

MONTCLAIR PLANNING COMMISSION MEETING – JULY 27, 2020

NOTICE

**THIS MEETING WILL BE CONDUCTED VIA WEBINAR/TELECONFERENCE.
THE COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC.**

Pursuant to Sec. 3 of Executive Order N-29-20 issued by Governor Newsom on March 17, 2020, this meeting will be conducted remotely via the ZOOM virtual meeting platform. In compliance with the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will be no in-person meeting location at which the public may appear.

**ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.
THE COMMISSION SECRETARY WILL UNMUTE THOSE WHO WISH TO SPEAK AT THE
APPROPRIATE TIME. PLEASE KEEP YOURSELF ON MUTE WHEN NOT SPEAKING.**

LISTEN TO THE MEETING LIVE VIA ZOOM

Members of the public may participate in this meeting by joining the ZOOM conference via PC, Mac, iPad, iPhone, or Android device using the URL: <https://zoom.us/j/91939999381>

If you do not wish for your name to appear on the screen, you may "rename" yourself to be anonymous.

VERBAL PARTICIPATION USING ZOOM

Please use the "Raise Hand" button to request to speak.

If you want to speak and are using a computer or laptop without a microphone or speakers, you will also need to call in for audio using the information below, dialing your Participant ID when prompted.

LISTEN TO THE MEETING LIVE VIA TELEPHONE

The public may participate via phone by dialing the below numbers:

Teleconference Number: 1-669-900-6833

Meeting ID: 919 3999 9381

PLEASE DO NOT PUT YOUR PHONE ON "SPEAKER MODE" DURING THE MEETING

If you are not going to be requesting to speak and do not want your phone number to appear on the screen, dial *67 before the Teleconference Number.

VERBAL PARTICIPATION OVER THE PHONE

Please dial *6 to mute and unmute yourself, and *9 to "raise your hand" to request to speak.

Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda, and when the Meeting's Chair requests comments from the public.

VIRTUAL SPEAKER CARDS

To provide verbal comments during the meeting, please visit www.cityofmontclair.org/pc-comment to fill out a Virtual Speaker Card to request to speak in advance. Members of the public on the call who did not fill out the Virtual Speaker Card will be given an opportunity to speak after those who requested to speak in advance. Please do not call into the meeting anonymously (renaming yourself in ZOOM or using *67) if you submitted a Virtual Speaker Card so the Planning Commission Secretary can identify you on the call and unmute you at the appropriate time.

You may also call the Office of the Planning Commission Secretary at (909) 625-9432 to fill out the Virtual Speaker Card over the phone or e-mail your name, phone number if calling in during the meeting, and subject of comment or agenda item to pcclerk@cityofmontclair.org with the subject line "[Meeting Date] Virtual Speaker Card".

Written comments may be submitted using the Virtual Speaker Card or via e-mail or mail, and will be read aloud during the meeting by the Planning Commission Secretary at the appropriate time (250 word limit). Please submit all Virtual Speaker Cards or written comments at least one hour prior to the meeting's start time.

CITY OF MONTCLAIR
PLANNING COMMISSION AGENDA
REGULAR ADJOURNED MEETING
JULY 27, 2020
7:00 p.m.

*As a courtesy, please place yourself on mute while the meeting is in session, unless speaking (Dial *6 on the phone to toggle mute).*

*Persons wishing to make a public comment or speak on an agenda item, including public hearing and closed session items, are requested to complete a Virtual Speaker Card (VSC) at pcclerk@cityofmontclair.org. The Chair will recognize those who have submitted a VSC at the time of the item's consideration and invite those individuals to provide comments on the item at that time. Those who did not fill out a VSC will have an opportunity to speak after those who did by using the "raise hand" function on the ZOOM meeting platform or over the phone by dialing *9.*

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Chair Barry Rowley, Vice Chair Manny Martinez, Commissioner Sergio Sahagun, Commissioner Ginger Eaton, and Commissioner Jaso Sanchez

4. APPROVAL OF MINUTES

The minutes from the July 13, 2020 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 Virtual Speaker Card as described above.

6. AGENDA ITEMS

a. PUBLIC HEARING – CASE NUMBER 2020-13

Project Address: 9405 Monte Vista Avenue
Project Applicant: 9645 Asahi, LLC
Project Planner: Yvonne Nemeth, Associate Planner
Request: Conditional Use Permit request to allow on-site consumption of beer and wine (ABC License Type 41 On Sale Beer and Wine – Eating Place) in conjunction with a new restaurant, applying to the restaurant and two outdoor patio areas.

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

Reports, backup materials, and additional materials related to this project item can be viewed at <https://www.cityofmontclair.org/agendas> by clicking on the agenda for July 27, 2020.

9. ADJOURNMENT

The City of Montclair Planning Commission meeting is adjourned to the regularly scheduled meeting of August 10, 2020 at 7:00 p.m. pursuant to Executive Order N-29-20 members of the public will not be permitted to be physically present during this meeting.

CERTIFICATION OF AGENDA POSTING

I, Laura Embree, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda has been posted on the bulletin board adjacent to the south door of Montclair City Hall on July 23, 2020.



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 07/27/2020

AGENDA ITEM 6.a

Case No. 2020-13

Application: A request for a Conditional Use Permit (CUP) to allow on-site consumption of beer and wine (ABC License Type 41 On Sale Beer & Wine-Eating Place) in conjunction with a new restaurant. The CUP would apply to the existing 7,426 sq. ft. building, (the former Acapulco Restaurant), and to two outdoor patio areas approximately 1,789-sq. ft. in area.

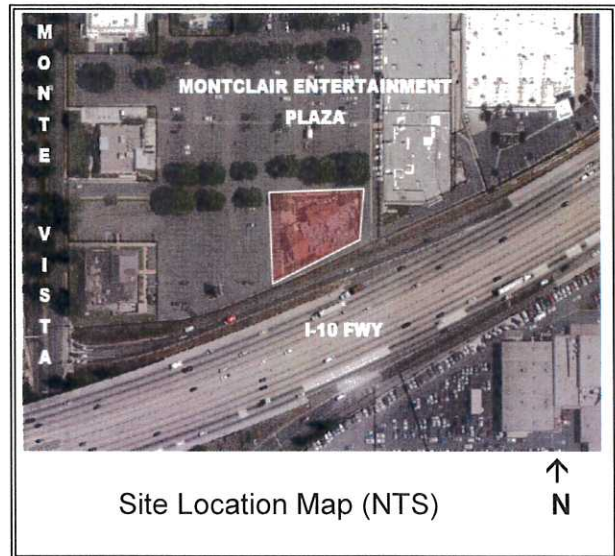
Project Address: 9405 Monte Vista Avenue

Property Owner: 9645 Asahi, LLC

General Plan: Regional Commercial

Zoning: General Commercial (C-3) within the North Montclair Specific Plan (NMSP)

Assessor Parcel Nos.: 1008-331-08-0000



Site Location Map (NTS)



ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	Regional Commercial	General Commercial (C-3-NMSP)	Restaurant
North	Regional Commercial	General Commercial (C-3-NMSP)	Montclair Entertainment Plaza
South	I-10 Freeway	I-10 Freeway	I-10 Freeway
East	Regional Commercial	General Commercial (C-3-NMSP)	Montclair Entertainment Plaza
West	Regional Commercial	General Commercial (C-3-NMSP)	Montclair Entertainment Plaza

Report on Item Number 6.a

PUBLIC HEARING – CASE NUMBER 2020-13

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT(S)	9645 Asahi, LLC
LOCATION OF PROPERTY	9405 Monte Vista Avenue
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	General Commercial (C-3 North Montclair Specific Plan)
EXISTING LAND USE	Vacant Restaurant Building
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Yvonne Nemeth

Project Description

The owner of the property and proposed restaurant, 9645 Asahi, LLC, has requested approval of a proposed Conditional Use Permit (CUP) to allow a Type 41 (On Sale Beer & Wine-Eating Place) license issued by the Department of Alcoholic Beverage Control (ABC) for the on-site sale and consumption of beer and wine with meals served at the new restaurant. The new restaurant, Sushi One, is a Japanese restaurant. The restaurant owner is proposing to initially occupy approximately 5,198 square feet (70 percent) of the existing 7,426-square-foot building, and an additional 1,789 square feet of area within two outdoor dining areas. The remainder interior area would remain in reserve for a possible second tenant.

The Type 41 license requires Sushi One operate as a bona fide eating place at all times in order to sell and serve beer and wine beverages with meals. Proposed hours of operation are Monday through Sunday 11:00 a.m. to 11:00 p.m. No dance floor, entertainment, or pool tables are part of this request.

A site plan, floor plan, landscaping/irrigation plans, and menu are included in the Commissioner's packets for reference.

Background

- The site of the existing restaurant is 0.47-acre in size and located within the C-3 General Commercial zone of the North Montclair Specific Plan (NMSP). The C-3 zone of the NMSP permits the sale and service of alcoholic beverages upon the approval of a CUP.
- Based on City records, the existing 7,426-square-foot building and outdoor dining areas (approximately 1,789 square feet) was built in 1980.

- Casa Vallarta (1983 - 1986) and Acapulco (1987 - 2018) Restaurants previously occupied the building. Both restaurants had an ABC License Type 47 that allowed the on-premises sale and service of beer, wine, liquor and spirits with meals.
- 9645 Asahi, LLC, currently owns and operates a Japanese restaurant at 10990 Foothill Blvd, #110, Rancho Cucamonga, CA 91730. The new owner acquired the property in 2020.

Planning Division Comments

Since acquiring the property, the owner has worked with staff to improve the site and make it ready for the new restaurant use that includes interior changes and exterior improvements such as new paint and signs. When the owner decided to serve alcoholic beverages, a new CUP was required. Although the previous restaurant uses had ABC licenses to serve alcoholic beverages, these businesses opened prior to the current City requirement for a CUP and because the last business had ceased to operate for more than 180 days, its legal non-conforming status, which allowed the sale and service of alcoholic beverages, expired. As such, approval of a CUP is required to reestablish the ability to sell alcoholic beverages.

Despite the need for a new CUP, staff continues to believe the sale and service of alcoholic beverages with meals is appropriate and consistent with previous restaurant approvals at the subject site. More specifically, the proposed Type 41 License for onsite consumption with meals is reasonable and not expected to produce significant negative impacts to surrounding property owners and uses within the Montclair Entertainment Plaza. The restaurant building and use are adequately separated from the other uses within the center where there is also ample parking for customers.

Additionally, staff finds the proposed service of alcoholic beverages within outdoor dining patios since they are already set up to meet ABC requirements for clearly identified and secure spaces. Furthermore, the Police Department has no significant issues with the proposal. Compared to the Type 47 license (Beer, Wine, and Spirits) that both previous restaurants held with dance and live entertainment, the Sushi One request for a Type 41 (beer and wine only) would be less intense. The proposed conditions of approval contained in the draft Resolution require that business operations remain in compliance with the requirements of the State Department of Alcoholic Beverage Control.

Potential expansion

As mentioned earlier, Sushi One intends to occupy 5,198 square feet of the total 7,426-square-foot interior space (approximately seventy percent) of the existing building, leaving the remaining 2,228 square feet at the west end of the building reserved for a future, unknown coffee/café use. However, since ABC only issues licenses to a single address, the proposed Type 41 license applies to the entire building. With the proper written notification to the City and ABC, the current applicant may expand the restaurant to use the entire building without need to amend this CUP approval.

However, if a second business is secured for the unused (reserve) area and that business desires an ABC license, then the new business would need to apply for a second CUP and the two uses would need to be physically separated and have their own assigned addresses. The operator of the second business would be responsible for complying with ABC requirements and obtaining the appropriate building permits for tenant improvements. Staff has included Conditions addressing this issue for future reference.

Exterior Building Improvements and Landscaping

The applicant has begun to make major improvements to the exterior of the existing building including new paint and signs. However, a number of other items are in need of correction, including the removal of lights previously installed on the roof, replacement of unshielded wall fixtures, and the repair and/or replacement of windows, particularly on the south side of the building. Conditions have been added to have these properly addressed.

A landscape and irrigation plan for the site is included. The applicant proposes to retain all existing trees and add five new 24" box-sized Crape Myrtles to the north for added outdoor patio area shade. The landscape plan calls out for drought tolerant plant materials that is simple, clean, and easy to maintain. The existing overgrown weeds and shrubs will be removed and replaced with Blue Elf Aloe, Flax Lily, California Rush, and Santa Barbara Daisy perennials with Blue Fescue, Germander, Blue Chalk Sticks, and Prostrate Myoporum for groundcover. Clusters of Foxtail Agave, Dwarf Bottlebrush, and Blue Gem Westringia shrubs will be placed against the building wall and fencing areas to soften the look of the façade.

The applicant is also proposing to place two to three-foot-sized granite boulders with meandering gray toned granite cobblestones, and two-inch deep gravel with a weed barrier filter fabric underneath.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for the ABC Type 41 License (On Sale Beer & Wine - Eating Place) to serve beer and wine as an ancillary use to the restaurant can be made, as follows:

- A. The proposed sale of beer and wine only in conjunction with a bona fide eating establishment with outdoor dining would be beneficial to the public convenience and public welfare, because it offers an option for adults to purchase alcoholic beverages for consumption with meals. Such availability of alcoholic beverages are common among other restaurant uses in the vicinity and were previously part of the menu of the former restaurants that occupied the subject site.
- B. Granting the CUP for the proposed on-sale of alcoholic beverages in conjunction with a bona fide eating establishment with outdoor dining at the existing restaurant will not be materially detrimental to the public welfare and to other properties in the vicinity. The new restaurant will be consistent with a use that has been at this site

for many years, and the proposed Type 41 license restores the ability of serving alcoholic beverages with meals that also previously existed. The existing building is designed to accommodate a restaurant use, and there is ample parking for staff and customers. The service of beer and wine will be restricted to patrons ordering meals within the building and defined outdoor patio areas. In addition to interior tenant improvements, the exterior of the existing building will be repainted, landscaped, and feature new signs. Lastly, such use is compatible with surrounding commercial uses located within the Montclair Entertainment Plaza with similar food uses.

- C. The proposed on-premises sale of alcoholic beverages with outdoor dining at the subject location conforms to good zoning practice in that the Municipal Code permits on-sale limited alcohol in the "C-3" (General Commercial) land use district of the North Montclair Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, hours of operation, and the on-sale of alcoholic beverages so that it does not detract from the general quality of the commercial center and surrounding area. The proposed interior and exterior upgrades of the building and site are appropriate for the use and will work to enhance the appearance of the Montclair Entertainment Plaza.
- D. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan in that the Regional Commercial designation by the General Plan allows uses such as full service restaurants that draw from the community and the wider trade area.
- E. The Planning Commission finds the proposed on-premises of beer and wine (ABC Type 41 license) in conjunction with the bona fide eating establishment with outdoor dining is desirable to the public convenience and necessity. The sale of alcoholic beverages is not a major portion of the business but offers customers a choice if desired. Moreover, the proposed restaurant with outdoor dining is located within a regional shopping and entertainment plaza, which is the primary commercial area of the City where other restaurants are located and offer alcoholic beverages to customers. With this approval, there would be 25 Type 41 licenses in the subject census tract. Conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.

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 June 16, 2020, there are currently 24 on-sale licenses dispersed throughout the census tract, and therefore ABC requires a finding of public convenience or necessity in order to issue a new license. City staff and the Police Department support this request for the ABC Type 41 License, in conjunction with the proposed restaurant with outdoor dining as desirable to the public convenience and necessity. The sale of alcoholic beverages is subordinate to the food portion of the business but offers customers a choice, if desired. Moreover, the proposed restaurant is

located adjacent to a regional shopping center where restaurants offering alcoholic beverages to customers are typically located. If approved, this would be the 25th, ABC license in the subject census tract.

Public Notice and Comments from the Public

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on July 17, 2020, 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. As of the date of the writing of this report, no inquiries regarding the project were received by staff.

Environmental Assessment

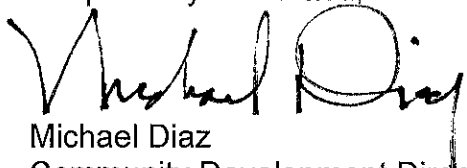
The project qualifies as Class 1 exempt under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. The proposed project does not involve any site changes. The existing space is designed for a restaurant establishment and can accommodate the proposed on-premises of on-sale of beer and wine only (ABC Type 41 License).

Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301.
- B. Move to approve Conditional Use Permit under Case No. 2020-13 approving the on-premises sale of beer and wine only (ABC Type 41 license) in conjunction with a bona fide eating establishment, with outdoor dining at 9405 Monte Vista Avenue per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 20-1941.

Respectfully Submitted,



Michael Diaz
Community Development Director

Attachment: Draft Resolution No. 20-1941
c: Hyung Jin Seo, HACE Inc., 1303 W. Valencia Dr., #214, Fullerton, CA 92833
9645 Asahi, LLC, 7781 Summer Day Dr., Corona, CA 92883

Z:\COMMDEV\YVONNE NEMETH\CASES\2020-13\SUSHI ONE RPT

RESOLUTION NUMBER 20-1941

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2020-13 TO ALLOW ON SALE OF BEER AND WINE – EATING PLACE (ABC TYPE 41 LICENSE) IN CONJUNCTION WITH A BONA FIDE EATING ESTABLISHMENT WITH OUTDOOR DINING AT 9405 MONTE VISTA AVENUE, IN THE C-3 GENERAL COMMERCIAL ZONING DISTRICT WITHIN THE NORTH MONTCLAIR SPECIFIC PLAN (APN 1008-331-08-0000)

A. Recitals.

WHEREAS, on June 24, 2020, 9645 Asahi, LLC, property owner, filed an application for a Conditional Use Permit (CUP) requesting approval to allow an on sale beer and wine – eating place (ABC Type 41 license) in conjunction with a bona fide eating establishment; and

WHEREAS, application applies to an existing 7,426-square foot restaurant, including outdoor dining areas, of the stand-alone commercial building on a 0.47- acre site that fronts the I-10 Freeway, zoned “C-3 General Commercial” pursuant to the North Montclair Specific Plan (NMSP), and

WHEREAS, the proposed use is a full service restaurant that offering meals and alcoholic beverages for onsite consumption within the existing building and outdoor dining patios; and

WHEREAS, the previous restaurant uses at the subject site had ABC licenses (Type 47 - beer, wine, liquor and spirits with meals) to serve alcoholic beverages, these businesses opened prior to the current City requirement for a CUP; and

WHEREAS, the last restaurant (Acapulco) at the subject location closed in the Fall of 2018. When the building remained vacant without a use for more than 180 days, the ability to continue to sell and serve alcoholic beverages without a CUP expired; and

WHEREAS, current City regulations established in 1999 (MMC 11.42) require the approval of a CUP for businesses to sell and/or serve alcoholic beverages now applies and the applicant has duly submitted an application for a CUP to reestablish the ability to obtain an ABC license for the new restaurant use; and

WHEREAS, staff has determined the proposed on sale of beer and wine in conjunction with a bona fide eating establishment with outdoor dining meets the intent and requirements of the ordinance for such use and the applicable development standards of the C-3 Commercial zoning district of the North Montclair 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, and minor 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; 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, in compliance with the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, a non-person remote meeting was conducted at 7:00 P.M. on July 27, 2020, at which time all persons wishing to testify in connection with said application were heard, and said application was fully considered.

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 July 27, 2020, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - A. The proposed sale of beer and wine only in conjunction with a bona fide eating establishment with outdoor dining would be beneficial to the public convenience and public welfare, because it offers an option for adults to purchase alcoholic beverages for consumption with meals. Such availability of alcoholic beverages are common among other restaurant uses in the vicinity and were previously part of the menu of the former restaurants that occupied the subject site.
 - B. Granting the CUP for the proposed on-sale of alcoholic beverages in conjunction with a bona fide eating establishment with outdoor dining at the existing restaurant will not be materially detrimental to the public welfare and to other properties in the vicinity. The new restaurant will be consistent with a use that has been at this site for many years, and the proposed Type 41 license restores the ability of serving alcoholic beverages with meals that also previously existed. The existing building is designed to accommodate a restaurant use, and there is ample parking for staff and customers. The service of beer and wine will be restricted to patrons ordering meals within the building and defined outdoor patio areas. In addition to interior tenant

improvements, the exterior of the existing building will be repainted, landscaped, and feature new signs. Lastly, such use is compatible with surrounding commercial uses located within the Montclair Entertainment Plaza with similar food uses.

- C. The proposed on-premises sale of alcoholic beverages with outdoor dining at the subject location conforms to good zoning practice, in that the Municipal Code permits on-sale limited alcohol in the "C-3" (General Commercial) land use district of the North Montclair Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, hours of operation, and the on-sale of alcoholic beverages so that it does not detract from the general quality of the commercial center and surrounding area. The proposed interior and exterior upgrades of the building and site are appropriate for the use and will work to enhance the appearance of the Montclair Entertainment Plaza.
- D. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the Regional Commercial designation by the General Plan allows uses, such as full service restaurants that draw from the community and the wider trade area.
- E. The Planning Commission finds the proposed on-premises of beer and wine (ABC Type 41 license) in conjunction with the bona fide eating establishment with outdoor dining is desirable to the public convenience and necessity. The sale of alcoholic beverages is not a major portion of the business but offers customers a choice if desired. Moreover, the proposed restaurant with outdoor dining is located within a regional shopping and entertainment plaza, which is the primary commercial area of the City where other restaurants are located and offer alcoholic beverages to customers. With this approval, there would be 25 Type 41 licenses in the subject census tract. 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 9405 Monte Vista Avenue:
 - a. A Type 41 ABC License authorizing on-premises sale of beer and wine in conjunction with a bona fide eating establishment within the existing

building and in two outdoor dining areas as depicted on the approved site plan for this site; and

- b. The restaurant use shall be permitted to expand into the balance of the westerly portion of the building without any further Planning Commission review. Any interior or exterior improvements related to such expansion shall be subject to normal City review, approval, and permits (if required).
 - c. If a second use for the building is found for the remainder portion of the building, a separate Zoning Use Review (ZURA) and Business License shall be required. New uses involving the sale or service of alcoholic beverages shall be required to obtain a separate CUP and comply with all ABC license requirements including but not limited to the formal separation of uses and obtaining a separate building address.
2. This approval shall supersede all previously approved land use entitlements for projects on the subject property.
 3. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
 4. In establishing and conducting the subject use, the applicant shall at all times comply with any and all laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this CUP shall not waive compliance with any such requirements.
 5. 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.
 6. 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 **\$772.25**, 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.

7. Restaurant hours shall be limited to Monday through Sunday, 11:00 a.m. to 11:00 p.m. No dance floor, entertainment, or pool tables are part of this approval. 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.
8. 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.
9. 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.
10. No alcoholic beverages shall be consumed outside the enclosed building or beyond the outdoor patio areas.
11. 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.
12. The Type 41 ABC license (On-Sale of Beer and Wine-Eating Place) 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.
13. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar with no bona fide restaurant component, entertainment venue, night club, gambling (cyber, non-cyber), internet/gaming café, dance hall, banquet hall, or any other uses as determined by the Community Development Director, operated by either the restaurant owner or outside vendors or promoters.
14. 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.
15. 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.

16. 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.
17. 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 Community Development Director.
 - c. Alcoholic beverages shall not be allowed to be consumed 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 permittee shall comply with all California Department of Alcohol Beverage Control (ABC) statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
 - e. 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 alcoholic beverages by a minor.

- f. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
18. 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.
19. Outdoor patio exits must be gated and closed at all times.
20. The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.
21. Prior to the issuance of a final Business License for the business shall complete the following items, subject to the satisfaction of the Community Development Director:
- a. Complete painting of the exterior of the buildings and installation of landscaping per approved plans.
 - b. Inspect all windows and doors on the building (particularly on the south side of the building) to ensure that they are in sound condition and/or operable. Check with the Building Division to determine if building permits are required to make repairs or replace any door or window.
 - c. Replace awning fabric over windows with new fabric material.
 - d. Remove roof mounted light fixtures and properly repair any surfaces (i.e., roof tiles).
 - e. Replace all unshielded wall light fixtures used for general illumination

of areas around the building. Applicant is advised to contact the Building Division to ascertain whether building permits are required.

- i. Decorative lighting on the fence surrounding outdoor patios may be retained provided an appropriate wattage is used to create a comfortable ambient lighting that avoids excessive glare.
 - ii. All exterior wall-mounted lighting fixtures shall be shielded, vandal-resistant, and of a design that complements the architecture of the building. Provide catalog cuts of light fixtures for City review and approval.
 - iii. The use of wall packs, barn lighters, or other similar unshielded luminaires on the property shall be prohibited.
 - iv. Owner or applicant shall provide on plans submitted for Building Division Plan Check the following items to the satisfaction of the Community Development Director:
 - f. Provide catalog cuts and indicate on plans proposed exterior tables and chairs, umbrellas, trash receptacles, etc. 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.
22. No exterior security bars and roll-up doors shall be installed on windows and pedestrian building entrances.
 23. Storage of used fats, oils, or grease (FOG) within outdoor trash enclosures shall be prohibited.
 24. No live entertainment activities are included with this approval. It shall be the 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.
 25. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of alcoholic beverages.
 26. No outdoor display areas for merchandise are allowed at any time.
 27. 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.

28. Outdoor amplified sound may be considered for use within the outdoor patio areas of the restaurant to provide comfortable ambient music for enjoyment of outdoor diners. At no time shall sound levels adversely impact surrounding uses. Sound levels shall be subject to the City's Noise Ordinance.
29. On-site electronic arcade and amusement games shall be prohibited.
30. All rooftop or roof-mounted equipment shall be fully screened from view to the satisfaction of the Community Development Director.
31. 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.
32. 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 Community Development Director. Wooden lattice or fence-like screens/covers are not appropriate within the context of a commercial development and are therefore not allowed.
33. 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.
34. No exterior public telephones, vending machines, children's rides or other coin-operated machines shall be located on the site.
35. At no time shall any storage occur in the area outside the exterior of the restaurant building, including shelving, boxes, supplies, etc.
36. 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, wall mounted, freestanding monument and pylon signs. The plans shall also comply with the following standards:
 - a. All wall signs shall utilize individual routed channel letters with dimensional logos.
 - b. Exposed raceways shall be prohibited for all building-mounted and freestanding signs.

37. 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.
38. 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.
39. 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.
40. 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.
41. 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

42. Submit three complete sets of plans for tenant improvements 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.
43. 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.
44. Submit two sets of structural calculations, if required and two sets energy conservation calculations.
45. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
46. Clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way from the affected area of new construction or renovation. 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%). If existing accessible parking spaces are not in compliance with the required current adopted Codes, then they must be brought up to current standards.
47. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
48. 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. Deteriorated wood, and damaged building elements are required to be replaced or repaired to like new condition.

49. Decorative foam trim shall not be used in areas subject to damage such as entry doors, garage doors, etc. Use of decorative foam shall not be allowed to be used below the second story.
50. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
51. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
52. Fire sprinkler risers and roof access ladders shall be located entirely within the enclosed buildings. Double-detector check facility shall be adequately screened by landscaping or an architectural screen wall.
53. All trash enclosures shall be constructed of a material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.
54. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. The numerical address of the building shall be displayed in a maximum of two locations on the north-facing elevation as follows:
 - b. Numerals shall be in a font acceptable to the Planning Division, minimum 10 inches in height, minimum 1½ inches in depth, and in a color that adequately contrasts with the background to which they are attached.
 - c. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.

55. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
56. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.

Fire

57. 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 (2019 CFC 506.1).
58. Exterior doors and openings shall be maintained readily accessible for emergency access by firefighters. An approved ramped access walkway leading from the fire apparatus road to exterior openings is required (2019 CFC 504.1).
59. Commercial Address numbers must be 8-10" tall and automatically illuminated and facing the street. Contact Planning for further information. (CFC 2019 505.1)
60. Exact number, location, and type of fire extinguishers shall be determined by Fire Prevention Bureau.

FIRE WATER SYSTEM:

61. Public Water Systems must meet all Monte Vista Water District standards. Contact the Monte Vista Water District at 909-624-0035
62. Private Water Systems must comply with the NFPA 24 standard and the 2019 California Fire Code. Must install a Fire Department Connection (FDC) located at the Double Detector Check Assembly (DCDA) / Outside Screw and Yoke valve (OS&Y) to act as a Fire Department Boost. The combination FDC shall be equipped with two 2 ½ -inch NST female swivel inlets and one 7-inch NST female swivel and the riser to this FDC must be at least 6 inches in diameter.
63. If the location has a system which is currently in place. Certification by a licensed contractor responsible for backflow inspection shall recertify. Documentation shall be presented to the Fire Marshall.
64. An approved water supply capable of providing the required fire flow for fire protection shall be provided (2019 CFC 508.1)

FIRE PROTECTION SYSTEMS:

65. 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 2016 903.2). Three (3) sets of plans shall be submitted to the Montclair Fire Prevention Bureau for review and approval prior to starting work.
66. Fire Sprinkler and Alarm Systems shall be certified by a licensed fire suppression contractor to assure that a complete and functional system is adequate for all fire prevention needs of the building. (2019 CFC 907.1)
67. Commercial cooking equipment that produces grease laden vapors shall be provided with a Type 1 hood, in accordance with the California Mechanical Code. An automatic fire-extinguishing system that is listed and labeled for its intended use is also required. (2019 CFC 904.12)

Police

68. In conjunction with the ongoing operation of the business, the premises shall comply with all applicable local, State, and Federal requirements placed upon them by any regulatory or governing entity.
69. This Conditional Use Permit (CUP) shall be reviewed one year from the date of approval and may be reviewed each year thereafter. The review shall be conducted jointly by the Community Development Director and Police Chief or designees. The purpose of this review shall be to identify uniquely adverse issues such as curfew, loitering, vandalism, criminal activity, noise, or nuisance issues. If such issues are identified, the CUP shall be presented to the Planning Commission for their consideration of conditions, modifications or revocation.
70. The activity level of the business shall be monitored by the Police Department to establish the level of police services used for the business. Should the level of police services demonstrate that the applicant has not controlled excessive, or unnecessary activity resulting in high use of police services then this Conditional Use Permit shall be reviewed for consideration of further conditions, modifications or revocation.
71. Premises falling within the regulations of the State Alcoholic Beverage Control Board (ABC) remain consistent with plans submitted for review by the Planning Commission. No changes to the floor plans will occur unless a permit is issued by the Community Development Department, unless otherwise agreed upon in advance through the Community Development Department.

72. Premises falling within the regulations of the State Alcoholic Beverage Control Board (ABC) shall not allow any consumption of alcoholic beverages on any property adjacent to the licensed premises under the control of the license.
73. There shall be no special promotional events held on the property, unless a written request for such is received and approved by the Community Development Director and the Police Chief or their designee.
74. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons in or about the parking lot, subject to Building and Planning approval.
75. The premises 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 be positioned as to allow for identification of patron facial features and physical characteristics. Cameras shall adequately cover these areas and be positioned in a manner which allows for the widest view without significant lens distortion. Typical acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920×1080 pixels, otherwise known as 1080p. IR (night-vision) is preferred, however cameras shall at minimum be capable of low-light operation.
76. 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 reduce frame-rate when no motion is detected, however must record at no less than 30 frames per second when motion is detected. 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.
77. Alarm systems are encouraged to compliment the CCVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.

Storm Water Treatment

78. All catch basins south of the building shall be protected with fabric or fiber rolls and maintained throughout project.
79. After project is completed, all catch basin protection must be removed prior to receiving Certificate of Occupancy.

80. No building materials, such as paint, concrete, mortar shall be washed, cleaned, deposited into or accidentally enter any stormwater inlet. If this occurs, owner/contractor is subject to enforcement actions including fines.

Environmental

81. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
82. The City of Montclair's Wastewater Discharge Survey must be completed and submitted to Environmental Compliance Coordinator Marissa Pereyda at mpereyda@cityofmontclair.org. Contact Marissa Pereyda at (909) 625-9446 for more information. Additional conditions may follow based on review of Wastewater Discharge Survey.
83. No barrels/containers for grease or waste oil shall be stored outside of the building at any time, including within the trash enclosures. Failure to comply with this condition will result in the issuance of a Notice to Correct and possible citation. All business activities pertaining to meal/food preparation shall occur within the kitchen area of the building.
84. Existing grease interceptor must be pumped and evaluated by a grease interceptor pumping/repair company prior to commencement of business operations. Provide pumping record and statement of interceptor's working condition to Environmental Compliance Coordinator Marissa Pereyda at mpereyda@cityofmontclair.org. Any deficiencies discovered during interceptor evaluation must be resolved prior to commencement of business activities.
85. Applicant is required to provide documentation from Burrtec Waste Industries, Inc. (Burrtec) to Environmental Compliance Coordinator Marissa Pereyda indicating that a service agreement has been set up with Burrtec that meets all Mandatory Commercial Recycling Requirements (AB 341) and Mandatory Organics Recycling Requirements (AB 1826) for waste hauling as established by the State of California and that the appropriate number of refuse/recycling dumpsters has been established. Sufficient facilities must be provided and maintained for the mandatory recycling of all recyclable materials and food waste/organics. For additional information, contact Environmental Compliance Coordinator Marissa Pereyda at (909) 625-9446.

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

APPROVED AND ADOPTED THIS 27TH DAY OF JULY, 2020

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Barry Rowley, 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 27th day of July, 2020, by the following vote, to-wit:

AYES:

NOES:

ABSENT: