



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

REGULAR ADJOURNED MEETING
Monday, December 14, 2015
7:00 p.m.

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

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

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 November 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 2010-17 'A'
(continued from November 23, 2015)
Project Address: 5461 Holt Boulevard, Unit G
Project Applicant: 1992 Lee Living Trust
Project Planner: Silvia Gutiérrez, Associate Planner
Request: Conditional Use Permit amendment
CEQA Assessment: Categorically Exempt (Section 15301)
- b. Bi-annual Planning Commission reorganization

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

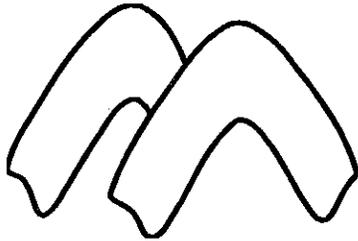
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of January 11, 2016 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California.

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 December 10, 2015.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 12/14/15

AGENDA ITEM 6.a

Case No. 2010-17 'A'

Application: CUP Amendment request to upgrade an existing ABC Type 41 License (on-sale beer and wine) to an ABC Type 47 License (on-sale beer, wine, and distilled spirits) for an existing bona fide eating establishment; extend the hours of operation; modify an existing live entertainment permit; and increase the amount of dining area seating.

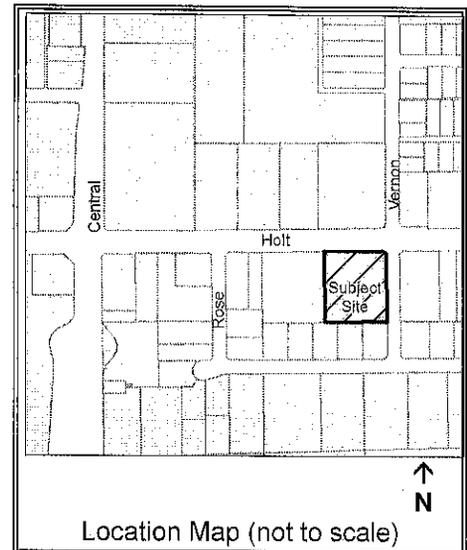
Project Address: 5461 Holt Boulevard, Unit G

Property Owner: 1992 Lee Bypass Trust

General Plan: General Commercial

Zoning: "Business Park" per Holt Boulevard Specific Plan

Assessor Parcel No.: 1011-061-17



EXISTING SITE FEATURES/CONDITIONS

Structure: 24,500± square-foot multi-tenant commercial center

Parking: 107 paved parking spaces, including 3 disabled-accessible stalls

City or other public utility easements: Typical easements

ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	General Commercial	"Business Park" per Holt Blvd. Specific Plan	Multi-tenant commercial center
North	General Commercial	"Auto Mall" per Holt Blvd. Specific Plan	Commercial building
South	Industrial Park	"M-1" (Limited Manufacturing)	Industrial building
East	General Commercial	"Business Park" per Holt Blvd. Specific Plan	Vacant Gas Station and Car Wash
West	General Commercial	"Business Park" per Holt Blvd. Specific Plan	Thrift Store

Report on Item Number 6.a

PUBLIC HEARING - CASE NUMBER 2010-17 'A'

APPLICATION TYPE(S)	Conditional Use Permit Amendment
NAME OF APPLICANT	1992 Lee Bypass Trust
LOCATION OF PROPERTY	5461 Holt Boulevard, Unit G
GENERAL PLAN DESIGNATION	General Commercial
EXISTING ZONE DISTRICT	"Business Park" per Holt Boulevard Specific Plan
EXISTING LAND USE	Retail Shopping Center
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT COORDINATOR	Silvia Gutiérrez

This item was continued from the November 23, 2015 Planning Commission meeting at the request of the applicant. The request was made to allow the property owner and Culichitown Restaurant (current tenant) to come to a mutual agreement regarding the proposed expanded hours of operations, expanded hours for live entertainment, reimbursement for required parking lot improvements, and clarification of questions regarding conditions of approval.

Project Description

In January 2011, the City approved a Conditional Use Permit (CUP) under Case No. 2010-17 to allow the re-establishment of an ABC Type 41 ABC license (on-sale beer and wine) in conjunction with a restaurant (Mariscos Culiacan) located within the subject tenant space. In April 2015, the existing restaurant (Culichitown) took over the location and has expressed a desire to upgrade its existing ABC Type 41 License to an ABC Type 47 License as well as other operational changes. Therefore, the applicant (property owner), on behalf of Culichitown Restaurant, is requesting approval of an amendment to the Conditional Use Permit (CUP) for the subject premises. The proposed CUP Amendment would allow the following changes:

1. The upgrade of the existing ABC Type 41 License to an ABC Type 47 License allowing the sale of beer, wine, and distilled spirits in conjunction with the operation of the bona fide eating establishment at 5461 Holt Boulevard, Unit G. No bar is proposed with this project and servers would take orders and continue to deliver alcoholic beverages directly to patrons at tables with their meals.
2. Expansion of the hours of operation to 10:00 a.m. to 11:00 p.m. daily.
3. Modification to the existing live entertainment permit to add karaoke to an existing live musical band with a maximum of eight (8) members on a 100 square-foot performance area raised six inches above the finished floor. Live musical entertainment and karaoke would be ancillary the restaurant use and

would take place Friday and Saturday from 7:00 p.m. to 11:00 p.m., and Sunday from 6:00 p.m. to 11:00 p.m.

4. An increase in the number of seats within the dining area from 96 seats to a maximum of 150 seats. The tenant submitted a site plan that was distributed to the Commission which proposed 260 seats. As previously mentioned, subsequent discussions between the property owner and Culichitown Restaurant (tenant) resulted in their mutual agreement to a maximum seating capacity of 150 seats.

Culichitown Restaurant is approximately 5,875 square feet in floor area and specializes in seafood prepared in the Culiacan style of Mexico.

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

Background

- Based on City records, the 24,500± square-foot multi-tenant commercial center was built in 1988.
- In June 1991, the City Council adopted the Holt Boulevard Specific Plan, which re-zoned the subject property from C-3 (General Commercial) to "Business Park."
- The overall appearance of the center is dated but generally in sound condition. The building is divided into multiple lease spaces.
- In May 2006, La Casa de Alvarado Mexican Seafood Restaurant moved into the subject location after remodeling the 5,875 square-foot lease space. The restaurant was approved with a maximum of 96 seats. On August 28, 2006, the Planning Commission granted a CUP to the property owner, Susan Lee, to allow the on-premises sale of beer and wine (ABC Type 41 License) in conjunction with the bona fide restaurant. However, economic difficulties prompted the closure of the restaurant in late 2009.
- In January 2011, the Planning Commission approved a request to re-establish the on-premises sale of beer and wine in conjunction with a bona fide restaurant, under the name Mariscos Culiacan, which preceded the current Culichitown Restaurant.

Planning Division Comments

Staff has reviewed the proposed amendment and generally supports the request to upgrade the current alcoholic beverage license to allow the service of beer, wine, and distilled spirits in conjunction with meals served at the site. Moreover, the proposed changes appear to be reasonable and designed to allow the existing restaurant to be on

par with other restaurants in the area that offer a full range of alcoholic beverages with meals. Staff's inspection of the premises indicates that the existing restaurant use is operating as a bona fide restaurant offering casual sit-down family dining with a full menu.

Moreover, the proposed upgrade would not result in a significant change to the overall operation of the existing full service restaurant or introduce any problematic uses, such as unusually late closing hours. The sale of alcoholic beverages would complement meals, but would not be the sole focus of the business. As such, the sale and consumption of alcoholic beverages in conjunction with a bona fide restaurant at this location is an appropriate use and compatible with the other commercial retail type businesses in the surrounding area. Staff has also determined that the proposed upgrade to an ABC Type 47 license with ancillary live entertainment, including karaoke during limited hours, would be a compatible and consistent land use with other commercial type uses/businesses in the immediate area.

The existing commercial center is dated in appearance and in reasonably sound condition, but could use some minor rehabilitation. One significant condition that needs to be addressed by the property owner is to re-surface and re-stripe the parking lot, as most of the existing striping is barely discernible. A condition of approval regarding this issue is included.

Live Entertainment/Karaoke

In April 2015, the Montclair Police Department granted the establishment a live entertainment permit that is limited to musical acts performed by individuals or ensembles/bands of no more than eight (8) persons. Musical entertainment is a common feature of many restaurants and is not usually a major concern if properly controlled. Moreover, the 100 square-foot "performance area" is delineated and conditions of approval are recommended requiring that adequate separation and circulation in front the performance area be maintained. Staff has also added conditions to address potential noise issues. This means the restaurant owner will have the primary responsibility to ensure that proper sound/noise levels are maintained at all times and that adverse noise impacts to the exterior areas of the property or to adjacent uses are not created by the live music within the building. Lastly, since public dancing is not requested nor will be allowed with this approval, the proposed entertainment aspect is less problematic.

Parking

The primary issue related to the request to increase dining capacity at the restaurant is the availability of parking on the site. Parking is evenly distributed around the site, including 28 spaces at the rear of the main building, which are largely underutilized except for the spaces at the west end used by restaurant staff. When the existing CUP was approved in 2011, the restaurant dining capacity was capped at 96 spaces based on the number of parking spaces that would have been normally required by the zoning

code for the space as a commercial retail or office use (e.g., 1 space per 250 square feet). However, dining capacity for restaurant uses is ultimately based on the zoning code and actual availability of parking.

According to the business owner, the busiest hours of operation for the restaurant are evenings and weekends. Staff's observations of the site during weekday lunch hours and early evenings appear to confirm the activity level stated by the restaurant operator, and the general availability of parking spaces in the parking lot. One reason for the availability of spaces is that roughly one-third of the center is vacant, while the other existing businesses such as the hair salon, chiropractor, and dentist appear to have a relatively low volume of business activity. The billiards and car stereo installation businesses appear to be the busiest in the center but not to the point where parking is unavailable for other uses. Most of the existing tenants are closed during evening hours and are closed or have limited hours during the weekend when the restaurant is the busiest and offers live entertainment. Only the billiard business is open every day. However, staff did observe a number of vehicles parked in the northwest corner of the subject site during the day, which turned out to be patrons of thrift store located on the adjacent property to the west. So far, this activity has not been reported as a problem.

Subsequent discussions between the property owner and Culichitown Restaurant (tenant) resulted in their mutual agreement to a maximum seating allowance of 150 seats. Although the restaurant operator originally requested a dining room capacity of 260 persons (as reflected in the floor plan contained in the Planning Commission packet), staff cannot justify the proposed 171 percent increase and the impact it would have on available parking spaces. If approved for a capacity of 260 persons, the amount of parking required would be 60 percent of all the available parking spaces in the center. However, based on the current availability of parking in the center, staff believes that dining capacity at the restaurant can be reasonably increased to a total of 150 seats (a 56 percent increase) with no significant parking issues provided the existing restaurant use continues to operate as a full service restaurant and limits its entertainment offerings to no more than what is proposed with this amendment. Moreover, the increase should be made contingent upon the property owner's understanding that allowing the restaurant to utilize more parking for its operation may limit their ability to attract other uses (e.g., restaurants, medical and dental offices, churches, etc.) with higher parking requirements to their vacant lease spaces. The applicant has been advised of this issue and is aware of the potential limits. A condition of approval related to this issue has been included in the draft resolution of approval for future reference.

Security

According to Police Department records, the subject business and retail center are not major sources of known problems or significant calls for service within the last 12 months. Planning and Police Department staff visited the site and met with the applicant to evaluate the existing security equipment. Planning staff and the Police Department are satisfied with the quality and the location of the existing interior and

exterior security cameras that have already been installed at the restaurant and depicted on the submitted floor plan. The existing cameras are High Definition digital video and are capable of retaining video records for a period of 90 days.

Lastly, the applicant will be required to install signs stating "No Loitering or Consumption of Alcoholic Beverages on the Premises" on the exterior of the building and within all parking areas in plain view of restaurant employees and customers.

Concentration of Licenses

The project site is located within Census Tract Number 3.01, which allows up to six (6) on-sale ABC licenses. According to ABC records as of November 2015, there are currently 15 on-sale licenses active within the census tract, including the subject restaurant. Since this is an upgrade of an existing license, the number of existing licenses would remain unchanged. Therefore, ABC does not require a finding of public convenience or necessity in order to issue the license upgrade.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP amendment for the upgraded ABC License, addition of entertainment, modified hours, and increased dining room capacity in conjunction with a bona fide eating establishment can be made as follows:

- A. The proposed upgrade to an ABC Type 47 License in conjunction with the full menu and food service provided, addition of karaoke with existing live entertainment with restricted hours and expanded hours of operation for the bona fide eating establishment is beneficial to the public convenience and public welfare, in that the inclusion of beer, wine, and distilled spirits, addition of karaoke with the live band music during specific hours would make the dining experience more enjoyable to the general public of legal drinking age. Such availability of alcoholic beverages is common among other restaurants in the vicinity.

- B. Granting the CUP for the proposed upgrade to an ABC Type 47 License (on-premises sale of beer, wine, and distilled spirits) in conjunction with the full menu and food service provided, the addition of karaoke with live entertainment with restricted hours, and expanded hours of operation for the bona fide eating establishment will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be conducted in a well-established family restaurant in a shopping center that has adequate security, lighting, and operational maintenance standards with implementation of site improvements required as conditions of approval. Lastly, the use is compatible with surrounding commercial uses and will not negatively impact any sensitive land uses in the surrounding area.

- C. The proposed addition of on-sale distilled spirits to the existing on-premises sale of beer and wine at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-sale of alcoholic beverages in the "Business Park" land use district of the Holt Boulevard Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the sale of beer, wine, and distilled spirits, parking lot improvements, and security measures so that it does not detract from the general quality of the commercial center and surrounding area.
- D. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.

Comments from the Public

This item was originally advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on November 13, 2015 as prescribed by law for this discretionary land use entitlement. As mentioned above, at the request of the applicant, this public hearing item, originally scheduled to be considered on November 23, 2015, was continued by the Planning Commission to its regularly scheduled December 14, 2015 meeting. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property. In addition, courtesy notices were also distributed to all the tenants at the center. At the time the staff report was completed, staff had not received any comments or correspondence from the public regarding this application.

Environmental Assessment

The project qualifies as Class 1 exempt under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. The proposed project does not involve any site changes. The existing restaurant lease space is designed for an eating establishment and can accommodate the proposed upgrade to an ABC Type 47 License and live entertainment including a band and karaoke.

Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301.
- B. Move to approve a Conditional Use Permit Amendment under Case 2010-17 'A' to allow an upgrade from a ABC Type 41 License (on-sale beer and wine) to an ABC Type 47 License (on-sale beer, wine, and distilled spirits), and live

entertainment including a live band and karaoke within a bona fide eating establishment, and expanded hours of operation for the business at 5461 Holt Boulevard, Unit G, subject to making the required findings, and subject to the conditions of approval as described in attached Resolution No. 15-1850.

Respectfully Submitted,



Michael Diaz
City Planner

Attachment: Draft Resolution of Approval for Case No. 2010-17 'A'

- c: Sonia Huitron, Wellman & Warren, LLP, 24411 Ridge Route, Suite 200, Laguna Hills, CA 92653
David Van Sambeek, Wellman & Warren, LLP, 24411 Ridge Route, Suite 200, Laguna Hills, CA 92653
Patricia Sheehan, (property owner representative), Investors Property Services, 15707 Rockfield Boulevard, Suite 225, Irvine, CA 92618
1992 Lee Bypass Trust, 215 Kensington Park, Irvine, CA 92606-1902 c/o Susan Lee, Trustee
Lt. Brandon Kumanski, Montclair Police Department

RESOLUTION NUMBER 15-1850

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING CASE NO. 2010-17 'A', A CONDITIONAL USE PERMIT AMENDMENT TO UPGRADE AN EXISTING ABC TYPE 41 LICENSE (ON-SALE BEER AND WINE) TO AN ABC TYPE 47 LICENSE (ON-SALE BEER, WINE, AND DISTILLED SPIRITS) IN CONJUNCTION WITH A BONA FIDE EATING ESTABLISHMENT AND RESTRICTED LIVE BAND ENTERTAINMENT INCLUDING KARAOKE AT 5461 HOLT BOULEVARD, UNIT G, IN THE "BUSINESS PARK" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN (APN 1011-061-17).

A. Recitals.

WHEREAS, on August 18, 2015, the 1992 Lee Living Bypass Trust, property owner, filed an application to amend an existing Conditional Use Permit under Case No. 2010-17 'A' to allow the upgrade of the existing ABC Type 41 License to an ABC Type 47 License in conjunction with meals and live band entertainment that includes karaoke; and

WHEREAS, said application applies to an existing full service restaurant use occupying a lease space of approximately 5,875 square feet at 5461 Holt Boulevard, Unit G; and

WHEREAS, the existing restaurant currently operates with a ABC Type 41 License allowing the on-premises sale of beer and wine in conjunction with meals; and

WHEREAS, a ABC Type 47 License upgrade would allow the on-premises sale of beer, wine, and distilled spirits in conjunction with meals at the restaurant; and

WHEREAS, Section 11.42.040.A of the Montclair Municipal Code requires a CUP Amendment to allow for the upgrade of the existing ABC License; and

WHEREAS, the existing restaurant is consistent with the use and development standards of the "Business Park" land use district of the Holt Boulevard Specific Plan and the intent and requirements of the Montclair Municipal Code; and

WHEREAS, staff has determined that the proposed on-premises sale of beer, wine, and distilled spirits in conjunction with a bona fide eating establishment meets the intent and requirements of the ordinance for such use and the applicable development standards of the "Business Park" land use district of the Holt Boulevard Specific Plan and Chapter 11.42 MMC ("Alcoholic Beverages – Regulation of Sale"); and

WHEREAS, the Planning Division has determined that the proposal to upgrade the existing ABC Type 41 License to an ABC Type 47 License in conjunction with meals and the addition of live entertainment in the form of a live band and karaoke with related site improvements is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines and based on its own independent judgment, the Planning Commission concurs with staff's determination of said exemption and finding of no significant effect on the environment. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading; 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 November 23, 2015, at the request of the applicant, the Planning Commission continued the public hearing of the item to December 14, 2015; and

WHEREAS, on December 14, 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 CUP were heard, and said CUP was fully studied.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all the facts set forth in the Recitals, Part A of this Resolution are true and correct.
2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced public hearing on December 14, 2015, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. The proposed upgrade to an ABC Type 47 License in conjunction with the full menu and food service provided, addition of karaoke with live entertainment with restricted hours and expanded hours of operation for the bonafide restaurant establishment is beneficial to the public convenience and public welfare, in that the inclusion of beer, wine, and spirits, addition of karaoke with the existing live band music during specific hours would make the dining experience more enjoyable to the general public of legal drinking age. Such availability of alcoholic beverages is common among other restaurants in the vicinity.
 - b. Granting the CUP for the proposed upgrade to an ABC Type 47 License in conjunction with the full menu and food service provided,

the addition of karaoke with live entertainment with restricted hours, and expanded hours of operation for the bona fide eating establishment, the on-premises sale of beer, wine, and distilled spirits will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be conducted in a well-established family restaurant in a shopping center that has adequate security, lighting, and operational maintenance standards with implementation of site improvements required as conditions of approval. Lastly, the use is compatible with surrounding commercial uses and will not negatively impact any sensitive land uses in the surrounding area.

- c. The proposed addition of on-sale distilled spirits to the existing on-premises sale of beer and wine at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-premises sale of alcoholic beverages in the "Business Park" land use district of the Holt Boulevard Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the sale of alcoholic beverages, parking lot improvements, and security measures so that it does not detract from the general quality of the commercial center and surrounding area.
 - d. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.
3. The Planning Commission has reviewed the Planning Division's determination that the proposed on-premises sale of beer, wine, and distilled spirits in conjunction with a bona fide eating establishment and related exterior building and site improvements are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines, and based on its own independent judgment, concurs with staff's determination of said exemption and finding of no significant effect on the environment. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading.
 4. Based upon the findings and conclusions set forth in paragraphs 1, 2, and 3 above, this Commission hereby approves the application subject to the conditions set forth below:

Planning

1. This Conditional Use Permit (CUP) Amendment approval is for the restaurant use located at 5461 Holt Boulevard, Unit G, as follows:

- a. The upgrade of the existing ABC Type 41 License (on-sale beer and wine) to an ABC Type 47 License (on-sale beer, wine, and distilled spirits) in conjunction with the operation of the existing bona fide eating establishment, per approved plans on file with the Planning Division; and
 - b. Live entertainment and karaoke on Friday and Saturday from 7:00 p.m. to 11:00 p.m., and Sunday from 6:00 p.m. to 11:00 p.m. Live entertainment/karaoke shall be limited to the 100 square-foot performance area depicted on the approved floor plan. The applicant may cease entertainment activity earlier than the hour stated herein. Any extension of the hours for entertainment beyond the limits stated herein shall require written notification to the Planning Division and are subject to City approval; and;
 - b. The applicant shall provide a revised floor plan indicating the arrangement of tables and booths to demonstrate the 150-person capacity for review and approval by the City Planner and Building Official.
2. Any substantial changes to the operation, increase in the existing 5,875 square feet of floor area of the demised space, or physical location shall require prior City approval. Any discontinuation or substantial changes to the full service restaurant without City approval shall be a violation of this CUP and may be cause for revocation. Upon transfer, sale or re-assignment of the restaurant to another individual or entity, the applicant shall make full disclosure of the CUP requirements and restrictions to future buyers, transferees or assignees.
3. All applicable conditions of approval associated Case No. 2010-17 not modified with this amendment for shall continue to be in effect for as long as the permitted use is operating at the approved location.
4. The restaurant shall be operated, maintained and open to the general public as a full service (bona fide) eating establishment, serving meals at all times that beer, wine, and distilled spirits are offered for sale and consumption on the premises.
5. The original CUP or this amendment may be modified or revoked for failure to abide by the conditions of this approval or in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
6. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar, sports bar, entertainment venue, night

club, dance hall or banquet hall operated by either the restaurant owner or outside vendors or promoters.

7. At no time shall happy hour, drink specials, or private drinking areas be permitted.
8. 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 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 **\$454.68**, payable to "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
9. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
10. Approval of this CUP shall not waive compliance with any applicable regulations as set forth by the California Building Code and/or City ordinances, the San Bernardino County Health Department, or the State of California Department of Alcoholic Beverage Control (ABC).
11. This decision or any aspect of this decision may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
12. Within 30 days of this approval, the property owner shall submit plans for the repair and restriping of the parking stalls throughout the parking lot to the satisfaction of the City Planner and the Building Official. Work on repair and restriping of the parking lot shall be completed within 60 days of City approval and issuance of permits.
13. The business owner shall be responsible to apply for a separate entertainment permit reviewed and approved by the Montclair Police Department. Entertainment Permit applications shall be obtained at the Finance Department at City Hall (909/625-9423). The application shall be

submitted along with a signed copy of the Planning Commission's Resolution of Approval for the project. Prior to commencing entertainment activities, a copy of an approved Entertainment Permit must be submitted to the Planning Division.

14. All automobile parking spaces shall be clearly delineated with double-line (e.g. "hairpin") striping. Parking stalls shall be a minimum of 9'-0" in width as measured to the center of the "hairpin," and a minimum of 20'-0" in length.
15. Approved hours of operation for the restaurant are 10:00 a.m. to 11:00 p.m. daily. The applicant may close the restaurant earlier than the hours stated herein. Any extension of the restaurant hours beyond the limits stated herein shall require written notification to the Planning Division and are subject to City approval.
16. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer, wine, or distilled spirits for purchase.
17. No outdoor display areas for merchandise are allowed.
18. All graffiti and vandalism and/or damage to the subject site and/or structure shall be removed or repaired within 72 hours of notice from the City.
19. The following mandatory conditions are hereby imposed as part of the CUP approval:
 - a. The premises shall be maintained at all times in a neat and orderly manner.
 - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.
 - c. No alcoholic beverages shall be offered for sale for off-premises consumption. Alcoholic beverages shall not be allowed outside of the permitted premises, which shall consist of the demised lease space described herein as permitted by the Planning Commission. The ABC licensee (business owner) shall post notification of this limitation within plain view of employees and customers.
 - d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as to not cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
 - e. The permittee (business owner) shall comply with all California Department of Alcoholic Beverage Control statutes, rules and

regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.

- f. The permittee (business owner) and applicant (property owner) shall acknowledge and agree the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e) above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:
 - i. The specific land use requested by the permittee and authorized by the City;
 - ii. The compatibility of permittee's authorized land use with adjacent land uses;
 - iii. The welfare and safety of the general public within the City.

In view of such deleterious secondary effects, permittee shall acknowledge the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a State statute, rule or regulation concerning the sale to or consumption of beer and wine by a minor.

- g. The permit shall, after notice to the permittee (business owner) and applicant (property owner), have an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
- 20. All rooftop or roof-mounted equipment shall be fully screened from view to the satisfaction of the City Planner.
 - 21. All exterior building-mounted lighting shall not create any nuisance glare to the adjacent parking areas, private roadways, public rights-of-way, or neighboring properties. The use of wall packs, barnlighters, or other similar unshielded luminaires on the property shall be prohibited.
 - 22. All satellite dish antennas, microwave receivers and transmitters, and other forms of communication equipment shall be located in a manner in accordance with the provisions of Chapter 11.46 of the Montclair Municipal Code.

23. Mechanical equipment including, but not limited to, utility meters, air conditioners, kitchen vents or hoods, repair equipment, etc., shall be located within the building or screened in a manner that is compatible with the architectural design of the building to the satisfaction of the Planning Division. Wooden lattice or fence-like screens/covers are not appropriate within the context of a commercial or industrial development and are therefore not allowed.
24. No surface-mounted exposed conduit or electrical lines shall be allowed. Electrical switchgear, meters, etc. must be screened or housed in an enclosure, to the extent allowed by the utilities.
25. No public telephones, vending machines, children's rides or other coin-operated machines shall be located on the exterior of any building within the center.
26. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to the following:
 - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
 - b. Promotional window signs, graphics and/or opaque tinting shall not occupy more than 25 percent of the aggregate window area.
 - c. At no time shall pennants, inflatable signs, "human" signs, or other similar advertising devices be utilized on the property or off-site.
27. Prior to the installation of any new signs, the applicant shall submit an application for a Sign Permit to the Planning Division for review and approval.
28. All signs shall be maintained at all times in a safe and secure manner. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.
29. A copy of the CUP Amendment approval letter and Resolution with all conditions of approval related to the application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy and shall be made available to law enforcement officers, Code Enforcement officers, and/or fire and building inspectors in the course of conducting inspections of said premises.
30. The applicant/property owner shall submit to the Planning Division a signed copy of the Resolution in which he/she acknowledges acceptance of the conditions of approval within 10 days from the date of approval by the Planning Commission.

31. The applicant (property owner) shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant (property owner) 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 (property owner) of its obligations under this condition.

Building

32. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one quarter (.25) foot-candles of illumination shall be maintained at grade.
33. A maximum occupancy load of 161 shall be clearly posted near the front door by business owner.

Fire

34. An approved, emergency keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
35. Commercial occupancies shall install approved emergency lighting to provide adequate illumination in the event of any interruption of electrical service.
36. Fire extinguisher location(s) to be determined by the Montclair Fire Department.

Environmental/Engineering

37. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.

Police

38. In conjunction with the ongoing operation of the business, the premises shall comply with all applicable local, State, and Federal requirements placed upon them by any regulatory or governing entity.

39. The activity level of the business shall be monitored by the Police Department to establish the level of police services used for the business. Should the level of police services demonstrate that the applicant has not controlled excessive or unnecessary activity resulting in high use of police services, then this Conditional Use Permit shall be reviewed for consideration of further conditions, modifications or revocation.
40. Premises falling within the regulations of the Department of Alcoholic Beverage Control (ABC) shall remain consistent with plans submitted for review by the Planning Commission. No changes to the floor plans shall occur unless a permit is issued by the Community Development Department. None of the floor area shall be converted for dancing unless a subsequent amendment to the approved Conditional Use Permit or Entertainment Permit is approved by the Planning Commission and Police Department.
41. Premises falling within the regulations of the Department of Alcoholic Beverage Control (ABC) shall not allow any consumption of alcoholic beverages on any property adjacent to the licensed premises under the control of the license.
42. There shall be no special promotional events held on the property, unless a written request for such is received and approved by the Community Development Director and the Police Chief or their designee.
43. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.
44. The premises at 5461 Holt Boulevard, Unit G, shall install and maintain a closed circuit video surveillance (CCVS) system. The system shall, at a minimum, be capable of monitoring all entrances/exits to the premises and be positioned as to allow for identification of patron facial features and physical characteristics. A minimum of one camera shall be placed in a position to monitor the parking lot of the premises, positioned in a manner which allows for the widest view from the entrance without significant lens distortion. Typical acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920 by 1080 pixels, otherwise known as 1080p. IR (infrared or night) vision is preferred; however, cameras shall at minimum be capable of low-light operation.
45. Audio recording is desirable, but not a requirement. Camera footage shall be retained for a period no less than 90 days. To conserve storage space, cameras may be motion activated. When active, cameras shall record no less than 30 frames per second. Motion sensors shall be configured to activate properly in all areas covered including the parking area. Motion sensors may be configured to prevent incidental activation from hanging or moving displays. Depending on the nature of the premises, additional

cameras may be required, but not limited to areas such as cash registers, bars, alcohol serving stations, or access to restroom areas.

46. Alarm systems are encouraged to compliment the CCVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.

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

APPROVED AND ADOPTED THIS 14th DAY OF DECEMBER, 2015.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Michael Diaz, Acting Secretary

I, Michael Diaz, Acting Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 14th day of December, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SGI\2010-17\A\CULICHTOWN\RESO_V.5



MEMORANDUM

To: Tenice Johnson, Planning Commission Chair
From:  Steve Lustro, AICP, Community Development Director
Date: December 10, 2015
Subject: Planning Commission reorganization

Staff has scheduled on the December 14 agenda the bi-annual reorganization of the Planning Commission. Following is a general "script" you can use for the item:

"Pursuant to Section 2.16.080 of the Montclair Municipal Code, the Chair and Vice Chair of the Planning Commission are each elected for a two-year term. Since the last reorganization of the Commission occurred on December 9, 2013, it is now time for the process to take place again."

"I will now entertain nominations from the Commission for the position of Chair." Once the Commission has completed its nominations, you may entertain a motion to close the nominations, upon which there shall be a second and a vote. A vote shall then be called for:

"All those in favor of _____ for the position of Chair for a two-year term through December 2017 please say 'aye.'" Repeat the voting process if there is more than one person nominated. The candidate with the most number of votes is elected Chair.

"I will now entertain nominations from the Commission for the position of Vice Chair." (Then repeat the process described above.)

If you have any questions regarding the reorganization, please let me know.

