



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

REGULAR ADJOURNED MEETING  
Monday, April 13, 2015  
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 March 23, 2015 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 2015-2  
Project Address: Citywide  
Project Applicant: City of Montclair  
Project Planner: Steve Lustro, Community Development Director  
Request: Zoning Code amendment adding Chapter 11.65 to the Montclair Municipal Code related to reasonable accommodations for disabled individuals  
CEQA Assessment: Categorically Exempt, Section 15301 (Class 1) and Section 15303 (Class 3)
- b. PUBLIC HEARING - CASE NUMBER 2015-1  
Project Address: MIP (Manufacturing Industrial Park) land use districts of the North Montclair Specific Plan  
Project Applicant: Holualoa Montclair Business Center LLC  
Project Planner: Michael Diaz, City Planner  
Request: Specific Plan Amendment and amendment to Chapter 11.78 of the Montclair Municipal Code adding microbreweries as a conditionally permitted use  
CEQA Assessment: Categorically Exempt (Section 15305)

## 7. INFORMATION ITEMS

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

## 8. PUBLIC INSPECTION OF MATERIALS

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

**9. ADJOURNMENT**

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of April 27, 2015 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 April 9, 2015.

## Report on Item Number 6.a

### PUBLIC HEARING - CASE NUMBER 2015-2

APPLICATION TYPE(S)	Zoning Code Amendment
NAME OF APPLICANT	City of Montclair
LOCATION OF PROPERTY	Citywide
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Sections 15301(e) and 15303(e))
PROJECT PLANNER	Steve Lustro

#### Project Proposal and Background

On February 3, 2014, the City Council adopted Resolution No. 14-3018 approving a General Plan Amendment adopting the 2014-2021 Housing Element Update. The "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element. The Policy Action being addressed by this agenda item includes the following:

- Policy Action 3.1 requires staff to "Develop and adopt procedures to provide reasonable accommodations for persons with disabilities in compliance with the provisions of SB 520. These procedures shall include a formal written application and process."

Staff notes this is one of several General Plan and/or Municipal Code amendments related to implementation of the Policy Actions contained in the adopted Housing Element that are intended to be submitted to the Planning Commission and City Council for consideration.

Further, in order to be in full compliance with the state's certification of the City's Housing Element and pursuant to Government Code Section 65583(a)(4)(A), the City is required to take action on Policy Action 3.1 as described above within one year of the adoption of the Housing Element.

#### Analysis

The Federal Fair Housing Act and the California Fair Employment and Housing Act require that local governments make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." The purpose of the proposed ordinance is to comply with the laws and provide a process for individuals with disabilities to make requests for, and be provided with reasonable accommodations in the application of the City's land use and zoning regulations. It is similar to a process where the City grants a variance from development standards. For example, the accommodation could include allowing a wheelchair ramp to encroach into the front yard setback.

The State Housing Element Law statute requires that each city have an approved Housing Element as part of its General Plan, and that the Housing Element must address reasonable accommodation procedures for disabled individuals. The purpose of the ordinance is to meet both the Federal and State requirements.

### Reasonable Accommodation Summary

The proposed Ordinance would add Chapter 11.65 to the Montclair Municipal Code, "Reasonable Accommodations for Disabled Individuals." The Ordinance would establish criteria and a formal procedure for persons with disabilities to make a request to the City for reasonable accommodations in the application of the City's zoning regulations for residential development. The Ordinance provides for two types of reasonable accommodation requests, "Minor" and "Major," which are defined as follows:

- ❑ "Reasonable Accommodation, Minor" is defined as any deviation requested and/or granted from the strict application the City's laws, rules, policies, practices and/or procedures, including land use and zoning regulations of this Title, and which can be removed or terminated in sixty (60) days or less after the need for the reasonable accommodation ends.
- ❑ "Reasonable Accommodation, Major" is defined as any deviation requested and/or granted from the strict application of the City's laws, rules, policies, practices and/or procedures, including land use and zoning regulations of this Title, resulting in a physical modification to the property which cannot be restored or terminated within sixty (60) days or less after the need for the reasonable accommodation ends.

The process is summarized below:

1. Application (Section 11.65.040)

The Ordinance establishes requirements for an applicant to submit to the City factual and background information relative to the request for reasonable accommodation.

2. Review (Section 11.65.050)

- a. Minor Reasonable Accommodation Application: The Community Development Director has the authority to consider and act on the application or to refer the matter to the Planning Commission.
- b. Major Reasonable Accommodation Application: The Planning Commission has the Authority to review, approve or deny the request.

3. Noticing

a. Minor Reasonable Accommodation Application:

Notice of the Community Development Director's meeting to review and act on the application shall be made in writing 10 days prior to the meeting and shall be mailed first class, postage pre-paid to the applicant and the adjacent property owners.

b. Major Reasonable Accommodation Application:

Notice of the Planning Commission meeting to review and act on the application shall be made in writing 10 days prior to the meeting and shall be mailed first class, postage pre-paid to the applicant and the adjacent property owners within a 300-foot radius of the subject property boundaries.

4. Decision

A decision shall be made based on consideration of factors such as:

- The dwelling subject to the reasonable accommodation request will be occupied as a primary residence by the applicant/owner, making specific housing available to one or more individuals protected under the Fair Housing Laws;
- The request for reasonable accommodation will not impose an undue financial or administrative burden on the City; and
- The request will not require a fundamental alteration of the City's zoning regulations, development standards, building codes, policies and/or procedures.

5. Fees

There is no fee associated with the application for reasonable accommodation. However, fees adopted by City Council Resolution associated with building permits or other permits required to construct the requested improvements shall be paid at the time of permit issuance.

**Public Notice and Comment from the Public**

A notice of public review was advertised in the Inland Valley Daily Bulletin newspaper on March 20, 2015, inviting public comment on the subject code amendment. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

## **Fiscal Impact**

The cost to publish the public notice in the Inland Valley Daily Bulletin was \$369.98. Implementing the Ordinance would have minimal impact on City resources.

## **Environmental Determination**

The Director has concluded that proposed Ordinance No. 15-948 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301(e) and 15303(e) of the State CEQA Guidelines. While the code amendment, in and of itself, does not approve any construction activities, it establishes criteria and procedures to provide reasonable accommodations for disabled individuals that would result in the construction of minor additions to existing residential structures.

## **Findings**

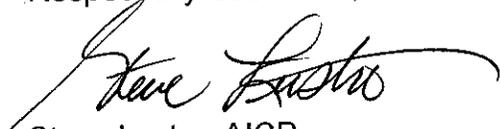
No findings of the Planning Commission or City Council are required for recommending approval of, or approving the proposed Municipal Code amendment.

## **Planning Division Recommendation**

Staff finds the proposed Zoning Code Amendment to be consistent with City policy and the Montclair Municipal Code. Accordingly, staff recommends approval of Case No. 2015-2 by taking the following actions:

- A. Move that, based upon evidence submitted, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with the 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
- B. Recommend the City Council adopt proposed Ordinance No. 15-948, adding Chapter 11.65 to the Montclair Municipal Code to establish criteria and procedures to provide reasonable accommodations for disabled individuals as set forth in Planning Commission Resolution No. 15-1826.

Respectfully Submitted,



Steve Lustro, AICP  
Community Development Director

Attachments - Planning Commission Resolution No. 15-1826  
Draft Ordinance No. 15-948

Z:\COMMDEV\SL\2015\2015-2 PC RPT (REASONABLE ACCOMMODATION)

**RESOLUTION NUMBER 15-1826**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL ADOPTION OF PROPOSED ORDINANCE NO. 14-948, ADDING CHAPTER 11.65 TO THE MONTCLAIR MUNICIPAL CODE RELATED TO REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS (CASE NO. 2015-2)**

A. Recitals.

**WHEREAS**, the Housing Element is one of seven statutorily–required elements of the General Plan; 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 the State's Housing and Community Development Department (HCD); and

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

**WHEREAS**, in January 2014, HCD provided the City with a letter of substantial compliance indicating that upon adoption by the City Council, the Housing Element would fully comply with State law; and

**WHEREAS**, on February 3, 2014, the City Council adopted Resolution No. 14-3018 approving a General Plan Amendment adopting the 2014-2021 Housing Element Update; and

**WHEREAS**, the "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element; and

**WHEREAS**, Policy Action 3.1 requires staff to "Develop and adopt procedures to provide reasonable accommodations for persons with disabilities in compliance with the provisions of SB 520. These procedures shall include a formal written application and process;" and

**WHEREAS**, in order to be in full compliance with the state's certification of the City's Housing Element, the City desires to provide a procedural process for disabled individuals to seek reasonable accommodation with respect to the City's zoning regulations and development standards; and

**WHEREAS**, such a procedural process for disabled individuals to seek reasonable accommodation is intended to comply with Federal and State requirements for fair housing and is intended to reasonably allow disabled individuals to integrate into residential areas; and;

**WHEREAS**, a grant of reasonable accommodation shall be specific to applying individuals and shall not apply to subsequent or changes in the ownership or uses of property by individuals other than those specifically granted a reasonable accommodation pursuant to the provisions of this Ordinance, except as may be required by Federal and/or State law; and

**WHEREAS**, the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Sections 15301(e) and 15303(e) of the State CEQA Guidelines. While the code amendment, in and of itself, does not approve any construction activities, it establishes criteria and procedures to provide reasonable accommodations for disabled individuals that would result in the construction of minor additions to existing residential structures.

**WHEREAS**, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on March 20, 2015; and

**WHEREAS**, on April 13, 2015, 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 proposal were heard, and said application 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. This Commission recommends that the City Council adopt the finding that proposed Ordinance No. 15-948 is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301(e) and 15303(e) of the State CEQA Guidelines.
3. This Commission recommends the City Council adopt proposed Ordinance No. 15-948, adding Chapter 11.65 to the Montclair Municipal Code related to reasonable accommodations for disabled individuals.

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

APPROVED AND ADOPTED THIS 13TH DAY OF APRIL, 2015.

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 13th day of April, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SL\2015\2015-2 PC RESO 14-1826

**ORDINANCE NO. 15-948**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING CHAPTER 11.65 TO THE MONTCLAIR MUNICIPAL CODE RELATED TO REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS**

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

**WHEREAS**, the California Government Code requires cities to review and update their Housing Element according to a schedule set forth by the State's Housing and Community Development Department (HCD); and

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

**WHEREAS**, in January 2014, HCD provided the City with a letter of substantial compliance indicating that upon adoption by the City Council, the Housing Element would fully comply with State law; and

**WHEREAS**, on February 3, 2014, the City Council adopted Resolution No. 14-3018 approving a General Plan Amendment adopting the 2014-2021 Housing Element Update; and

**WHEREAS**, the "Policy Program" chapter of the adopted Housing Element sets forth 25 Policy Actions that are required to be undertaken by the City to successfully implement the adopted Housing Element; and

**WHEREAS**, Policy Action 3.12 requires staff to "Develop and adopt procedures to provide reasonable accommodations for persons with disabilities in compliance with the provisions of SB 520. These procedures shall include a formal written application and process;" and

**WHEREAS**, in order to be in full compliance with the state's certification of the City's Housing Element, the City desires to provide a procedural process for disabled individuals to seek reasonable accommodation with respect to the City's zoning regulations and development standards; and

**WHEREAS**, such a procedural process for disabled individuals to seek reasonable accommodation is intended to comply with Federal and State requirements for fair housing and is intended to reasonably allow disabled individuals to integrate into residential areas; and;

**WHEREAS**, a grant of reasonable accommodation shall be specific to applying individuals and shall not apply to subsequent or changes in the ownership or uses of property by individuals other than those specifically

granted a reasonable accommodation pursuant to the provisions of this Ordinance, except as may be required by Federal and/or State law; and

**WHEREAS**, the Planning Commission reviewed the subject Ordinance at its regular meeting on April 13, 2015, and recommended City Council adoption; and

**WHEREAS**, the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Sections 15301(e) and 15303(e) of the State CEQA Guidelines. While the code amendment, in and of itself, does not approve any construction activities, it establishes criteria and procedures to provide reasonable accommodations for disabled individuals that would result in the construction of minor additions to existing residential structures.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION I. Amendment of Code.**

Chapter 11.65 is hereby added to the Montclair Municipal Code as follows:

**CHAPTER 11.65  
REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS**

**Sections:**

- 11.65.010 Intent and purpose.**
- 11.65.020 Definitions.**
- 11.65.030 Public notice of availability of accommodation process.**
- 11.65.040 Requesting reasonable accommodation.**
- 11.65.050 Decision on application.**
- 11.65.060 Required findings.**
- 11.65.070 Appeals.**
- 11.65.080 Waiver of time periods.**

**11.65.010 Intent and purpose.**

The intent of this Chapter, pursuant to Fair Housing Laws, is to provide individuals with disabilities reasonable accommodation in the application of the City's rules, policies, practices and procedures as necessary to ensure equal access to housing. The purpose of this Chapter is to provide a process for individuals with disabilities to make requests for, and be provided, reasonable accommodation, when reasonable accommodation is warranted based upon sufficient evidence, from the various laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations.

### **11.65.020 Definitions.**

**Applicant** means a person, business, or organization making a written request to the City for reasonable accommodation in the strict application of land use or zoning provisions of this Title.

**Director** means the Director of Community Development.

**Disabled or handicapped person or individual** means an individual who has a physical or mental impairment that limits one or more of that person's major life activities; anyone who is regarded as having such impairment; or anyone who has a record of having such impairment, but not including an individual's current, illegal use of a controlled substance.

**Fair Housing Laws** means the "Fair Housing Amendments Act of 1988" (42 U.S.C. § 3601, et seq.), including reasonable accommodation required by 42 U.S.C. § 3604 (f)(3)(B), and the "California Fair Employment and Housing Act" (California Government Code Section 12900, et seq.), including reasonable accommodation required specifically by California Government Code Sections 12927(c)(1), 12955, and 65583(c)(3) as any of these statutory provisions now exist or may be amended from time to time.

**Reasonable Accommodation, Major** means any deviation requested and/or granted from the strict application of the laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations of this Title, resulting in a physical modification to the property which cannot be restored or terminated within 90 days or less after the reasonable accommodation is terminated.

**Reasonable Accommodation, Minor** means any deviation requested and/or granted from the strict application the laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations of this Title, which can be removed or terminated within 90 days or less after the need for the reasonable accommodation ends.

### **11.65.030 Public notice of availability of accommodation process.**

The City shall prominently display at the Community Development Department public counter in City Hall a notice advising individuals with disabilities or their representatives that they may request a reasonable accommodation in accordance with the procedures established in this Chapter. City employees shall direct individuals to the display whenever they are requested to do so or reasonably believe that individuals with disabilities or their representatives may be entitled to a reasonable accommodation.

### **11.65.040 Requesting reasonable accommodation.**

A. In order to make specific housing available to an individual with a disability, a disabled individual or representative may request reasonable accommodation, pursuant to this Chapter, relating to the application of various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

B. If an individual or representative needs assistance in making a request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the Community Development Department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant may be represented

at all stages of the proceeding by a person designated by the applicant as his or her representative.

C. A request for reasonable accommodation with respect to the laws, rules, policies, practices and/or procedures of the City shall be filed on an application form provided by the Community Development Department, shall be signed by the owner of the property, and shall include the following information:

1. A description of how the property will be used by the disabled individual(s);

2. The basis for the claim that the Fair Housing Laws apply to the individual(s) and evidence satisfactory to the City supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a disabled person license or placard, or other appropriate evidence that establishes that the individual(s) needing the reasonable accommodation is disabled/handicapped pursuant to the Fair Housing Laws;

3. The specific reason the requested accommodation is necessary to make particular housing available to the disabled individual(s);

4. Verification by the applicant that the property is the primary residence of the person for whom reasonable accommodation is requested;

5. A filing fee in an amount as determined from time to time by Resolution of the City Council, but not to exceed the reasonable estimated costs to the City in processing the application.

#### **11.65.050 Decision on application.**

A. The Director shall have the authority to consider and act on any application for a Minor Reasonable Accommodation. The Director shall issue a written determination within 30 days of the date of receipt of a completed application and may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions; (3) deny the request; or (4) refer the matter to the Planning Commission, which shall render a decision on the application in the same manner as it considers an appeal. Notice of the Director's consideration of a Minor Reasonable Accommodation application shall be made in writing, ten (10) days prior to a decision and shall be mailed first class and postage pre-paid to the applicant and the adjacent property owners.

B. The Planning Commission shall have the authority to consider and act on any application for a Major Reasonable Accommodation or any Minor Reasonable Accommodation request referred to it by the Director. The Planning Commission shall consider an application at the next reasonably available public meeting after submission of an application for reasonable accommodation, after the submission of any additional information required pursuant to this Section, or after referral from the Director. The Planning Commission may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions; or (3) deny the request. Notice of the Planning Commission meeting to review and act on a Major Reasonable Accommodation application, or Minor Reasonable Accommodation application referred by the Director, shall be made in writing ten (10) days prior to the meeting and shall be mailed first class and postage pre-paid to the applicant and all property owners within a 300-foot radius of the project boundary.

C. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The notice of determination shall be sent to the applicant by first class mail.

D. If necessary to reach a determination on any request for reasonable accommodation, the Director may request further information from the applicant consistent with this Chapter, specifying in detail what information is required. In the event a request for further information is made, the 30-day period to issue a written determination shall be stayed until the applicant reasonably responds to the request.

E. If, based upon all of the evidence presented to the Director or the Planning Commission, the findings required in this Chapter may reasonably be made, the Director, the Planning Commission, or City Council, as applicable, shall grant the requested reasonable accommodation.

F. A reasonable accommodation granted pursuant to this Chapter shall not require the approval of any variance as to the reasonable accommodation.

G. The reasonable accommodation shall be subject to any reasonable conditions imposed on the approval that are consistent with the purposes of this Chapter to further fair housing. Such conditions may generally include, but are not limited to the following restrictions:

1. That the reasonable accommodation shall only be applicable to a particular individual(s);

2. That the reasonable accommodation shall only be applicable to the specific use for which application is made; and/or

3. That any change in use or circumstances which negates the basis for the granting of the approval shall render the reasonable accommodation null and void and/or revocable by the City.

#### **11.65.060 Required findings.**

The following findings shall be made in order to approve a request for reasonable accommodation:

A. The housing that is the subject of the request for reasonable accommodation shall be occupied as the primary residence by an individual protected under the Fair Housing Laws.

B. The request for reasonable accommodation is necessary to make specific housing available to one or more individuals protected under the Fair Housing Laws.

C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.

D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City.

#### **11.65.070 Appeals.**

A. Within ten (10) days of the date the City issues a written decision on a reasonable accommodation application, any person aggrieved or affected by a decision on an application requesting the accommodation may appeal such determination in writing to the Planning Commission or City Council, as applicable.

B. All appeals shall contain a statement of the grounds for the appeal.

C. No such appeal shall be accepted unless there is, paid concurrently with the filing of such appeal, a filing and processing fee in a sum set forth by Resolution of the City Council. Upon receipt of a timely filed appeal, together with the filing and processing fee, the Secretary of the Planning Commission or City Clerk shall set the matter for a hearing before the Planning Commission or City Council, as applicable, at its next reasonably available public meeting.

D. The Planning Commission or City Council, as applicable, shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed, or after an application has been referred to it by the Director. All determinations shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.

E. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.

F. An applicant requesting the accommodation may appeal an adverse determination or any conditions or limitations imposed by the Planning Commission's decision to the City Council in accordance with this Section. The decision of the City Council shall be final.

#### **11.65.080 Waiver of time periods.**

Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this chapter or may request a continuance regarding any decision or consideration by the city of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the city, shall not constitute failure by the city to provide for prompt decisions on applications and shall not be a violation of any required time period set forth in this chapter.

#### **SECTION II. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

#### **SECTION III. Effective Date.**

This Ordinance shall be in full force and effect thirty (30) days after passage.

**SECTION IV. Posting.**

The Deputy City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

**APPROVED AND ADOPTED** this XX day of XX, 2015.

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Mayor

**ATTEST:**

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Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 15-948 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2015, and finally passed not less than five (5) days thereafter on the XX day of XX, 2015, by the following vote, to-wit:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Andrea M. Phillips  
Deputy City Clerk

## Report on Item Number 6.b

### PUBLIC HEARING - CASE NUMBER 2015-1

APPLICATION TYPE(S)	Specific Plan Amendment (Chapter 3)
NAME OF APPLICANT	Holualoa Montclair Business Center LLC
LOCATION OF PROPERTY	North Montclair Specific Plan Planning Area
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15305
PROJECT PLANNER	Michael Diaz

#### Project Proposal

The applicant is requesting approval of an amendment to the Land Use Matrix (Table 3-1) contained in the North Montclair Specific Plan (hereinafter "Specific Plan") and an amendment to Chapter 11.78 of the Montclair Municipal Code to add microbreweries as a conditionally permitted use within the MIP (Manufacturing Industrial Park) land use district of the Specific Plan. The Specific Plan makes no reference to microbreweries as an allowable use in any land use district within its planning area. If the proposed amendment is approved, microbreweries would be added to the Land Use Matrix (Table 3-1) so they could be considered for approval in the MIP land use district. Further, Section 11.78.030.C of the Montclair Municipal Code would be amended to be consistent with the Specific Plan.

#### Definition of a Microbrewery

A microbrewery is generally defined as a small facility that makes limited amounts of beers, ales, meads, hard ciders, and/or similar beer-based beverages. Microbreweries are typically independently owned, and most have modest-sized tasting rooms or areas where patrons can sample products produced on-site and/or purchase for off-site consumption.

The working end of a microbrewery consists of an area where various pieces of food grade equipment are arranged in an "assembly line" fashion to process the beer from raw materials to a drinkable beverage. At a minimum, the brew house portion of the use consists of a grain mill, a brew kettle, a heat source (such as a boiler), and fermenters. Other typical equipment includes such things as bright tanks for carbonating the beer, heat exchangers, a walk-in cooler, and racks for raw material storage, bottles, and kegs.

A "nano-brewery" is a new and increasingly popular type of craft brewing which is intentionally kept very small. This type of brewery usually brews no more than one batch at a time, and is not set up for the wide distribution of its product(s).

## Existing City Regulations

Section 11.78.030.C of the Montclair Municipal Code identifies microbreweries as a land use that could be allowed with a Conditional Use Permit (CUP), but only within the C-2 (Limited Commercial) and C-3 (General Commercial) zoning districts of the City. The two types of microbreweries identified in the ordinance are:

- Microbrewery with on-site tasting (C-3 zone); and
- Microbrewery in conjunction with a bona fide eating establishment (C-2 and C-3 zones)

The City of Montclair does not currently have a microbrewery use within the City limits.

## Department of Alcoholic Beverage Control (ABC) Requirements

A microbrewery use is subject to the requirements of the California Department of Alcoholic Beverage Control (ABC). According to ABC, a Brew Pub or Microbrewery is considered a small beer manufacturer and requires the issuance of a Type 23 license. As a "small manufacturing facility," ABC controls its size of operation, either through the area allowed for production or through a cap on the volume of daily or annual production. Production is measured in barrels and the maximum number of barrels that can be produced is capped at 60,000 per year. A producer of more than 60,000 barrels is considered to be a large scale manufacturer and requires a different ABC license.

A microbrewery is a small-scale brewery operation that is typically dedicated solely to the production of specialty beers, although some may have a restaurant, pub, or tasting room at the manufacturing plant. According to ABC requirements, only beverages produced at that location can be served within the tasting room.

ABC requires that a Determination of Public Convenience or Necessity (PCN) be made for businesses that sell alcohol for off-premises consumption when those uses are in areas that have a crime rate that is higher than the City average or where there is an overconcentration of off-sale licenses in the census tract where the business is proposed. The Planning Commission would be making the PCN determination as part the Conditional Use Permit review of a proposed microbrewery use and would be considered concurrently with the CUP at a public hearing.

## Background

- The North Montclair Specific Plan (Specific Plan) was adopted on January 5, 1998 (Resolution No. 2163). The planning area covered by the Specific Plan was originally approximately 640 acres and bounded by the north City boundary, Palo Verde Street on the south, Benson Avenue on the east, and the San Antonio Flood Control Channel on the west.

- The Specific Plan area consists primarily of retail commercial and light industrial uses, with Montclair Plaza and related commercial developments serving as the area's primary focus.
- In 2006, the planning area covered by the Specific Plan was modified and reduced in size when the North Montclair Downtown Specific Plan (NMDSP) was created from a portion of the northernmost area of the Specific Plan.
- "Beer" is an alcoholic drink brewed mainly from malted barley, hops, yeast and water, although other sources of fermentable carbohydrate (e.g., maize and wheat) and other natural ingredients may be added to create different styles and flavors. Beer comes in many styles, the most common of which are ales, porters, browns, stouts, or lagers.
- Microbreweries are also subject to the County Health Department review and periodic inspections.

### **Analysis**

During the last decade, the craft beer and microbrewery industry has seen increased growth nationwide. In recognition of the popularity of microbreweries, several cities, including many in the surrounding area, have modified their respective zoning ordinances or Specific Plans to accommodate them. The proposed amendment to allow microbreweries in the MIP (Manufacturing Industrial Park) land use district of the Specific Plan would be consistent with the trend described above.

Microbreweries are typically found in commercial and industrial districts, either as a permitted by-right use or by means of an approved Conditional Use Permit (CUP). While many of the microbreweries found in commercial districts are often associated with restaurants or bars, those found in industrial areas are primarily focused on the manufacturing of beer products. Industrial areas are desirable locations for microbrewery uses because the availability of potential lease spaces at affordable rates is good and that industrial-type buildings are more suitable for the manufacturing activities associated with the operation of a microbrewery.

### **North Montclair Specific Plan**

As mentioned above, the North Montclair Specific Plan did not anticipate microbreweries as a use when it was adopted in 1998. This situation commonly occurs whenever new land use trends emerge after a zoning ordinance or Specific Plan is adopted.

The purpose/intent of the MIP land use district is to provide an appropriate physical environment for the establishment of light manufacturing and business services, including assembling, fabricating, processing and compounding; research and development; servicing of light vehicles; administrative offices; sale of materials/products wholly or partially manufactured on the site; and sale of goods and services required for the convenience of persons employed or living in the area. The MIP land use district also

allows retail and wholesale uses if they do not occupy more than 50% of the building/property, and restaurants serving alcoholic beverages with a CUP. Given the general intent of the MIP land use district, staff recommends that microbreweries with on-site tasting, or a microbrewery operated in conjunction with a bona fide eating establishment be allowed as conditionally permitted uses (See Exhibits A and B). These types of businesses would be distinguished from a traditional liquor store business, which is not a permitted use in the MIP land use district of the Specific Plan.

In view of the above discussion, the proposed amendment would view a microbrewery as a hybrid use between two other allowable types of land uses within the MIP land use district of the Specific Plan. While some may view a microbrewery as being no different than a bar, they are differentiated from a typical bar operation in that the main use of the premises is for manufacturing beer with the tasting room serving as an ancillary use. In staff's opinion, a microbrewery in an industrial zone would be a logical connection between the two separate uses, as long as the manufacturing of beer remains the primary use of the site and the tasting room and sales area of the operation is clearly secondary in scope and physical arrangement. Moreover, the manufacturing process occurs entirely within the building, with little need for significant (if any) exterior modifications beyond that which is required for other manufacturing operations. Any modifications to the building would be subject to City review and approval by the Planning and Building Divisions.

#### Conditional Use Permit Review

Staff believes that the MIP land use district of the Specific Plan is an appropriate zone in which to allow a microbrewery use and that the CUP review process is the proper manner to analyze potential requests. The CUP review process allows the City to consider proposed applications on a case-by-case basis and determine if a proposed site is suitable for a microbrewery. As such, the approval of a CUP request is not guaranteed. If a CUP is approved, conditions of approval (general and specific) would apply to ensure that the new use would be operated in a manner that is compatible with surrounding uses. The CUP process would also give the City the ability to modify conditions or revoke a CUP approval if the applicant fails to dependably operate in accordance with the approved conditions of approval. See Exhibit C for a draft partial list of conditions of approval that would likely be utilized for microbreweries.

In addition to reviewing the specific characteristics of a proposed microbrewery operation, other site conditions need to be factored into the decision to approve or deny a CUP request. One of the most important issues to address is parking. In industrial zones, parking requirements are often lower than what would be required for a commercial retail zone so the availability of on-site parking is a key consideration in making a final determination on a proposed microbrewery use. Parking for manufacturing uses in the City's MIP zones is one space for every 500 gross square feet (1:500), which would apply to the manufacturing portion of the microbrewery use and was likely accounted for when the site or industrial park was developed. However, tasting rooms would add to the overall parking requirement which could impact the availability of parking for other users. This is

a reason why tasting rooms and areas (and outdoor patios) need to be maintained as an ancillary aspect of the microbrewery business.

Establishment of a microbrewery in conjunction with a bona fide restaurant in the MIP land use district of the Specific Plan would be allowed with the proposed amendments, but parking issues would similarly need to be adequately addressed or conditioned so that neighboring businesses within the same complex are not negatively impacted.

Thus, in order to approve a CUP, it would need to be demonstrated that ample parking is available to accommodate the microbrewery use, particularly in multi-tenant developments. As an alternative, the applicant may need to modify the scope of the business (e.g., hours of operation for the tasting room) so that ample parking is available to operate at the desired location. In some cases, tasting rooms or eating establishments could only be open during off-peak hours when other businesses in the industrial park are closed. If a more intense, commercially-oriented business is envisioned by the applicant then a new location would need to be identified.

### Tasting Rooms

The defining feature of microbrewery use as envisioned by the proposed amendment is the tasting room. A tasting room consists of dedicated floor area where alcoholic beverages are consumed, including any bar and seating areas. According to ABC's Type 23 License, only the alcoholic beverages produced on-site are allowed to be served in the tasting room or sold from the premises. Further, ABC does not require food service, impose drink limits, or enforce age restrictions unless they are made mandatory by the City during the review of a proposal. Underage children are not prohibited from being at a microbrewery with a parent or legal guardian, although this is not encouraged.

In preparing this report, staff visited two facilities in the cities of Upland and Rancho Cucamonga to assess their respective operations. In both cases, staff found the microbreweries to be very clean and orderly with no visible problems. The tasting rooms for the facilities were informally arranged spaces consisting of a bar for dispensing and simple tables and chairs. Customer activity in the tasting rooms is highest on evenings and weekends.

From a Planning standpoint, the only concern related to the tasting room is its size. As part of any CUP application, the applicant would be required to submit a floor plan depicting the layout of the business, including the size and layout of the tasting room. As long as the tasting room is clearly subordinate to the overall size of the lease space or building, it can likely be accommodated. As a general rule, tasting rooms larger than 750 square feet in area would be subject to additional building improvements as mandated by Fire and Building Code requirements. Since every lease space is different in size and shape, required improvements would be determined on a case-by-case basis. Outdoor patios could also be considered on a case-by-case basis, provided the space is immediately adjacent to the subject use, not within a parking area or required setback, and

would be limited to no more than 400 square feet in area to minimize potential conflicts with adjoining land uses.

### Food Vendors

In general, microbreweries within industrial settings do not include facilities to prepare food as part of their operation. Instead, they often arrange for food truck vendors to offer food to customers during evenings or weekend events. However, this situation raises a few issues of concern that need to be addressed in order to avert potential adverse impacts. The specific areas of concern are the frequency and length of time that food vendors could be present on the site. Staff recognizes that food vendors are popular at microbreweries, but if food vendors are allowed to be on-site on a continuous basis, then the nature of the microbrewery as primarily a manufacturing facility would be compromised.

The City's existing regulations on mobile vending are general in nature and address mobile vending operations in the City right-of-way, but do not contain specific location and operational requirements for mobile food vendors/trucks on private property (Section 8.36.070 of the Montclair Municipal Code). Food vendors are currently prohibited from standing or parking on City streets in excess of ten minutes.

One of the items on the Planning Division's work program is the development of a new mobile food vendor ordinance that would address the issue of food vendors on private property, including at approved microbrewery facilities. In the meantime, a microbrewery would be limited to four (4) special events per calendar year where food vendors could be allowed. Most special events are timed around seasonal holidays and last for an entire weekend (Friday – Sunday).

### Maximum Number and Separation

Staff believes that in addition to the CUP requirement, a limit on the number of microbreweries per center is warranted to address the potential for overconcentration and secondary adverse impacts. While there is no specified separation requirement mandated by the State, staff believes that a good standard to utilize is a limit of one (1) per industrial park development. The limit helps to ensure that potential impacts are held to a minimum and that sufficient parking is maintained in each development. The type of industrial park development in the MIP land use district of the Specific Plan is fairly modest in nature and typically on parcels of land approximately two to five or more acres in size. There are 12 multi-tenant (2 or more lease spaces) industrial park developments in the MIP land use district of the Specific Plan.

Staff prefers limiting the number of microbreweries in an industrial park development rather than employing a simple separation requirement (e.g., 500 feet) between the proposed microbrewery and other uses, because the distance requirement may be too restrictive both to the number of potential sites for microbreweries or make it more difficult to allow other appropriate uses in the same center without creating non-conforming situations. The only distance minimum that should be considered is the distance from adjacent residential

development and/or uses. In this case, the distance minimum should be 100 feet from the nearest residential district boundary.

### **Public Notice**

A notice of public review was advertised in the Inland Valley Daily Bulletin newspaper on April 3, 2015, inviting public comment. Public hearing notices were mailed out to property owners within each MIP land use district of the North Montclair Specific Plan and also within a 300-foot radius of the boundaries of each MIP land use district of the North Montclair Specific Plan 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 this proposal.

### **Environmental Determination**

The proposed amendment to allow microbreweries as a conditionally permitted use within the MIP land use district of the North Montclair Specific Plan is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the State CEQA Guidelines. The proposed amendment is a minor alteration to land use limitations contained in the North Montclair Specific Plan, which already permits the manufacturing of products in general, and the sale of alcoholic beverages subject to a CUP. The adding of microbreweries to the list of uses allowed with a CUP in the MIP land use district would simply allow both uses to be combined into a new specified use.

### **Findings**

No findings of the Planning Commission or City Council are required for recommending the approval of, or approving the proposed Specific Plan amendment.

### **Recommendation**

Staff recommends the Planning Commission take the following actions:

- A. Move that, based upon evidence submitted, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with the staff's determination of exemption and directs staff to prepare a Notice of Exemption; and
- B. Recommend the City Council adopt proposed Ordinance No. 15-949, amending the Land Use Matrix (Table 3-1) contained in the North Montclair Specific Plan to add microbreweries under "5. Eating/Drinking Establishments" as a conditionally permitted use within the MIP (Manufacturing Industrial Park) land use district of the

Specific Plan, and amending Section 11.78.030.C of the Montclair Municipal Code to allow microbreweries in said land use district, as set forth in Planning Commission Resolution No. 15-1828.

Respectfully Submitted,



Michael Diaz  
City Planner

Attachments: Exhibit "A" – Excerpt from Table 3-1, North Montclair Specific Plan (Page III-8)  
Exhibit "B" – Excerpt from Table 3-1, North Montclair Specific Plan (Page III-11)  
Exhibit "C" – Draft Partial Set of Conditions of Approval for an Approved Microbrewery Use  
Planning Commission Resolution No. 15-1828  
Ordinance No. 15-949

c: Holualoa Montclair Business Park, 9087 Arrow Hwy, Suite 235, Rancho Cucamonga, CA 91730  
Susan D. Elias, P.O. Box 365, Montclair, CA 91763  
Rick Gomez, 6207 Crystal Court, Rancho Cucamonga, CA 91701

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**Exhibit "A"**  
**Excerpt from North Montclair Specific Plan – Page III-8**  
**Proposed Modification to Land Use Table**

*Land Use Development Criteria*

**TABLE 3-1**  
**LAND USE MATRIX (CONTINUED)**

LAND USE ACTIVITY	R1/ SL	R1	R3	C2	C3	MIP	I
<b>5. Eating and Drinking Establishments</b> Commercial establishments which serve prepared food or beverages for consumption on or off the premises. Examples of allowable uses include, but are not limited to, the following:				P	P	P'	
a) Delicatessen/Sandwich Shop							
b) Night Clubs/Bars/Lounges					C		
c) Restaurants – No Drive-Thrus				P	P	P'	
d) Restaurants – With Drive-Thrus					C	C'	
e) Restaurants – Serving Alcoholic Beverages							
f) Microbrewery with on-site tasting						C <sup>5</sup>	
g) Microbrewery in conjunction with a bona fide eating establishment						C <sup>5</sup>	
<b>6. Entertainment/Recreation Establishments</b>							
a) Auditorium, Convention Halls and Theaters					C		
b) Commercial Recreation Facilities					C		
<b>7. Financial</b>							
Commercial establishments which engage in monetary transactions not directly related to the sale of a product/service (i.e. banks, savings and loans, etc.)				P	P	P'	
<b>8. Medical/Care Facilities</b> Commercial establishments which provide needed services of a medical/care nature. Examples of allowable uses include, but are not limited to, the following:							
a) Child Day Care (up to 6 )	P	P	P	P	P	P	P
b) Child Day Care (7 or more children)	C	C	C	C	C		C
c) Doctors/Dentists Office					P	C'	P
d) Outpatient- Treatment Programs					C		P
e) Residential Care Facilities (convalescent care)			C				P

## Exhibit "B"

### Excerpt from North Montclair Specific Plan – Page III-11 Proposed Modification to Footnote Section

*Land Use Development Criteria*

**TABLE 3-1  
LAND USE MATRIX (CONTINUED)**

LAND USE ACTIVITY	R1/ SL	R1	R3	C2	C3	MIP	I
d) Laboratories (medical, mechanical, optical)						P	
e) Processing (bottling, cleaning/dyeing, packaging; except hazardous materials)						P	
f) Research/Development (design of new products)						P	
g) Repairing (appliances, electronic equipment, plumbing/electrical shops)						P	
h) Storage (household items, office files, self-serve storage [indoors only])						P	
i) Treatment, Light (non-toxic coating/plating)						P	
j) Wholesaling (household goods, office supplies, electronic components)						P	
k) Welding, Machine and Sheet Metal Shops						P	
<b>13. Other</b>							
a) Assembly Facilities (clubs, lodges, meeting halls)					C		
b) Bus and Rail Facilities						P	
c) Funeral Parlors/Mortuaries					C		C
d) Ice and Cold Storage Plants						C	
e) Parking Structures					P	P	
f) Parks and Playgrounds	P	P	P	P			
g) Private Schools (trade schools)					C	C	
h) Public Schools		P					
i) Private Schools (parochial, elementary, business)					C		
j) Public Utility Facilities					C	C	
k) Religious Facilities	C	C	C	C	C		C

- 1 Retail or wholesale uses are permitted or conditionally permitted provided that they do not occupy more than 50% of the building/property area and provide the appropriate parking ratio for commercial use.
- 2 Subject to the provisions of Section 9-6.101 of the Montclair Municipal Code.
- 3 Subject to the provisions of Section 9-6.200 of the Montclair Municipal Code.
- 4 Subject to the provisions of Section 9-4.1816 of the Montclair Municipal Code.
- 5 Maximum of one (1) Microbrewery use per multi-tenant center. Minimum 100-foot separation from adjacent residential district boundary.

## **Exhibit "C"**

### **Draft Partial Set of Conditions of Approval for an Approved Microbrewery Use**

As part of the review process for a Conditional Use Permit, approved uses are subject to conditions of approval that are specifically developed for each property to ensure compatibility with surrounding uses. Each CUP request is considered on a case by case basis with no guarantee of approval. If approved, each use would be subject to standard conditions of approval such as for hours of operation, required site improvements, etc. The following is a partial list of potential conditions of approval microbrewery uses:

1. The approved microbrewery operation shall be conducted entirely within the building per approved plans by the City of Montclair. No storage of any kind shall occur outside the building.
2. The alcoholic beverages served on, or sold from, the premises shall be limited to the products that are authorized to be manufactured and sold by the alcoholic beverage manufacturer under its license issued by the California Department of Alcoholic Beverage Control.
3. A tasting room is, and at all times shall remain, an ancillary use to the alcoholic beverage manufacturing use.
4. The sale and/or consumption of alcoholic beverages produced by the manufacturer shall be limited to the approved tasting room and/or outdoor patio area.
5. All persons serving alcohol shall be a minimum of 21 years of age and have completed LEADS alcohol safety training through the Department of Alcoholic Beverage Control (ABC).
6. No person under 21 years of age shall be served or allowed to consume alcoholic beverages of any kind on the subject premises governed by this approval or allowed to purchase any alcoholic beverages for off-site consumption.
7. No admission fee, cover charge, minimum purchase amounts, or drinking contests shall be allowed.
8. No video, electronic or other amusement devices or games shall be permitted.

9. There shall be no live entertainment, amplified music or dancing permitted on the premises at any time without issuance of proper permits as required by the City of Montclair.
10. Any food vendors shall comply with applicable city, state and federal regulations, and must obtain any necessary permits, including a business license, environmental health permits to ensure food safety and handling. In addition, the food vendor shall obtain a Seller's Permit from the California Board of Equalization.
11. A security plan shall require approval by the Montclair Police Department prior to operation. The security plan shall be formulated to deter unlawful conduct of employees and patrons, to promote the safe and orderly assembly and movement of persons and vehicles, and to prevent disturbances to surrounding uses and the neighborhood by excessive noise created by patrons entering or leaving the alcoholic beverage manufacturer's licensed premises.
12. The applicant shall take all reasonable and feasible measures to eliminate perceptible odor at the property line and/or reduce noise to within City's Noise Ordinance standards.

## RESOLUTION NUMBER 15-1828

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL ADOPTION OF PROPOSED ORDINANCE NO. 15-949, AMENDING THE LAND USE MATRIX (TABLE 3-1) CONTAINED IN THE NORTH MONTCLAIR SPECIFIC PLAN TO ADD MICROBREWERIES AS A CONDITIONALLY PERMITTED USE WITHIN THE MIP (MANUFACTURING INDUSTRIAL PARK) LAND USE DISTRICT OF THE SPECIFIC PLAN, AND AMENDING SECTION 11.78.030.C OF THE MONTCLAIR MUNICIPAL CODE TO ALLOW MICROBREWERIES IN SAID LAND USE DISTRICT, AS SET FORTH IN PLANNING COMMISSION RESOLUTION NO. 15-1828.

A. Recitals.

**WHEREAS**, on January 12, 2015, Holualoa Montclair Business Park submitted a request to amend the North Montclair Specific Plan to allow a microbrewery as a conditionally permitted use within the Manufacturing Industrial Park (MIP) land use district of the Specific Plan; and

**WHEREAS**, the amendment would apply to all properties with the Manufacturing Industrial Park (MIP) land use district designation within the boundaries of the North Montclair Specific Plan; and

**WHEREAS**, the North Montclair Specific Plan was adopted on January 5, 1998 (Resolution No. 2163). The planning area covered by the Specific Plan was originally approximately 640 acres and bounded by the north City boundary, Palo Verde Street on the south, Benson Avenue on the east, and the San Antonio Flood Control Channel on the west; and

**WHEREAS**, the North Montclair Specific Plan planning area consists primarily of retail commercial and light industrial uses, with Montclair Plaza and related commercial developments serving as the area's primary focus; and

**WHEREAS**, in 2006, the planning area covered by the North Montclair Specific Plan was modified and reduced in size when the North Montclair Downtown Specific Plan (NMDSP) was created from a portion of the northernmost area of the Specific Plan; and

**WHEREAS**, Section VI-9.C.1. of the North Montclair Specific Plan allows amendments to land use designations and development criteria upon review and approval of the Planning Commission and City Council; and

**WHEREAS**, the Specific Plan amendment will be consistent with the City's General Plan land use map, proposed uses and surrounding uses; and

**WHEREAS**, the North Montclair Specific Plan did not specifically identify microbreweries as permitted or conditionally permitted use when it was adopted in 1998; and

**WHEREAS**, the addition of microbreweries to the list of uses allowed with a CUP in the MIP land use district would simply allow both uses to be combined into a new specified use; and

**WHEREAS**, a microbrewery is a small-scale brewery operation that is dedicated solely to the production of specialty beers. In most cases, a tasting room at the manufacturing plant is an element of the business; and

**WHEREAS**, "Beer" is an alcoholic drink brewed mainly from malted barley, hops, yeast and water although other sources of fermentable carbohydrate (e.g., maize and wheat) and other natural ingredients may be added to create different styles and flavors. Beer comes in many styles, the most common of which are ales, porters, browns, stouts, or lagers; and

**WHEREAS**, a microbrewery use is subject to the requirements of California Department of Alcoholic Beverage Control (ABC). According to ABC, a Brew Pub or Microbrewery is considered a small beer manufacturer and requires the issuance of a Type 23 license. As a "small manufacturing facility," ABC controls its size of operation, either through the area allowed for production or through a cap on the volume of daily or annual production. Production is measured in barrels and the maximum number of barrels that can be produced is capped at 60,000 per year. A producer of more than 60,000 barrels is considered to be a large scale manufacturer and requires a different ABC license; and

**WHEREAS**, the Department of Alcoholic Beverage Control (ABC) requires that only beverages produced at that location can be served within the tasting room; and

**WHEREAS**, a microbrewery operation is subject to the County Health Department review and periodic inspections; and

**WHEREAS**, if approved, the Land Use Matrix (Table 3-1) contained in the North Montclair Specific Plan would be amended to add microbreweries under "5. Eating/Drinking Establishments" as a conditionally permitted use within the MIP (Manufacturing Industrial Park) land use district of the North Montclair Specific Plan as depicted in Exhibit "A", and

**WHEREAS**, Section 11.78.030.C of the Montclair Municipal Code would also be amended to allow microbreweries as a conditionally permitted use in said land use district; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA), the proposed amendment to allow microbreweries as a conditionally permitted use within the MIP land use district of the North Montclair Specific Plan is deemed to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the State CEQA Guidelines. The proposed amendment is a minor alteration to land use limitations contained in the North Montclair Specific Plan, which already permits the manufacturing of products in general, and the sale of alcoholic beverages subject to a CUP; and

**WHEREAS**, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on April 3, 2015. Public hearing notices were mailed out to property owners within each MIP land use district of the North Montclair Specific Plan and also within a 300-foot radius of the boundaries of each MIP land use district of the North Montclair Specific Plan in accordance with State law for consideration of this discretionary zoning entitlement; and

**WHEREAS**, on April 13, 2015, 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 proposal were heard, and said application 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. This Commission recommends that the City Council adopt the finding that proposed Ordinance No. 14-949 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the State CEQA Guidelines
3. This Commission recommends the City Council adopt proposed Ordinance No. 15-949, approving an amendment to the Land Use Matrix (Table 3-1) contained in the North Montclair Specific Plan to add microbreweries under "5. Eating/Drinking Establishments" as a conditionally permitted use within the MIP (Manufacturing Industrial Park) land use district of the Specific Plan, and to Section 11.78.030.C of the Montclair Municipal Code, allowing microbreweries as a conditionally permitted use in said land use district.

C. Conditions of Approval.

Based upon the findings and conclusions set forth in the paragraphs above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This approval is for the following:
  - a. Amending the Land Use Matrix (Table 3-1) contained in the North Montclair Specific Plan to add microbreweries under "5. Eating/Drinking Establishments" as a conditionally permitted use within the MIP (Manufacturing Industrial Park) land use district of the North Montclair Specific Plan as depicted in Exhibits "A" and "B"; and
  - b. Amending Section 11.78.030.C of the Montclair Municipal Code to allow microbreweries in said land use district.
2. In the event that exhibits and written conditions are inconsistent, the written conditions shall prevail.
3. 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 **\$50.00**, payable to "Clerk of the Board of Supervisors," to cover the California Department of Fish and Wildlife (CDFW) fee for filing a Notice of Exemption (NOE) as required by the California Environmental Quality Act (CEQA).
  - b. A check in the amount of **\$463.92**, 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.
4. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
5. The applicant shall defend, indemnify, and hold harmless the City of Montclair, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul any approval of the City, whether by its City Council, Planning Commission, or other authorized board or officer of this subdivision. Pursuant to California Government Code Section 66474.9, the subdivider and applicant also agrees to defend, indemnify, and hold harmless, the City of Montclair, its agents, officers, and employees from any claim, action, or proceeding against the City or its

agents, officers, or employees to attack, set aside, void, or annul any map approval of the City, whether by its City Council, Planning Commission, or other authorized board or officer of this subdivision, which action is brought within the time period provided for in Government Code Section 66499.37. The City shall promptly notify the subdivider and applicant of any such claim, action, or proceeding; and the City shall cooperate fully in the defense.

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

APPROVED AND ADOPTED THIS 13TH DAY OF APRIL, 2015.

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 13th day of April, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\MD\2015-1 PC RESO 15-1828