



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

REGULAR ADJOURNED MEETING
Monday, May 9, 2016
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 April 25, 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 2016-9
Project Address: Citywide
Project Applicant: City of Montclair
Project Planner: Michael Diaz, City Planner
Request: Amendment to Chapter 11.72 MMC
regarding Electronic Message Center signs
CEQA Assessment: Categorically Exempt (Sections 15305 and 15311)
- b. PUBLIC HEARING - CASE NUMBER 2016-6
Project Address: 8790 Central Avenue
Project Applicant: Barret Woods/Robert Woods
Project Planner: Silvia Gutiérrez , Associate Planner
Request: Conditional Use Permit and Precise Plan of Design to allow an ABC Type 41 license for Fatburger/Buffalo Express restaurant, the addition of an outdoor dining area and re-establish use of the existing drive-thru.
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.

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PUBLIC HEARING - CASE NUMBER 2016-9

APPLICATION TYPE(S)	Amendment to Chapter 11.72 MMC re: Electronic Message Center signs
NAME OF APPLICANT	City of Montclair
LOCATION OF PROPERTY	Citywide
ENVIRONMENTAL DETERMINATION	Exempt pursuant to Sections 15305 and 15311 of the California Environmental Quality Act (CEQA) Guidelines
PROJECT PLANNER	Michael Diaz

Project Proposal

In late 2014, the City was approached by an automobile dealership on Holt Boulevard about its desire to install an electronic message center (EMC) sign on its property. As a result of LED (Light Emitting Diode) technology, clearer displays, and lower manufacturing costs, EMCs have become more economical and energy efficient and, thereby, more attractive to potential users.

The City's current sign ordinance prohibits EMCs except for new auto and recreational vehicles uses along the I-10 freeway corridor. In order for the City to establish new standards for where other EMCs could be utilized, the current Code would need to be amended. The proposed Ordinance would allow, subject to approval of a Conditional Use Permit (CUP), EMCs for more uses/businesses in the City provided they meet new minimum development standards and regulations contained in the proposed Ordinance (Exhibit "A").

Current Ordinance

The City's zoning code currently restricts the use of EMCs, limiting their use to new auto uses along the I-10 Freeway corridor or to other uses which meet the following criteria provided below:

Section 11.72.370 - Electronic Message Board Sign

- A. Electronic Message Board Signs may be permitted only by CUP and shall be subject to the following limitations:
 - 1. Only uses or businesses which are regional in nature and consist of a minimum 20 acres in land area shall qualify;

2. It shall be located a minimum 1200 feet from another existing or planned electronic message board sign, unless the Planning Commission makes a finding that a lesser distance would not create visual cluttering, traffic hazards or unsafe conditions to the public;
 3. For signs designed primarily for freeway exposure, all applicable laws and regulations of federal, State and local agencies shall be complied with;
 4. Signs shall meet the size and height limitations of the zones in which they are located, unless a higher and larger sign structure is approved by the Planning Commission through variance procedures.
- B. Time and temperature signs incorporated into the building wall signage or monument signs may be permitted for certain commercial or institutional uses, subject to Precise Plan of Design (PPD) review and approval and subject to all provisions of this Chapter.

Summary of Proposed Ordinance No. 16-957

Over the past year, staff has worked with a sign consultant to learn more about EMCs and to develop the proposed Ordinance. The purpose and intent of the proposed Ordinance is to provide a more comprehensive treatment on the use of EMCs within the City and provides new development standards and operational regulations for EMCs. The Ordinance proposes to:

- Replace the existing term and definition of Electronic Message Board with the new term of Electronic Message Center (EMC), which is defined as:

"Electronic Message Centers (EMCs) are digital signs that utilize computer-generated messages or some other means of changing copy and are used to advertise products and services offered on the premises of a commercial business where the sign is located. The illumination source in EMC displays shall be limited to light-emitting diodes (LEDs). This definition specifically excludes traffic control signage or other official signage that may be electronic in nature."
- Require the approval of a Conditional Use Permit for the installation and use of all EMCs; and
- Restrict the installation and use of EMCs to only new and/or used auto, truck, motorcycle, all-terrain vehicle, or watercraft dealers (meeting minimum property size and street frontage criteria); and for civic, institutional, and religious land uses (that meet minimum property size and street frontage criteria); and

- Limit the number of EMCs to a maximum of one (1) per parcel or business regardless of the size of the property, or length of street frontage; and
- Establish new minimum qualifying site criteria for properties/uses seeking approval for an EMC on their respective sites. Also, prescribe a minimum separation requirement between EMCs located on separate properties; and
- Require the design and proportion/scale of EMCs be complementary to the design and scale of the main building located on the subject site for which the sign is proposed; and
- Restrict the advertising of products and services offered to only those specifically offered on the premises where the sign is located. No "off-premise" or "third party" messages shall be displayed, except that generic greetings related to holiday observances, such as "Happy Holidays" or "Happy New Year!" shall be permitted.
- Allow only static message displays, typically 4-8 seconds in duration. Scrolling or flashing messages would be prohibited.
- Mandate brightness controls and a light-sensing device that will automatically adjust the brightness as ambient light conditions change.
- Require all new and existing EMCs (formerly known as electronic message boards) to be turned off between the hours of 12:00 a.m. and 5:00 a.m. daily.

Mr. David. Jones, from the YESCO sign company, will be present at the meeting to address any questions the Commission may have regarding technical issues related to the proposed Ordinance. A draft copy of the proposed Ordinance is attached to the report.

Background

- On July 20, 2015, the City Council approved Agreement No. 15-57 allowing staff to retain the services of a sign consultant to provide staff the technical expertise and assistance needed to develop the proposed Ordinance.
- Young Electric Sign Company (YESCO) was selected as the consultant for the project because of its expertise and experience in providing specific sign assistance to public agencies. YESCO was founded in 1920 and is a leader in designing and developing LED signs both nationally and globally.

- Existing electronic message signs in Montclair are located along the I-10 Freeway corridor for the Metro Honda/Acura, Metro Nissan/Infiniti of Montclair, and Giant RV businesses.
- In 2013, the Chino Basin Water Conservation District (CBWCD) was granted approval for a new monument identification sign/electronic message board at its 4594 San Bernardino Street campus. A variance from the 20-acre requirement was also approved (CBWCD combined acreage is 18.44 acres). The approval of the EMC recognized the key role CBWCD plays in promoting water conservation and efficiency for the region that includes the cities of Chino, Chino Hills, Montclair, Ontario, Rancho Cucamonga, and Upland, and the unincorporated areas of San Bernardino County.

Analysis

Staff recognizes that more uses and/or businesses desire to utilize advancements in technology that permit signs to change copy electronically (e.g., utilizing an LED type of sign). The expanded use of EMCs would provide the area with a means to advertise businesses that have visibility issues as well as provide an opportunity to advertise services and products offered by the business.

However, the current City zoning code provisions that regulate the use of EMCs are fairly limited in scope and reflect a somewhat dated approach to their placement and usage. In Montclair, as with most cities, electronic changeable copy signs were initially prohibited or restricted due to concerns with undesirable secondary effects such as intense brightness, distracting images and movements, and visual clutter/overconcentration.

The intent of the proposed Ordinance is to allow for some flexibility in potential locations and the operation of, EMCs within the community, while also working to minimize (or eliminate) adverse secondary effects caused by their usage. So, while staff recognizes that the sign industry is changing and improving, electronic signage can still be problematic if not properly considered.

Minimum Site Criteria & CUP Review Requirement

Specific site criteria were developed to ensure that EMCs are appropriately located and do not proliferate throughout the community. The site criteria requirements include minimum lot sizes, separation distances between similar signs on adjacent properties, minimum setbacks, and height and screen size limits. If a property qualifies, the request would be subject to the approval of a CUP.

The CUP review process was determined to be the proper manner to analyze future requests for an EMC and was retained from the current zoning regulations. The CUP

review process allows the City to consider proposed applications on a case-by-case basis and determine if a proposed site is suitable for the installation and operation of an EMC. In addition to reviewing the specific characteristics of the proposed EMC, other site conditions that may need attention could also be factored into the decision to approve or deny a CUP request.

As such, the approval of a CUP request is discretionary and not guaranteed. If a CUP is approved, conditions of approval (general and specific) would apply to ensure that the EMC would be operated in a manner that is compatible with surrounding uses. The CUP process would also give the City the ability to modify conditions or revoke a CUP approval if the applicant fails to dependably operate in accordance with the approved conditions of approval. Staff believes the total number of potential EMCs within the City will remain relatively low, given the moderate number of qualifying sites and the cost for such signs.

Illumination/Graphic Displays

The main concern related to the display of electronic information on an EMC sign is the brightness and movement of sign copy on the screen. EMCs that are too bright can be offensive and ineffective. The goal for using an EMC is for the sharing of clear and readable information. Most new electronic displays are designed to produce sufficient brightness to ensure clear legibility during daylight hours without excessive glare.

However, daytime brightness is not appropriate for nighttime viewing. Research conducted by the International Sign Association (ISA), in consultation with Dr. Ian Lewin of Lighting Sciences, Inc., found the target brightness level for an on-premise EMC should be no more than 0.3 foot-candles above ambient light conditions surrounding the sign. To address this issue, the Ordinance requires that approved EMCs have appropriate technology built into their design to automatically adjust illumination to the 0.3 foot-candle level as ambient lighting levels change throughout the day. Since the advent of LED technology and advanced software, the above concern is easier to address and regulate.

The other main operational concern associated with an EMC is the potential for distracting images and special effects (e.g., pulsating, flash, scrolling or flashing movements, etc.) being displayed on the electronic screens. Not only would this cause visual blight, it would have adverse impacts on adjacent uses. The primary purpose for utilizing an electronic message is to provide relevant information without causing undue distractions.

To address this concern, the Ordinance would prohibit such special effects, as noted above, and limit displayed sign copy/images to a static display lasting a minimum of 4-8 seconds in duration before it changes to new copy or image. The EMC would also be designed to freeze the device in one position or turn off the entire sign if a malfunction occurs. In this way, surrounding properties and uses will have a higher degree of protection from signage that has the potential to be too bright or malfunction. Prior to issuing any necessary permits for an EMC sign, the applicant shall be required to

submit to the City written verification from the manufacturer that the EMC is so designed and equipped.

Conclusion

Allowing a limited expansion in the use of electronic message centers (EMCs) could benefit the community by helping direct customers to their destination and may even mitigate visual clutter by eliminating the need for temporary signage promoting on-site businesses and/or events. The proposed Ordinance includes new development standards and operational measures which are aimed at controlling the more undesirable effects of EMCs that are not fully addressed by the current zoning code. Having these new regulations in place would help protect adjacent properties and drivers. As such, the standards contained within the proposed Ordinance would not be detrimental to the public, interest, health, safety, convenience, or welfare of the City.

Public Notice

A notice of public review was advertised in the Inland Valley Daily Bulletin newspaper on April 29, 2016, inviting public comment. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Determination

This proposed Ordinance is exempt from CEQA pursuant to CEQA Guidelines, Sections 15305 and 15311. Under CEQA Section 15305, minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density and Section 15311(s) which exempts from environmental review the construction of minor structures on commercial, industrial, and institutional facilities, including the installation of on-premise signs.

Recommendation

The City's Office of Economic Development recommends that the Planning Commission:

- A. Move that, based upon evidence submitted, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption; and,

- B. Recommend the Planning Commission adopt Resolution No. 16-1859, recommending approval to the City Council of Ordinance No. 16-957, amending Section 11.72.370 of the Montclair Municipal Code addressing the use of Electronic Message Centers (EMCs) within the City limits.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Diaz", with a circular stamp or mark to the right of the signature.

Michael Diaz
City Planner

Attachments: Exhibit "A" - Draft Ordinance No. 16-957
PC Resolution No. 16-1859

c: David Jones, YESCO Electric Sign Company, 19325 Bellegrave Avenue, Jurupa Valley, CA 91752

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RESOLUTION NUMBER 16-1859

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL ADOPTION OF ORDINANCE NO. 16-957 UNDER CASE NO. 2016-9, AMENDING SECTION 11.72.370 OF THE MONTCLAIR MUNICIPAL CODE ADDRESSING THE USE OF ELECTRONIC MESSAGE CENTERS (EMC) WITHIN CITY LIMITS.

A. Recitals.

WHEREAS, in July 20, 2015, City staff initiated a review of the City Sign Code to determine the feasibility of allowing additional institutional uses to install Electronic Message Boards; and

WHEREAS, Young Electric Sign Company (YESCO) was selected as the consultant for the project because the company's expertise and experience in providing specific sign assistance to public agencies. YESCO was founded in 1920 and is a leader in designing and developing Light Emitting Diode (LED) signs both nationally and globally; and

WHEREAS, the City's zoning code currently restricts the use of Electronic Message Center (EMCs), limiting their use to new car auto uses along the I-10 Freeway corridor or to other uses which meet the criteria set forth in Section 11.72.370 of the Montclair Municipal Code; and

WHEREAS, based upon the input provided by the sign consultant retained for the project, staff prepared an amendment to the Montclair Municipal Code pertaining to Electronic Message Boards in the City; and

WHEREAS, the proposed Ordinance includes new development standards and operational measures, which are aimed at controlling the undesirable effects of EMCs that are not fully addressed by the current zoning code; and

WHEREAS, the proposed Ordinance contains language requiring the approval of a Conditional Use Permit (CUP) prior to the installation of any Electronic Message Center Board within the City. The Conditional Use Permit process and conditions of approval will insure compatibility with surrounding uses in those zones; and

WHEREAS, on May 9, 2016, the Planning Commission of the City of Montclair conducted a duly noticed public hearing on proposed Ordinance 16-957. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence, and testimony presented in connection with this project; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, City Staff has determined that adoption of Ordinance 16-957 is exempt from CEQA pursuant to Sections 15305 and 15311 of the State CEQA Guidelines; and

WHEREAS, the Planning Commission has reviewed the project and, based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City Staff has correctly concluded that it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment, and independently, that adoption of the Ordinance meets the qualifications of a Class 5 and Class 11 categorical exemptions; and

WHEREAS, the proposed amendment to the Municipal Code is consistent with the City's General Plan and each element thereof, which seek to guide and direct the orderly development of the City; and

WHEREAS, Ordinance No.16-957 will not adversely affect the public health, safety, or welfare in that it will provide for orderly and consistent development in the City; and

WHEREAS, a Notice of Public Hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on May 9, 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 code amendment were heard, and said code amendment was fully studied; and,

WHEREAS, the custodian of records for all materials that constitute the record of proceeding upon which this decision is based is the Planning Division Manager. Those documents are available for public review in the Planning Division located at 5111 Benito Street, Montclair, California 91763.

B. RESOLUTION

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Adoption of Ordinance No. 16-957 will not have a significant effect on the environment.

3. This Commission recommends that the City Council adopt the finding that proposed Ordinance No. 16-957 is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15311 of the State CEQA Guidelines.

4. Based upon the findings and conclusions set forth above, the Planning Commission hereby recommends approval of Ordinance No.16-957 to the City Council as set forth in "Exhibit A" attached hereto and incorporated herein by this reference

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

APPROVED AND ADOPTED THIS 9TH DAY OF MAY, 2016

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, 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 9th day of May, 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\MD\2016-9 EMC ORDINANCE PC RESO

Chapter 11.72.370

ELECTRONIC MESSAGE CENTER DISPLAYS

Definitions

Current

16. **Electronic message display** means a sign or message board having the capacity of presenting variable message displays by projecting an electronically controlled light pattern against a contrasting background, and which can be programmed to change the message by electronic processes or by remote control.

New Definition

"Electronic Message Centers (EMCs) are digital signs that utilize computer-generated messages or some other means of changing copy and are used to advertise products and services offered on the premises of a commercial business where the sign is located. The illumination source in EMC displays shall be limited to light-emitting diodes (LEDs). This definition specifically excludes traffic control signage or other official signage that may be electronic in nature."

11.72.370 Electronic message center displays.

Electronic Message Centers (EMCs) are digital signs that utilize computer-generated messages or some other means of changing copy and are used to advertise products and services offered on the premises of a commercial business where the sign is located. The illumination source in EMC displays shall be limited to light-emitting diodes (LEDs). EMCs shall be allowed in specific locations and subject to the criteria set forth in this Section, subject to approval of a Conditional Use Permit (CUP) by the Planning Commission. The criteria in this Section shall be for freestanding EMCs; building- and wall-mounted EMCs shall be expressly prohibited except as noted elsewhere in this Title.

A. Locational Criteria - Non-Freeway-Oriented Signs.

1. New and/or used auto, truck, motorcycle, all-terrain vehicle, or watercraft dealers with a permitted outdoor display area and a minimum of 200 feet of lineal frontage along a public or private street.
2. Civic or institutional uses on a parcel or parcels cumulatively totaling a minimum of three (3) acres.
3. Religious uses on a parcel or parcels owned entirely by the religious entity cumulatively totaling a minimum of one and one-half (1½) acres.
4. EMCs in this subsection shall observe a minimum separation of 200 lineal feet from one another.

5. No more than one (1) EMC shall be permitted per parcel or business irrespective of whether the parcel or business meets the minimum street frontage requirement along more than one street.

B. Locational Criteria - Freeway-Oriented Signs.

1. Commercial businesses, regional centers, auto centers, or contiguous shopping centers occupying a minimum of seven (7) acres with a minimum of 700 lineal feet of continuous frontage along the Interstate 10 right-of-way, except as noted elsewhere in this Title.

2. EMCs in this subsection shall observe a minimum separation of 1,200 lineal feet from one another except as noted elsewhere in this Title, and shall comply with all regulations related to electronic displays imposed by federal and state agencies.

3. No more than one (1) freeway-oriented EMC shall be permitted per business, regional center, auto center or contiguous shopping centers irrespective of the cumulative freeway frontage or lot area, except as noted elsewhere in this Title.

C. Design Standards.

1. EMCs listed in subsection (A)(1) above shall be subject to the following maximum dimensions:

- a. Maximum height - 14'-0" above adjacent natural grade.
- b. Maximum area of EMC display - 60 square feet.

2. EMCs listed in subsections (A)(2) and (A)(3) above shall be subject to the following maximum dimensions:

- a. Maximum height - 10'-0" above adjacent natural grade.
- b. Maximum area of EMC display - 48 square feet.

3. EMCs listed in subsection (B)(1) above shall be subject to the following maximum dimensions:

a. Maximum height - 65'-0" above adjacent natural grade. The top of the EMC display shall be a maximum of 50'-0" above adjacent natural grade to ensure safe readability to motorists on Interstate 10.

- b. Maximum area of EMC display - 260 square feet.

The locational and design criteria for EMCs are summarized in the following table:

<i>Locational and Design Criteria for Electronic Message Centers (EMCs)</i>				
<i>Land Use / Location</i>	<i>Minimum Acreage/Frontage</i>	<i>Max. # of EMCs</i>	<i>Max. area of EMC display</i>	<i>Max. height of structure</i>
New and/or used auto, truck, motorcycle or watercraft dealer with outdoor display area (arterial street frontage)	No min. acreage/ 200 lineal feet street frontage	1	60 s.f.	14'-0"
New and/or used auto, truck, motorcycle or watercraft dealer with outdoor display area (Interstate 10 frontage)	7 acres/ 700 lineal feet 1-10 frontage	1	260 s.f.	65'-0"
Civic/institutional uses	3 acres	1	48 s.f.	10'-0"
Religious uses	1½ acres	1	48 s.f.	10'-0"

Exhibit "A"

4. Pixel pitch (resolution). All EMC display components shall be full color with a minimum pitch resolution of 20 millimeter spacing or better.

5. Pixel calibration. Pixel-to-pixel, module-to-module pixel calibration.

6. EMC display illumination.

a. Measurement criteria. The illuminance of an EMC shall be measured with an illuminance meter set to measure foot-candles accurate to at least two (2) decimals. Illuminance shall be measured with the EMC off, and again with the EMC displaying a white image. Measurements shall be taken after sunset with the site fully illuminated by installed site lighting. All measurements shall be taken perpendicular to the face of the EMC at the distance determined by the total area of the EMC display as set forth in the table below:

<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>	<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>	<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>
10	32	60	77	110	105
15	39	65	81	120	110
20	45	70	84	130	114
25	50	75	87	140	118
30	55	80	89	150	122
35	59	85	92	160	126
40	63	90	95	170	130
45	67	95	97	180	134
50	71	100	100	190	138
55	74			200	141

b. Illumination limits. The difference between the "off" and "solid white" image measurements using the EMC measurement criteria shall not exceed 0.3 foot-candles on either side of the sign. If the measurement of illumination levels on each side of the sign is different, the side of the sign facing residentially-zoned properties shall take precedent.

c. Dimming capabilities. All EMC displays shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim the EMC display according to ambient light conditions, or that can be adjusted to comply with the 0.3 foot-candle measurements.

7. Combination EMC/business identification sign. Properties or businesses in subsection (A) herein that qualify for an EMC shall be required to include the name of the business(es)/entity(ies)/use(s) on the same monument structure as the EMC. The sign area for the business identification sign shall be subject to the criteria set forth in this Chapter for freestanding monument signs. Businesses with an EMC shall not be entitled to a second monument sign on the same street frontage to identify the name(s) of the business(es) on the property. Any existing pylon or monument sign on a qualified site and on the same street frontage as a proposed EMC, which would cause the business(es) to be in violation of this Section, shall be permanently removed prior to a final inspection for the EMC.

8. Architectural and siting standards. All EMCs shall be subject to the following standards:

a. The EMC shall be designed in colors and materials complementary to the primary building on the property. The EMC display shall be surrounded on all four sides by a quality building material such as brick, stone, stucco, powder coated metal, etc. The surround shall extend no less than six (6) inches in all directions from the face of the EMC display.

b. Street address required. The numerical street address of the property/business shall be displayed in a location on the monument structure to the satisfaction of the City Planner. Numerical characters shall be no less than eight inches (8") in height and shall be affixed to the monument structure a minimum of 24 inches above natural grade.

c. Location. EMCs shall be constructed within a landscaped area providing sufficient protection from unintentional damage by vehicles on the property.

d. Visibility. EMCs shall be sited in a location offering optimal visibility to motorists to the satisfaction of the City Planner. However, EMCs shall not be located in such a manner to obstruct the sight lines of motorists or pedestrians entering or leaving the subject property or adjacent properties. The siting of EMCs shall meet the following minimum standards:

i. The bottom of all EMC displays shall be a minimum of four feet (4'-0") above adjacent natural grade.

ii. No portion of any EMC display or associated monument structure shall be located closer than five feet (5'-0") to the adjacent public or private street sidewalk. Where no sidewalk exists, no portion of the EMC display or associated monument structure shall be closer than ten feet (10'-0") from the adjacent curb face. EMCs shall be located a minimum of 25 lineal feet away from any vehicular driveway and a minimum of 10 lineal feet away from a pedestrian path-of-travel from the public sidewalk to any building on the subject property or adjacent property.

iii. Landscape material shall be carefully selected so as to not obstruct the EMC display, business identification sign, and/or numerical address at the time of landscape installation or at maturity. It is further recommended that non-living landscape materials, such as decomposed granite, gravel, mulch, or the like, be used in lieu of live plant materials for a distance extending 24 inches around the base of the monument structure.

e. Orientation. EMCs may be single-faced or double-faced. Double-faced EMCs shall be oriented perpendicular to Interstate 10 or the street to which they are adjacent, or, if located at an intersection of two streets, shall be oriented diagonally (perpendicular to the adjacent radius of the intersection) so as to be easily visible to motorists on the street segments adjacent to the property. Single-faced EMCs may only be installed at an intersection of two streets or at the end of a cul-de-sac. Single-faced EMCs at an intersection shall be oriented diagonally (generally parallel with the adjacent radius of the intersection) so as to be easily visible to motorists on the street segments distant from the property and so that the back side of the sign is not directly visible to a public right-of-way. EMCs located at an intersection shall be sited outside of the required corner cut-off area as set forth in Chapter 11.38 of this Title. Single-faced EMCs at the end of a cul-de-sac shall be generally perpendicular to the adjacent street orientation.

f. All EMC displays shall be silicone-sealed for adequate weather protection, have integral protective louvers (injection molded or aluminum) to ensure optimal daytime visibility and minimize vandalism, and carry a minimum five-year warranty from the manufacturer. Detailed plans demonstrating compliance with said construction standards and evidence of said warranty shall be submitted at the time of plan check prior to issuance of building permits.

D. EMC Operational Standards.

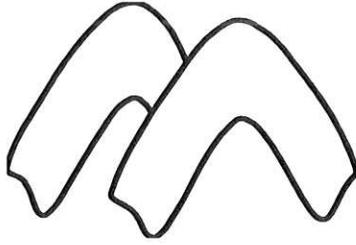
1. Digital images shall contain static messages only.
2. EMCs shall display each static message from four to eight (4-8) seconds.
3. The only permissible transitions between static messages shall be a "cut" (an instant change from one image to the next) or a "dissolve" or "crossfade" (gradual fade from one image to the next).
4. EMCs shall display a single message at any one time. Split screens shall not be permitted.
5. EMCs shall only advertise products and services offered on the premises where the sign is located. No "off-premise" or "third party" messages shall be displayed, except that generic greetings related to holiday observances, such as "Happy Holidays" or "Happy New Year!" shall be permitted.
6. Hours of operation. EMC displays may be operated anytime between the hours of 5:00 a.m. and 12:00 a.m. daily. At a minimum, EMCs shall display messages between the hours of 7:00 a.m. and 10:00 p.m. daily. All EMC displays shall go dark between 12:00 a.m. and 5:00 a.m. daily.
7. At least one week prior to initial use of the EMC, an inspection and calibration of the display shall be scheduled with the Community Development Department to ensure the EMC display is in compliance with the illumination measurement criteria set forth in this Section.
8. The Community Development Department reserves the right to inspect the EMC on a periodic basis to ensure that it is operating in compliance with this Section.

E. EMC Maintenance Standards.

1. Paint and other finishes on the EMC display and monument structure shall be maintained in good condition. Damaged or substandard finishes shall be repaired within 14 days of notification by the City.
2. Mineral deposits and stains shall be removed on a regular basis. Vandalism shall be repaired within 72 hours of its occurrence.
3. The owner of the EMC shall maintain an ongoing written maintenance agreement with a qualified licensed sign maintenance contractor. The Community Development Department shall be provided documentation of such an agreement upon request.

F. Abandonment.

EMCs that do not display messages for 30 consecutive days shall be considered abandoned. The Director of Community Development, or his or her designee, shall have the right to initiate CUP revocation proceedings for any EMC that has become abandoned, which, if the CUP is revoked by the Planning Commission, shall include a requirement to completely remove the EMC display, monument structure and all other associated improvements related to the sign.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 05/9/16

AGENDA ITEM 6.b

Case No. 2016-6

Application: Conditional Use Permit (CUP) request to allow an ABC Type 41 (on-premises beer and wine) license for the Fatburger/Buffalo's Express Restaurant located within an existing 2,500 s.f. building, the addition of a covered 420 s.f. outdoor dining area, and to re-establish use of the existing drive-thru. A Precise Plan of Design (PPD) will also be considered for the remodel the existing building facade, new landscaping, and other exterior site improvements at the subject location.

Project Address: 8790 Central Avenue

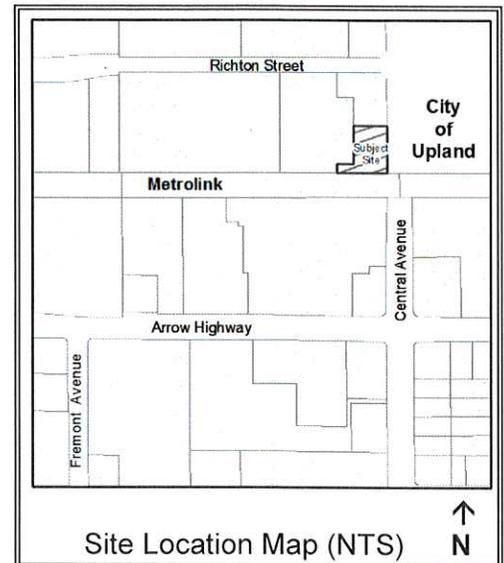
Property Owner: Barret Woods/Robert Woods

General Plan: Planned Development

Zoning: Commercial (C) per Turner Specific Plan

Assessor Parcel No.: 1007-681-16

City/Public Utility Easements: None



Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	Planned Development	Commercial (C) per the Turner Specific Plan	Vacant Restaurant with drive-thru
North	Planned Development	Commercial (C) per the Turner Specific Plan	Multi-tenant commercial center
East	City of Upland	City of Upland	Industrial center
South	Planned Development	Commercial (C) per the Turner Specific Plan	Metrolink and John's Incredible Pizza restaurant
West	Planned Development	Business Park (BP) per the Turner Specific Plan	Warehouse

Report on Item Number 6.b

PUBLIC HEARING – CASE NUMBER 2016-6

APPLICATION TYPE(S)	Conditional Use Permit and Precise Plan of Design
NAME OF APPLICANT(S)	Barret Woods/Robert Woods
LOCATION OF PROPERTY	8790 Central Avenue
GENERAL PLAN DESIGNATION	Planned Development
ZONING DESIGNATION	C (Commercial) per the Turner Specific Plan
EXISTING LAND USE	Vacant restaurant with drive-thru
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutierrez

Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) and Precise Plan of Design to allow the Fatburger/Buffalo Express restaurant business to use the site and building formerly occupied by the KFC fast food restaurant at the above location. Fatburger/Buffalo Express Restaurant is a co-branded "fast casual" restaurant where customers place their orders at the counter and find their own seating.

Conditional Use Permit (CUP)

To accommodate the new restaurant use, the applicant is requesting a CUP for the following elements:

- An ABC Type 41 (On-Premises Beer and Wine) License to serve alcoholic beverages (beer and wine) with meals purchased and consumed on-site. No bar is proposed with this application.
- Outdoor dining area for 16-persons provided on the west side of the building. The proposed dining area would be approximately 420 square-feet in size and have an open patio cover and be enclosed with decorative metal railings. The patio and would be enclosed by a 3-foot tall coated steel railing. Primary access to the covered patio would be from the interior of the restaurant through new double doors on the north building elevation storefront. The applicant intends to allow alcoholic beverages with meals in the patio area.
- Re-establish the use of the existing drive-thru lane. The sale or service of alcoholic beverages from the drive through is not permitted.

Proposed business hours for the restaurant and the drive thru are 10:00 a.m. to 11:00 p.m. daily. No bar counter, dance floor, entertainment or pool tables are part of this request.

Precise Plan of Design (PPD)

Several site and exterior and interior tenant improvements are proposed as outlined below:

- Patch and repair the exterior of the entire 2,500 square foot building. The new colors for the building include two tones of tan (walls and tile base), black (tower), and red (accent color). Most notable, will the prominent tower element being painted black. Dark black aluminum awnings have been located above windows adjacent to the main entrance.
- Add a new 8.5' x 5.5' storefront window between tower and drive-thru cover on east side of the building. The new window would be fixed and have matching storefront frames matching existing windows.
- Remodel the entire interior of the restaurant to meet corporate requirements.
- Construct a new aluminum 420 square foot covered patio on the west side of the existing building.
- Add new decorative light fixtures on the exterior of the building and outdoor patio.
- Reconfigure existing ramp and striping of parking to meet current ADA requirements and accommodate covered patio dining area.
- Modify or reconstruct the trash enclosure adjacent to the drive thru lane entry point, to meet current City standards which include the requirement for a solid roof cover.
- Update landscaping areas for the subject site which includes the removal of all lawn areas, installation of new drought tolerant landscaping (trees and shrubs) and hardscape elements.
- Provide new identification signs for the business. The applicant will submit a separate application for new signs for administrative review and approval by City staff.

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

Background

- Based on City records, the pad building at 8790 Central Avenue was developed in 1998 as part of the Home Life Center and was operated continuously as Kentucky Fried Chicken fast food restaurant with drive-thru until it closed 2010. Since then the building has been vacant.
- Fatburger is a nationally recognized "fast casual" restaurant that was originally founded in Los Angeles, California in 1952 as a three seat hamburger stand. Today, there are 200 Fatburger restaurants, in 19 countries. In 2011, Fatburger made the decision to co-brand some its franchise restaurants with Buffalo's Express (Wings). The nearest Fatburger restaurant is located in Rancho Cucamonga, near the Ontario Mills Outlet Mall.
- Section 11.42.040.A of the Montclair Municipal Code and the Turner Specific Plan requires approval of a CUP for the on-premises sale of beer and wine in conjunction with a bona fide eating establishment. Further, a CUP is required for activities in the Commercial zoning district that take place outside of the building, such as outdoor dining and the re-established use of the drive-thru lane.

Planning Division Comments

Staff is supportive of Fatburger's/ Buffalo Express' request to open a restaurant in the City. The existing restaurant building has been vandalized over the years but remains structurally sound and is generally well designed to be easily upgraded and reused. Staff has worked with applicant and his architect to resolve a number of issues including details for the new patio area, new exterior colors and lighting, and the introduction of drought tolerant landscape materials and irrigation. The new landscaping improvements proposed with the project are welcomed and will be complementary to the landscape changes made next door with the recently completed remodel of the First Financial Credit Union property, immediately north of the subject site.

Staff has calculated that the subject use will require a minimum of 13 parking spaces, while providing 24 parking spaces within its pad area. Therefore, adequate on-site parking is readily available to support the proposed restaurant use.

As part of this request, staff has added a condition of approval that requires used fats, fry oil, or grease (FOG) be stored within the building as part of a modern wasted oil recovery system rather than outside in the trash enclosure or behind the building where it would otherwise be susceptible to spills, vermin infestation, and vandalism. FOG materials would be collected and regularly removed from the site by a company that specializes in their removal.

When completed, staff believes the proposed changes (interior and exterior) to the site will breathe new life into the subject property, and enhance the appearance of the street and the remainder of the commercial retail center of which it is a part.

Beer and Wine Service

The ability to serve alcoholic beverages in conjunction with meals served at the site is appropriate and in keeping with current restaurant trends. New restaurants opening in the vicinity have had similar requests approved for the same entitlement. As with most food eateries with a Type 41 License, the portion of sales is an incidental portion of the business and limited to less than 50 percent of total sales by ABC. Staff has patronized the restaurant chain in Rancho Cucamonga which offers an identical menu, offers on premises beer and wine, and is satisfied that they can manage their business in a satisfactory manner. Beer and wine beverages are stored behind the counter, sold only to food customers (identification is required), and are not allowed to be taken off the premises even for "to go" orders. As such, no significant adverse impacts are expected with the approval of the requested ABC License.

The Police Department reviewed the proposed application and did not object to the proposal to allow the sale of beer and wine in conjunction with the proposed food use because the sale of alcoholic beverages is not intended to be a major portion of the business, such as would be the case with a bar or nightclub. The Police Department provided conditions of approval that include the requirement for video surveillance of the premises, which is consistent with recent City approvals allowing the on-premises sale and service of alcoholic beverages for restaurant uses.

Outdoor Dining Patio

Staff supports the creation of the proposed outdoor dining patio out of the relatively large and unused concrete area on the west side of the building. The area will be appropriately separated from the parking area and will provide the security measures needed to meet ABC requirements for outdoor service and consumption of alcoholic beverages authorized by the Type 41 License. This arrangement is very similar to that which is used for the outdoor dining area of the Chipotle restaurant further south on Central Avenue. The outdoor dining patio is anticipated to be a popular dining option during periods of good weather.

Drive Thru-Lane

Staff supports the reuse of the existing drive-thru lane as part of the restaurant's business operation. The reuse of existing drive-thru lane provides a convenient means to allow patrons the opportunity to purchase food and non-alcoholic drink items without leaving their vehicle. The site, as previously developed, is suitable for the drive-thru lane and poses no specific issues that would prevent smooth operations. Staff is unaware of any significant issues on file with respect to the previous use/operation of the existing drive thru lane.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for on-sale beer and wine, and can be made, as follows:

- A. The proposed on-premises sale of beer and wine (ABC Type 41 License) in conjunction with the full menu and food service provided within a bona fide eating establishment (restaurant) and the proposed 420 square-foot outdoor dining area is essential or desirable to the public convenience and public welfare, in that the option to purchase and consume beer or wine with meals provides the general public of legal drinking age additional eating options within the community. Such availability of alcoholic beverages with meals is common among other restaurants in the vicinity. In regard to the use of existing drive-thru lane, the option allows patrons the opportunity to purchase food and non-alcoholic drink items without leaving their vehicle.
- B. That granting the CUP for the proposed restaurant with on-premises sale of beer and wine, outdoor dining, and the re-use of the existing drive-thru lane will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located in newly renovated restaurant building with adequate parking, security, lighting, etc. Moreover, the proposed restaurant use is compatible with existing Commercial zoning designation of the site, surrounding development of commercial uses, and will not negatively impact any sensitive land uses in the surrounding area. No issues with the previous use of the drive-thru lane have been reported or are expected.
- C. That the proposed on-premises sale of beer and wine in conjunction with a bona fide eating establishment, associated outdoor dining area, and re-use of the existing drive-thru on the subject site conforms to good zoning practice, in that the Municipal Code permits the aforementioned use in the Commercial zoning district of the Turner 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 and wine within the indoor and outdoor dining areas, and the drive thru lane so that these aspects of the new restaurant use do not detract from the general quality of the adjacent commercial center and the surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area, 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 ABC licenses. According to ABC records, as of April 2016, there are currently 45 licenses existing within the census tract, and therefore ABC requires a finding of public convenience or necessity in order to issue a new license. Of those, 11 Type 41 licenses are dispersed throughout the census tract. City staff and the Police Department support this request for the on-premises sale of beer and wine in conjunction with the proposed restaurant as desirable to the public convenience and necessity. The proposed restaurant does not propose late closing hours and would continually serve hot meals made to order for consumption on the premises. The sale of alcoholic beverages is not a major portion of the business but offers customers a choice if desired. Moreover, the proposed restaurant is located within an existing major shopping center in the primary commercial area of the City where other restaurants are located and offer alcoholic beverages to its customers.

Public Notice and Comments from the Public

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on April 29, 2016, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property. In addition, courtesy notices were distributed to tenants within the adjacent portion of the center in which the property is located.

Environmental Assessment

The proposed on-sale of beer and wine in conjunction with a bona fide eating establishment with outdoor dining and related exterior building and site improvements is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes will not involving grading.

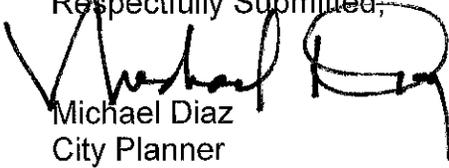
Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading.

- B. Move to approve Conditional Use Permit and Precise Plan of Design under Case No. 2016-6 approving the on-premises sale of beer and wine (ABC Type 41 license) in conjunction with a bona fide eating establishment, outdoor dining patio, and re-established use of the drive-thru and related site and tenant improvements at 8790 Central Avenue per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 16-1858.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Z:\COMMDEV\SG\CASES\2016-6 FATBURGER\2016-6RPT

RESOLUTION NUMBER 16-1858

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AND PRECISE PLAN OF DESIGN UNDER CASE NO. 2016-6 TO ALLOW THE ON-PREMISES SALE OF BEER AND WINE (ABC TYPE 41 LICENSE) IN CONJUNCTION WITH A BONA FIDE EATING ESTABLISHMENT, A 420 SQUARE FOOT COVERED OUTDOOR SEATING AREA, THE RE-USE OF AN EXISTING DRIVE-THRU LANE, AND NEW SITE AND EXTERIOR BUILDING IMPROVEMENTS AT 8790 CENTRAL AVENUE, IN THE "COMMERCIAL" ZONING DISTRICT WITHIN THE TURNER SPECIFIC PLAN (APN 1007-681-16).

A. Recitals.

WHEREAS, on March 30, 2016, Barret Woods and Robert Woods, property owners, filed an application for a Conditional Use Permit (CUP) and Precise Plan of Design requesting approval to allow a new restaurant use offering on-premises beer and wine (ABC Type 41 license) in conjunction with meals, a covered outdoor dining area, and the reuse of the existing drive-thru at the subject site; and

WHEREAS, application applies to a 0.63-acre site zoned "Commercial" pursuant to the Turner Specific Plan, and

WHEREAS, Turner Specific Plan requires the approval of a CUP for fast food restaurants with or without a drive-thru lane, and

WHEREAS, in 1998 the existing 2,500 square foot fast food restaurant building with drive-thru lane and surface parking for 24-spaces was developed pursuant to an approved CUP under Case No. 97-18; and

WHEREAS, from 1998 to 2010 said development was a Kentucky Fried Chicken fast food restaurant until its closing in 2010. Since then the building has been vacant; and

WHEREAS, the Turner Specific Plan and Chapter 11.42.040.A of the Montclair Municipal Code requires a CUP for on-sale beer and wine in conjunction with a bona fide eating establishment (restaurant), including the service of alcoholic beverages in outdoor dining areas; and

WHEREAS, staff has determined that the proposed on-premises sale of beer and wine 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 Commercial zoning district of the Turner Specific Plan and Chapter 11.42 MMC ("Alcoholic Beverages – Regulation of Sale"); and

WHEREAS, the Planning Commission has reviewed the Planning Division's determination that the proposed on premises sale of beer and wine (ABC Type 41 license) in conjunction with a bona fide eating establishment with outdoor dining, use of the existing drive-thru lane and related exterior building, landscaping, and site improvements is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines and based on its own independent judgment, concurs with staff's determination of said exemption and finding of no significant effect on the environment. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading.

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

WHEREAS, on May 9, 2016, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a meeting at which time all persons wishing to testify in connection with said project were heard and said proposal was fully studied.

B. Resolution.

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon substantial evidence presented to this Commission during the above-referenced public hearing on May 9, 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 (ABC Type 41 License) in conjunction with the full menu and food service provided within a bona fide eating establishment (restaurant) and the proposed 420 square-foot outdoor dining area is essential or desirable to the public convenience and public welfare, in that the option to purchase and consume beer or wine with meals provides the general public of legal drinking age additional eating options within the community. Such availability of alcoholic beverages with meals is common among other restaurants in the vicinity. In regard to the use of existing drive-thru lane, the option allows patrons the opportunity to purchase food and non-alcoholic drink items without leaving their vehicle.

- B. That granting the CUP for the proposed restaurant with on-premises sale of beer and wine, outdoor dining, and the re-use of the existing drive-thru lane will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located in newly renovated restaurant building with adequate parking, security, lighting, etc. Moreover, the proposed restaurant use is compatible with existing Commercial zoning designation of the site, surrounding development of commercial uses, and will not negatively impact any sensitive land uses in the surrounding area. No issues with the previous use of the drive-thru lane have been reported or are expected.
- C. That the proposed on-premises sale of beer and wine in conjunction with a bona fide eating establishment, associated outdoor dining area, and re-use of the existing drive-thru on the subject site conforms to good zoning practice, in that the Municipal Code permits the aforementioned use in the Commercial zoning district of the Turner 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 and wine within the indoor and outdoor dining areas, and the drive thru lane so that these aspects of the new restaurant use do not detract from the general quality of the adjacent commercial center and the surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses.
- E. The Planning Commission finds the proposed on-premises of beer and wine (ABC Type 41 license) associated with the proposed bona fide eating establishment desirable to the public convenience and necessity in that the proposed restaurant does not propose late closing hours and continually serves hot meals made to order for consumption on-site. The sale of alcoholic beverages is not a major portion of the business but offers customers a choice if desired. Moreover, the proposed restaurant is located within in an existing major shopping center in the primary commercial area of the City where other restaurants are located and offer alcoholic beverages to their customers. Conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.

C. Conditions of Approval.

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

Planning Division

1. This Conditional Use Permit (CUP) approval is hereby granted to allow the following at 8790 Central Avenue:
 - a. A Type 41 ABC License authorizing the on-premises sale of beer and wine in conjunction with a bona fide eating establishment (with no bar) in the existing 2,500 square-foot building and outdoor dining area; and
 - b. The development of a 420-square foot covered outdoor dining area with a maximum of 16 seats enclosed with a 3 foot high metal railing on the west side of subject lease space.
 - c. The re-established use of the drive thru lane for the order and pick of food and non-alcoholic beverages.
2. This approval shall supersede all previously approved land use entitlements for projects on the subject property.
3. Restaurant and drive-thru hours shall be limited to 10:00 a.m. through 11:00 p.m. seven days a week. 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 is subject to City approval.
4. Any substantial changes to the operation, increase in the floor area of the existing building or approved outdoor dining area shall require prior City approval.
5. The approved 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 and wine are offered for sale and consumption on the premises.
6. No alcoholic beverages shall be consumed outside the enclosed building, except within the approved 420 square-foot outdoor area, which has been designed with a fence to provide adequate separation from direct public access.
7. 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.

8. The Type 41 ABC license (on-premises sale of beer and wine) 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.
9. No alcoholic beverages shall be consumed outside the enclosed building, except within the approved 420 square-foot outdoor area, which has been designed with a fence to provide adequate separation from direct public access.
10. 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.
11. At no time shall happy hour, drink specials, or private drinking areas be permitted.
12. 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.
13. This PPD approval shall be valid for a period of one year from the date of Planning Commission approval and shall automatically expire on the one year 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 PPD expiration date.
14. Approval of this PPD 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.

15. This decision or any aspect of this decision may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
16. 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 fee for filing a Notice of Exemption for the project as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of **\$488.56**, made 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.
17. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
18. The applicant and/or property owner 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.
19. Prior to the commencement of business activities, the business owner shall apply for and obtain a City of Montclair Business License, and shall maintain a valid City business license at all times. Should such licensing be denied, expire or lapse at any time in the future, this permit shall become considered a violation of this condition and the use shall be subject to revocation proceedings.
20. 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. Applicant shall post notification of this limitation within plain view of employees and customers.

- d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as to not cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
- e. The permittee shall comply with all California Department of Alcohol Beverage Control statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
- f. The permittee shall acknowledge and agree the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e) above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:
 - i. The specific land use requested by the permittee and authorized by the City;
 - ii. The compatibility of permittee's authorized land use with adjacent land uses;
 - iii. The welfare and safety of the general public within the City.

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

- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.

21. During all hours of business operation, the permittee 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. Failure to comply with any or all of the conditions of approval shall be deemed sufficient grounds to initiate revocation proceedings regarding the Conditional Use Permit approval.
22. Outdoor patio exits must be gated and closed at all times. Emergency sounding and panic hardware must be installed on the gates.
23. No alcoholic beverages shall be sold to patrons from the drive-thru window.
24. The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.
25. Prior to the issuance of building permits for the project, the property owner or applicant shall provide on plans submitted for Building Division Plan Check the following items to the satisfaction of the City Planner:
 - a. Revise site plan to show 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.
 - b. Provide catalog cuts and indicate on plans proposed exterior tables and chairs, umbrellas, trash receptacles, etc., for City Planner review and approval. All patio furniture and umbrellas shall be made of high quality, durable materials. No plastic furniture shall be allowed. All patio furniture shall be properly maintained with any damaged items being promptly repaired or replaced within 72 hours.
 - c. Prepare an exterior lighting and photometric plan for the entire site. The plans shall indicate the location of all exterior light fixtures (area, building, parking lot, etc.) and the overall illumination levels across the site. All proposed exterior lighting shall comply with the following standards:
 - i. Provide a minimum maintained illumination level of one (1) foot-candle across the site.

- ii. All parking lot and other freestanding light fixtures shall incorporate 90-degree cut-off style luminaires and flat lenses so as to direct illumination downward to the surface to be illuminated and away from public rights-of-way surrounding the subject site.
 - iii. Maximum total height for freestanding light fixtures shall be limited to 20 feet, inclusive of the height for concrete bases.
 - iv. Above-grade concrete bases for lights, menu boards, speakers, vertical clearance bars, etc., shall be finished with colored stucco matching the primary color and finish of stucco on the buildings.
 - v. All exterior wall-mounted lighting fixtures shall be vandal-resistant and of a design that complements the architecture of the building. Freestanding parking lot luminaires shall match the style and color of freestanding light fixtures utilized for the adjacent parking lot.
 - vi. No roof-mounted light fixtures shall be allowed.
 - vii. The use of wall packs, barnlighters, or other similar unshielded luminaires on the property shall be prohibited.
 - viii. Soffit lights on the exterior of the building, including under drive-thru canopies, shall be flush-mounted with the surface to which they are attached.
 - ix. Provide catalog cuts for all exterior light fixtures.
- d. Submit details for trash enclosure(s).
- i. Each trash enclosure shall have a solid roof cover and be designed to complement the overall architecture of the main building.
 - ii. Contact Burrtec Waste Industries to determine the number of required bins and pick up schedules to support the most likely end user(s) of the buildings.
26. No exterior security bars and roll-up doors shall be installed on windows and pedestrian building entrances.
27. No outdoor storage of used fats, oils, or grease (FOG) shall be allowed in trash enclosures.

28. No live entertainment activities are included with this approval. It shall be responsibility of the business owner to submit an application for an Entertainment Permit pursuant to the Montclair Municipal Code. Entertainment Permits shall be reviewed and approved by the Montclair Police Department.
29. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine.
30. No outdoor display areas for merchandise are allowed at any time.
31. 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. The property owner/applicant shall also be responsible to routinely inspect and maintain the retaining wall on the south property line (facing the MetroLink railway) in good condition and free from graffiti at all times.
32. Outdoor amplified sound shall be allowed at the exterior of the lease space in compliance with the City's Noise Ordinance. Exterior doors shall remain closed during hours of operation.
33. Electronic arcade and amusement games shall be prohibited on-site.
34. All rooftop or roof-mounted equipment shall be fully screened from view to the satisfaction of the City Planner.
35. 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.
36. 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 development and are therefore not allowed.
37. 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.
38. 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.

39. At no time shall any storage occur in the area outside the rear exit of the tenant space, including shelving, boxes, supplies, etc., as said area is a designated emergency exit path for the subject building.
40. Prior to the installation of any signs, the applicant shall submit an application for a Sign Permit and set of plans to the Planning Division for review and approval. The set of plans shall be drawn to scale, and include all proposed building mounted signs, directional signs, and wall mounted/freestanding menu boards intended for the drive-thru lane. The plans shall also comply with the following standards:
 - a. All wall signs shall utilize individual channel letters.
 - b. Exposed raceways shall be prohibited on all building-mounted and freestanding signs.
41. 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 a banner permit 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.
42. All signs shall be maintained at all times, in good appearance and operating condition. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.
43. A copy of the CUP approval letter and resolution with all conditions of approval related to the application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy and shall be made available to law enforcement officers, Code Enforcement officers, and/or fire and building inspectors in the course of conducting inspections of said premises.
44. To ensure compliance with the conditions of the approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.

45. 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 Division

46. 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. Provide an existing plan of the building including all walls to be demolished.
 - g. Waste recycling plan, recycling 50% of all construction debris
47. Submit two sets of structural calculations, if required and two sets energy conservation calculations.
48. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.

49. 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.
50. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
51. Separate permits are required for fencing and/or walls.
52. All utility services to the project shall be installed underground.
53. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number.
54. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
55. Prior to issuance of building permits for a new commercial or industrial development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include but are not limited to: Permit and Plan Check Fees, Sewer fees.
56. Construct trash enclosure(s) per City Standard (available at the Building Division's public counter).
57. 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.
58. 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%).
59. Construction drawings submitted to the building division for plan review shall comply with the Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:

- a. Install a numerical address on the west building elevation. Address numerals shall be in a font acceptable to the Planning Division, a minimum of ten inches in height, a minimum of 1 ½ inches in depth, and be in contrasting color which adequately contrast to the background to which they are attached.
 - b. Provide and maintain a minimum illumination level of one (1) foot-candle from dusk until dawn everyday.
 - c. Install an approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
 - d. 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.
60. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from other departments and/or agencies.

Environmental/Engineering

61. A grease interceptor certification must be provided by a plumber or licensed contractor prior to plan review. The grease interceptor must be pumped prior to this inspection. All components must be in place and in working order for approval.
62. A pressurized waste fry-oil system must be installed at the facility. Notation and schematics of the system must be provided in the plans for review and approval by the Environmental Manager.
63. No barrels for grease or merchandise 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 the lease space.
64. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.

Police

65. The applicant shall install and maintain a closed circuit video surveillance (CCVS) system. The system shall, at minimum, be capable of monitoring all entrances/exits to the premises, and the proposed 420 square foot outdoor dining area. Such system shall be positioned so 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 (night vision) is preferred; however, cameras shall at minimum be capable of low-light operation.

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, or access to restroom areas.

66. Alarm systems are encouraged to complement the CCVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.
67. In the event security problems occur at the approved subject use and at the request of the Police Department, the business owner at his or her own expense, shall provide a California licensed, uniform security guard(s) on the subject premises, during such hours and in such number as requested by the Police Department.

Fire

68. General plan review. This is a general plan review only and is to determine if this project should be allowed to move forward to the City Development Review and/or the Fire Department plan check phase. Additional requirements may be necessary to comply with all applicable codes and will be determined during the Fire Department plan check process. The Fire Department requires two sets of plans be submitted with an application and all fees pre-paid.
69. Permits required. Permits are required for the plan review and inspection of fire detection, fire sprinkler, hood and duct, and occupancy plan

reviews. Fees shall be collected by the fire department at the time an application for permit is filed (CFC 2013 105.3.8).

70. Plan submittal. Provide four (4) complete architectural, structural, Fire Alarm and Fire Sprinkler plans, including all specifications, shall be submitted to the fire department for review prior to the issuance of any building permits. These plans and specifications shall include, but are not limited to, construction type, exits, fire protection equipment, building protection, and interior finish. The developer is responsible for, and shall apply for and receive, all fire department permits, paying all necessary fees prior to beginning construction. (CFC 2013 105.4.1)
71. Construction documents for fire protection systems. Construction documents and calculations for all fire protection systems and permits are required for the installation, rehabilitation or modification of any fire protection system. Construction documents for fire protection systems shall be submitted for review and approval prior to system installation. (2013 CFC 105.4.2.1 and Chapter 9)
72. Plan Stamp. Contractor's license number, including expiration date, wet stamp and signature of the contractor licensee on each plan (California Business & Professions Code Sec. 7031.5).
73. Scope of work. Provide an accurate description of the scope of work for the project.
74. Dimensions. Show all exterior and interior building dimensions on the plans.
75. Plan check application. The plan check application can be found on the City of Upland web site: <http://www.cityofmontclair.org> and clicking on following Departments, Fire, Fire Prevention, Plan check and permit process.
76. Development standards. This project is required to comply with the 2013 California Fire Code as amended in the Montclair Municipal Code, and Montclair Fire Department development standards.
77. Fire Department Fees. All fees are required to be paid in full prior to any permit issuance.
78. Knox Box access. A Knox Box is required and shall be of an approved type and shall contain Master keys to allow the fire department to gain necessary access (2013 CFC 506.1).

79. Public Water System. Must meet all city water standards. Contact the Water Department. 909-624-0035
80. Automatic fire sprinkler system; new construction. An approved automatic fire sprinkler system shall be provided throughout, as defined by the most current edition of NFPA 13, in all newly constructed buildings of any occupancy group. (CFC 2013 903.2). Provide four (4) sets of plans must be submitted to the Montclair Fire Department for approval prior to starting work.
81. Covered trash enclosures. Trash enclosures shall be fully enclosed and shall have fire sprinklers installed should any one of the following conditions exist; the trash enclosure has a combustible roof covering, the trash enclosure contains two or more individual trash containers, or the trash enclosure is under or within 5 feet of combustible construction. (MMC 10.28.060) Provide four (4) sets of plans must be submitted to the Montclair Fire Department for approval prior to starting work.
82. Fire Sprinklers for Commercial. Every Structure, except Group R, Division 3, and Group R, Division 4 occupancies, here-after remodeled, rebuilt, or renovated where such cost exceed fifty (50) percent of the assessed valuation as determined by the San Bernardino County Tax Assessor shall have an approved automatic fire sprinklers system installed throughout therein. (MMC 10.28.06 J(2))
83. Commercial cooking systems. Commercial cooking equipment that produces grease laden vapors shall be provided with a Type 1 hood, in accordance with the California Mechanical Code, and an automatic fire-extinguishing system that is listed and labeled for its intended use. (2013 CFC 904.11)
84. General. 2013 CFC Chapter 33 conditions shall apply to this project during construction and demolition (2013 CFC 3301.1).
85. Pre-fire plans. Develop and maintain an approved pre-fire plan in cooperation with the fire department (2013 CFC 3308.2).
86. Water supply for fire protection. An approved water supply for fire protection, either temporary or permanent, shall be made available prior to combustible materials arriving on-site. The water supply, including mains and hydrants, shall be acceptably tested, painted, and approved by the water and fire departments prior to the issuance of permits (2013 CFC).

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

APPROVED AND ADOPTED THIS 9TH DAY OF MAY, 2016.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, 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 9th day of May, 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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