



MONTCLAIR

CITY OF MONTCLAIR  
PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS

5111 Benito Street, Montclair, California 91763

REGULAR ADJOURNED MEETING

Monday, January 27, 2014

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 Manny Martinez, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

**4. APPROVAL OF MINUTES**

The minutes of the December 9, 2013 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 2012-5 'A'
- Project Address: 5301 Holt Boulevard  
Project Applicant: Southeast Statesboro, LLC  
Project Planner: Michael Diaz, City Planner  
Request: Conditional Use Permit Amendment  
CEQA Assessment: Categorically Exempt (Section 15301)
- b. PUBLIC HEARING - CASE NUMBER 2012-18
- Project Address: Citywide  
Project Applicant: City of Montclair  
Project Planner: Steve Lustro, AICP,  
Community Development Director  
Request: General Plan Amendment for the  
2014-2021 City of Montclair Housing  
Element  
CEQA Assessment: Addendum to Mitigated Negative  
Declaration [Section 15164(a)]

## 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.

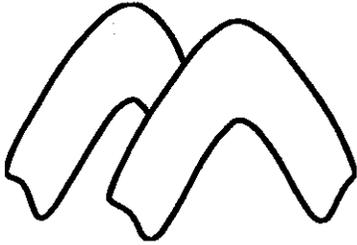
## 9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of February 10, 2014 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California.

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### CERTIFICATION OF AGENDA POSTING

I, Laura Embree, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the north door of Montclair City Hall on January 23, 2014.



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 01/27/14**

**AGENDA ITEM 6.a**

**Case No.: 2012-5 'A'**

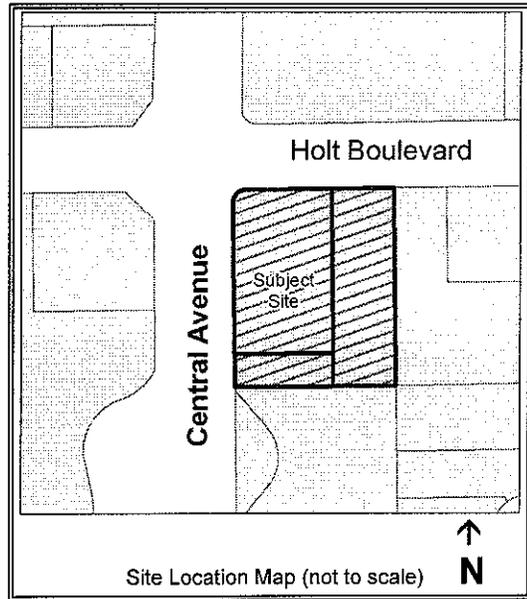
**Application:** Request to amend a Conditional Use Permit (Case No. 2012-5) to allow the off-premises sale of beer, wine and distilled spirits in conjunction with an existing convenience market (7-Eleven)

**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>General Plan</b>	<b>Zoning</b>	<b>Use of Property</b>
<b>Site</b>	Specific Plan	"Commercial" per Holt Boulevard Specific Plan	Multi-tenant retail 7-Eleven Store at 5301 Holt
<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.a

### PUBLIC HEARING - CASE NUMBER 2012-5 'A'

APPLICATION TYPE(S)	Conditional Use Permit Amendment
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 the amendment of certain conditions of approval related to the approval of Case No. 2012-5, a Conditional Use Permit (CUP) allowing a convenience market with off-sale beer and wine (Type 20 ABC License) at 5301 Holt Boulevard. The proposed amendments to the conditions of approval, as contained in PC Resolution No. 12-1757 (approved on May 14, 2012), are as follows:

1. Modify Conditions No. 1 and 2 to permit the upgrade of the existing Type 20 ABC License (Off-Sale Beer and Wine) to a new ABC Type 21 License (Off-Sale General).

If approved, the ABC Type 21 License would allow the off-premises sale of beer, wine, and distilled spirits at the convenience market. The distilled spirits would be stored and displayed behind the transaction counter in a lockable cabinet. Minors would continue to be allowed on the premises but would not be allowed to purchase these items.

2. Modify Condition No. 10.c. to replace the requirement that beer or malt beverages be sold in 4-pack or larger quantities.

This change would allow the applicant to sell pre-packaged 3-pack quantities that would be consistent with what other convenience stores and/or markets within the City can sell. The primary reason for the change expressed by the applicant is to allow the existing 7-Eleven convenience market to be more competitive with other similar convenience stores in the general area.

## **Planning Division Comments**

The 7-Eleven convenience market has been open since December 2012, and according to the applicant, has struggled to meet targeted sales projections that are typically associated with newly opened 7-Eleven locations. Part of the current situation may be related to the store's location, visibility, and newness. However, it is plausible that the requested amendments would help to level the playing field and increase sales to a degree.

### **Upgraded License**

The proposed upgrade to a Type 21 ABC License would allow the sale of distilled spirits (hard liquor) from the store. This would be of benefit to some customers who are already at the store. While beer and wine are already available at the store, the addition of distilled spirits would provide customers an opportunity to obtain all of their alcoholic beverages at one location rather than travel to another store.

Distilled spirits typically do not require refrigeration and would be displayed and stored in a relatively small cabinet located behind the transaction counter where they can be properly monitored. As such, there would be no major alterations to the existing floor plan and no change in the overall feel or appearance of the convenience market as it currently exists. The proposed change also would not require any noticeable change in the daily operations of the store.

Moreover, all of the original conditions of approval, except as modified with this proposal, will remain in force and are intended to not allow the business to morph into a liquor store, which was not envisioned or supported by the City. One condition of approval that will continue to remain in force is the prohibition of 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 (Condition 23.d of Planning Commission Resolution No. 12-1757). This condition is important because it helps to preserve the feel of a convenience store rather than call undue attention to the availability and/or promotion of the store as merely an outlet for alcoholic beverages.

According to the Montclair Police Department, no serious issues have been noted or reported regarding the existing store. There have been no complaints to staff from other tenants in the complex with respect to the operation of the 7-Eleven convenience market. Recent visits to the site by staff confirm that the site is clean and well maintained in full compliance with the conditions of approval.

### **Pre-Packaged Limits**

The second aspect of this amendment request, involves a modification to Condition No. 10.c, which currently limits the sale of beer and/or malt beverages to quantities of no less than a 4-pack. The applicant contends that the 4-pack quantity limit is not consistent with the industry standard of 3-pack quantities, which are prepared and

offered by the manufacturers and sold virtually everywhere. Thus, the 4-pack requirement prevents the store from obtaining and selling what is available by the manufacturer.

The original purpose for the condition limiting the sales of beer to 4-packs was intended to prevent the sale of single serve alcoholic beverages (bottle or can) from the premises. Single serve alcoholic beverages are considered problematic since they are sold for quick consumption, are cheaper to purchase, easier to conceal, and are typically consumed on the spot. These factors, in turn, create the environment of repeated nuisance calls involving loitering, panhandling, public drinking, and other related problems. This condition has been a standard of the most recently approved CUPs when the sale of alcoholic beverages was involved.

In response to the applicant's assertion that pre-packaged 3-packs have become an industry standard, staff conducted a field survey in Fall 2013 of all stores and markets within the City that were approved for the off-premises sale of alcoholic beverages (Type 20 and 21 Licenses). The survey was intended to verify how beer and malt beverages were being packaged by the manufacturer and sold by the stores. Staff found that, with the exception of the newer CUP approvals authorizing the sale of alcoholic beverages (e.g., 7-Elevens, Dollar General, etc.), all of the remaining licensees had no restrictions on container size or quantities. In addition to traditional 6-pack and multi-can box configurations, the most common prepackaged quantity found were 3-packs of 16 oz. cans of beer. Only one location in the City offered a 4-pack quantity of beer. As such, staff was able to confirm the information provided by the applicant.

Staff finds the proposed change to be reasonable and does not oppose the sale of beer or malt beverages in 3-pack configurations so long as the items are pre-packaged by the manufacturer and there is no change to the prohibition on the sale of single serve alcoholic beverages such as beer, malt liquor, or caffeinated alcoholic beverages.

### **Conditional Use Permit Findings**

- A. The proposed amendments to upgrade the ABC License to Type 21 ("Off-Sale General"), and the proposed modification of Condition 10.c for the existing market will augment the operation of the market use and benefit the convenience and welfare of the general public, in that the market use will make available a convenient location for members of the public to purchase groceries, some prepared food items, and other sundry items, including a wider variety of packaged alcoholic beverages in areas of the City where major grocery stores are non-existent.
- B. Granting of the proposed amendments to the existing CUP, particularly the upgrade of the ABC License to Type 21 (Off-Sale General) will not be materially detrimental to the public welfare and to other property in the vicinity, in that the changes do not result in any physical changes to the property or significant

modification to the interior of the market floor plan or to its daily operation activities. Moreover, the area devoted to display distilled spirits would be limited and located behind the transaction counter in a locked cabinet.

- C. The proposed amendments to the conditions of approval for the existing convenience market 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 alcoholic beverages subject to approval of a CUP. The original CUP was approved for the existing market which has been operating in a professional manner with no major problems or incidents reported. Given the limited scope of the proposed changes, no significant impacts are anticipated. Except for requested changes and new conditions contained in the new Resolution of Approval, all of the remaining conditions of approval related to the original CUP approval would remain in force.
- D. That the proposed amendments to upgrade the ABC License to Type 21 (Off-Sale General) are consistent with objectives of the adopted General Plan, which encourages the provision of 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 site is not located in an area with an "undue concentration" of retail alcohol outlets. Further, the Commission finds that the proposed amendments to upgrade the ABC License to Type 21 (Off-Sale General) and allow the sale of 3-pack quantities of beer and/or malt beverages will not result in any significant changes to the use that would alter the City's original findings to approve the convenience market with the sale of alcoholic beverages at this location.

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 January 17, 2014. 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.

## 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 an amendment of a Conditional Use Permit under Case No. 2012-5 'A' to permit the upgrade of the existing Type 20 ABC License (Off-Sale Beer and Wine) to a new Type 21 License (Off-Sale General) to allow the sale of beer, wine, and distilled spirits in conjunction with the existing convenience market (7-Eleven) in the "Commercial" land use district of the Holt Boulevard Specific Plan at 5301 Holt Boulevard.

Respectfully Submitted,



Michael Diaz  
City Planner

- c: Southeast Statesboro LLC, Property Owner  
Jumana Hawatmeh, DNH Enterprises, 1527 W. 13th Street, Upland, CA 91786  
Verna Joseph, Department of Alcoholic Beverage Control

**RESOLUTION NUMBER 14-1793**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING AN AMENDMENT OF CONDITIONAL USE PERMIT UNDER CASE NO. 2012-5 'A' TO PERMIT THE UPGRADE OF THE EXISTING TYPE 20 ABC LICENSE OFF-SALE BEER AND WINE) TO A NEW ABC TYPE 21 LICENSE (OFF-SALE GENERAL) TO ALLOW THE OFF-PREMISES SALE OF BEER, WINE AND DISTILLED SPIRITS IN CONJUNCTION WITH AN EXISTING CONVENIENCE MARKET (7-ELEVEN) 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 December 18, 2013, 7-Eleven Inc. franchise operators DHN Enterprises, with the consent of the property owner (Southeast Statesboro LLC), filed an application requesting an amendment of conditions of approval for Conditional Use Permit (Case No. 2012-5); and

**WHEREAS**, on May 14, 2013, the Planning Commission approved the current CUP under Case No. 2012-5 allowing the establishment of the existing convenience store with an ABC Type 20 License permitting the off-premises sale of beer and wine at the subject site; and

**WHEREAS**, the conditions of approval pertaining to the approved CUP for the subject use under Case No. 2012-5 are contained in Planning Commission Resolution No. 12-1757; and

**WHEREAS**, the applicant is requesting City approval to upgrade the current Type 20 ABC License (Off-Sale Beer and Wine) to a Type 21 ABC License (Off-Sale General) that would allow the off-sale of beer, wine, and distilled spirits from the convenience market; and

**WHEREAS**, the applicant also requested a second amendment to modify Condition 10.c. of Resolution No. 12-1757, which would allow the sale of pre-packaged 3-pack beer and/or malt beverages; and

**WHEREAS**, any modification, intensification, or expansion of the use beyond that which was specifically approved, requires further review and approval by the Planning Commission; and

**WHEREAS**, this application pertains to the existing 7-Eleven convenience market at the subject address, which is within a multi-tenant commercial center on a 1.68-acre site at the southeast corner of Holt Boulevard and Central Avenue; and

**WHEREAS**, the existing convenience market is approximately 3,128 square feet in size and fully developed as an up-to-date, modern convenience store; and

**WHEREAS**, the subject property is located is within the "Commercial" land use district of the Holt Boulevard Specific Plan; and

**WHEREAS**, staff has determined that the proposed amendments are consistent with the previous CUP approval and meet the intent and requirements of the Holt Boulevard Specific Plan for the proposed use and are not in conflict with the applicable development standards of the "Commercial" land use district; and

**WHEREAS**, staff has determined the proposed amendment to allow the license upgrade from an ABC Type 20 to an ABC Type 21 license permitting the off-premises sale of beer, wine, and distilled spirits at the existing 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

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

**WHEREAS**, on January 27, 2014, 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 amendment request to the existing 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 January 27, 2014, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - a. The proposed amendments to upgrade the ABC License to Type 21 (Off-Sale General), allowing the off-premises sale of beer, wine, and distilled spirits, and the proposed modification of Condition No. 10.c for the existing market will augment the operation of the market use and benefit the convenience and welfare of the general

public, in that the market use will make available a convenient location for members of the public to purchase groceries, some prepared food items, and other sundry items, including a wider variety of packaged alcoholic beverages in areas of the City where major grocery stores are non-existent.

- b. Granting of the proposed amendments to the existing CUP, particularly the upgrade of the ABC License to Type 21 (Off-Sale General) will not be materially detrimental to the public welfare and to other property in the vicinity, in that the changes do not result in any physical changes to the property or significant modification to the interior of the market floor plan or to its daily operation activities. Moreover, the area devoted to display distilled spirits would be limited and located behind the transaction counter in a locked cabinet.
  - c. The proposed amendments to the conditions of approval for the existing convenience market 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 alcoholic beverages subject to approval of a CUP. The original CUP was approved for the existing market which has been operating in a professional manner with no major problems or incidents reported. Given the limited scope of the proposed changes, no significant impacts are anticipated. Except for requested changes and new conditions contained in the new Resolution of Approval, all of the remaining conditions of approval related to the original CUP approval would remain in force.
  - d. That the proposed amendments to upgrade the ABC License to Type 21 (Off-Sale General) are consistent with objectives of the adopted General Plan, which encourages the provision of a wide range of retail and service uses within the retail commercial area.
  - e. With regard to Public Convenience or Necessity (ABC finding), the site is not located in an area with an "undue concentration" of retail alcohol outlets. Further, the Commission finds that the proposed amendments to upgrade the ABC License to Type 21 (Off-Sale General) and allow the sale of 3-pack quantities of beer and/or malt beverages will not result in any significant changes to the use that would alter the City's original findings to approve the convenience market with the sale of alcoholic beverages at this location.
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.

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 approval shall permit the following amendments to conditions of approval contained in Planning Commission Resolution No. 12-1757 associated with for Case No. 2012-5:
  - a. An amendment to Conditions 1 and 2 to allow the upgrade of the existing ABC Type 20 License (Off-Sale Beer and Wine) to an ABC Type 21 License (Off-Sale General) that would permit the off-premises sale of beer, wine, and distilled spirits in conjunction with an existing convenience market at 5301 Holt Boulevard. This amendment is subject to the applicant's ability to successfully obtain ABC approval for the upgrade to an ABC Type 21 License.
  - b. An amendment to Condition No. 10.c., to delete the requirement that beer, malt beverages, or caffeinated alcoholic beverages (cans/bottles) be sold in 4-pack configurations and allow the sale of manufacturer pre-packaged quantities of not less than three (3) bottles or cans.
2. In no case shall the sale of single cans or bottles be offered, displayed or sold from the premises.
3. All remaining conditions of approval for Case No. 2012-5 shall be retained as unchanged and continue to be in effect for as long as the permitted use is operating at the approved location.
4. Alcoholic beverages of any kind shall only be sold at the subject site 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 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.
5. No alcohol may be sold to anyone who appears to be under the influence of alcohol or drugs.

6. All distilled spirits shall be stored in a lockable cabinet behind the transaction counter and located no closer than five (5) feet to any building entrance.
7. A copy of the signed Resolution of Approval indicating the approved amendments shall be kept with the original Resolution of Approval (Planning Commission Resolution No. 12-1757) for Case No. 2012-5. Both resolutions 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 on said premises.
8. This CUP amendment 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.
9. 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.
10. Approval of this CUP shall not waive compliance with any regulations as set forth in the California Building Code, City Ordinances, by the San Bernardino County Health Department and/or California State Department of Alcoholic Beverage Control (ABC).
11. 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.
12. 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 **\$405.40**, payable to the "City of Montclair," to cover the cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
13. To ensure compliance with the conditions of the approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.
14. 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.
15. 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.
16. 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.

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

APPROVED AND ADOPTED THIS 27TH DAY OF JANUARY, 2014.

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 27th day of January, 2014, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

## Report on Item Number 6.b

### PUBLIC HEARING – CASE NUMBER 2012-18

NAME OF APPLICANT	City of Montclair
LOCATION OF PROPERTY	Citywide
GENERAL PLAN IMPLEMENTATION PROGRAM	General Plan Amendment for 2014-2021 City of Montclair Housing Element Update
ENVIRONMENTAL DETERMINATION	Addendum to Mitigated Negative Declaration [Section 15164(a)]
PROJECT COORDINATOR	Steve Lustro

#### **Project Description**

The City of Montclair 2014-2021 Housing Element identifies and analyzes the existing and projected housing needs of the community and articulates the City's official policy action program for the preservation, conservation, improvement, and production of housing units in the City.

In addition to Background information and the proposed Policy Programs, the Housing Element contains the following appendices:

- Housing Profile
- Resources and Constraints
- Residential Land Resources
- Review of Past Performance
- Community Outreach

The Housing Element includes a Housing Policy Program that establishes 25 policy action programs to address identified housing needs. Through the policy action programs and adequate sites analysis, the Housing Element demonstrates that the City is providing adequate opportunities for the production of new housing units within the 2014-2021 planning period for all income levels in a manner that meets the City's Regional Housing Needs Assessment (RHNA) allocation and complies with State law.

It has been determined that the City's RHNA for the 2014-2021 planning period is 697 residential units, as illustrated in Table AC-2 on Page AC-7 of the Housing Element. The Quantified Objectives by income category are contained in Table 2-1 on Page 2-11.

Copies of the Addendum to the Initial Study/Mitigated Negative Declaration (IS/MND) associated with the 2006-2014 Housing Element and the original IS/MND are enclosed in the Commission packets for reference, along with copies of the Revised Draft of the 2014-2021 Housing Element, dated January 9, 2014.

## **Background**

The Housing Element is one of the seven statutorily-required elements of the City's General Plan. The Housing Element establishes the City's official policies related to housing, and plans for the long-term provision of housing to meet the needs of the community. In addition, the Housing Element must also comply with State requirements. In accordance with State law, the Housing Element is required to demonstrate that adequate housing opportunities are available to meet the City's RHNA allocation across all income categories. The Housing Element is also required to address recent legislative requirements, including AB 2634 (requiring the Housing Element to address Extremely Low-Income Households), AB 2348 (establishing the minimum default density), SB 2 (requiring cities to identify zoning districts where Emergency Shelters are permitted by-right), and SB 520 (requiring cities to remove constraints and provide for reasonable accommodation of housing designed for persons with disabilities). The Housing Element is required to be reviewed and certified by the State Department of Housing and Community Development (HCD), finding that the Element complies with State law.

The City's current Housing Element, covering the 2006-2014 planning period, was updated and certified by HCD as being in compliance with state law in 2011. The Housing Element is the only component of the General Plan that is required to be updated on a regular schedule set forth by HCD.

City staff has been working with professional staff from RBF Consulting since early 2013 to coordinate the required public meetings, solicitation of public input, and ultimately, preparation of the 148-page 2014-2021 Housing Element update for consideration by the Planning Commission and City Council.

## **Planning Division Comments**

Entering into this project with the opportunity to work once again with RBF Consulting, staff felt comfortable that the process would go relatively smoothly and that has turned out to be the case. Building on and updating a Housing Element that was certified by the state has been a much less onerous task than the crafting of the current Housing Element, which was done largely from scratch.

The Housing Element update identifies 25 policy programs, contained on Pages 2-2 through 2-10 of the document. While a handful of the policy programs involve continuation of existing activities such as Code Enforcement and the Housing Improvement Task Force, a number of programs involve amending the Montclair Municipal Code to comply with State law and to promote the development of affordable housing. Further, many of the policy programs are "repeats" of those identified in the 2006-2014 Housing Element; however, staffing constraints have prevented implementation of most of the programs. Upon adoption of the 2014-2021 Housing Element, staff will re-prioritize its efforts to implement all of the policy programs outlined in the document. Accordingly, the Planning Commission can expect to see a number of code amendments brought forth in the next 6-12 months.

Staff is greatly appreciative of the time and effort put forth by Michelle Lieberman of RBF Consulting to develop the comprehensive document before the Commission for consideration and recommendation. Ms. Lieberman was RBF's lead technical staff in the preparation of the City's 2006-2014 Housing Element. Further, RBF's knowledge of State law as it relates to housing and its experience working with the State's Housing and Community Development Department has been invaluable in the preparation of the Housing Element update. The "finish line" is obtaining Housing Element certification by HCD, not only to be in compliance with State law, but to also allow the City to be eligible to apply for grants that are only available to cities with a certified Housing Element.

### **Environmental Review**

Pursuant to CEQA Guidelines §15164(a), an Addendum to the Mitigated Negative Declaration for the 2006-2014 Housing Element Update is the appropriate environmental documentation prepared for this project. Since the September 19, 2011 adoption of the Mitigated Negative Declaration for the 2006-2014 Update to the Housing Element via City Council Resolution No. 11-2922, there have been no substantial changes proposed in the actions described in the analysis, no substantial changes to the circumstances under which the project was undertaken, and no new information of substantial importance that would require subsequent environmental review under CEQA §21166 or CEQA Guidelines §15162. Further, the 2014-2021 Housing Element does not contain any new sites that were not previously evaluated in the 2006-2014 Housing Element and Mitigated Negative Declaration. The Addendum to the Mitigated Negative Declaration concludes the 2014-2021 Housing Element exhibits no demonstrated change in the 2006-2014 analysis conducted and provides the necessary environmental clearance for the adoption of the 2014-2021 Housing Element.

### **Public Notice**

On January 17, 2014, notice of this public hearing was published in the Inland Valley Daily Bulletin newspaper. Copies of the Initial Study/Mitigated Negative Declaration (IS/MND) and the Addendum to the IS/MND have been available for review at the Community Development Department public counter at Montclair City Hall during the ten-day review period.

### **Planning Division Recommendation**

Staff finds the proposed General Plan Amendment for the 2014-2021 City of Montclair Housing Element to be consistent with all other elements of the City's General Plan and in compliance with statutory guidelines set forth by the State of California; therefore, it is recommended that the Planning Commission take the following actions:

- A. Move that, based on the evidence submitted, a finding is made that, pursuant to CEQA Guidelines §15164(a), an Addendum to the Mitigated Negative Declaration for the 2006-2014 Housing Element Update is the appropriate environmental documentation prepared for this project. Since the adoption of the Mitigated Negative Declaration for the 2006-2014 Update to the Housing Element, there have been no substantial changes proposed in the actions described in the analysis, no substantial changes to

the circumstances under which the project was undertaken, and no new information of substantial importance that would require subsequent environmental review under CEQA §21166 or CEQA Guidelines §15162. Further, the 2014-2021 Housing Element does not contain any new sites that were not previously evaluated in the 2006-2014 Housing Element and Mitigated Negative Declaration. The Addendum to the Mitigated Negative Declaration concludes the 2014-2021 Housing Element exhibits no demonstrated change in the 2006-2014 analysis conducted and provides the necessary environmental clearance for the adoption of the 2014-2021 Housing Element.

- B. Move to recommend City Council approval of the Addendum to the Initial Study/Mitigated Negative Declaration associated with the 2006-2014 Housing Element and to approve a General Plan Amendment adopting the 2014-2021 Housing Element under Case No. 2012-18.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steve Lustro", with a long, sweeping underline that extends to the right.

Steve Lustro, AICP  
Community Development Director

## RESOLUTION NUMBER 14-1794

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL APPROVAL OF AN ADDENDUM TO THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION ASSOCIATED WITH THE 2006-2014 CITY OF MONTCLAIR HOUSING ELEMENT, AND APPROVING A GENERAL PLAN AMENDMENT ADOPTING THE 2014-2021 CITY OF MONTCLAIR HOUSING ELEMENT

#### A. Recitals.

**WHEREAS**, the Housing Element is one of seven statutorily-required elements of the General Plan; and

**WHEREAS**, the City of Montclair adopted its 2006-2014 General Plan Housing Element in September 2011 and said Housing Element was certified by the State's Housing and Community Development Department (HCD) as being in substantial compliance with statute; and

**WHEREAS**, the California Government Code requires cities to review and update their Housing Element every five years according to a schedule set forth by HCD; and

**WHEREAS**, the City desires to update its Housing Element to ensure that it accurately reflects the City's official housing policy and contains policy actions and programs that address the housing needs of the Montclair community; and

**WHEREAS**, the City, through its consultant, RBF Consulting, has prepared the 2014-2021 Housing Element as an update to its previously adopted Housing Element in compliance with State law; and

**WHEREAS**, because there have been no substantial changes proposed in the actions described in the analysis, no substantial changes to the circumstances under which the project was undertaken, no new information of substantial importance that would require subsequent environmental review under the California Environmental Quality Act (CEQA), and also that the 2014-2021 Housing Element does not contain any new sites that were not previously evaluated in the 2006-2014 Housing Element and Mitigated Negative Declaration, an Addendum to the Mitigated Negative Declaration for the 2006-2014 Housing Element Update is the appropriate environmental documentation prepared for this project (General Plan Housing Element Update), pursuant to CEQA Guidelines §15164(a); and

**WHEREAS**, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on January 17, 2014; and

**WHEREAS**, the Planning Commission has reviewed and considered the Housing Element along with the information contained in the Addendum to the IS/MND; and

**WHEREAS**, based on its review and independent judgment, the Planning Commission finds that the Housing Element will not have a significant effect on the environment with the implementation of mitigation measures; and

**WHEREAS**, on January 27, 2014, 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 the General Plan Amendment for the 2014-2021 City of Montclair Housing Element were heard, and said application was fully studied.

B. Findings.

1. *The General Plan Housing Element meets the requirements of Housing Element law (Article 10.6 of the Government Code).*

The Housing Element contains a Needs Assessment, Resources and Constraints Analysis, Review of Past Performance, Housing Policy Program, and Adequate Sites Analysis consistent with State requirements. Following City adoption of the 2014-2021 Housing Element, a copy will be submitted to HCD for final certification.

2. *The Housing Element is generally consistent with the goals and policies stated within all other elements of the City's General Plan.*

The Housing Element has been reviewed and is generally consistent with the remaining elements of the Montclair General Plan.

3. *The Housing Element advances the State's housing goal of "decent housing and a suitable living environment for all members of the community".*

The Housing Element contains a Needs Assessment documenting housing needs in Montclair and establishes policy action programs to meet those needs through the preservation, conservation, improvement, and production of housing units. The Housing Policy Action Programs aim to provide opportunities for production of new housing units for all income levels, and also address housing for special needs groups, including seniors, large families, and workforce housing. Accordingly, City adoption of the Housing Element and implementation of the Housing Policy Action Programs advances the State's housing goal of providing "decent housing and a suitable living environment for all members of the community".

4. The Mitigated Negative Declaration prepared for the 2006-2014 Housing Element Update found the City would amend the Montclair Municipal Code subsequent to Housing Element adoption, and when amended, that these

amendments would further promote new and existing programs designed to reduce constraints to affordable housing.

5. The potential environmental effects associated with the rezoning of land implemented were described in the City of Montclair Housing Element Initial Study and Mitigated Negative Declaration certified by the Montclair City Council via Resolution No. 11-2922.
6. The 2006-2014 Housing Element included an inventory and Housing Capacity analysis describing the sites subject to future rezoning.
7. Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines § 15164(b) allow an Addendum to an adopted Mitigated Negative Declaration to be prepared if minor technical changes or additions to approved projects are necessary.
8. The Planning Commission has considered the Addendum dated February 3, 2014, together with the previously certified Mitigated Negative Declaration by City Council Resolution No. 11-2922, together with the comments received and considered during the public review process. The Addendum and the Mitigated Negative Declaration reflect the independent judgment of the Planning Commission and have been completed in compliance with CEQA, and are adequate for this proposal.
9. The Planning Commission finds the 2006-2014 Housing Element provides the necessary environmental clearance for the adoption of the 2014-2021 Housing Element.

C. 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. This Commission recommends that the City Council approve the Addendum to the Initial Study/Mitigated Negative Declaration associated with the 2006-2014 Housing Element, and approve a General Plan Amendment associated with Case No. 2012-18 adopting the 2014-2021 City of Montclair Housing Element based on the findings contained in Part B of this Resolution.

**BE IT FURTHER RESOLVED** that the Planning Commission recommends that the City Council direct staff to implement the 25 policy action programs identified in the 2014-2021 General Plan Housing Element.

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

APPROVED AND ADOPTED THIS 27TH DAY OF JANUARY, 2014.

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 27th day of January, 2014, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\PLANNING DIV\HOUSING ELEMENT UPDATE\2012-18 PC RESO 14-1794