property owner, Southeast Statesboro LLC, filed an application for a Conditional Use Permit (CUP) for off-sale beer and wine in conjunction with the development of a convenience market at 5301 Holt Boulevard, and

**WHEREAS**, the subject 1.68-acre site is located in the "Commercial" land use district of the Holt Boulevard Specific Plan, and is developed with an "L"-shaped, multi-tenant commercial retail center with on-site parking; and

**WHEREAS**, this CUP application specifically applies to an end cap lease space of approximately 3,128 square-feet and located at the west end of the above identified "L"-shaped building; and

**WHEREAS**, the Holt Boulevard Specific Plan requires a CUP for the off-premises sale of alcoholic beverages upon the review of applicable development standards and land use compatibility with surrounding properties; and

**WHEREAS**, staff has determined that the proposal meets the intent and requirements of the Holt Boulevard Specific Plan for the proposed use and the applicable development standards of the "Commercial" land use district; and

**WHEREAS**, staff has determined the proposed off-premises sale of beer and wine and convenience market would not have a significant effect on the environment and has prepared a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) and a DeMinimis finding of no effect on fish and wildlife; 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 May 14, 2012, 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 request 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 public hearing on May 14, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - a. The proposed convenience store will be an essential and desirable use for the general public convenience and welfare, in that the market use will make available a convenient location for members of the public to purchase general groceries and sundry items, including packaged beer and wine products when desired. Convenience stores selling groceries, food stuffs, and various sundry products play an essential role in areas of the City where major grocery stores are non-existent.
  - b. Granting of the CUP for the proposed convenience market selling beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed market is not in close proximity to residential neighborhoods, and the existing center has adequate parking to support the proposed business and other existing uses. Moreover, all the activities of the proposed convenience market will be conducted entirely indoors and not interfere with adjacent uses.
  - c. The proposed convenience store at the subject site conforms to good zoning practice, in that the Holt Boulevard Specific Plan and Montclair Municipal Code allow the off-premises sale of beer and wine in conjunction with a convenience store in the "Commercial" land use district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the sale of beer and wine so that it does not detract from the general quality of the shopping center and surrounding area. In addition, the streets leading to the site are designed per City standards and are signalized to provide safe access into and out of the site. The City Engineer concluded that the additional trips this use would generate would not be significant and that no public street improvements were required.

- 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.
  - e. With regard to Public Convenience or Necessity (ABC finding), the Commission finds the proposed ABC Type 20 license (Off-Sale Beer & Wine) associated with this proposed convenience market is not in an area with an "undue concentration" of retail alcohol outlets. The convenience market provides local residents with a nearby location to purchase general groceries, including packaged beer and wine products (when desired) in an underserved portion of the City with no large grocery stores. Moreover, the area in which the proposed convenience market will be located is not within a geographical region identified as a high crime area by local law enforcement.
3. Planning Division staff has determined the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. In addition, there is no substantial evidence the project will have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption and, based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; and
  4. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3, above, this Commission hereby approves the application subject to each and every condition set forth below.

### Planning

1. This Conditional Use Permit (CUP) approval shall allow a convenience market with off-sale beer and wine (ABC Type 20 license) within a 3,128 square-foot lease space at 5301 Holt Boulevard, per the submitted and approved plans on file with the Planning Division. Any modification, intensification, or expansion of the use beyond that which is specifically approved with this approval, shall require review and approval by the Planning Commission.
2. Beer and wine may be sold at the subject site only in conjunction with the operation of the approved convenience market and subject to the issuance of a valid State of California Department of Alcoholic Beverage Control Type 20 (Off-Sale Beer and Wine) license. At all times during the

conduct of the permitted use the permittee shall maintain and keep in effect valid licensing approval from ABC as provided by law. Should such licensing be denied, expire or lapse at any time in the future, this approval to sell alcoholic beverages of any kind shall become null and void.

3. This CUP approval shall be valid for a period of six months (180 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. Any substantial changes to the nature or scope of the business, as approved by this permit, including, but not limited to, added services, an increase in floor area, relocation, exterior appearance, etc., shall require prior City review and approval. Any substantial changes to the establishment without City approval shall be deemed a violation of this CUP and may be cause for revocation. Upon transfer, sale or re-assignment of the establishment to another individual or entity, the applicant shall make full disclosure of these CUP requirements and restrictions to future buyers, transferees or assignees.
5. Approval of this CUP shall not waive compliance with any regulations as set forth in the Uniform Building Code, City Ordinances, by the San Bernardino County Health Department and/or California State Department of Alcoholic Beverage Control (ABC).
6. This decision, or any aspect of this decision, can 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.
7. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
  - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
  - b. A check, in the amount of \$378.38, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
8. Prior to the commencement of business activities associated with this approval, the business owner shall obtain and maintain a valid business

license at all times. For more information regarding the issuance of a business license, contact the City of Montclair Business License Technician at 909/625-9423.

9. Approved hours of operation for the convenience market shall be 24 hours per day, seven days a week, subject to the following requirements:
  - a. No alcoholic beverages may be sold between the hours of 2:00 a.m. and 6:00 a.m.
  - b. All alcoholic beverage displays and storage areas, and all electrical coolers containing alcoholic beverages shall be locked between the hours of 2:00 a.m. and 6:00 a.m. in order to prevent public access to alcoholic beverages during those hours.
  - c. Employees selling beer and wine between the hours of 10:00 p.m. and 2:00 a.m. shall be at least 21 years of age.
10. The sale and display of alcoholic beverages shall be subject to the following requirements:
  - a. No displays of beer, wine or other alcoholic beverages shall be located on the transaction counter or within five (5) feet of any building entrance or cashier station.
  - b. Not more than 15 percent of the total floor area within the convenience market, including refrigerated coolers, shall be dedicated to the display of beer and wine products. Beer and wine products shall be generally grouped in the same area at the rear half of the store, away from exit doors, the main access aisle, and the cashier counter.
  - c. The sale of single containers of beer or malt beverages is prohibited. No beer or malt beverages shall be sold in less than manufacturer-prepackaged four-pack quantities. Wine shall not be sold in containers of less than 750 milliliters, unless sold in manufacturer-packaged, multi-unit quantities. Wine coolers and beer coolers shall not be sold in less than four-pack quantities.
  - d. No miniature bottles of any type of the alcoholic beverage may be sold.
  - e. No display of alcoholic beverages shall be made from an ice tub. Cold beer or wine shall be sold from, or displayed in, the main, permanently affixed electrical coolers only.
11. The on-premises consumption of alcohol beverages is expressly prohibited, whether inside the store or outside in the parking lot.

12. The applicant shall install and maintain signs stating "No Loitering or Consumption of Alcoholic Beverages on the Premises" on the exterior of the building and within all parking areas in plain view of employees and customers.
13. The following mandatory conditions are hereby imposed as part of the CUP approval for off-sale beer and wine:
  - a. The premises shall be maintained at all times in a neat and orderly manner.
  - b. No beer and wine shall be sold, dispensed or offered for consumption within the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission.
  - c. The permittee shall comply with all State statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
  - d. 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 (c), 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 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.
  - e. 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.

14. No exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be allowed.
15. The business owner and/or staff shall maintain the area surrounding the business in a clean and orderly manner at all times. Litter and trash receptacles shall be located at convenient locations inside and outside establishments, and operators of such establishments shall remove trash and debris from their premises, on a daily basis.
16. Exterior lighting of the parking areas shall be modified as necessary to provide a minimum intensity of at least one foot-candle of light throughout the parking area at all times in compliance with the Montclair Security Ordinance.
17. Prior to issuance of a business license and Certificate of Occupancy for the subject tenant space, the applicant shall:
  - a. Remove the unpermitted Subway sign facing Holt Boulevard and all abandoned business signs on the building and windows;
  - b. Prepare and submit a photometric analysis for the subject site to determine what, if any, modifications are necessary to the existing site lighting to comply with the Montclair Security Ordinance. All necessary lighting modifications shall be completed within 90 days of Planning Commission action on this CUP request.
  - c. Remove the unshielded mercury vapor yard lights adjacent to the tenant spaces at 5301 and 5325 Holt Boulevard, and the unshielded luminaire adjacent to the secondary entry (facing Central Avenue) at 5301 Holt Boulevard. Should the applicant desire to replace any or all of these luminaires, the replacement fixtures shall be of a 90-degree, fully-cutoff style to the satisfaction of the City Planner.
  - d. Inspect and repair all exterior wood siding, posts and trim to ensure these items are in good condition, free of weather and/or termite damage.
  - e. Completely remove pay phone that exists near the Subway store, including pedestal and associated conduit.
  - f. Add mulch or groundcover to planters in the parking lot; and



- a. Temporary or permanent window signs, posters, banners, or other applied graphics shall not cover more than 25 percent of each window and shall not be placed in windows in a manner that will obstruct the view into the building by emergency personnel.
  - b. Window sign placement shall not obstruct the view of the sales transaction area from inside and outside the building.
  - c. Any window tinting shall allow for physical identification of all persons in the sales transaction area from outside the building.
  - d. Temporary or permanent window signs, interior or exterior banners, or other signs placed within the store that are visible from outside the store, and advertise the availability of, or offer for purchase alcoholic beverages of any kind at the site shall be prohibited.
24. The use of temporary promotional banners shall comply with Chapter 11.72 of the Montclair Municipal Code. A permit shall be obtained prior to the display of any temporary promotional banner.
  25. No video or arcade games, pinball machines, pool tables, jukeboxes, or similar devices shall be allowed within the subject lease space, with the exception of official State lottery machines.
  26. No exterior public telephones, vending or other coin-operated machines, kiddie rides, collection boxes, etc., shall be located on the exterior of the subject lease space or the remainder of the site.
  27. The applicant and/or property owner shall ensure that a copy of the Planning Commission resolution or approval letter, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
  28. A copy of the CUP approval letter with all conditions of approval relating to this application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy, and shall be made available for viewing to any law enforcement officer, fire, building, or code enforcement inspector in the course of conducting an inspection of said premises.
  29. Any violations of the conditions of approval may result in the revocation or modification of this permit, including the imposition of fines in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.

30. The applicant shall agree to defend, at his 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 his obligations under this condition.

Building

31. Prior to issuance of building permits, the applicant shall:
- a. Submit five complete sets of plans for the project, including building elevations, colors and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details, plus two sets of soils (if required), structural and Title 24 calculations for review and approval by the Building and Planning Divisions. Contact the Building Division at 909/625-9477 for an appointment to submit plans.
  - b. 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%).
  - c. Disabled-accessible parking space design shall be 9' x 20' with a loading zone located on the passenger side. The loading zone shall be 5' x 20' for a standard accessible stall and 8' x 20' for a van-accessible stall. The parking space and loading zone shall have no more than a 2% slope in any direction. The loading zone shall not include ramps and shall be striped in blue with the applicable design as called out in the 2010 California Building Code, Section 1129B.
32. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
33. All exterior wood siding, post and trim shall be maintained in good condition, free of weather and termite damage.

34. All concrete and asphalt work shall be of a well fit and durable nature. The proper grading of walks, sidewalks, drives and yards shall be required. A minimum thickness of 3½ inches for flat concrete work and 2½ inches for asphalt paving is required. All exterior flat work shall include such breaks for expansion.
35. Each tenant shall have individual and independent separation walls enveloping each assigned airspace or unit and independent utility meters, sewer and water connections and fire protection systems, subject to the review and approval of the Public Works, Community Development and Fire Departments.
36. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
37. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
38. Fire sprinkler risers and roof access ladders shall be located entirely within the enclosed buildings. Double-detector check facility shall be adequately screened by landscaping or an architectural screen wall.
39. All trash enclosures shall be constructed of a material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.
40. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
  - a. The numerical address of the tenant space (5301) shall be displayed on the fixed glass window over the main entrance on the north-facing elevation.
  - b. Numerals shall be Helvetica font, six (6) inches in height, and white in color.
  - c. The exterior parking and public areas shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until dawn.

41. 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.
42. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection. Prior to issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records, which are submitted for the purpose of obtaining a building permit, to the Building Division. Electronic images shall meet the City's Electronic Archiving Policy.

### Environmental

43. A Wastewater Discharge Survey shall be completed and submitted to the Environmental Manager for approval prior to completion of the Plan Check Process. Contact Nicole Greene, Environmental Manager at 909-625-9446 for more information.
44. All food waste materials shall be disposed of in the trash. Sewer disposal is not permitted. This also includes all warm items such as chili, soups, chili cheese, nacho cheese, condiments, hot dogs, hamburgers, etc.

### Fire

45. Fire extinguishers location(s) to be determined by the Montclair Fire Department.
46. Three (3) sets of plans must be submitted to the Montclair Fire Department for approval prior to the upgrade of the fire alarm system for a tenant improvement.
47. Contact the Fire Marshal's Office for further requirements regarding emergency and exit lighting.

### Police

48. The sales transaction area (or cashier station) shall be located and designed so that the employee and customer are visible from directly outside the store including the parking area. Windows or doors shall not be blocked with posters, signs, racks, or other displays.
49. Counters shall be maintained free from excessive displays to enhance the visibility of the cashier station.

50. Maintain visibility within the store by providing adequate lighting, installing mirrors, and keeping signs and shelving low.
51. Install a drop safe(s) and signs that indicate little cash is kept on-hand. A drop-safe or time release safe that weighs at least 500 pounds or that is attached to or set into a concrete floor is recommended.
52. Install and maintain video surveillance security camera system. At least one camera shall provide an overall view of the counter and register area, and at least one camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving the store. Camera views shall not be obstructed by store fixtures or displays.
53. Install height tape next to exit door(s).
54. Business shall be equipped with a functioning burglar alarm.
55. Provide silent alarm at the transaction counter that is immediately accessible to the cashier and out of view of customers.
56. Consider increased staffing during high-risk periods.
57. Provide and maintain exterior lighting for the store's parking area during all hours of darkness when employees or customers are on the premises.

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

APPROVED AND ADOPTED THIS 14TH DAY OF MAY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Tenice Johnson, Chair

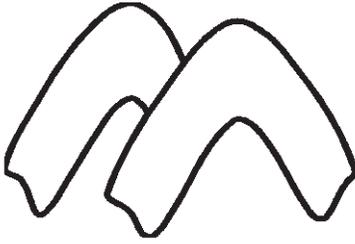
ATTEST: \_\_\_\_\_  
Steve Lustro, Secretary

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 14th day of May, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 05/14/12**

**AGENDA ITEM 6.c**

**Case No.: 2012-07**

**Application:** Conditional Use Permit

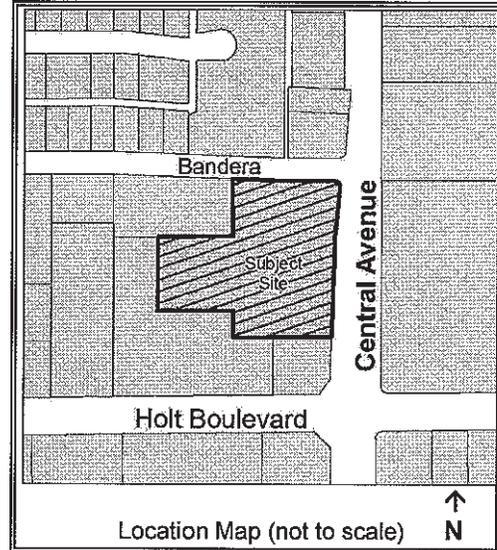
**Project Address:** 10440 Central Avenue

**Property Owner:** Silletto Trust for Joseph Youseff

**General Plan:** General Commercial

**Zoning:** Holt Boulevard Specific Plan (Auto Mall)

**Assessor Parcel No.:** 1010-611-29



**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** One freestanding multi-tenant office building

**Parking:** 10 paved, striped parking spaces

**City/Public Utility Easements:** None

**Trees/Significant Vegetation:** Perimeter landscaping along Holt Boulevard and minimal site landscaping

**ADJACENT LAND USE DESIGNATIONS AND USES**

	<b><i>General Plan</i></b>	<b><i>Zoning</i></b>	<b><i>Use of Property</i></b>
<b>Site</b>	General Commercial	"Auto Mall" per Holt Boulevard Specific Plan	Multi-tenant commercial water craft sales center
<b>North</b>	General Commercial	R-3 (Multiple-Family Residential)	Katrina's Bar
<b>East</b>	General Commercial	"Auto Mall" per Holt Boulevard Specific Plan	Drive Time Auto Dealership
<b>South</b>	General Commercial	"Auto Mall" per Holt Boulevard Specific Plan	WSS Shoe Store
<b>West</b>	General Commercial	"Auto Mall" per Holt Boulevard Specific Plan	Planet Motor Sports and Don Angel's Auto Sales

## Report on Item Number 6.c

### PUBLIC HEARING - CASE NUMBER 2010-07

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Siletto Trust for Joseph Youseff
LOCATION OF PROPERTY	10440 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	"Auto Mall" per Holt Boulevard Specific Plan
EXISTING LAND USE	Vacant Commercial Building
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15301 (Existing Facilities)
PROJECT PLANNER	Silvia Gutierrez

#### **Project Description**

The applicant is requesting approval of a Conditional Use Permit (CUP) to establish a used auto sales business with outdoor display at the above address. The proposed auto sales business will occupy approximately 2,073 square feet of the existing 3,600 square foot building for offices and customer lounge. The outdoor display areas directly in front of and to the south side the building will be utilized by the applicant for a maximum of 22 vehicles as depicted on submitted plans. No vehicles will be stored in the existing showroom.

The proposed business would have one employee and would be open for business everyday between the hours of 9:00 a.m. to 7:00 p.m. Except for a new identification sign, no significant changes to the exterior of the building or site are proposed.

#### **Background**

- The overall size of the property is approximately 4.18-acres in size and has been utilized for new watercraft sales (boat) sales. The watercraft business has operated on the site for the last 20 years, but due to economic limitations, vacated the portion of the building that is now proposed for used auto sales.
- In June 1991, the City Council adopted the Holt Boulevard Specific Plan, which rezoned the subject property from C-3 (General Commercial) to "Auto Mall."
- A Conditional Use Permit is required to re-establish auto sales with outdoor display when the business has been discontinued for more than six (6) months.

## **Planning Division Comments**

Overall, staff believes that given the limited scope of the outdoor auto sales business and the size and development of the property, the proposed use can be adequately accommodated subject to appropriate conditions of approval. Moreover, the subject site has long been associated with the outdoor display of vehicles (primarily boats), so renewing such displays on the site would not represent a significant change. Access to the site is provided by existing improved driveways off Central Avenue, and there are 10 customer parking spaces (including a disabled-accessible space) which will be available at the immediate north side of the subject lease space. Signs for the business will be subject to the criteria contained in the Montclair Sign Code.

With regard to the overall number of vehicles displayed outdoors, staff believes the number has to be limited and they need to be properly organized. According to plans prepared by the applicant, there will be a total of 22 vehicles displayed in the front and south parking areas. This number is reasonable to staff and the striping plan appears to neat and orderly. However, the applicant has indicated he would like to have a higher number of vehicles displayed. Staff has no objection to a higher number so long as the applicant can demonstrate with a drawing how this can be accomplished in an orderly and acceptable fashion without overcrowding the site. Staff has added a condition which directs the applicant to work with staff to find the appropriate number and parking layout for the display of vehicles.

Although the physical condition of the property can be characterized as being generally sound, there are several items of deferred maintenance that need to be addressed to properly prepare the site for the new use. The majority of these issues are easy to remedy and can be done immediately before car sales commence. The items identified by staff include the following:

- Removal of unpermitted signs
- Restoring and/or adding landscaping
- Removal/replacement of nonconforming wall lights
- Remove weeds growing in the auto display areas
- Clean and patch asphalt cracks
- Stripe/restripe the south display parking area to ensure organized display of vehicles

These items have been identified in the conditions of approval prepared for the project.

## **Public Notice**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on May 4, 2012. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At

the time this report was prepared, no comments or inquiries had been received by staff regarding the proposal.

### **Conditional Use Permit Findings**

Staff believes the necessary findings to support the proposed request can be made as follows:

- A. The proposed use is desirable to the public convenience and public welfare, in that it will provide local residents with a convenient location to purchase used automobiles.
- B. That granting this permit will not be materially detrimental to the public welfare and other property in the vicinity, in that the subject property is properly developed and has a history of outdoor display. Moreover, the new use of the property and its ongoing maintenance will be a welcome relief to the empty parking lot and efforts to improve the condition of the property and its appearance to Central Avenue and Holt Boulevard.
- C. The proposed use is consistent with the underlying "Auto Mall" land use designation for the property, which conditionally permits the used automotive sales business with outdoor display as contemplated by the applicant. The site is adequate in size, located on a lot with frontage on a fully developed major street, and has been zoned and consistently used for automotive related uses for over 30 years. Given the limited scope of the used automobile sales business, the proposed use can be adequately accommodated on the subject site with appropriate conditions of approval.
- D. The proposed use at the subject location is not contrary to the objectives of any part of the adopted General Plan or the Holt Boulevard Specific Plan, as both documents envision a variety of commercial uses in the area where the property is located and promote the orderly development and maintenance of commercial properties within the City.

### **Environmental Assessment**

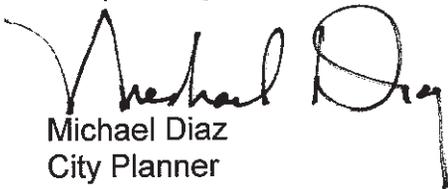
The proposed project is on a developed site and only involves limited site changes not involving grading. As such, staff has determined that this project is categorically exempt (Class 1 – Existing Facilities) from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the CEQA Guidelines. A DeMinimis finding of no impact on fish and wildlife will be prepared.

### **Planning Division Recommendation**

Staff finds the proposed use to be consistent with the Montclair Municipal Code, Holt Boulevard Specific Plan, and adopted General Plan. Therefore, staff recommends approval of Case No. 2012-07 by taking the following actions:

1. Move that, based upon 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 that result in negligible or no expansion of existing structures or uses. As such, the Commission directs staff to prepare a DeMinimis finding of no impact on fish and wildlife.
2. Move to approve a Conditional Use Permit under Case No. 2012-07 to allow the establishment of a used automobile sales business as described in the staff report, at 10400 Central Avenue, subject to making the four required findings, and subject to the conditions contained in attached Resolution Number 12-1758.

Respectfully Submitted,



Michael Diaz  
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2012-07

Z:\COMMDEV\SG\CASES\2012-07\RPT

## RESOLUTION NUMBER 12-1758

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NUMBER 2012-07 TO ESTABLISH A USED AUTO SALES BUSINESS IN THE "AUTO MALL" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN, 10440 CENTRAL AVENUE (APN 1010-611-29).**

A. Recitals.

**WHEREAS**, on April 16, 2012, Siletto Family Trust (property owner) filed an application on behalf of Joseph Youseff for a Conditional Use Permit (CUP) to establish a used auto sales business at 10440 Central Avenue; and

**WHEREAS**, the subject site is approximately 4.18-acres in size and is located within the "Auto Mall" land use district of the Holt Boulevard Specific Plan; and

**WHEREAS**, the Holt Boulevard Specific Plan requires a CUP for auto sales uses with outdoor display upon review of development standards and land use compatibility with surrounding properties; and

**WHEREAS**, the previous watercraft sales use at the subject site ceased operations in late 2009; and

**WHEREAS**, Chapter 11.78.100.C.4 of the Montclair Municipal Code requires a new CUP to re-establish a use that has been discontinued for a period of six continuous months or longer; and

**WHEREAS**, staff has determined that the proposal meets the intent and requirements of the Municipal Code to re-establish a used auto sales business and the applicable development standards of the "Auto Mall" land use district of the Holt Boulevard Specific Plan; and

**WHEREAS**, the improvements proposed for this location include associated parking lot changes to accommodate the subject improvement; and

**WHEREAS**, staff finds and determined the proposed used auto sales business is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the State CEQA Guidelines and has prepared a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; 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 May 14, 2012 commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a meeting at which time all persons wishing to testify in connection with said project were heard and said proposal 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 May 14, 2012, including written and oral staff reports together with public testimony, this Commission hereby finds the proposal to be consistent with the overall objectives of the City of Montclair General Plan, Montclair Municipal Code, and good planning principles, and approves the application subject to each and every condition set forth below.

Planning

1. This Conditional Use Permit approval shall be for a retail used auto sales business at 10440 Central Avenue. This approval shall permit the sale of autos and light trucks only. No recreational vehicles, trailers, buses, commercial trucks/equipment, or similar vehicles may be stored and/or offered for sale on the premises.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six (6) months from the date of Planning Commission approval. 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. Suspension of the approved use for a period of six months or more shall void the CUP approval for the specified use.
3. All vehicles offered for sale and displayed on the property shall be maintained in a sound and presentable condition at all times. The parking and/or storage of any inoperable or damaged vehicles (offered for sale or not) shall not be permitted on any portion of the auto sales area at the front of the property at any time.
4. The approved used auto sales business shall operate from two office spaces totaling 2,073 square feet within the existing 3,600 square-foot office/showroom building located at the front (east) side the property. No expansion or relocation to another area of the building or site shall be permitted without an approved amendment to this CUP.

5. Any modification, intensification, or expansion of the use beyond that which is specifically approved with this Conditional Use Permit shall require review and approval by the Planning Commission.
6. The maximum number of used cars offered for sale with this CUP approval shall be limited to no more than 22 vehicles at any time. The vehicles shall be parked and displayed in an orderly manner and on an appropriately developed parking surface located at the southernmost portion of the property as generally depicted on the approved site plan.
7. Prior to the commencement of business activities authorized by this approval, the applicant shall submit for City Planner review and approval, a scaled site plan for the parking areas associated with this proposal. The parking plan shall be done in an orderly fashion and not overcrowd the site from a visual and access standpoint. The final number of parking spaces approved by the City Planner shall constitute the maximum number of spaces permitted with this application.
8. Within 30 days of this approval the applicant shall complete the following modifications to existing non-conforming exterior lighting and signage, to the satisfaction of the City Planner:
  - a. Remove all unshielded light fixtures (e.g., barn lights and spotlights) attached to the south walls of the existing office building and auto repair shop building directly visible to Central Avenue.
  - b. Remove all unpermitted wall sign faces on the south and east elevations of the office building.
  - c. Remove weeds growing in the auto display areas;
  - d. Clean and patch asphalt cracks.
  - e. Submit sign plans for all business identification signs. All signs shall comply with the provisions of the Montclair Sign Code, including the requirement to obtain review and approval from the Planning and Building Divisions prior to installation.
9. Price displays for vehicles for sale shall be restricted to signage placed on the windshield only.
10. Prior to the commencement of business activities associated with this approval, the business owner shall obtain and maintain a valid business license at all times. For more information regarding the issuance of a

business license, contact the City of Montclair Business License Technician at 909/625-9423.

11. No outdoor pay telephones or vending machines shall be installed or used on the property in conjunction with this approval.
11. No shade structures or tents shall be used as accessory structures with said business.
12. 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. All vertical or "snow cone" style auto dealership promotional banners shall require review and approval by the Planning Division and issuance of a sign permit prior to installation.
  - d. Portable flags, pennants, spinners, painted-on signs or the like shall be prohibited.
  - e. No trailer-mounted electronic sign/message boards or other similar types of portable signs shall be permitted on the property at any time.
13. All graffiti and other forms of vandalism and damage to the subject improvements shall be promptly removed and/or repaired within 72 hours of notice by the City.
14. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
15. Approval of this CUP shall not waive compliance with any applicable regulations as set forth by the California Building Code and/or City Ordinances, the San Bernardino County Health Department, or the State of California.
16. 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.

17. A check in the amount of \$416.60, payable to the City of Montclair, to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
18. The property owner and applicant shall routinely inspect and maintain the property in good condition (e.g., structures, equipment, fences/walls, landscaping, hardscape, and pavement) in a clean and presentable manner at all times.
19. The subject business shall be subject to periodic City inspection to confirm compliance with the conditions of this approval. Failure to operate the used auto sales business in conformance with the conditions of this approval may result in the Conditional Use Permit being returned to the Planning Commission for consideration and possible revocation of the permit to operate.
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 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.

#### Environmental

21. No maintenance or repair (including oil changes and washing) of vehicles shall be permitted at the front portion of the site at any time. Rinsing of vehicles shall only be permitted with the use of a de-ionized (DI) water system or service as approved by the City's Environmental Manager.

#### Building

22. Provide a disabled-accessible entrance to the building. The entrance must be no more than 8.33% in slope and have no more than 2% cross slope.
23. Provide two disabled-accessible bathrooms. The restrooms shall have all required elements listed in Chapter 11 of the California Building Code.
24. Disabled-accessible signage for the restrooms and at the main entrance to the facility shall display the international sign of accessibility. The main entrance to the parking entrance shall have the accessible parking signage requirement.

25. A path of travel from the building to public transportation shall be clearly marked.
26. No vehicle shall be washed or serviced unless proper NPDES requirements are implemented. If you have questions concerning this requirement, please contact Nicole Greene, Environmental Manager, (909) 625-9446.
27. Future tenant improvements will require submittal of plans. Permits will be required for any building improvements made to the building.

Fire

28. Maintain the fire alarm in good working order.
29. Provide fire extinguishers per Fire Inspector requirements.

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

APPROVED AND ADOPTED THIS 14TH DAY OF MAY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Tenice Johnson, 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 14th day of May, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\CASES\2010-7 PC RESOLUTION