



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

REGULAR ADJOURNED MEETING  
Monday, April 25, 2016  
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 April 11, 2016 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 2016-4  
Project Address: 2082, 2086, 2090, 2094, 2098, 2102,  
2108, 2112, & 2118 Montclair Plaza Lane  
Project Applicant: 5060 Montclair Plaza Lane Owner, LLC  
Project Planner: Steve Lustro, AICP,  
Community Development Director  
Request: Master Conditional Use Permit to allow a  
maximum of nine (9) on-sale ABC licenses  
in conjunction with the establishment of a  
new food hall ("Moreno Street Market") at  
Montclair Place  
CEQA Assessment: Categorically Exempt (Section 15301)

## **7. INFORMATION ITEMS**

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

## **8. PUBLIC INSPECTION OF MATERIALS**

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

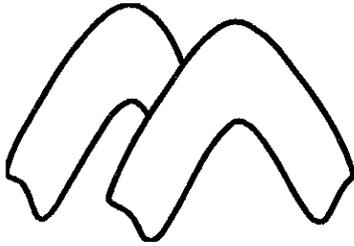
## **9. ADJOURNMENT**

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of May 9, 2016 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 21, 2016.



# CITY OF MONTCLAIR PLANNING COMMISSION

**MEETING DATE: 04/25/16**

**AGENDA ITEM 6.a**

## Case No. 2016-4

**Application:** Conditional Use Permit (CUP) to allow on-sale beer and wine (Type 41 ABC license) in conjunction with a maximum of seven (7) eating establishments, and on-sale beer, wine, and distilled spirits (Type 47 ABC license) in conjunction with a maximum of two (2), full-service eating establishments within a new food hall ("Moreno Street Market") at the Montclair Place regional shopping center

**Project Address:** 2082, 2086, 2090, 2094, 2098, 2102, 2108, 2112 and 2118 Montclair Plaza Lane

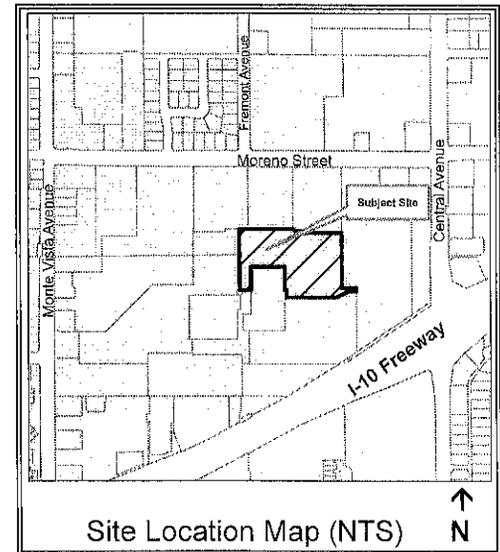
**Property Owner:** 5060 Montclair Plaza Lane Owner, LLC

**General Plan:** Regional Commercial

**Zoning:** "C-3" (General Commercial) per North Montclair Specific Plan (NMSP)

**Assessor Parcel No.:** 1008-181-05

**City/Public Utility Easements:** None



Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
<b>Site</b>	Regional Commercial	C-3 (General Commercial) per North Montclair Specific Plan	Montclair Place regional shopping center
<b>North</b>	Planned Development	CR (Corridor Residential) and undesignated per North Montclair Downtown SP	Single-family residences and North Plaza retail center
<b>East</b>	Regional Commercial	C-2 (Restricted Commercial) and C-3 (General Commercial)	Montclair East shopping center
<b>South</b>	General Commercial	C-3 (General Commercial) per North Montclair Specific Plan	Metro Motorplex, residential condominiums, and Costco
<b>West</b>	Medium Density Residential (8-14 du/ac)	R-3 (Medium Density Residential) per North Montclair Specific Plan	Lexington Townhomes

## Report on Item Number 6.a

### PUBLIC HEARING - CASE NUMBER 2016-4

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	5060 Montclair Plaza Lane Owner, LLC
LOCATION OF PROPERTY	2082, 2086, 2090, 2094, 2098, 2102, 2108, 2112 and 2118 Montclair Plaza Lane
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	C-3 (General Commercial) per North Montclair Specific Plan (NMSP)
EXISTING LAND USE	Vacant tenant spaces within Montclair Place
ENVIRONMENTAL DETERMINATION	Categorical Exemption (Section 15301)
PROJECT PLANNER	Steve Lustro

#### **Project Description**

The applicant is requesting approval of a Master Conditional Use Permit (CUP) to allow a maximum of nine (9) ABC licenses within a new food hall to be called "Moreno Street Market" currently under construction within the upper level center court wing of Montclair Place. The applicant is requesting a maximum of seven (7) Type 41 ABC licenses (on-premises sale of beer and wine) and a maximum of two Type 47 ABC licenses (on-premises sale of beer, wine and distilled spirits) be permitted summarized as follows and as depicted on the floor plan enclosed in the Commission packets:

#### Type 41 Licenses

2082 Montclair Plaza Lane  
2086 Montclair Plaza Lane  
2090 Montclair Plaza Lane  
2094 Montclair Plaza Lane  
2108 Montclair Plaza Lane  
2112 Montclair Plaza Lane  
2118 Montclair Plaza Lane

#### Type 47 Licenses

2098 Montclair Plaza Lane  
2102 Montclair Plaza Lane

The applicant desires to attract traditional, full service "sit-down" restaurants to the tenant spaces identified for Type 47 licenses, with the guest seating for both intended to be contained wholly within each demised tenant space. Guest seating for the establishments designated for Type 41 licenses would be primarily within two seating areas flanking new escalators that are proposed in conjunction with the food hall construction. The majority of this seating would be within a "controlled beverage seating area" in order to comply with Department of Alcoholic Beverage Control regulations requiring that customer seating areas where alcoholic beverages are being consumed be within a space defined either by the building walls of an establishment or, in the case of seating areas being outside an enclosed building or demised tenant space, within an area enclosed by a fence or other

similar contrivance with limited access points that can be monitored to prohibit patrons from consuming alcoholic beverages outside the controlled space.

In addition to the construction currently underway in the upper level center court wing to accommodate the new food hall, the applicant intends to create the opportunity for patio seating for tenant spaces 2098 and 2102 by creating two, approximately 60-foot wide openings in the existing north-facing exterior wall on either side of the mall entrance to the center court wing. The location of the exterior wall of the building would remain unchanged, but an outdoor seating area, approximately 12 feet in depth, would be created to offer each tenant the ability to provide outdoor seating, take advantage of the north-facing views from the property, and to admit natural light into the two tenant spaces. During inclement weather, the patio spaces could remain unused or the tenant could choose to install devices along the exterior building wall, such as operable windows or clear vinyl roll-up curtains so the patio can be used year-round.

The applicant has indicated the seven "in-line" food hall establishments would operate from 10:00 a.m. to 10:00 p.m. daily, which is beyond the mall's current regular closing hour of 9:00 p.m. Monday through Saturday and 7:00 p.m. on Sunday. The two full-service restaurants are intended to operate from 10:00 a.m. to 12 midnight daily.

Enclosed in the Commission packets for review are an existing lease plan for the upper level of Montclair Place, floor plans illustrating the square footage and location of each proposed tenant space within the food hall, a conceptual common area seating plan for the in-line food establishments, an artist's rendering of a portion of the food hall interior, and renderings of the proposed modifications to the north elevation of the building.

## **Background**

- Montclair Plaza was originally constructed in 1968 as a single-level regional shopping center anchored by The Broadway, May Company and JCPenney.
- In the mid-1980s, the center underwent a major expansion, including the construction of an upper level, the addition of Nordstrom, and the relocation of Sears from Indian Hill Mall in Pomona.
- The existing food court, located at the west end of the upper level, was created when the upper level of the mall was added in the mid-1980s. At one point, the food court had approximately 15 food establishments. However, as of the present time, there are only nine establishments within the food court.
- Subsequent to the closing of the Robinsons-May store at the west end of the mall in 2006, Macy's relocated from the former Broadway building to its current location. Macy's former location at the east end of the mall has been vacant for ten years.
- In 2008, the mall's former owner, General Growth Properties, undertook a major interior renovation of the mall common areas, including the seating area of the existing food court.

- On April 27, 2015, the Planning Commission approved a Precise Plan of Design (Case No. 2015-4) for a net expansion of approximately 209,000 square feet of retail and restaurant space within four outdoor "neighborhoods" surrounding the existing mall, the construction of four (4) new parking structures, a revamped circulation system, and landscape and hardscape improvements.
- As of April 2016, the applicant is continuing its efforts to obtain approval from each of the mall's major anchor tenants for the approved expansion and enhancements.

### **Planning Division Comments**

During the course of conversations with CIM Group in 2014 and early 2015, it was indicated to staff that relocation of the food court was integral to the expansion and enhancement of Montclair Place with the intent of drawing more upscale establishments to the food court. While the applicant continues its discussions with the mall's major anchor tenants to obtain their approval for the expansion, CIM Group is moving forward with the relocation of the food court. Relocation of the retail tenants in the upper level center court wing has been underway for several months and demolition of the tenant spaces has recently commenced.

If the applicant's plan was to simply relocate the food court with the intent for its establishments to offer customers only food and non-alcoholic beverage items as is the case with the existing food court, the Planning Commission would not be reviewing the proposal. However, because the applicant desires to attract a wider variety of potential eateries that offer alcoholic beverages as part of their operation, a Conditional Use Permit is required. Typically, a CUP related to the on-premises sale of alcoholic beverages is site specific to a single-user building or tenant space. In this application, a boundary encompassing all of the proposed food hall tenant spaces was identified; if granted by the Planning Commission, this CUP would apply to the nine tenant spaces within the food hall.

Staff is supportive of the applicant's request to create more upscale dining opportunities within the new food hall, including offering beer and wine in conjunction with meals at the establishments occupying the in-line spaces, and beer, wine, and distilled spirits within the two full-service restaurants anticipated at the north end of the food hall. From the time CIM Group acquired Montclair Place in 2014, it has indicated its desire to invest as necessary in the now 48-year-old regional mall to again make it a destination for the local and regional population to shop, dine, and be entertained. While the larger expansion and renovation approved by the Planning Commission in April 2015 is still "on hold" for the present time, staff believes creation of the Moreno Street Market food hall concept is a positive first step.

### **Controlled Beverage Seating Area**

When staff initially reviewed the floor plan for the food hall, concerns were raised about two issues. First, it was necessary for adequate emergency exiting to be maintained to the satisfaction of the Building Division and Fire Department. Review of the plans indicates

that the required ten-foot wide clear pedestrian path is being maintained on each side of the proposed new escalator well.

Second, the Planning Division and Police Department expressed apprehension about having the "controlled beverage seating areas," where alcoholic beverages are required to be consumed, separated from the storefronts of each of the food establishments by an "uncontrolled" pedestrian path. The concern was if customers were served alcoholic beverages from one of the establishments, who was going to monitor whether the customer walked straight to the seating area, into the mall or outside to the parking structure? Staff subsequently contacted the Department of Alcoholic Beverage Control (ABC) and provided its inspector with a copy of the proposed floor plan. The ABC inspector echoed staff's concerns about the "no-man's land" between the food establishments and the designated seating area, but he also said ABC does not have a definitive rule prohibiting such an arrangement. However, ABC has indicated it would be supportive of the floor plan as proposed only if alcoholic beverages are "delivered" to customers in the seating area by servers employed by each establishment. Further, signs would be posted in plain view stating that alcoholic beverages may only be consumed within the "controlled beverage seating areas." In addition, the applicant has indicated that each establishment would be required to serve alcoholic beverages in drinking glasses or tumblers unique to that establishment by color, shape, logo, or the like. Staff has included recommended conditions of approval in the attached Resolution setting forth the guidelines for service and consumption of alcoholic beverages from each establishment possessing a Type 41 ABC license flanking the common area of the food hall. The two full-service restaurants at the north end of the food hall would have their seating areas located entirely within their respective tenant spaces. Patrons of those establishments would not be permitted to leave the demised premises with alcoholic beverages.

The majority of the physical improvements associated with creation of the new food hall will be within the existing envelope of the upper level center court wing of Montclair Place. In addition to the tenant improvements for each prospective eating establishment, new bi-directional escalators would be installed in the center of the wing connecting the food hall with the mall level below. The only visible exterior change would be the creation of two, 60-foot wide openings on either side of the upper level mall entrance to accommodate outdoor patio seating for the two full-service restaurants. An approximately 12-foot deep patio area would be created for each establishment and a permanent storefront would be constructed along the back side of each patio, separating the inside of each tenant space from its respective patio. It is expected that some type of retractable or removable weather protection devices, such as operable windows, or clear vinyl/acrylic roll-up shades would be installed along the width of the exterior opening permitting the patio to be used virtually year-round.

Since the applicant's intent is for all of the food hall eating establishments to operate beyond Montclair Place's regular business hours, staff has included conditions of approval requiring the applicant to demonstrate, through a more detailed floor plan, how physical access to the mall from the food hall would be prevented after regular mall hours and also whether each of the two, full-service restaurants would have its own restroom facilities for

customers and employees or whether customers and employees of those establishments would also be required to use the food hall restroom facilities. To that end, the applicant will need to demonstrate that food hall customers would not have access to the mall after hours.

### **Conditional Use Permit Findings**

Staff believes the necessary findings for granting a master CUP for the Moreno Street Market food hall in Montclair Place, allowing the on-premises sale of beer and wine (Type 41 ABC license) in a maximum of seven (7) eating establishments, and the on-premises sale of beer, wine, and distilled spirits (Type 47 ABC license) in a maximum of two (2) full-service, bona fide eating establishments can be made, as follows:

- A. The proposed on-premises sale of beer and wine in conjunction with a maximum of seven (7) eating establishments within a new food hall, and the on-premises sale of beer, wine and distilled spirits in conjunction with a maximum of two (2) bona fide eating establishments is essential or desirable to the public convenience and public welfare, in that the inclusion of alcoholic beverages would allow the applicant to attract a wider variety of prospective tenants to the new food hall within Montclair Place, making 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. The granting of the CUP for the proposed on-premises sale of alcoholic beverages will not be materially detrimental to the public welfare and to other property in the vicinity in that the proposed uses will be conducted entirely within the confines of an enclosed regional shopping center that has adequate security, lighting, and operational maintenance standards. Moreover, the proposed uses will be located entirely within a defined area within a new food hall ("Moreno Street Market") and can be well accommodated on the site. Lastly, such uses are compatible with surrounding commercial uses and will not negatively impact any sensitive land uses in the surrounding area.
- C. The proposed on-premises sale of alcoholic beverages in conjunction with eating establishments within a new food hall at the subject site conforms to good zoning practice in that the North Montclair Specific Plan permits the on-premises sale of beer and wine, and the on-premises sale of beer, wine and distilled spirits in the "C-3" (General Commercial) land use district, 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 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 objectives of any part of the adopted General Plan, in that the General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.

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

The project site is located within Census Tract Number 2.01, which allows up to three (3) on-sale licenses (Type 41 and 47 ABC licenses). According to ABC records, as of April 2016, there are currently 21 on-sale Type 41 and 47 licenses existing within the census tract, and therefore ABC requires a finding of public convenience or necessity in order to issue a new license.

City staff and the Police Department support this request for the on-premises sale of beer and wine in conjunction with a maximum of seven (7) food hall eating establishments, and the on-premises sale of beer, wine, and distilled spirits in conjunction with a maximum of two (2), full-service bona fide eating establishments as desirable to the public convenience and necessity in that the inclusion and availability of alcoholic beverages 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. Each of the establishments would offer a full menu and all are proposed to be open beyond the regular operating hours of Montclair Place. Conditions of approval have been included ensuring the safety and general welfare of the surrounding area would be maintained.

### **Comments from the Public**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on April 15, 2016. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the property boundaries in accordance with State law for consideration of this discretionary zoning entitlement. At the time the staff report was completed, staff had received no inquiries from the public.

### **Environmental Assessment**

The proposed project involves minor alterations to existing tenant spaces within Montclair Place. As such, staff has determined that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301(a) of the CEQA Guidelines (Class 1 - Existing Facilities).

### **Planning Division Recommendation**

Staff finds the proposed request to allow the on-premises sale of beer and wine (Type 41 ABC license) in a maximum of seven (7) eating establishments within a new food hall at 2082, 2086, 2090, 2094, 2108, 2112, and 2118 Montclair Plaza Lane; and the on-premises sale of beer, wine, and distilled spirits (Type 47 ABC license) in a maximum of two (2), full-service bona fide eating establishments at 2098 and 2102 Montclair Plaza Lane to be consistent with City policy and all requirements of the Montclair Municipal Code, the North Montclair Specific Plan, and the adopted General Plan. Therefore, approval of Case No. 2016-4 is recommended by taking the following actions:

1. 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.
2. Move to approve a Conditional Use Permit to allow the on-premises sale of beer and wine (Type 41 ABC license) in conjunction with a maximum of seven (7) eating establishments within a new food hall ("Moreno Street Market") at 2082, 2086, 2090, 2094, 2108, 2112, and 2118 Montclair Plaza Lane; and the on-premises sale of beer, wine, and distilled spirits (Type 47 ABC license) in conjunction with a maximum of two (2), full-service bona fide eating establishments at 2098 and 2102 Montclair Plaza Lane per the submitted plans, as described in the staff report, and required findings subject to the conditions in attached Resolution No. 16-1855.

Respectfully Submitted,



Steve Lustro, AICP  
Community Development Director

Attachment: Draft Resolution of Approval for Case No. 2016-4

c: Lee Rabun, CLR Enterprises, Inc., 420 S. San Pedro Street, Suite 225, Los Angeles, CA 90013  
Steve Felderman, CIM Group, 4700 Wilshire Boulevard, Los Angeles, CA 90010  
Angela Reveles, State of CA Department of Alcoholic Beverage Control, 3737 Main Street, Suite 900,  
Riverside, CA 92501  
Lieutenant Brandon Kumanski, Montclair Police Department

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RESOLUTION NUMBER NO. 16-1855

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2016-4 TO ALLOW THE ON-PREMISES SALE OF BEER AND WINE (TYPE 41 ABC LICENSE) AT A MAXIMUM OF SEVEN (7) FOOD ESTABLISHMENTS WITHIN A NEW FOOD HALL ("MORENO STREET MARKET") AT 2082, 2086, 2090, 2094, 2108, 2112, AND 2118 MONTCLAIR PLAZA LANE; AND TO ALLOW THE ON-PREMISES SALE OF BEER, WINE, AND DISTILLED SPIRITS (TYPE 47 ABC LICENSE) IN CONJUNCTION WITH A MAXIMUM OF TWO (2) BONA FIDE EATING ESTABLISHMENTS AT 2098 AND 2102 MONTCLAIR PLAZA LANE, IN THE "C-3" (GENERAL COMMERCIAL) LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN (APN 1008-181-05)

A. Recitals.

**WHEREAS**, on February 22, 2016, 5060 Montclair Plaza Lane Owner, LLC, property owner, filed an application for a master Conditional Use Permit (CUP) to allow the on-premises sale of beer and wine (Type 41 ABC license) at a maximum of seven (7) food establishments within a new food hall, and to allow the on-premises sale of beer, wine, and distilled spirits (Type 47 ABC license) at a maximum of two (2) bona fide eating establishments at the Montclair Place regional shopping center, 5060 Montclair Plaza Lane; and

**WHEREAS**, the seven (7) food establishments eligible for a Type 41 ABC license are identified on the submitted floor plan as 2082, 2086, 2090, 2094, 2108, 2112, and 2118 Montclair Plaza Lane; and the two (2) bona fide (full-service) eating establishments eligible for a Type 47 ABC license are identified on the submitted floor plan as 2098 and 2102 Montclair Plaza Lane; and

**WHEREAS**, Chapter 11.42.020.B of the Montclair Municipal Code requires a CUP for the on-premises sale of beer and wine, or beer, wine, and distilled spirits in conjunction with an eating establishment (restaurant); and

**WHEREAS**, staff has determined the proposed on-premises sale of alcoholic beverages in conjunction with the establishment of a new food hall at Montclair Place meets the intent and requirements of the ordinance for such use and the applicable development standards of the "C-3" (General Commercial) land use district of the North Montclair Specific Plan and the Alcoholic Beverage Ordinance (Chapter 11.42 MMC); and

**WHEREAS**, the seven (7) establishments eligible for a Type 41 ABC license are designed around and limited to the upper level center court wing of the shopping center,

which is proposed to have two, limited-access "controlled beverage seating areas" in which beer and wine would be required to be consumed; and

**WHEREAS**, the two (2) full-service restaurants eligible for a Type 47 ABC license would have their seating areas wholly contained within their respective demised lease spaces; and

**WHEREAS**, staff has determined that the proposed on-premises sale of beer and wine in conjunction with a maximum of seven (7) eating establishments within a new food hall, and the on-premises sale of beer, wine and distilled spirits in conjunction with a maximum of two (2) bona fide eating establishments are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1) in that the proposal does not involve any site changes; 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 April 25, 2016, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP were heard, and said CUP was fully studied.

B. Resolution.

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

1. This Commission hereby specifically finds that all the facts set forth in Part A ("Recitals") of this Resolution are true and correct.
2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced public hearing on April 25, 2016, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - A. The proposed on-premises sale of beer and wine in conjunction with a maximum of seven (7) eating establishments within a new food hall, and the on-premises sale of beer, wine and distilled spirits in conjunction with a maximum of two (2) bona fide eating establishments is essential or desirable to the public convenience and public welfare, in that the inclusion of alcoholic beverages would allow the applicant to attract a wider variety of prospective tenants to the new food hall within Montclair Place, making 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. The granting of the CUP for the proposed on-premises sale of alcoholic beverages will not be materially detrimental to the public welfare and to other property in the vicinity in that the proposed uses will be conducted entirely within the confines of an enclosed regional shopping center that has adequate security, lighting, and operational maintenance standards. Moreover, the proposed uses will be located entirely within a defined area within a new food hall ("Moreno Street Market") and can be well accommodated on the site. Lastly, such uses are compatible with surrounding commercial uses and will not negatively impact any sensitive land uses in the surrounding area.
  - C. The proposed on-premises sale of alcoholic beverages in conjunction with eating establishments within a new food hall at the subject site conforms to good zoning practice in that the North Montclair Specific Plan permits the on-premises sale of beer and wine, and the on-premises sale of beer, wine and distilled spirits in the "C-3" (General Commercial) land use district, 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 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 objectives of any part of the adopted General Plan, in that the General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.
  - E. The Planning Commission finds the proposed on-sale of beer and wine (Type 41 ABC license), and the proposed on-sale of beer, wine and distilled spirits (Type 47 ABC license) associated with the food hall eating establishments desirable to the public convenience and necessity in that the inclusion of beer and wine or beer, wine and distilled spirits 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. Each eating establishment would offer a full menu and would not have a late closing hour. Conditions of approval have been included ensuring that the safety and general welfare of the surrounding area would be maintained.
3. Planning Division staff has determined the project is Categorically Exempt from the requirements of the California Environmental Quality Act and CEQA Guidelines. The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. The proposed project does not

involve any site changes. The proposed food hall lease spaces are being designed specifically for eating establishments and can accommodate the proposed on-premises sale of alcoholic beverages. Ample parking is available at Montclair Place to support the restaurant uses and the ancillary on-premises sale of alcoholic beverages.

4. Based upon the findings and conclusions set forth in paragraphs 1, 2, and 3 above, this Commission hereby approves the application subject to the following conditions set forth below:

Planning (Michael Diaz, City Planner, 909/625-9432)

1. This Conditional Use Permit (CUP) approval is to allow the following:
  - a. The on-premises sale of beer and wine (Type 41 ABC license) in conjunction with a maximum of seven (7) eating establishments within a new food hall ("Moreno Street Market") at 2082, 2086, 2090, 2094, 2108, 2112, and 2118 Montclair Plaza Lane. The applicant shall have the right to combine two or more contiguous tenant spaces to create larger tenant spaces; however, the maximum boundaries of the food hall shall remain unchanged, even if it results in less than the maximum number of permitted eating establishments.
  - b. The on-premises sale of beer, wine, and distilled spirits (Type 47 ABC license) in conjunction with a maximum of two (2) bona fide eating establishments at 2098 and 2102 Montclair Plaza Lane. It shall be permissible for either or both of the identified establishments to "downgrade" to the on-premises sale of beer and wine (Type 41 ABC license).
2. Any substantial changes to the operation or increase in floor area of the food hall beyond its maximum boundaries as illustrated on the floor plan on file with the Planning Division shall require prior City review and approval. At no time shall any of the nine (9) establishments within the designated food hall boundary operate as anything other than a public eating place in which alcoholic beverages are served in conjunction with meals during all hours of operation.
3. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.

4. This decision or any condition of approval may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
5. Within five (5) 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 **\$423.88**, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
6. Prior to issuance of the first building permit for tenant improvements associated with any of the lease spaces identified as part of this approval, the applicant shall:
  - a. Submit a check payable to "City of Montclair" for the total costs incurred through April 25, 2016, for environmental and legal fees associated with preparation and review of the Mitigated Negative Declaration and other documents related to Case No. 2015-4, approved by the Planning Commission on April 27, 2015, and legal review of Case No. 2016-4. This condition shall supersede Condition Nos. 8.c and 8.d of Case No. 2015-4.
  - b. Submit detailed plans to the Building Division clearly illustrating how access from the food hall to the remainder of the mall will be prevented during the hours the food hall is open but the main mall is closed. Plans shall also clearly show how access to the new restrooms will remain available during food hall hours while preventing access from the restroom hallway to the main mall during the mall's non-business hours.
7. The applicant 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.
8. The applicant shall ensure that a copy of the Planning Commission Resolution, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.

9. Prior to the commencement of business activities, each business establishment shall apply for and obtain a City of Montclair Business License, and shall maintain a valid City business license at all times.
10. During all hours of business operation, each business establishment shall have a "manager" present at the establishment and on duty. The permittee and manager shall be responsible for the conduct of all employees and shall not cause, permit, allow, aid, abet, or suffer any violation of the conditions of this permit or of any provision of the Montclair Municipal Code. The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises. Failure to comply with any or all of the conditions of approval shall be deemed sufficient grounds to initiate modification or revocation proceedings regarding the Conditional Use Permit approval.
11. Each establishment covered by this approval shall be operated, maintained and open to the general public as a public eating place, serving meals at all times that alcoholic beverages are served or offered for sale on the premises, pursuant to Business and Professions Code §23038.
12. At no time shall any of the tenant spaces be converted into other uses where minors are generally excluded, such as an entertainment venue, night club, dance hall or banquet hall operated by either the applicant or outside vendors or promoters.
13. Live entertainment is not included as part of this approval. Entertainment activities as defined in Section 4.52.010 of the Montclair Municipal Code shall require separate review and approval from the City.
14. Approved hours of operation for the "in-line" food hall eating establishments shall be 10:00 a.m. to 10:00 p.m. daily, and the approved hours of operation for the two (2) full-service bona fide eating establishments are 10:00 a.m. to 12 midnight daily. The applicant may allow any or all of the establishments to open or close within the range of operating hours stated herein. Any expansion of the restaurant hours require written notification to the Planning Division and are subject to City approval.
15. No window signs either inside or outside, or signs placed inside the business directed toward the outside of the building shall advertise the availability of beer, wine, or distilled spirits for purchase.
16. Outdoor patio seating areas shall be allowed only in conjunction with the full-service eating establishments to be located at 2098 and 2102 Montclair Plaza Lane.

17. The following mandatory conditions are hereby imposed as part of the CUP approval for the on-premises sale of alcoholic beverages:

- a. The premises shall be maintained at all times in a neat and orderly manner.
- b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.
- c. No beer, wine, or distilled spirits shall be sold, dispensed or offered for consumption outside of the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission. Applicant shall post notification of this limitation within plain view of employees and customers.
- d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as to not cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
- e. The permittee shall comply with all California Department of Alcoholic Beverage Control statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
- f. The permittee shall acknowledge and agree the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e) above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:
  - i. The specific land use requested by the permittee and authorized by the City;
  - ii. The compatibility of permittee's authorized land use with adjacent land uses;
  - iii. The welfare and safety of the general public within the City.

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, wine or distilled spirits by a minor.

- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
- 18. Any violation of any Department of Alcoholic Beverage Control (ABC) rule occurring in the "controlled beverage seating area" constituting grounds for suspension or revocation of a license shall be deemed to the act and responsibility of the licensee in violation.
- 19. "In-line" establishments within the food hall agree to serve beer and wine in containers clearly distinguishable from non-alcoholic beverage containers and shall have a marking or logo unique to the licensee's business that is different from other establishments within the food hall. For the purposes of this condition, a unique marking or logo shall mean the DBA, trade name, copyrighted symbol or logo, or other identification used solely by the applicant at the subject location. This does not include symbols, marking, logos, or names identifying brands of food, drink, or containers.
- 20. Alcoholic beverages purchased for consumption in the "controlled beverage seating area" shall be served to the customer making the purchase by an employee of the licensee where the beverage was purchased. At no time shall a customer be served an alcoholic beverage "over-the-counter" by a licensee in an "in-line" establishment, allowing the customer to transport the alcoholic beverage him/herself to the "controlled beverage seating area."
- 21. Alcoholic beverages shall not be removed from the "controlled beverage seating area" at any time. Signs to this effect shall be posted at each access point to the "controlled beverage seating area" pursuant to ABC regulations.
- 22. During business hours, a minimum of two (2) employees and/or security guards shall be assigned the sole responsibility of supervising each of the two (2) "controlled beverage seating areas" (for a total of four employees and/or security guards), ensuring that licensees and patrons comply with ABC rules and regulations related to the service and consumption of alcoholic beverages.
- 23. No outdoor amplified sound shall be used on the property.
- 24. All rooftop or roof-mounted equipment shall be fully screened from view to the satisfaction of the City Planner.

25. 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.
26. 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, canvas, or fence-like screens/covers are not appropriate within the context of a commercial development and are therefore not allowed.
27. 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.
28. Any violations to the conditions of approval may result in the revocation or modification of this permit, including the imposition of fines, in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
29. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to, the following:
  - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
  - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
  - c. At no time shall pennants, inflatable signs, "human" signs, or other similar advertising devices be utilized on the property or off-site.
30. Major identification signs on the exterior of the building shall be allowed only for the tenants at 2098 and 2102 Montclair Plaza Lane. Tenant identification signs for "in-line" food hall tenants shall not be permitted on the exterior of the building unless approved by a future amendment to the master sign program for Montclair Place or other action addressing exterior signage.
31. Prior to occupancy and installation of any signs, the applicant shall submit an application for a Sign Permit to the Planning Division for review and approval, subject to the following:
  - a. All signs shall comply with the approved sign program for the center and City of Montclair Sign Code (Chapter 11.72 MMC).

- b. Wall signs shall utilize individual channel letters.
  - c. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed subject to review and approval by the City Planner.
32. 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.
33. A copy of the CUP approval letter and resolution with all conditions of approval related to the application shall be conspicuously posted alongside each establishment's Business License and Certificate of Occupancy, and shall be made available to law enforcement officers, and/or fire, building or code enforcement inspectors in the course of conducting inspections of said premises.
34. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative, or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void or annul, the any action of, or permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities, thereof (including actions approved by the voters of City), for or concerning the project, whether such Actions, are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any action brought and City shall cooperate with the applicant in the defense of the Action.

Building (Merry Westerlin, Building Official, 909/625-9437)

35. Submit four complete sets of plans including the following:
- a. Site/Plot Plan;

- b. Floor Plan;
  - c. Reflected Ceiling Plan;
  - d. Electrical Plans, including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
  - e. Plumbing Plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning;
  - f. An existing plan of the building, including all walls to be demolished;
  - g. Waste recycling plan, demonstrating the recycling of a minimum of 50 percent of all construction debris.
24. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
25. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
26. The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans.
27. Contractors shall show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
28. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project address and case file number.
29. Prior to issuance of building permits for a new commercial development project, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to, permit and plan check fees and sewer fees.
30. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint and stucco in all cases shall not be below standard for the use applied.
31. Provide and clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible

parking lot signs. Sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).

32. Provide detailed, scaled measurements of all areas within the food hall boundaries for clarifying the means of egress. The width of an exit passageway or corridor from a mall shall not be less than 66 inches in width. Through walkways shall be maintained open and unobstructed for the public to pass with no portion of the required aggregate egress path to be less than ten feet (10'-0") in width.
33. Construction drawings submitted to the Building Division for plan review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, installing the numerical tenant space designation in a visible location on the "public" side of each tenant space. Address numerals shall be white, in Helvetica or similar font, and a minimum of six inches (6") in height.
34. Install an approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
35. Plans for food preparation areas shall be approved by the County of San Bernardino Department of Environmental Health Services prior to issuance of building permits.

Fire (Scott Sherwood, Deputy Fire Marshal, 909/447-3552)

36. Remove or relocate food hall common area seating, tables, and/or counters south of proposed escalators (in proximity to the "water feature") in order to provide the minimum required ten-foot (10'-0") path of public egress pursuant to Chapter 4 of the California Building Code.
37. In the event security gates or devices are installed to prohibit access from the food hall to the mall during the mall's non-business hours, an approved, emergency keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during hours that such gates or devices are in a closed position. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
38. Commercial occupancies with cooking areas require an approved, fixed fire extinguishing system for protection of the hood and duct system and overall cooking areas. This system shall be equipped with an automatic fuel shutoff to all equipment protected by this system. Three (3) complete sets of drawings of this system shall be submitted to the Fire Marshal's office prior to issuance of a permit.

39. Commercial/industrial occupancies shall install approved emergency lighting to provide adequate illumination in the event of any interruption of electrical service.
40. Fire extinguisher location(s) to be determined by the Montclair Fire Department.
41. Three (3) sets of plans shall be submitted to the Montclair Fire Department for approval prior to the relocation or addition of sprinklers for tenant's improvements.
42. Three (3) sets of plans shall be submitted to the Montclair Fire Department for approval prior to the upgrade of a fire alarm system for a tenant improvement.
43. All Montclair Fire Department fees are due prior to any permit issuance.

Environmental (Nicole deMoet, Environmental Manager, 909/625-9446)

44. The food hall shall require multiple grease interceptors or one common interceptor subject to approval by the Environmental Manager and Building Official. Each tenant space in the food hall shall be plumbed separately for domestic waste and kitchen waste. If one common interceptor is used, Montclair Place management shall be responsible for its ownership and maintenance. Improper or inadequate maintenance will result in the issuance of notices of violation and may result in some or all food hall establishments being closed until violations are addressed.
45. Each eating establishment shall ensure that used fry oil is stored within the building in a grease caddy or similar device that would be picked up and replaced with an empty container. Such container may also be pumped monthly by a recycling vendor to the satisfaction of the Environmental Manager.
46. No barrels for grease shall be stored outside of the building at any time, including within the trash enclosures. Failure to comply with this condition will result in issuance of a Notice to Correct and possible citation. All business activities including the preparation of meals shall occur within the kitchen area of each lease space.
47. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
48. The Environmental Manager shall complete inspections for the grease interceptor(s), rough plumbing and the grease interceptor rings and covers to grade prior to issuance of a Certificate of Occupancy. The applicant shall

contact Nicole deMoet, Environmental Manager, at 909/625-9446 to schedule all inspections in advance.

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

APPROVED AND ADOPTED THIS 25TH DAY OF APRIL, 2016.

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 25th day of April, 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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