MEETING AGENDA

MONTEBELLO PLANNING COMMISSION
CITY HALL COUNCIL CHAMBERS
1600 W. BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA
TUESDAY, APRIL 7, 2020
6:30 P.M.

MONTEBELLO PLANNING COMMISSION
SONA MOORADIAN
CHAIRPERSON

BERJ ALIKSANIAN
VICE CHAIR

ALEXANDRA BRISENO
PLANNING COMMISSIONER

MARLENE RAMIREZ
PLANNING COMMISSIONER

NATALIA LOMELI
PLANNING COMMISSIONER

CITY STAFF

JOSEPH PALOMBI
DIRECTOR OF PLANNING AND
COMMUNITY DEVELOPMENT

GLORIA RAMIREZ
LEGAL COUNSEL

MARIA ROMAN
ADMINISTRATIVE SECRETARY

1. MEETING CALLED TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. PLANNING DIRECTOR

A. CORRECTION TO AGENDA

5. STATEMENT OF PUBLIC ORAL COMMUNICATIONS:

Members of the public interested in addressing the Planning Commission on any agenda item or topic must fill out a form provided at the door, and turn it into the Planning Commission Secretary prior to the beginning Oral Communications. A form does not need to be submitted for public hearing items.

Speakers wishing to address the Planning Commission on an item that is not on the agenda will be called upon in the order that their speaker card was received. Those persons not accommodated during this thirty (30) minute period will have an opportunity to speak under “Oral Communications – Continued” after all scheduled matters have been considered.
Please be aware that the maximum time allotted for individuals to speak shall not exceed three (3) minutes per speaker. Please be aware that in accordance with State Law, the Planning Commission may not take action or entertain extended discussion on a topic not listed on the agenda. Please show courtesy to others and direct all of your comments to the Planning Commission Chair.

As authorized by the Governor’s Executive Order No. N- 29-20, those interested in making public comments, may call on Tuesday, April 7, 2020 between 9:00 a.m. – 3:00 p.m. at (323) 887-1200, ext. 493. Staff will complete public comment cards in the order received. The public will be called during the Planning Commission meeting that begins at 6:30 p.m. the exact call back time is not predictable due to the nature of the Planning Commission agenda. As a result, you must be available until the end of the meeting to receive a live call from staff during the meeting. In addition, the City has created an email address pcpubliccomment@cityofmontebello.com where the public can submit public comments from 4:30 p.m. – 5:30 p.m. on Tuesday, April 7, 2020. These questions will be read out loud and submitted for the record. The email address for Planning Commission meetings can be located on the City’s webpage under https://www.cityofmontebello.com/planning-commission-meeting.html.

6. MINUTES
   A. February 18, 2020
   B. March 3, 2020
   C. March 17, 2020

7. STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST
   A. None

8. PUBLIC HEARING(S)

   For each of the following items, the public will be given an opportunity to speak, following Planning staff’s presentation of its report and the Planning Commissioners’ disclosures (if any) of site visits to the location at issue and any relevant information obtained during same. The applicant is allowed to speak and the public is allowed three (3) minutes per person to speak on issues relating to the case. After all persons have spoken, the applicant is allowed to rebut and/or summarize, and then the hearing is closed.

   A. Conditional Use Permit (CUP 06-20)

      Project Applicant: Superior Merchandise, Inc.
      Project Address: 7825 Telegraph Road

      Project Description: A Conditional Use Permit application to allow off-site sales of general alcohol (Type 21) that will replace an existing off-site sales of alcohol; beer and wine (Type 20) previously approved under CUP 03-18, within the existing mini-mart located at 7825 Telegraph Road.
B. Conditional Use Permit (CUP 07-20/ENV 04-20-CE)

Project Applicant: 701 Bar and Restaurant, Inc.
Project Address: 620-624 W. Whittier Boulevard

Project Description:
A Conditional Use Permit Modification to reinstate the sale and dispensing of a full line of alcohol (beer, wine, and distilled spirits) for on-site consumption within a new restaurant located at 620-624 W. Whittier Blvd, Montebello.

C. Appeal Report for Conditional Use Permit (CUP 24-19)

Project Applicant: 7-Eleven, Inc.
Project Address: 2900 West Beverly Boulevard

Project Description:
Referral of City Council's Findings to Planning Commission per Montebello Municipal Code Section 17.78.130 - Resolution of the City Council Reversing the decision of the Planning Commission denying Condition Use Permit ("CUP") No. 24-19 to allow the sales of alcohol (Type 20 License) for off-site consumption within a new convenience store located at 2900 West Beverly Blvd., Suite A and B.

9. CONSENT ITEM(S)
A. None

10. STAFF COMMUNICATIONS TO THE PLANNING COMMISSION
A. None

11. ORAL COMMUNICATIONS – CONTINUED (IF NEEDED)

12. PLANNING COMMISSION ORALS
A. Chair, Sona Mooradian
B. Vice Chair, Berj Aliksanian
C. Commissioner, Alexandra Briseno
D. Commissioner, Natalia Lomeli
E. Commissioner, Marlene Ramirez

13. ADJOURNMENT
The next regularly scheduled meeting will be held on April 21, 2020

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Building Official at 323/887-1497. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II/1203+)

Please note that the information contained in this agenda is a summary of the staff report prepared for each item. Complete copies of each staff report are available in the Office of the City Clerk.
CALL MEETING TO ORDER
6:30 P.M. by Vice Chair Aliksanian

ROLL CALL
Commissioner Present: Vice Chair Aliksanian, Commissioner Briseno and Commissioner Lomeli

Absent: Chair Mooradian and Commissioner Ramirez

Also present:
Director of Planning and Community Development – Joseph Palombi
Planning Commission Legal Counsel – Gloria Ramirez

PLEDGE OF ALLEGIANCE
Commissioner Briseno

PLANNING COMMISSION SECRETARY — CORRECTION TO AGENDA
NONE

STATEMENT OF PUBLIC ORAL COMMUNICATIONS
NONE

APPROVAL OF MINUTES:
A. February 4, 2020 - Approved

STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST
NONE

PUBLIC HEARINGS

A. Conditional Use Permit (CUP 02-20)
The installation of 1 cannister antenna and other mounted equipment on a new replacement pole along with related equipment within the public right-of-way located near 1610-1640 S. Greenwood Avenue.
Louis Morales – Good evening, the first matter up before the commission is CUP 02-20. All four items today are proposed cell antennas within a public right-of-way. Two of them are going to be on replacement poles and two of them are going to be on existing poles that will remain. I also want to make a general statement. Previously prior to the state law being changed, cell sites anything that had to go on the public right-of-way required either an encroachment permit or approval by the city. Recently, a court case determined that wireless facilities are utilities and as a result they are allowed to go by right into the right-of-way utilizing current poles and proposing poles. So tonight you have four requesting to go onto the public right-of-way.

The first item as I mentioned is CUP 02-20. It’s a CUP request to install a new antenna on a replacement pole that is going to go on a new pole that will ultimately be replaced by Edison; it will be 3 feet over from the current pole. As I mentioned the site is going to be on the public right-of-way at and near 1610-1640 S. Greenwood Avenue in the M2 heavy industrial zone. The applicant for this item as well as the rest of the items for this evening is Verizon Wireless being represented by Aedan Hepburn should be coming up after the presentation. The location of the pole that will be replacing the current pole approximately 3 feet to the south is located on the eastside of Greenwood north of Union Street. As I mentioned before the zoning is M2 and all of the zoning around the site is M2 and is developed with the current industrial uses. The applicant did submit an application for a CUP on December 17th and the application was deemed complete by staff on January 17, 2020. The installation will go on a replacement pole, it will be a streetlight pole and all equipment for the proposed antenna is going to be underground so it will not affect the street scape of the immediate area. As I mentioned the pole is going to be about 3 feet over to the south. The current pole is 29 feet and the new pole will be 32 feet upon replacement when you include the top of the pole with the antenna. In the packet I did include photographs of the actual pole and how it will look once it’s complete. For CUP 02-20, if you look at page two it gives the approximate location and how it will be moved from one location to another by three feet. It shows how the boxes will be underground and you will not see anything from the surface level. Page three shows how the pole will differ slightly in height. The pole itself will be the same height but it will have a small canniest antenna on top of the pole. Page four shows how the installation will occur with the conduits and so forth. Page five shows a photo simulation of how the pole will look from the street. Page six is another view of how the pole will look from the other side of the street. One of the conditions that arose from this particular application, as well as with the other replacement cases, was that a permit from public works will be required. SCE
is going to be replacing and doing street work and they are required to get a permit for the foundation work and the forming and so forth.

As far as findings go and as all CUP findings need to be made, in this particular case since there is no site, one of the items that you need to meet through the findings is the site adequate in size. Well this is a public right-of-way so there is no site required. Access to the site is not a requirement either because it is on the public right-of-way. This particular project is not going to generate any traffic or create any impacts to the area. Per CEQA the project is exempt per section 15302 class 2C which is replacement and construction of a current facility. For publication we did publish a notice in the paper on February 6, 2020 and we also did the mailers as part of the noticing requirements. Our recommendation is for planning commission to open up the public hearing, take testimony, close the public hearing and approve CUP 02-20 and adopt Resolution 02-20. The applicant is here and they have received the conditions and have not had any questions regarding the conditions.

Vice Chair Aliksanian – Commissioners, do you have any questions?

Director Palombi - So at this time we will open the public hearing.

Vice Chair Aliksanian - We will go ahead and open this item for public hearing. Would anyone like to speak in favor or against this matter? No? Ok we will go ahead and close public oral communications for this item. Commissioners do you have any questions or comments?

Commissioner Briseno – Yes, I have a question. Why is SCE replacing the pole?

Louis Morales - I believe that is part of their routine maintenance of poles. This is a street light, strictly for street lighting purposes and part of their coordination will be to work with the City in replacing that pole and I guess this is an opportunity for the cellular company to take advantage of the new pole and putting the conduit when they do it simultaneously.

Bridgette Pleasant (applicant representative) - My name is Bridgette Pleasant and this is Adean Hepburn we are here representing Verizon. Southern California Edison actually owns the street lights in your city and based on the fact that they own the street lights they are the only ones that can touch their street light poles. They do hire a third party by the name of Ameron. Ameron will be the people that will actually physically be replacing the poles. They will come in and apply for a separate permit from us but they are the only people by liability for Southern California Edison that can touch their pole. So once the new pole is
replaced we will then attach to the new pole. We cannot for structural and safety reasons touch their poles.

Vice Chair Alikyan - I think what she is asking is though is, are they replacing the poles because they can be replaced anywhere or is it being replaced because you guys want to put a radio on there?

Bridgette Pleasant (applicant representative) - They’re replacing it because we are the applicant placing new equipment on the pole. The pole has to be wider so that all of the equipment can be within the pole and you don’t have wires or anything on the exterior of the pole. It’s also for the foundation, they will have to replace the foundation because of the weight of the equipment that we are adding, once again for safety reasons.

Commissioner Briseno – So the previous pole did have antenna equipment or it didn’t?

Bridgette Pleasant (applicant representative) - It did not; it’s just functioning as a streetlight. It will still function as a streetlight but it will be a streetlight with telecommunications facilities.

Commissioner Briseno – Thank you. One more question for staff. How do we handle let’s say if T-Mobile wants to put equipment and maybe Sprint or other cellular companies want to do it. How do we mange that?

Director Palombi – If I may, Verizon obviously has an agreement with SoCal Edison who has the rights to the utilities. So they would be the ones to decide. It would be very similar to someone who wanted an entitlement and got permission from the property owner to basically move forward with the entitlement.

Commissioner Briseno – So Montebello has no say there, its SCE poles, they decide.

Director Palombi – That is correct.

Louis Morales – Also commissioner that would depend on coverage area depending on the carrier. They have certain areas where they have to make sure that they have coverage for the customers.

MOTION: Commissioner Lomeli motions to approve a Conditional Use Permit application to allow the installation of 1 cannister antenna and other mounted equipment on a new replacement pole along with related equipment within the public right-of-way located near 1610-1640 S. Greenwood Avenue.
SECOND: Commissioner Briseno
ACTION: 3-0-2-0 (Mooradian and Ramirez)

B. Conditional Use Permit (CUP 03-20)
   The installation of one 48” cannister antenna and mounted (2) radio units onto new mounting assembly on an existing wood pole along with related equipment within the public right-of-way located along W. Via Acosta near 548 Via Altamira.

Louis Morales – This is another proposed cellular antenna, this is a little different in the sense that this is going to go on a current pole. This is not going to be removed, it’s a Southern California Edison wooden pole and it’s located within the public right-of-way along Via Acosta near 548 Via Altamira in the R1 single family zone. The applicant is Verizon with Adean Hepburn as the representative. The location is on the Southside of Via Acosta just east of Via Altamira just adjacent to the SCE powerlines that run through the open space area just east of 548 Via Altamira. The surrounding area is developed primarily with single family residential, it’s an R1 neighborhood. The pole itself is located right along the SCE right-of-way which is where there are a couple of park facilities. The CUP was submitted on December 17th and it was reviewed and approved on January 17, 2020. This particular application is different than the previous one as this is going to go on a current wooden pole. All the equipment will be underground and the current pole is about 42 feet in height and the actual antenna itself will be about 31 feet in height wrapped around or strapped to the pole itself. One of the photos that I included in your packet gives you an idea of how high the actual antennas are going to be in comparison to the pole. It gives you an aerial view as a simulation as to how the antennas are going to affect the pole. Under the findings for a CUP there is no site at this location, there is no access challenges and no traffic will be generated as a result of the project therefore it does meet those findings in a sense because there are no impacts. The project is exempt from CEQA under section 15301 class 1B under the category of existing facilities. It’s going to go on the current facility; it’s not going to change. Public noticing for this particular application went out to the paper on February 6th and notices to properties within 300 feet also went out on that date as well. Therefore, staff’s recommendation is that the planning commission opens the public hearing, take testimony, close the public hearing and then approve CUP 03-20 with conditions and adopt resolution 03-20. That concludes staffs presentation. The applicant is here to answer any questions you may have as well.
Vice Chair Aliksanian - We will go ahead and open this matter up for oral communications. Would anyone in the public like to speak in favor or against this matter? Ok we will go ahead and closed public oral Commissioners do you have any questions?

Commissioner Briseno – No.

Commissioner Lomeli – No.

MOTION: Commissioner Lomeli motions to approve a Conditional Use Permit application to allow the installation of one 48" cannister antenna and mounted (2) radio units onto new mounting assembly on an existing wood pole along with related equipment within the public right-of-way located along W. Via Acosta near 548 Via Altamira.
SECOND: Commissioner Briseno
ACTION: 3-0-2-0 (Mooradian and Ramirez)

C. Conditional Use Permit (CUP 04-20)
The installation of 1 cannister antenna and other mounted equipment on a new replacement pole along with related equipment within the public right-of-way located near 1709 W. Olympic Boulevard.

Louis Morales – This particular proposal is for an antenna to go on a replacement pole. This is similar to CUP 02-20 that we discussed earlier. The applicant is Verizon Wireless represented by Adean Hepburn. The location is located on the south side of Olympic Boulevard west of Olympic and Vail intersection. There’s a mixture of land uses and General Plan designations at this particular area that we hope to address once we undertake the General Plan Amendment, which will be one of the areas that we want to make sure we are consistent with the zoning. Just to give you an idea, the site itself is zoned C2 or the area of the property and around the area of the street is zoned C2. The underlined generalization is Medium Density Residential. The CUP was submitted on December 17th. Staff did a review and determined it complete on January 17, 2020. This particular pole will be replacing a pole. The pole itself is 29 feet and once the new pole is installed it will be 32 feet in height. I have attached the pictures for your reference; it is similar to the previous case we looked at. Findings are similar, it is not a site, it does not have any access problems and it won’t generate any traffic. This particular project is exempt from CEQA as well under section 15302 class 2C which is replacement and reconstruction of utility facilities. Staff did publish the notice in the newspaper February 6th and also sent notice to property owners within 300 feet. Therefore, the recommendation by staff is for planning commission to open the
public hearing, take testimony, close the public hearing and then approve CUP 04-20 with the conditions proposed and adopt resolution 04-20. That concludes the report.

Vice Chair Alksanian - We will go ahead and open this matter up for oral communications.

Charles Wu – The reason why I am here is because I got a letter from the City. This is on Friday; the letter is dropped in the mail on the 11th of February which took 2 days to get this letter. Then Saturday, Sunday and Monday, 3 holidays and today is Tuesday. I don’t have time to hire anyone so I have to present myself. First question, it says replacement of the old pole. I took a picture in front of this property and there is no pole. It also says you will be putting a canister antenna with associated equipment. I want to know what associated equipment is. We got to know the size, know the functioning, what is the purpose of this pole. I want to know the exact location of where this pole is going to be so I can have my specialist calculate the radiation which will affect my property.

Louis Morales – Just to give the commission an idea of where the property is at in relationship to the pole and where the pole will be moved to. The current speaker’s property that he owns is located to the west the property is next door to 1709 W. Olympic.

Vice Chair Alksanian - Sorry to interrupt, he has a liquor store?

Louis Morales – No, it looks like apartment units.

Vice Chair Alksanian – There must be some type of miscommunication. There is a pole there, right?

Charles Wu – There is no pole there, so I’m against this project.

Vice Chair Alksanian – I’m looking at the aerial map and it looks like the apartments are further west. So it looks like the apartments are probably 50 feet away from this pole. The pole is not in front of your building sir. It’s almost 2 buildings over.

Charles Wu – But I need to know the exact location so I can calculate the radiation. I have a specialist who can do that.

Vice Chair Alksanian - I can show you the photo in the map. It has a plan in there. We can have the Verizon representatives speak to that I’m sure they have had plenty of studies done.
Bridgette Pleasant (applicant representative) – Mr. Wu asked about the location of the pole which we are not directly in front of his building but off closer to 1709 and in regards to radiation and EME. An RFEME study was actually provided as part of the submittal package. It’s part of the requirements that the City does ask for. In regards to the radiation, the one thing that I can say to you is that we do fall well below the FCC and the FCC mandates. In the specific EME reports it does tell you exactly where there is any radiation coming from. Its emitting a signal because it speaking to other cell sites but to actually speak to true radiation it’s not something that anybody is going to speak to even we are not doctors but we can supply some websites that will assuage Mr. Wu’s concerns about this but it is far below any standards that he would be getting from generally from radio signals that are transmitting in the air today from television screens or TV stations or signals that are out there.

Vice Chair Aliksanian – If you had to make a comparison of what your tower will give out to what we use on a daily basis, what would it be to maybe calm his nerves?

Bridgette Pleasant (applicant representative) – It is far less than a microwave oven.

Vice Chair Aliksanian – A microwave oven at a couple of feet or something like that?

Bridgette Pleasant (applicant representative) – Yes, and you have to think this thing is 32 feet in the air. Radiation is actually at that level. It is not at street level where he would be standing. It radiates as it emits its signal directly at a 32 foot radius and again details are actually more specific and done by a scientist in the RF Emissions report. That is exactly what that report does, it actually tells you where and at what level occupational versus general public occupational. We have to put that in there because of the people who are going to be working on the street lights, if the light goes out, we do reference that and there’s a phone number in there for calling for that because at that point that would actually be causing some type of health hazard but the average person walking by, you’re walking by cell sites all the time.

Legal Counsel Gloria Ramirez - Just to add a little bit to that, antenna and radiation is actually regulated by the federal government so the FCC orders that are in place are very specific as to the amount of radiation that is allowed and a lot of these carriers are way below that threshold, so just to piggy back off what the applicant stated. It’s not something that the City mandates it’s the FCC, the federal government has thresholds.

Vice Chair Aliksanian – So if their equipment didn’t meet the standards then this wouldn’t even come before us.
Legal Counsel Gloria Ramirez – Correct.

Vice Chair Aliksanian – We will go ahead and close public oral communications. Commissioners do you have any questions?

Commissioner Briseno - Would Mr. Wu maybe be more comfortable if you got this RF Emissions report? Verizon submitted it to Montebello and it states details about radiation that is being emitted by this equipment.

Director Palombi – In response to the question that is part of the public record so we can absolutely make that available.

MOTION: Commissioner Lomeli motions to approve a Conditional Use Permit application to allow the installation of 1 cannister antenna and other mounted equipment on a new replacement pole along with related equipment within the public right-of-way located near 1709 W. Olympic Boulevard.
SECOND: Commissioner Briseno
ACTION: 3-0-2-0 (Mooradian and Ramirez)

D. Conditional Use Permit (CUP 05-20)
The installation of one 48" cannister antenna and mounted (2) radio units onto new mounting assembly on an existing pole along with related equipment within the public right-of-way located near 209 E. Beverly Boulevard.

Louis Morales – The applicant is Verizon Wireless and Adean Hepburn. The location is on the Southside of Beverly Blvd. just east of intersection Beverly and Poplar Ave. The zone is C2 and all the surrounding zone is C2 so even though the zoning is commercial the mixture of use is there from a carwash to the north to multifamily to the south, commercial to the east and west. The applicant submitted an application for this CUP on December 17th and was deemed complete on January 17, 2020. This particular application is to mount on an existing wooden pole that’s owned by Edison on the right-of-way. The pole itself is 31 feet in height and the actual assembly of the antenna is going to be 31 feet of that particular post. The findings can be made here in a sense because there are no impacts as a result of this particular application; it is a wireless antenna going in the public right-of-way therefore access, traffic generation is not an issue. The project is exempt from CEQA under section 15301 class 1B which is existing facilities at this location. The publication of public hearing was sent out to the paper and published on February 6th and was sent out to the property owners within 300 feet radius on February 6th. Therefore, staff recommends for planning commission to open the public
hearing, take testimony, close the public hearing and then approve CUP 05-20 with the conditions and adopt resolution 05-20.

Vice Chair Alikasanian - We will go ahead and open this matter up for oral communications. Would anyone in the public like to speak in favor or against this matter? Anybody? No? Ok, we will go ahead and closed public oral Commissioners do you have any questions?

Commissioner Briseno – No.

Commissioner Lomeli – No.

MOTION: Commissioner Briseno motions to approve a Conditional Use Permit application to allow the installation of one 48” cannister antenna and mounted (2) radio units onto new mounting assembly on an existing pole along with related equipment within the public right-of-way located near 209 E. Beverly Boulevard.
SECOND: Commissioner Lomeli
ACTION: 3-0-2-0 (Mooradian and Ramirez)

9. CONSENT ITEM (S)
 None

10. STAFF COMMUNICATIONS TO THE PLANNING COMMISSION

Director Palombi – Because staff is relatively new, we have not been part of the commission for quite some time. We are unaware if there is a need for reorganization. Typically, when the City Council does their reorganization, commissions follow. So I wanted to bring that to the Commission’s attention and potentially agendize it for the following meeting.

Vice Chair Alikasanian – Conunched.

Commissioner Briseno – Yes, I’m for it.

11. ORAL COMMUNICATIONS –CONTINUED
 None
12. PLANNING COMMISSION ORALS

Chair Mooradian
Vice Chair Aliksanian
Commissioner Briseno
Commissioner Lomeli
Commissioner Ramirez

13. ADJOURNMENT
The meeting adjourned at 7:16 p.m.

Joseph Palombi, Planning Commission Secretary
CITY OF MONTEBELLO
PLANNING COMMISSION
MINUTES

March 3, 2020

Planning Commission meets at 6:30 p.m., on the day scheduled in City Hall Council Chambers

Meeting adjourned due to lack of quorum. The meeting is adjourned to Tuesday March 17, 2020 at 6:30pm.

A. Conditional Use Permit (CUP 06-20)
   Project Address: 7825 Telegraph Road
   Assessor’s Parcel Number: 6354-030-054
   Project Applicant: Superior Merchandise Inc.

   Project Description:
   A Conditional Use Permit to allow off-site sales of general alcohol (Type 21) that will replace an existing off-site sales of alcohol; beer and wine (Type 20) previously approved under CUP 03-18, within the existing mini-mart location at 7825 Telegraph Road.

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Joseph Palombi, Planning Commission Secretary
NOTICE OF MEETING CANCELLATION

NOTICE IS HEREBY GIVEN that the regular meeting of the Planning Commission of the City of Montebello set for Tuesday, March 17, 2020, at 6:30 p.m. has been cancelled due to the threat of COVID-19 (coronavirus) to the following date, time, and location:

Date: Tuesday, April 7, 2020
Time: 6:30 P.M.
Location: Montebello City Hall, City Council Chambers
1600 West Beverly Boulevard
Montebello, CA 90640

PLEASE TAKE FURTHER NOTICE that the following public hearing originally scheduled on March 3, 2020, and adjourned, will be heard at the regular meeting date, time, and location set forth above:

A. Conditional Use Permit (CUP 06-20)
   Project Address: 7825 Telegraph Road
   Assessor’s Parcel Number: 6354-030-054
   Project Applicant: Superior Merchandise Inc.

   Project Description:
   A Conditional Use Permit to allow off-site sales of general alcohol (Type 21) that will replace an existing off-site sales of alcohol; beer and wine (Type 20) previously approved under CUP 03-18, within the existing mini-mart location at 7825 Telegraph Road.

Joseph Palombi
Secretary to the Planning Commission
TO: Honorable Chair and Planning Commissioners

DATE: April 7, 2020

FROM: Joseph A. Palombi, Director of the Planning & Community Development Department

BY: Louis Morales, Planning & Economic Development Consultant

SUBJECT: Conditional Use Permit No. CUP 06-20 to allow Off-Sale General alcohol sales (Type 21 License) within an existing service station with mini-mart located at 7825 Telegraph Road.

RECOMMENDATION:

Conduct a public hearing and upon conclusion adopt Resolution No. 06-20 approving Conditional Use Permit No. CUP 06-20 with conditions to allow Off-Sale General alcohol sales (Type 21 License) within an existing service station and mini-mart located at 7825 Telegraph Road.

PROJECT/APPLICANT INFORMATION

Project Location: 7825 Telegraph Road
Project Applicant: Superior Merchandise Inc.
Property Owner: Superior Merchandise Inc.
General Plan Designation: Industrial
Zoning: M-2 (Heavy Manufacturing)
Existing Use on Property: Service station and mini-mart with Off-Sale Beer & Wine (Type 20 License).

PRIOR PLANNING COMMISSION ACTIONS

On September 18, 2018, the Planning Commission approved a conditional use permit (CUP 03-18) to allow Off-Sale Beer & Wine (Type 20 License) in connection with the service station and mini mart.

Alcohol License Types

The California Department of Alcoholic Beverage Control ("ABC") is responsible for issuing alcohol licenses throughout the State and has over 70 alcohol license categories. The most common Off-Sale and On-Sale license types are:

Type 20 – Off-Sale Beer & Wine. (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

Type 21 – Off-Sale General. (Package Store) Authorizes the sale of beer, wine and distilled
spirits for consumption off the premises where sold. Minors are allowed on the premises.

Type 41 – On Sale Beer & Wine – Eating Place. (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

Type 47 – On Sale General – Eating Place. (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

SURROUNDING LAND USE

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<th>Direction</th>
<th>Zone</th>
<th>Land Use</th>
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<tbody>
<tr>
<td>North</td>
<td>M-2</td>
<td>Industrial/Restaurants</td>
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<tr>
<td>South</td>
<td>M-2</td>
<td>Industrial/Restaurants</td>
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<td>West</td>
<td>M-2</td>
<td>Industrial/Restaurants/Hotel</td>
</tr>
</tbody>
</table>

BACKGROUND

On September 18, 2018 the Planning Commission approved CUP 03-18 for the Off-Sale Beer & Wine (Type 20 License).

On December 18, 2019, Superior Merchandise Inc. (the “Applicant”) filed a Conditional Use Permit application (CUP 06-20) to modify the previously approved CUP to upgrade their existing Type 20 License to a Type 21 License to include a full line of alcoholic beverages (Off-Sale General) within an existing 16-pump service station and mini mart.

On January 13, 2020, staff deemed the application for CUP 06-20 complete.

On March 3, 2020, a public hearing was scheduled for CUP 06-20 however the item was continued to the adjourned meeting of March 17, 2020.

On March 17, 2020, a public hearing was scheduled for CUP 06-20 however the meeting was postponed and continued to April 7, 2020 due to the Coronavirus disease 2019 (COVID-19).

PROJECT DESCRIPTION

The project site is located at the northeast corner of Telegraph Road and Slauson Avenue commonly known at 7825 Telegraph road and is approximately 22,760 square feet (the “Site”). The Site is located within the Heavy Industrial (M-2) zone and is improved with a 16-pump Chevron service station and a 1,750 square-foot mini mart that was completed in 2019.

The Applicant currently has an approved CUP for Off-Sale Beer & wine and a Type 20 License. The Applicant recently was selected through ABC’s lottery selection process to purchase a Type
21 License for Off-Sale General. As a result of the ABC opportunity, the Applicant moved forward with the acquisition of the Type 21 License, which will be subject to approval of a modification to the existing CUP. The Applicant proposes to replace the Type 20 License and the previously approved CUP with a Type 21 License and has applied for such change under CUP 06-20. Proposed improvements under CUP 06-20 will be minimal and only include the addition of a 4'-0" X 8'-0" (32 sq. ft.) cabinet/shelf that will be installed behind the payment counter to house and display the alcoholic beverages. No modifications are proposed to the site plan, floor plan, or exterior elevations.

Should the Planning Commission approve CUP 06-20, the Applicant would then be required to finalize the Type 21 License for the existing business through the ABC review process.

INTER DEPARTMENTAL REVIEW

On January 15, 2020, the project plans and request for Off-Sale General alcohol sales was forwarded to the Fire Department, Police Department, and Public Works for review, comments, and conditions. The Planning and Community Development Department did not receive any comments, objections, or new conditions for the request under CUP 06-20 for Off-Sale General alcohol sales.

ANALYSIS

GENERAL PLAN

The proposed project conforms with the Montebello General Plan, Land Use Element in that the proposed use will provide additional amenities for an existing business that will increase the taxable revenue from these properties to the City.

Goal #1: To Formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development. Objective #3: “cluster” type commercial development is preferential to proliferation of strip commercial. Commercial Policy #5: The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City.

MONTEBELLO MUNICIPAL CODE (MMC)

Pursuant to Section 17.61.030 of the Montebello Municipal Code, Conditional Use Permit approval is required for the sale of alcohol. The said code section states, “....no place where alcohol beverages are sold, served or given away as a normal course of business for on-sale or off-sale consumption, shall be established without first obtaining a conditional use permit from the city of Montebello.” The proposed general alcohol sales would be an ancillary use to the existing mini-mart use and alcohol sales would be permitted with a Conditional Use Permit.

In addition per MMC Section 17.61.050, the proposed use must meet Conditional Use Permit findings and determine if the use:

1. Is consistent with the purposes and intent of Chapter 17.61 – Alcoholic Beverage Establishments – of the Montebello Municipal Code;

The site and building are adequate in size and building type to carry out the Off-Sale of alcoholic beverages. The site already has Off-sale beer and wine and an approved conditional use permit. The existing building and site meet all the
development standards as required by the Montebello Municipal Code and the use is a conditionally permitted use in the existing Heavy Manufacturing (M-2) zone.

2. Would not adversely affect the general welfare of the surrounding property owners;

The subject site is an existing 16-pump service station and mini mart which currently has a an approved conditional use permit for Off-Sale beer and Wine (Type 20 License) and has not been found to harm the welfare of the community. The only proposed change is in the type of alcohol form a Type 20 License to a Type 21 License for Off-Sale General to include a full line of alcohol. The operators have not had any violations or suspensions for the existing license. The hours of operation, which go until 2:00 a.m. will not change and are well within those expected at a mini mart and will ensure that the property does not create a nuisance to the community. In addition, the existing service station has sufficient on-site parking. The site is located within the Heavy Manufacturing (M-2) zone and there is no residential in close proximity and all noise ordinances will be adhered to. It can therefore be assumed that the existing service station and mini mart will not adversely affect the welfare of the pertinent community, but will instead enhance the community by offering a new amenity for patrons.

3. Would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including general sales, in the area in light of the findings set forth below;

The site already has a beer and wine license. This request is to upgrade to a license for full alcohol but it will still be an off-sale liquor license, so it will not increase the concentration of such licenses in the area. Although this area is over-concentrated with alcohol licenses per the State’s Alcohol and Beverage Control (“ABC”) standards, this is common for areas that attract a large number of visitors from around the city and region. The site is located at a busy intersection and close to the I-5 Interstate. The number of licenses per census tract does not take into account regional visitors to the area in need of fuel and their interest in alcoholic beverages. When these are taken into account, it can be understood why there is a higher concentration of license than expected.

4. Would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to other on-sale or off-sale alcoholic beverage establishments, residential districts and uses, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities;

The service station and mini mart is located in the Heavy Manufacturing (M-2) zone and is not located near residential districts and uses, schools, day care centers, public parks, playgrounds and other recreational uses facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities. The upgrade from beer and wine to full alcohol will not create new impacts because the establishment will remain first and foremost a service station and mini mart during all hours of operation. The closing hour of 2:00 a.m. will not change and will ensure that the premises do not create any adverse
impacts on adjacent uses including existing on-sale or off-sale alcoholic beverage establishments. The service station and mini mart has parking, which will also help protect surrounding uses. This current request will not impact the surrounding uses any more than what is existing since the premises is already serving alcoholic beverages and the current operators are established and have a proven track record at being good neighbors.

5. Would not aggravate existing problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, calls for service, and sales to minors);

The site already has a beer and wine license. This request is to upgrade to a license for full alcohol but it will still be an off-sale liquor license. The operator has not experienced any issues with their current beer and wine license and it is not expected that the upgrade in the alcohol license will alter the type of patrons and operations for the service station and mini mart. Therefore, it is not expected that the current operation with the upgrade from a Type 20 license to a Type 21 License would aggravate existing conditions.

6. Is in conformance with the goals, policies, and objectives of the general plan and the purpose and intent of this code and any applicable specific plan.

Each of the General Plan Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Montebello Municipal Code. Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Montebello Municipal Code. The proposed use conforms with the City of Montebello Land Use Element, Goal 1, "To formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;" Objective #3, "cluster" type commercial development is preferential to proliferation of strip commercial;" Policy Commercial #1, "Commercial development in the City should be sited in appropriate locations according to need," and Commercial Policy #5. "The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City"; because the project site is developed with commercial uses and the development will occupy the existing commercial space and provide a service to the community and bring taxable revenue to the City.

**ALCOHOL BEVERAGE CONTROL (ABC)**

The chart below illustrates the number of On-sale and Off-sale prescribed by ABC within Census Tract No. 5322, which is the Census Tract where the proposed project is located. The chart also shows the prescribed number On-sale (7) and Off-sale (4) compared to what currently exists within Census Tract No. 5322.

<table>
<thead>
<tr>
<th>County Name</th>
<th>Population</th>
<th>County Ratio On Sale</th>
<th>County Ratio Off Sale</th>
<th>Census Tract #</th>
<th>Census Tract Population</th>
<th>On Sale</th>
<th>Off Sale</th>
<th>Exist'g On Sale</th>
<th>Exist'g Off Sale</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
The table below shows the existing active License and Type within Census Tract No. 5322. It is important to note that CUP 06-20 here will not be adding another licence and would only be replacing Licence No. 605069 highlighted below within Census Tract No. 5322 with a Type 21.

<table>
<thead>
<tr>
<th>License Number</th>
<th>Status</th>
<th>Type</th>
<th>Issue Date</th>
<th>BUSINESS NAME</th>
<th>Premises Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>318966</td>
<td>ACTIVE</td>
<td>20</td>
<td>5/23/1996</td>
<td>NAVIZADEH MINI MART &amp; GAS</td>
<td>1501 WASHINGTON BLVD</td>
</tr>
<tr>
<td>473619</td>
<td>ACTIVE</td>
<td>21</td>
<td>12/23/2008</td>
<td>MANNYS LIQUOR</td>
<td>1129 WASHINGTON BLVD</td>
</tr>
<tr>
<td>557665</td>
<td>ACTIVE</td>
<td>21</td>
<td>5/28/2015</td>
<td>GOOD LUCK LIQUOR &amp; MINI MARKET</td>
<td>481 WASHINGTON BLVD</td>
</tr>
<tr>
<td>580479</td>
<td>ACTIVE</td>
<td>20</td>
<td>6/2/2017</td>
<td>7-ELEVEN STORE 16696F</td>
<td>733 WASHINGTON BLVD</td>
</tr>
<tr>
<td>543289</td>
<td>ACTIVE</td>
<td>20</td>
<td>6/20/2014</td>
<td>CARNICERIA MONARCA #2</td>
<td>1200 S GREENWOOD AVE</td>
</tr>
<tr>
<td>561218</td>
<td>ACTIVE</td>
<td>41</td>
<td>11/3/2015</td>
<td>SAKURA SUSHI &amp; ROLL</td>
<td>1228 S GREENWOOD AVE</td>
</tr>
<tr>
<td>450499</td>
<td>ACTIVE</td>
<td>41</td>
<td>7/26/2007</td>
<td>XECORA GASTRONOMIA URBANA</td>
<td>1115 WASHINGTON BLVD, STE C &amp; D</td>
</tr>
<tr>
<td>571725</td>
<td>ACTIVE</td>
<td>41</td>
<td>10/5/2016</td>
<td>MARISCOS EL BRAVO</td>
<td>1125 WASHINGTON BLVD</td>
</tr>
<tr>
<td>519115</td>
<td>ACTIVE</td>
<td>41</td>
<td>5/3/2012</td>
<td>CHAGO AHOGADAS</td>
<td>123 WASHINGTON BLVD</td>
</tr>
<tr>
<td>417084</td>
<td>ACTIVE</td>
<td>41</td>
<td>12/27/2004</td>
<td>EL ZIPOTE PUPUSERIA</td>
<td>1111 WASHINGTON BLVD, STE H</td>
</tr>
<tr>
<td>545784</td>
<td>ACTIVE</td>
<td>47</td>
<td>4/29/2016</td>
<td>MONTEBELLO PLAZA HOTEL</td>
<td>7711 TELEGRAPH RD</td>
</tr>
<tr>
<td>605069</td>
<td>ACTIVE</td>
<td>20</td>
<td>7/16/19</td>
<td>SUPER MERCHANDISE</td>
<td>7825 TELEGRAPH RD</td>
</tr>
<tr>
<td>611947</td>
<td>ACTIVE</td>
<td>20</td>
<td>12/4/19</td>
<td>7-ELEVEN INC</td>
<td>8000 SLAUSON AVE</td>
</tr>
</tbody>
</table>

Although the request for a Type 21 License would be replacing the existing Type 20 License, the proposed alcohol sales requires that the Planning Commission make findings of public convenience or necessity as set forth in Section 17.61.060. The Planning Commission was required to make the finding of public necessity under the previous CUP and the findings for the current request are included in the attached Resolution as follows:

(A) Whether the proposed use will result in a new employment gain in the city;

The propose use as a service station and mini mart will remain and the upgrade from Off-sale beer and wine to a license for full alcohol has the potential to increase employment.

(B) Whether the proposed use will result in a substantial increase in business taxes;
The upgrade from beer and wine to full alcohol sales will increase the sales and generate additional sale tax.

(C) Whether the proposed establishment is a unique business addition to the community;

The upgrade from beer and wine to full alcohol sales will add another line of product options to the business and convenience to the community.

(D) Whether the proposed use will contribute to the long-term economic development goals of the community;

The existing service station and mini mart was redeveloped in 2019 which assisted in the revitalization of the industrial corridor. The upgrade from beer and wine to full alcohol sales will further this goal and act as a catalyst to encourage development in the area.

(E) Whether the aesthetic character and ambiance of the proposed use will result in an overall upgrade in the area and community;

The upgrade from beer and wine to full alcohol sales will allow the business to offer general off-sales of alcohol for added convenience to the consumer and community. The existing building characteristics will not change.

(F) The viability of the business to operate profitably without alcohol sales.

It is anticipated that the alcohol sales will increase with the upgrade from beer and wine to full alcohol sales.

CEQA

The Conditional Use Permit (CUP 06-20) application is considered a “project,” per the California Environmental Quality Act definition of a “project.” The project is Categorically Exempt per Section §15301 (a) (Existing Facilities) because Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination such as interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

PUBLIC COMMENTS RECEIVED

Pursuant to Section 17.61.040 (Increased Public Notification Requirements) of the MMC, at least twenty (20) days prior to the Public Hearing, the following noticing was performed:

1. Public Hearing Noticing was published in the Daily Journal (Whittier Daily News) newspaper on February 6, 2020;
2. Public Hearing Notice was mailed on February 6, 2020:
   o Mailed to occupants of buildings within five hundred feet of the site boundaries; and
   o Mailed to all property owners within three hundred feet of the site boundaries.

Staff has not received any public comments regarding the project, as of the writing of this report.

FISCAL IMPACT
None

ATTACHMENT(S)

A. Draft Resolution
B. Public Hearing Notice
C. Project Plans
RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTEBELLO APPROVING CONDITIONAL USE PERMIT NO. CUP 06-20 TO ALLOW THE OFF-SALES OF ALCOHOL (TYPE 21 LICENSE) WITHIN AN EXISTING 16-PUMP SERVICE STATION AND MINI-MART LOCATED AT 7825 TELEGRAPH ROAD.

WHEREAS, a Conditional Use Permit (CUP 06-20) application has been received and accepted;

WHEREAS, the Conditional Use Permit would allow Off-Sale General alcohol sales (Type 21 License) within the existing 16-pump service station and mini-mart, located at 7825 Telegraph Road;

WHEREAS, in September 2018, the Planning Commission approved a conditional permit for Off-Sale Beer & Wine sales (Type 20 License) at 7825 Telegraph Road;

WHEREAS, Conditional Use Permit No. CUP 06-20 will supersede the previously approved conditional use permit;

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City of Montebello is the lead agency for the proposed Project;

WHEREAS, the Conditional Use Permit (CUP 06-20) is considered a "project," as per the California Environmental Quality Act definition of a "project";

WHEREAS, the project is Categorically Exempt per CEQA Section §15301, Class 1 (Existing Facilities); and

WHEREAS, after conducting a duly noticed public hearing, and considering the evidence submitted by the applicant, public testimony, staff presentations, and such other matters properly presented during the hearing on this matter; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, the Planning Commission of the City of Montebello hereby resolves that:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.
SECTION 2. FINDINGS

a. The proposed use would conform with the City of Montebello General Plan Land Use Element, Goal 1, "To formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;" Objective #3, "cluster" type commercial development is preferential to proliferation of strip commercial;" Policy Commercial #1, "Commercial development in the City should be sited in appropriate locations according to need," and Commercial Policy #5. "The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City"; because the project site is developed with commercial uses and the development will occupy the existing commercial space and provide a service to the community and bring taxable revenue to the City.

b. The design of the building is compatible with the surrounding neighborhood because the building already exists and there will be no exterior changes to the building.

c. Per MMC 17.61.050, the proposed use:

1. Is consistent with the purposes and intent of Chapter 17.61 – Alcoholic Beverage Establishments – of the Montebello Municipal Code;

   The site and building are adequate in size and building type to carry out the Off–Sale of alcoholic beverages. The site already has Off-sale beer and wine and an approved conditional use permit. The existing building and site meet all the development standards as required by the Montebello Municipal Code and the use is a conditionally permitted use in the existing Heavy Manufacturing (M-2) zone.

2. Would not adversely affect the general welfare of the surrounding property owners;

   The subject site is an existing 16-pump service station and mini mart which currently has a an approved conditional use permit for Off-Sale beer and Wine (Type 20 License) and has not been found to harm the welfare of the community. The only proposed change is in the type of alcohol form a Type 20 License to a Type 21 License for Off-Sale General to include a full line of alcohol. The operators have not had any violations or suspensions for the existing license. The hours of operation, which go until 2:00 a.m. will not change and are well within those expected at a mini mart and will ensure that the property does not create a nuisance to the community. In addition, the existing service station has sufficient on-site parking. The site is located within the Heavy Manufacturing (M-2) zone and there is no residential in close proximity and all noise ordinances will be adhered to. It can therefore be assumed that the existing service station and mini mart will not adversely affect the welfare of the pertinent
community, but will instead enhance the community by offering a new amenity for patrons.

3. Would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including general sales, in the area in light of the findings set forth below;

The site already has a beer and wine license. This request is to upgrade to a license for full alcohol but it will still be an off-sale liquor license, so it will not increase the concentration of such licenses in the area. Although this area is over-concentrated with alcohol licenses per the State’s Alcohol and Beverage Control ("ABC") standards, this is common for areas that attract a large number of visitors from around the city and region. The site is located at a busy intersection and close to the I-5 Interstate. The number of licenses per census tract does not take into account regional visitors to the area in need of fuel and their interest in alcoholic beverages. When these are taken into account, it can be understood why there is a higher concentration of license than expected.

4. Would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to other on-sale or off-sale alcoholic beverage establishments, residential districts and uses, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities;

The service station and mini mart is located in the Heavy Manufacturing (M-2) zone and is not located near residential districts and uses, schools, day care centers, public parks, playgrounds and other recreational uses facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities. The upgrade from beer and wine to full alcohol will not create new impacts because the establishment will remain first and foremost a service station and mini mart during all hours of operation. The closing hour of 2:00 a.m. will not change and will ensure that the premises do not create any adverse impacts on adjacent uses including existing on-sale or off-sale alcoholic beverage establishments. The service station and mini mart has parking, which will also help protect surrounding uses. This current request will not impact the surrounding uses any more than what is existing since the premises is already serving alcoholic beverages and the current operators are established and have a proven track record at being good neighbors.

5. Would not aggravate existing problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, calls for service, and sales to minors);

The site already has a beer and wine license. This request is to upgrade to a license for full alcohol but it will still be an off-sale liquor license. The
operator has not experienced any issues with their current beer and wine license and it is not expected that the upgrade in the alcohol license will alter the type of patrons and operations for the service station and mini mart. Therefore, it is not expected that the current operation with the upgrade from a Type 20 license to a Type 21 License would aggravate existing conditions.

6. Is in conformance with the goals, policies, and objectives of the general plan and the purpose and intent of this code and any applicable specific plan.

Each of the General Plan Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Montebello Municipal Code. Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Montebello Municipal Code. The proposed use conforms with the City of Montebello Land Use Element, Goal 1, “To formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;” Objective #3, “cluster” type commercial development is preferential to proliferation of strip commercial;” Policy Commercial #1, “Commercial development in the City should be sited in appropriate locations according to need,” and Commercial Policy #5. “The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City”; because the project site is developed with commercial uses and the development will occupy the existing commercial space and provide a service to the community and bring taxable revenue to the City.

d. Per MMC 17.61.060, Factors regarding public convenience or necessity, in light of the concentration of proximately located alcohol establishments, the proposed use:

1. Will result in a new employment gain in the city;

The propose use as a service station and mini mart will remain and the upgrade from Off-sale beer and wine to a license for full alcohol has the potential to increase employment.

2. The proposed use will result in additional business taxes in the city;

The upgrade from beer and wine to full alcohol sales will increase the sales and generate additional sale tax.

3. The proposed use is a unique business addition to the community;
The upgrade from beer and wine to full alcohol sales will add another line of product options to the business and convenience to the community.

4. The proposed use will contribute to the economic development goals of the community;

The existing service station and mini mart was redeveloped in 2019 which assisted in the revitalization of the industrial corridor. The upgrade from beer and wine to full alcohol sales will further this goal and act as a catalyst to encourage development in the area.

5. The ambiance of the proposed use will result in an overall positive upgrade in the area and community;

The upgrade from beer and wine to full alcohol sales will allow the business to offer general off-sales of alcohol for added convenience to the consumer and community.

6. The profitability of the business will be increased with general alcohol sales added to the existing beer & wine sales;

It is anticipated that the over alcohol sales will increase with the upgrade from beer and wine to full alcohol sales.

SECTION 3. CEQA. The Planning Commission approves and adopts the CEQA Categorical Exemption §15301 (Existing Facilities) Class 1 exemption, as the proposed use constitutes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structure involving negligible or no expansion of use.

SECTION 4. APPROVALS. The Planning Commission hereby approves Conditional Use Permit (CUP 06-20) for the Off-Sale General of alcohol (Type 21 License) subject to the conditions of approval set forth in Section 5 of this Resolution.

SECTION 5. CONDITIONS. The Planning Commission finds that the foregoing conditions of approval are necessary and appropriate.

1. The applicant shall defend, indemnify, and hold harmless the city, its elected and appointed officials, agents, officers, and employees from any claim, action, or proceeding brought against the city, its elected and appointed officials, agents, officers, or employees arising out of, or which are related to the applicant's project or application (collectively referred to as "proceedings"). The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the city, if any, and cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred or awarded in connection with the proceedings whether incurred by the applicant, the city and/or the parties initiating or bringing such proceedings. This indemnity provision shall include the applicant's obligation to indemnify the city for all the city's costs, fees, and damages that the city incurs in enforcing the
indemnification provisions set forth herein. The city shall have the right to choose its own legal counsel to represent the city’s interest in the proceedings.

2. The utilization of the subject site shall conform to the allowed use, except as provided for herein and by subsequent revisions found by the Director of Planning and Community Development to be in substantial compliance with these provisions.

3. The development of the subject site shall be consistent with all of the provisions of the Montebello Municipal Code (MMC) and Conditional Use Permit (CUP 06-20).

4. The Director of Planning and Community Development, at any time, can call for a review of the approved conditions of approval at a duly noticed public hearing before the Planning Commission. These condition(s) may be modified, or new condition(s) added to reduce any impacts of the use. The Planning Commission may revoke the Conditional Use Permit (CUP 06-20) if sufficient cause is given.

5. Any change in ownership, lease and/or any other change should be given written notice to the Director of Planning and Community Development prior to the change.

6. The applicant or successor in interest shall meet the applicable Code requirements and all other City Departments regulations.

7. All applicable conditions of approval from previous entitlements on the property shall remain in full force and effect, unless otherwise specifically noted in this Resolution.

8. The property owner will bear the full costs of all monitoring and inspection activities to be conducted by City staff, or its designated representative(s), as necessary to ensure compliance with the conditions of this Resolution.

9. Any change, expansion, intensification and/or modification to the proposed plans use, or mode of operations shall be subject to the review and approval by the Director of Planning and Community Development who may take action or call for review by the Planning Commission at a noticed public hearing.

10. The property owner shall have all graffiti on-site removed within 24 hours of its appearance.

11. The operation of the said use shall at all times be conducted in a manner not detrimental to surrounding properties or residents because of lights, noise, activities, parking or other actions.
12. All employees of the businesses on-site shall be out of the premises no later than one hour after closing. No "after hours" operations shall be permitted.

13. No loitering in the parking area and shall control noisy patrons leaving the location. Signs shall be posted notifying customers of the courtesy to adjacent residential uses. The size, content, and location of the sign(s) are subject to the review and approval of the Director of Planning and Community Development prior to installation.

14. All business operators shall take the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises.

15. The establishment shall maintain all required permits and/or licenses for the sale of beer and wine in good standing.

16. The parking area shall be sufficiently lit and secured to discourage loitering and/or late night activity.

17. This approval shall not supersede the approval of any other responsible agencies. The applicant shall comply with all Federal, State and local laws.

18. The approval of this Conditional Use Permit (CUP 06-20) shall expire if the rights granted are not exercised within two (2) years from the effective date of this Resolution. Exercise of rights shall mean the issuance of an ABC license to the applicant.

19. The approval of this Conditional Use Permit (CUP 06-20) can be extended up to and not to exceed an additional two (2) years with a written request by the property owner stating the reason and need for an extension and upon review and approval by the Director of Planning and Community Development.

20. In the event of a violation of the conditions of approval, no further permits, licenses, approvals or certificates of occupancy shall be issued until such violation has been fully remedied.

21. The premises shall be kept clean, and the operator of the establishment shall ensure that no trash or litter originating from the site is deposited onto neighboring properties or public right-of-way.

22. If at any time, a litter problem arises, the Director of Planning and Community Development may require a litter clean-up plan to be submitted and reviewed. The litter clean-up plan shall include a schedule of time and frequency of litter clean-up activities. Upon approval of the plan by the Director of Planning and Community Development, the measures of the plan shall be implemented. This condition may require the operator of the use to post a bond to ensure litter compliance.

23. The development and utilization of the site shall comply with all the provisions of all of the current Building, Plumbing, Mechanical, Electrical Codes, and City
Ordinances, as well as additional requirements from the Montebello Building and Safety Division.

24. The development and utilization of the site shall be subject to the review and approval of the Public Works Department. Additional Montebello Public Works Department requirements may be required prior to issuing building permits.

25. The development and utilization of the site shall comply with all the provisions of all of the California Fire Code, International Fire Code, and National Fire Protection Association standards as well as additional requirements from the Montebello Fire Department.

26. No pay telephone(s) on the exterior of the premises.

27. Exterior storage of any kind shall be prohibited.

28. No alcohol shall be consumed on the premises.

29. That no signs shall be installed on the site until a sign permit has been issued.

30. The Planning Commission and the City Council on appeal shall have the right to impose additional conditions for the protection of the public health, safety, and welfare.

31. The following Mandatory Conditions of Approval for on-sale alcoholic beverage establishments (Section 17.61.070) shall be met, where applicable to the said use.

   i. A decorative masonry wall of six feet in height shall be constructed around the parking area of such establishments when the area is adjacent to properties zoned or used for residential purposes or any other sensitive use, such as schools, churches, parks, etc.

   ii. The noise levels generated by the operation of such establishment shall not exceed sixty-five dBA between the hours of seven a.m. to ten p.m., and not exceed sixty dBA between the hours of ten p.m. to seven a.m., to mitigate the impact of adjoining properties zoned or used for residential purposes. The measurement of noise levels shall be taken at the location of the shared property line.

   iii. Exterior lighting of the parking area shall be kept at an intensity of between one- and two-foot candles, to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas. Light sources shall be screened from adjacent properties and the sky.

   iv. The sale of alcoholic beverages for consumption outside or off the premises shall be prohibited; except, that this provision shall not apply
to bona fide restaurants with approved outdoor or sidewalk dining, or to a bona fide restaurant with an approved conditional use permit and an approved license with the ABC for off-sale consumption.

v. Adequate security measures shall be provided as specified by the police department, including but not limited to, retaining trained staff and security personnel and providing security devices such as surveillance or burglar alarm systems.

vi. The sorting of empty bottles another recyclable products shall be limited to the hours between 8:00 a.m. to 9:00 a.m. daily.

vii. No signs shall be installed on the site until a sign permit has been approved by the Planning and Building Departments in conformance with the provisions set forth in Chapter 17.62 of the Montebello Municipal Code.

viii. Per Section 9.04.010 of the Montebello Municipal Code, no person shall drink any intoxicating liquor in or upon any public street or public place within the city. Signs shall be posted on the premises both inside and outside, citing Section 9.04.010 of the Montebello Municipal Code.

ix. Premises shall be kept clean and the operator of the establishment shall ensure that no trash or litter originating from the site is deposited onto neighboring properties or public right-of-way.

x. The management of any establishment selling alcohol shall take the necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises.

xi. The owner of the establishment shall maintain all required permits and/or licenses for the sale of alcoholic beverages in good standing.

xii. No person shall sell alcoholic beverages for on-premises consumption if there has been any lapse or breach in the good standing of any one or more of the permits and/or licenses required for such sale.

xiii. In addition to the conditions enumerated above, any other condition may be imposed by city staff.

32. There shall be no exterior advertising of any kind or interior window signage visible from the exterior, advertising the sale of alcoholic beverages.

33. No alcoholic beverages shall be stored, maintained, displayed or sold from an ice tub.

34. Beer, malt liquor, wine cooler and any other similar type of alcoholic beverage shall be sold and purchased in minimum quantities of 6 or more, except that wine coolers may be sold and purchased in minimum quantities of 4 or more.
The applicant shall not display, offer for sale or sell single units of such alcoholic beverages in any size. Further, the applicant shall not store, maintain, display, and offer to sell or sell the following sized containers of such alcoholic beverages: 32 ounces, 40 ounces, 64 ounces or greater.

35. The subject alcoholic beverage license shall not be exchanged for any other type of on-sale license.

36. Before the location opens, all employees who will sell alcoholic beverages shall be required to attend either ABC LEAD training or a comparable in-house training program approved by the Director of Community Department. If the employees are hired after the location is open, they shall be required to attend LEAD training or the approved in-house training within thirty (30) days of their hire date.

37. The sale of alcoholic beverages shall be limited between the hours of 6:00 a.m. to 2:00 a.m. Monday through Sunday. During the hours that the sale of beer and wine are not permitted the coolers must be locked to prohibit customers from purchasing alcohol.

38. The applicant shall post a permanent sign or signs complying with 16-31 PC, "Possession of Opened Alcoholic Beverages containers on the premise is prohibited by law." The sign or signs shall be posted in areas that are clearly visible to patrons at all times.

**PASSED AND ADOPTED** this 7th day of April, 2020 by the Planning Commission.

Commissioner Mooradian: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Alksanian: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Briso: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Lomeli: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Ramirez: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN

______________________________
Sona Mooradian, Chair

**ATTEST:**

______________________________
Joseph A. Palombi, Director
Planning & Community Development Department
NOTICE OF PUBLIC HEARING
CITY OF MONTEBELLO PLANNING COMMISSION

Conditional Use Permit (CUP 06-20)
7825 Telegraph Road

Project Description: A Conditional Use Permit application to allow off-site sales of general alcohol (Type 21) that will replace an existing off-site sales of alcohol; beer and wine (Type 20) previously approved under CUP 03-18, within the existing mini-mart located at 7825 Telegraph Road.

Zone: M-2 (Heavy Manufacturing)

General Plan Designation: Industrial

Environmental: The proposal is considered a “Project” and is categorically exempt under the California Environmental Act (CEQA) Section §15301 (Existing Facilities).

NOTICE IS HEREBY GIVEN that the City of Montebello Planning Commission will hold a public hearing on the Conditional Use Permit application. The meeting is scheduled on:

Date: Tuesday, March 3, 2020
Time: 6:30 p.m.
Place: City Hall Council Chambers
1600 West Beverly Boulevard
Montebello, CA 90640

Any party interested in speaking may appear at the public hearing and comment on the project. Written comments may also be mailed or delivered to the City of Montebello Planning Commission at the Planning Division office address identified below. If you challenge the matter in court, you may be limited to raising those issues you or someone else raised at the public hearing, or in written correspondence delivered to the City of Montebello at, or prior to, the public hearing.

For more information about the project and the related environmental documentation please contact:

Contact Person: Louis Morales, Contract Planner
Phone: 323.887.1200 ext. 482 Fax: 323.887.1488
Email: lmorales@cityofmontebello.com
Address: City of Montebello, City Hall, Planning Division, 1600 W. Beverly Blvd, Montebello, CA 90640
City Website: www.cityofmontebello.com

Dated: January 30, 2020
Publish: February 6, 2020
PROJECT: CHEVERON GAS STATION WITH Food Mart

PROJECT ADDRESS: 7825 TELEGRAPH ROAD, MONTEBELLO CA 90640

PROJECT SITE AERIAL PHOTO
STAFF REPORT

Subject: Conditional Use Permit ("CUP") Modification No. 07-20 to reinstate the sale and dispensing of a full line of alcohol for on-site consumption (Type 47 License) within a new restaurant located at 620-624 W. Whittier Boulevard.

Location: 620-624 W. Whittier Boulevard

Submitted By: Joseph Palombi, Director of Planning and Community Development
Michael Donovan, Administrative Analyst

RECOMMENDATION

Adopt the Resolution approving Conditional Use Permit Modification (CUP 07-20) with conditions to reinstate the sale and dispensing of a full line of alcohol for on-site consumption ("on-sale alcohol sales") (Type 47 License) in conjunction with live entertainment, dancing, and banquet room facilities within a new restaurant located at 620-624 W. Whittier Boulevard pursuant to Montebello Municipal Code ("MMC") Section 17.70.130 (Modification).

BACKGROUND

On November 25, 1996, the Planning Commission approved CUP 13-96 to allow a restaurant, cocktail bar, live music with dancing, and banquet room facilities for the property located at 620-624 W. Whittier Blvd.

On November 19, 2013, the Planning Commission approved a modification to CUP 13-96, under Modification 1-12, to allow a Type 47 license (On Sale General-Eating Place) in connection with the existing restaurant. This modification, among other things, contained a condition that required periodic compliance review to demonstrate compliance with its conditions of approval. The previous operator failed to comply with this condition. Subsequently, the previous operator vacated the subject site and the premises have remained vacant for approximately two (2) years.

On February 13, 2020, 701 Bar and Restaurant Inc. (the "Applicant") filed a Conditional Use Permit application (CUP 07-20) to modify the previously approved CUP 13-96 to reinstate a Type 47 License (On Sale General-Eating Place) with live entertainment, dancing, and banquet room facilities and to confirm their commitment to comply with the previously approved conditions under CUP 13-96 and Modification 1-12.

PROJECT DESCRIPTION

The project site is located on the north side of Whittier Boulevard generally bounded by W. Cleveland Avenue to the north, Whittier Boulevard to the south, N 6th Street to the east, and
Montebello Boulevard to the west. The site is located in the C-2 Zone (General Commercial) and is improved within an existing 6,189 square foot commercial building.

The property was previously approved for a Type 47 License (On Sale General-Eating Place) under CUP 13-96 and Modification 1-12 for the sale and dispensing of a full line of alcohol for on-site consumption. The Applicant proposes to: (1) modify the previously approved CUP 13-96 to reinstate the Type 47 License (On Sale General-Eating Place) within a new restaurant with live entertainment, dancing, and banquet room facilities; and (2) confirm its willingness to comply with all previously approved conditions associated with CUP 13-96, including Modification 1-12.

If approved, this request would, among other things, include additional conditions to the existing conditions to limit hours of operation, require City approval prior to hosting certain events, and prohibiting an outdoor patio area and any related activities, which was previously allowed. These new modified conditions have been included in the Resolution attached to this staff report.

**PROJECT/APPLICANT INFORMATION**

Project Location: 620-624 W. Whittier Blvd.
Project Applicant: 701 Bar and Restaurant, Inc.
Property Owner: US Pan Family LLC
General Plan Designation: Commercial Boulevard
Zoning: C-2 (General Commercial)
Existing Use on Property: Restaurant

**PROJECT SITE**

The surrounding zoning and land uses are listed as follows:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zone</th>
<th>Land Use</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>C-2</td>
<td>Commercial/Retail/Restaurants</td>
</tr>
<tr>
<td>South</td>
<td>C-2</td>
<td>Commercial/Retail/Restaurants</td>
</tr>
<tr>
<td>East</td>
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</tr>
<tr>
<td>West</td>
<td>C-2</td>
<td>Commercial/Retail/Restaurants</td>
</tr>
</tbody>
</table>

**GENERAL PLAN**

The proposed project conforms with the Montebello General Plan, Land Use Element in that the proposed use will provide additional amenities for an existing business that will increase the taxable revenue from these properties to the City.

Goal #1: To Formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development. Objective #3: “cluster” type commercial development is preferential to proliferation of strip commercial. Commercial Policy #4: The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City.

**MONTEBELLO MUNICIPAL CODE (MMC)**
Pursuant to Section 17.61.030 of the Montebello Municipal Code, Conditional Use Permit approval is required for the sale of alcohol. The said code section states, "...no place where alcohol beverages are sold, served or given away as a normal course of business for on-sale consumption, shall be established without first obtaining a conditional use permit from the City of Montebello." The proposed alcohol sales would be an ancillary use to the existing restaurant use, and alcohol sales would be permitted with a Conditional Use Permit.

In addition per MMC Section 17.61.050, the proposed use must meet Conditional Use Permit findings and determine if the use:

1. **Would not adversely affect the general welfare of the surrounding property owners;**

   The project is located within the General Commercial (C-2 Zone) and is consistent with the land use designations. The zoning district is intended to offer a large variety of commercial opportunities serving the local communities. Some of the identified commercial uses include but are not limited to: retail, professional offices, restaurants and/or specialty shops. The direct proposal is not a new use and was previously approved in the past for On-sale beer and wine.

   The Restaurant will be conveniently located near commercial uses and is also in close proximity to residential uses via walking or public transit. The addition of alcohol sales for the on-site consumption with the imposition of approved conditions addressing operational and alcohol-related issues will assure that the service will not be disruptive to the community. It will also offer a consistent experience to the returning guests of the local community and visitors to the area when dining at the establishment. The proposed use will lead to the improvement of the current structure, which will enhance the quality and general welfare of the neighborhood.

2. **Would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including general sales, in the area in light of the findings set forth below;**

   According to the California State Department of Alcoholic Beverage Control licensing criteria, 5 on-site and 3 off-site licenses are allocated to the subject Census Tract No. 5301.01. There are currently 3 on-site and 2 off-site active licenses within this census tract. As a result, the granting of this permit will not result in an overconcentration in the area since the total number of active licenses does not exceed the permitted number. Furthermore, the direct request helps to reestablish the sale of on-site alcoholic beverages which was previously approved by the City and state.

   Food establishments offer a convenient service to the local residents, working population and visitors to the area. The City of Montebello is consistently developing commercial enhancements. The proposed request supports the community's progress, adding to the growth of the City. Any operational conditions placed on the approval of the request will safeguard the public's welfare and further protect the integrity of the community.

3. **Would not detrimentally affect the nearby surrounding area after giving special
consideration to the proximity and nature of the proposed use with respect to other on-sale or off-sale alcoholic beverage establishments, residential districts and uses, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities;

The proposed use is within 300 feet of a residential district, 2 Type 41 Licenses (On Sale Beer & Wine-Eating Place), and 1 Type 47 (On Sale General- Eating Place). The proposed use is within 1000 feet of sensitive uses such as Dusk to Dawn Urgent Care, Montebello Christian School, Montebello Christian Fellowship, and First Church of Nazarene. If operated in accordance with the law and the Conditions of Approval, the primary use of the subject site as a restaurant, bar, and banquet hall, complimented with live entertainment, should not be problematic to surrounding sensitive uses. Additionally, it will be required to meet conditions of approval that affect the hours of operation, safety, parking, lighting, and property maintenance of the proposed use to ensure minimal impacts to neighboring uses and surrounding properties.

4. Would not aggravate existing problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, calls for service, and sales to minors);

The applicant is requesting the conditional use permit to allow the on-site alcohol sales and live entertainment to complement its primary use as a restaurant and banquet facility. As a secondary featured use, the potential to aggravate any existing problems created by the sale of alcohol is very minimal. All appropriate measure will be taken to ensure the safety and well-being of the restaurant’s patrons. While there isn’t concern for an overconcentration in the area, additional security measures will be taken in preparation to maintain a safe environment both inside and outside the establishment. Security cameras will be on-site for interior and exterior monitoring. The surveillance footage will be kept on premise for at least a 30 day period. Additionally, security guards will be present at the establishment daily from 8:00pm until 30 minutes after the restaurant closes. The exterior of the location will be illuminated at all entrances and exits, along with the parking lot located directly behind the restaurant.

Although there is a request for live entertainment, the applicant will operate the feature respectfully to the surrounding establishments. At no point will the noise level go beyond what is approved by the city’s guidelines. The live entertainment and dancing will be limited to the interior of the premise with any doorways remaining close to mitigate the noise concern. There will be no outdoor patio dining requested further addressing any potential noise concerns or disruption to the immediate area.

5. Is in conformance with the goals, policies, and objectives of the general plan and the purpose and intent of this code and any applicable specific plan.

Each of the General Plan Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental
concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Montebello Municipal Code. Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Montebello Municipal Code. The proposed use conforms with the City of Montebello Land Use Element, Goal 1, “To formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;” Objective #3, “cluster” type commercial development is preferential to proliferation of strip commercial;” Policy Commercial #1, “Commercial development in the City should be sited in appropriate locations according to need,” and Commercial Policy #5. “The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City”; because the project site is developed with commercial uses and the development will occupy the existing commercial space and provide a service to the community and bring taxable revenue to the City.

### ALCOHOL BEVERAGE CONTROL (ABC)

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<tr>
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<th>Ratio On Sale</th>
<th>Ratio Off Sale</th>
<th>Census Tract #</th>
<th>Census Tract Population</th>
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<th>Off Sale</th>
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<tr>
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### ENVIRONMENTAL

The Conditional Use Permit (CUP 07-20) application is considered a “project,” per the California Environmental Quality Act definition of a “project.” The project is Categorically Exempt per Section §15301 (a) (Existing Facilities) because Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination such as interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.
REPORTS RECEIVED

On February 19, 2020, the application for CUP 07-20 was forwarded to the Fire Department, Police Department, Building Department, and Public Works for review, comments, and conditions.

The Police Department responded with the following conditions: modify the proposed hours of operation from 6AM to 2AM seven (7) days a week, to 7AM to midnight Sunday-Wednesday, and 7AM to 2AM Thursday-Saturday. Additionally, the Applicant will be required to change the video recording storage from thirty (30) days to ninety (90) days. Finally, no promoters for special events and no sporting events or drink specials (i.e. two for one beer or drink specials) allowed.

FISCAL IMPACT

None

PUBLIC NOTIFICATION

Pursuant to Section 17.61.040 paragraph (B) of the MMC, the heightened notification requirements for establishments selling (or proposing to sell) alcohol do not apply to "Bona fide restaurants" as defined in MMC 17.61.020 (Definitions, Chapter 17.61 – Alcoholic Beverage Establishments). It has been determined that the proposed project here is a Bona fide restaurant. Therefore, requirements under Section 17.78 (Public Hearings, Notices, and Appeals) of the MMC should be observed. The following was done to comply with Section 17.78 (Public Hearings, Notices and Appeals):

- Public Hearing Noticing was published in the Daily Journal (Whittier Daily News) on March 12, 2020;
- Public Hearing Notice was mailed to occupants within a 300 ft Radius of project site on March 12, 2020.

ATTACHMENTS:

A. Draft Resolution
B. Public Hearing Notice
CITY OF MONTEBELLO
PLANNING COMMISSION
RESOLUTION NO. 07-20

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTEBELLO APPROVING CONDITIONAL USE PERMIT NO. CUP 07-20 TO ALLOW THE ON-SALES OF ALCOHOL (TYPE 47 LICENSE) WITHIN AN EXISTING RESTAURANT LOCATED AT 620-624 WEST WHITTIER BOULEVARD.

WHEREAS, A Conditional Use Permit (CUP 07-20) application has been received and accepted;

WHEREAS, the Conditional Use Permit would allow On-Sale General alcohol sales (Type 47 License) within the existing restaurant located at 620-624 W. Whittier Boulevard (“Project Site”);

WHEREAS, in November 1996, the Planning Commission approved a conditional permit (CUP 13-96) for a restaurant, cocktail bar, with live music for dancing, and banquet room facilities at 620-624 W. Whittier Boulevard allowing for the sale of alcohol;

WHEREAS, the previous operator of the Project Site failed to comply with conditions of CUP 13-96 and thereafter vacated the Project Site;

WHEREAS, on February 13, 2020, 701 Bar and Restaurant Inc. (the “Applicant”) filed CUP 07-20 to modify the previously approved CUP 13-96 to reinstate a Type 47 License (On Sale General-Eating Place) within a Bona fide restaurant as defined by MMC 17.61.020 and desires to confirm its commitment to comply with the previously approved conditions and new conditions outlined herein; and

WHEREAS, CUP 07-20 will supersede the previously approved conditional use permit;

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City of Montebello is the lead agency for the proposed Project;

WHEREAS, the Conditional Use Permit (CUP 07-20) is considered a "project," as per the California Environmental Quality Act definition of a "project";
WHEREAS, the project is Categorically Exempt per CEQA Section §15301, Class 1 (Existing Facilities); and

WHEREAS, after conducting a duly noticed public hearing, and considering the evidence submitted by the applicant, public testimony, staff presentations, and such other matters properly presented during the hearing on this matter; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, the Planning Commission of the City of Montebello hereby resolves that:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.

SECTION 2. FINDINGS

a. The proposed use would conform with the City of Montebello General Plan Land Use Element, Goal 1, “To formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;” Objective #3, “cluster” type commercial development is preferential to proliferation of strip commercial;” Policy Commercial #1, “Commercial development in the City should be sited in appropriate locations according to need,” and Commercial Policy #5. “The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City”; because the project site is developed with commercial uses and the development will occupy the existing commercial space and provide a service to the community and bring taxable revenue to the City.

b. The design of the building is compatible with the surrounding neighborhood because the building already exists and there will be no exterior changes to the building.

c. Per MMC 17.61.050:

1. The site for the proposed use would not adversely affect the general welfare of the surrounding property owners.
The project is located within the General Commercial (C-2 Zone) and is consistent with the land use designations. The zoning district is intended to offer a large variety of commercial opportunities serving the local communities. Some of the identified commercial uses include but are not limited to: retail, professional offices, restaurants and/or specialty shops. The direct proposal is not a new use and was previously approved in the past for On-sale beer and wine.

The Restaurant will be conveniently located near commercial uses and is also in close proximity to residential uses via walking or public transit. The addition of alcohol sales for the on-site consumption with the imposition of approved conditions addressing operational and alcohol-related issues will assure that the service will not be disruptive to the community. It will also offer a consistent experience to the returning guests of the local community and visitors to the area when dining at the establishment. The proposed use will lead to the improvement of the current structure, which will enhance the quality and general welfare of the neighborhood.

2. Would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including general sales, in the area in light of the findings set forth below;

According to the California State Department of Alcoholic Beverage Control licensing criteria, 5 on-site and 3 off-site licenses are allocated to the subject Census Tract No. 5301.01. There are currently 3 on-site and 2 off-site active licenses within this census tract. As a result, the granting of this permit will not result in an overconcentration in the area since the total number of active licenses does not exceed the permitted number. Furthermore, the direct request helps to reestablish the sale of on-site alcoholic beverages which was previously approved by the city and state.

Food establishments offer a convenient service to the local residents, working population and visitors to the area. The city of Montebello is consistently developing commercial enhancements. The proposed request supports the community’s progress, adding to the growth of the city. Any operational conditions placed on the approval of the request will safeguard the public’s welfare and further protect the integrity of the community.
3. The proposed use would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to other on-sale of off-sale alcoholic beverage establishments, residential districts and uses, schools (public private), day care center, public parks, playgrounds, and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities.

The proposed use is within 300 feet of a residential district, 2 Type 41 Licenses (On Sale Beer & Wine-Eating Place), and 1 Type 47 (On Sale General-Eating Place). The proposed use is within 1000 feet of sensitive uses such as Dusk to Dawn Urgent Care, Montebello Christian School, Montebello Christian Fellowship, and First Church of Nazarene. If operated in accordance with the law and the Conditions of Approval, the primary use of the subject site as a restaurant, bar, and banquet hall, complimented with live entertainment, should not be problematic to surrounding sensitive uses. Additionally, it will be required to meet conditions of approval that affect the hours of operation, safety, parking, lighting, and property maintenance of the proposed use to ensure minimal impacts to neighboring uses and surrounding properties.

4. The proposed use would not aggravate existing problems created by the sale of alcohol (e.g. littering, loitering, noise, public drunkenness, calls for service and sales to minors)

The applicant is requesting the conditional use permit to allow the on-site alcohol sales and live entertainment to complement its primary use as a restaurant and banquet facility. As a secondary featured use, the potential to aggravate any existing problems created by the sale of alcohol is very minimal. All appropriate measure will be taken to ensure the safety and well-being of the restaurant's patrons. While there isn't concern for an overconcentration in the area, additional security measures will be taken in preparation to maintain a safe environment both inside and outside the establishment. Security cameras will be on-site for interior and exterior monitoring. The surveillance footage will be kept on premise for at least a 30 day period. Additionally, security guards will be present at the establishment daily from 8:00pm until 30 minutes after the restaurant closes. The exterior of the location will be illuminated at all entrances and exits, along with the parking lot located directly
behind the restaurant.

Although there is a request for live entertainment, the applicant will operate the feature respectfully to the surrounding establishments. At no point will the noise level go beyond what is approved by the city's guidelines. The live entertainment and dancing will be limited to the interior of the premise with any doorways remaining close to mitigate the noise concern. There will be no outdoor patio dining requested further addressing any potential noise concerns or disruption to the immediate area.

5. The proposed use is in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of this code and any applicable specific plan.

Each of the General Plan Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Montebello Municipal Code. Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Montebello Municipal Code. The proposed use conforms with the City of Montebello Land Use Element, Goal 1, "To formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;" Objective #3, "cluster" type commercial development is preferential to proliferation of strip commercial;" Policy Commercial #1, "Commercial development in the City should be sited in appropriate locations according to need," and Commercial Policy #5. "The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City"; because the project site is developed with commercial uses and the development will occupy the existing commercial space and provide a service to the community and bring taxable revenue to the City.

SECTION 3. CEQA. The Planning Commission approves and adopts the CEQA Categorical Exemption §15301 (Existing Facilities) Class 1 exemption, as the proposed use constitutes the operation, repair, maintenance, permitting, leasing,
licensing, or minor alteration of existing private structure involving negligible or no expansion of use.

SECTION 4. APPROVALS. The Planning Commission hereby approves Conditional Use Permit (CUP 07-20) for the On-Sale General of alcohol (Type 47 License) subject to the conditions of approval set forth in Section 5 of this Resolution.

SECTION 5. CONDITIONS. The Planning Commission finds that the foregoing conditions of approval are necessary and appropriate.

1. The development and utilization of the subject site shall substantially conform to the site plan labeled Planning Commission Exhibit "A" dated April 7, 2020, including the uses as shown, except as provided for herein, and by subsequent revisions found by the Planning Manager to be in substantial compliance with these provisions.

2. Development of the site shall be consistent with all of the provisions of the Montebello Municipal Code (MMC) and the specifications of the Planning Division, including but not limited to:

   a. The Planning Manager, at any time, can call for a review of the Conditional Use Permit at a duly noticed public hearing. At that time, the Conditions of Approval may be modified or new conditions may be added to reduce any impacts of the use. The Planning Commission may revoke the Conditional Use Permit if sufficient cause is given. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.

   b. The Planning Manager, at any time, can call for a review of the Conditional Use Permit at a duly noticed public hearing. At that time, the Conditions of Approval may be modified or new conditions may be added to reduce any impacts of the use. The Planning Commission may revoke the Conditional Use Permit if sufficient cause is given. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.

   c. The facade facing Whittier Boulevard shall be improved with additional architectural features, including, but not limited to an additional window constructed of non-view obscuring glass, subject to the review and approval of the Planning Manager prior to the issuance of a building permit and the interior remodeling, outdoor patios, and increased banquet hall operations.
d. The size of the stage and dance floor shall be 540 square feet as shown on Exhibit "A". The dance floor area shall be constructed with a permanent, distinct material. Any enlargement shall require the review and approval of the Planning

e. Soundproof doors and windows shall be installed. Doors and windows shall be kept closed while music or live entertainment is playing.

f. Existing and/or proposed table layout shall meet the minimum aisle clearance as determined by the Building and Safety Division and Fire Department.

g. No outdoor patio allowed except through a modification to existing conditional use permit.

h. Wheel stops shall be provided for the four parking spaces provided at the rear of the subject site, located three feet away from the building.

i. In the event the applicant violates or fails to comply with any conditions of approval of this permit, no further permits, licenses, approvals, or certificate of occupancy shall be issued until such violation(s) has been fully remedied.

j. The approval is for a bona fide restaurant, bar, with banquet facility and live entertainment (televisions, disc jockey, comedy acts, pay-per-view sporting broadcasts, recitals and seminars during restaurant dining) and dancing with the on-site sale of full alcohol (beer, wine, and distilled spirits). The kitchen shall be open and serving food during all hours of operation in all areas of the establishment. Alcohol shall not be served to persons except those intending to purchase meals. All menus, including late-night menus shall be subject to the review and approval of the Police Department and Planning Manager prior to the issuance of a Certificate of Occupancy.

k. The business shall be operated as a restaurant at all times. A full menu shall be available to patrons in the patios and bar areas, as well as the rest of the dining areas during all hours of operation. A breakfast menu shall be provided, subject to the review and approval of the Planning Manager, prior to issuance of Certificate of Occupancy. There shall be no restriction on the age of customers except as stated in the conditions of approval.

l. The restaurant shall be restricted to a maximum number of 326 seats, as shown on the approved Conditional Use Permit plans. The number of seats in
the dining area shall not exceed 80. Seating in the banquet area shall not exceed 180 seats. Seating in the bar shall not exceed 32 (11 in banquet bar and 21 in the restaurant bar). Seating in the patio shall not exceed 34 (10 in the front patio, 24 in the rear bar). Any expansion, intensification, or substantial change in operation to the main dining room or bar area of the approved floor plan shall require a modification to the Conditional Use Permit with a public hearing before the Planning Commission. This condition shall not supersede any established accessibility standards or occupancy limits established by the City's Fire Department and Building and Safety Division.

m. Prior to the issuance of the Certificate of Occupancy, the operator shall submit a plan for approval by the Planning Manager regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol awareness training program for all employees having contact with the public and shall state management’s policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete a California Department of Alcoholic Beverage Control (ABC) sponsored alcohol awareness training program within 90 days of the effective date of this approval. In the case of new employees, the employee shall attend the alcohol awareness training within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Planning Manager. The operator shall provide the City with an annual report regarding compliance with this condition.

n. Prior to issuance of a Certificate of Occupancy, the operator shall also submit a plan describing the establishment’s designated driver program, which shall be offered by the operator to the establishment’s patrons. The plan shall specify how the operator will inform patrons of the program, such as offering on the menu a free non-alcoholic drink for every party of two or more ordering alcoholic beverages.

o. No more than 50% of total gross revenues per year shall be from alcohol sales. The operator shall maintain records of gross revenue sources which shall be submitted to the City of Montebello Planning Division and/or the State Alcoholic Beverage Control upon request.

p. The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities,
parking, and other actions. Management shall patrol the business premises and the surrounding vicinity, including the public rights-of-way to the property, during all hours of operation. Management shall ensure that no littering, loitering, or consumption of alcohol occurs in and around the project site.

q. Permitted business hours will be 7AM to midnight Sunday-Wednesday and 7AM to 2AM Thursday-Saturday.

r. The permitted hours of alcohol service shall be from 11:00 a.m. to last call, with all tables cleared by 1:30 a.m. Thursday-Saturday and 11:00 a.m. to last call, with all tables cleared by 11:30 Sunday-Wednesday. Complete closure of the business and all customers shall be vacated from the building by 2:00 a.m., Thursday-Saturday and by Midnight Sunday-Wednesday. In addition, all employees of the business shall be out of the premises no later than one hour after closing. No "after hours" operations shall be permitted.

s. The site and surrounding area shall be maintained in a litter and graffiti free manner. Any graffiti that occurs on the site shall be removed within 48 hours.

t. The bar area shall be defined with a clear separation barrier, as depicted on Exhibit "A".

u. The sale of alcoholic beverages for consumption outside or off the premises shall be prohibited. As stated in Section 9.04.010 of the Montebello Municipal Code, no person shall drink any intoxicating liquor in or upon any public street or public place within the City. Signs shall be posted on the premises both inside and outside indicating that the sale of alcoholic beverages for consumption outside or off the premises is prohibited.

v. The owner of the establishment shall maintain all required permits and/or licenses for the sale of alcoholic beverages in good standing.

w. No person shall sell alcoholic beverages for on-premise consumption if there has been any lapse or breach in good standing of anyone or more of the permits and/or licenses required for such sale.

x. No alcoholic beverages shall be served in any disposable container such as disposable plastic or paper cups.
y. No pool tables, dart boards, video games, juke box, similar entertainment devices are permitted on the premises. There shall be no coin operated games or video machines maintained upon the premises at any time.

z. There shall be no pay telephone maintained on the interior or exterior of the premises.

aa. The operator of the establishment shall take the necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises.

bb. Any outstanding violations of the Montebello Municipal Code shall be remedied prior to the issuance of a Certificate of Occupancy. The applicant shall be responsible for remedying outstanding Code Enforcement issues. When corrective action requires the issuance of a building permit, the building permit must be issued within 12 months of the effective date of this approval. Corrective action that does not require a building permit shall be remedied within one month of the effective date of this approval. The Director of Planning and Community Development ("Director") may grant an extension to these time frames, but such extensions shall not extend more than one year from the date of this approval.

c. Adequate illumination of the exterior building shall be provided and maintained subject to the review and approval by the Montebello Police Department of a Photometric Plan certified by a licensed lighting engineer, including, but not limited to:

1) A maximum of 10 foot-candles along fronts of buildings shall be provided. The maximum lighting level to average lighting level ratio shall not exceed 2.5 to 1.

dd. Exterior signage and window signs advertising brands of alcoholic beverages or other signage advertising alcoholic beverages shall not be visible from public right-of-way.

ee. All windows of the facility shall be treated with anti-graffiti film. It is the responsibility of the property owner and/or applicant to have all graffiti on the site removed within 24 hours of its appearance, or be subject to citations from the City Code Enforcement Division.
ff. All outdoor utilities, machinery and equipment, including roof-mounted equipment, shall be completely screened from public right-of-way, in a manner that is compatible with the structure. The method of screening shall be subject to the review and approval of the Planning Manager and the Building Official prior to the issuance of building permits.

gg. The approval of the entitlement shall expire if the rights granted are not exercised within one year from the permit's effective date. Exercise of right shall mean issuance of a building permit to commence construction, or similar activities demonstrating the intent to proceed with the project, as determined by the Planning Manager.

hh. Within 30 days of the City Planning Division transmittal of the Acceptance Form, the operator shall sign and return a copy of the Acceptance Form prepared by the City Planning Division, agreeing to the conditions of approval and acknowledging that failure to comply with such conditions shall constitute grounds for potential revocation of the permit approval. Failure to return the Acceptance Form within 30 days shall constitute grounds for terminating the permit.

ii. Prior to the issuance of the Certificate of Occupancy, the operator shall post a notice in a conspicuous location at the building entry stating that the site is regulated by a Conditional Use Permit and the Acceptance Form, which includes the establishment's conditions of approval, is available upon request. This notice shall remain posted at all times the establishment is in operation.

jj. The operator and/or successor of the use shall bear full cost (hereinafter referred to as the "Inspection Fees") of all monitoring and inspection activities to be conducted by City staff or its designated consultant representative(s) as necessary to ensure compliance with the conditions of this Resolution.

kk. This approval shall not supersede the approval of any other affected agencies. The applicant shall comply with Federal, State, and local requirements.

ll. A copy of the approved Resolution shall be incorporated onto the construction plans for any improvements prior to the submittal for plan check.

mm. The Conditional Use Permit shall be subject to a performance review by the Planning Commission 12 months after the Certificate of Occupancy is
issued for the proposed improvements to the restaurant, or earlier, at the discretion of the Planning Manager.

3. The development and utilization of the site shall comply with all of the provisions of the Montebello Municipal Code, and the City adopted versions of the Uniform Building Code and of the Building and Safety Division, including but not limited to:


   b. A complete set of construction plans shall be submitted for Plan Check for the proposed project.

   c. Construction plans submitted for Plan Check shall satisfy ADA seating requirements for the new outdoor dining area.

   d. Construction plans submitted for Plan Check shall show a clear path from the new outdoor dining area to the ADA accessible restrooms.

4. The development and utilization of the site shall comply with all the provisions of the City adopted version of the California Fire Code, including, but not limited to:

   a. The entire structure shall be provided with an automatic and manual fire alarm system or life safety system.

5. The following on-site requirements shall comply with the security provisions of the Montebello Municipal Code and/or the specifications of the Police Department and Code Enforcement Division:

   a. Live entertainment (televisions, disc jockey, comedy acts, pay-per-view sporting broadcasts, recitals and seminars) is authorized during permitted hours unless expressly stated otherwise in this resolution. The operator of the establishment is required to notify the City and obtain the Director's approval for comedy acts, sporting events (pay-per-view) recitals, and seminars.
b. Promoter produced parties or events shall be prohibited. These events include private parties with outside promoters who profit from organizing and/or drawing attendees to the events. Advertisements and promotions which promote events or operations in violation of this CUP and Conditions of approval shall be subject to citation from the Code Enforcement Division.

c. Banquets and events are prohibited.

d. Dancing is allowed on Thursdays, Fridays, Saturdays, and during City authorized special events, between the hours of 9:00 p.m. to 1:30 a.m. and Sunday between the hours of 8:00 p.m. to 11:00 p.m. provided there is a current Cabaret License in good standing. There shall be no dancing allowed Monday through Wednesday within the establishment unless a Temporary Use Permit is obtained through the Code Enforcement Division. Due to a holiday or special occasion dancing may be permitted on days other than Thursday, Friday, Saturday, and Sunday with the issuance of a Temporary Use Permit. A maximum of nine Temporary Use Permits will be issued within a twelve month period. (This includes all permits issued, including: dancing, special events, etc.).

e. All live entertainment and dancing (when permitted) shall cease no later than 30 minutes prior to closing time.

f. Fundraisers for non-profit organizations registered with the federal government shall be permitted provided that they are open to the public and fall within the conditions of this Conditional Use Permit.

g. Adult entertainment of any nature is strictly prohibited. Televised and/or recorded adult entertainment is prohibited. The Police Department shall determine what constitutes "adult" entertainment.

h. There shall be no bottle service provided, except for wine.

i. Dial-A-Ride and Taxicab phone numbers shall be posted in conspicuous locations throughout the establishment at all times.

j. The availability of a variety of non-alcoholic beverages shall be made known and offered to the customers.
k. Televisions shall be limited to a total of eight inside the bar area and dining area only and shall not exceed 52 inches per television.

l. The noise levels generated by the operation of such establishment shall not exceed sixty five dBA between the hours of 7:00 a.m. to 10:00 p.m., and not exceed sixty dBA between the hours of 10:00 p.m. to 7:00 a.m., in accordance with the MMC. All deliveries to the establishment shall be between 7:00 a.m. to 10:00 p.m. daily.

m. From Monday to Wednesday, there shall be a minimum of one (1) licensed, identifiable, bonded, security guards on duty from 8:00 p.m. until 30 minutes after closing and all patrons have left the premises and surrounding properties, and a minimum of two (2) security guards if more than (fifty) 50 customers are on the property. The security guards shall monitor and ensure that patrons of the restaurant are not parking, loitering, or littering on adjacent properties. The Chief of Police or his/her designee may require additional security if he/she deems it necessary in the interest of public safety.

n. On Thursday, Friday, Saturday, and Sunday there shall be a minimum of two, licensed, identifiable, bonded, security guards on duty from 8:00 p.m. until 30 minutes after closing and all patrons have left the premises and surrounding properties, and a minimum of four (4) security guards if there are more than fifty (50) customers on the property. The security guards shall monitor and ensure that patrons of the restaurant are not parking, loitering, or littering on adjacent properties. The Chief of Police or his/her designee may require additional security if he/she deems it necessary in the interest of public safety.

o. On any day when there is live entertainment and/or dancing there shall be a minimum of two (2) identifiable, licensed, bonded, security guards on duty from 8:00 p.m. until 30 minutes after closing and all patrons have left the premises and surrounding properties, and a minimum of four (4) security guards if more than fifty (50) customers are on the property. The security guards shall monitor and ensure that patrons of the restaurant are not parking, loitering, or littering on adjacent properties. The Chief of Police or his/her designee may require additional security if he/she deems it necessary in the interest of public safety.
p. Should form a line outside the restaurant, the line shall be kept quiet and orderly at all times. Lines which block the entrances to any other open business or any parking space or any part of the public-right-of-way are prohibited.

q. No promotional or reduced drink specials shall be allowed all day on Saturday and/or Sunday, and/or after 8:00 p.m. Monday through Friday, and/or when dancing and/or live entertainment are occurring in any area.

r. A copy of the ABC license, business license, health permit, seller's permit, and all other required licenses shall be posted and made readily available to any law enforcement officer.

s. The premises shall be subject to inspection by members of the Montebello Police Department, Montebello Fire Department, Montebello Code Enforcement, Los Angeles County Department of Public Health or, any other law enforcement officer at any time without warrant.

t. The applicant shall maintain a video surveillance system that captures the entrance(s) and exit(s) of the restaurant, parking lot area, and the interior of their restaurant. Placement of cameras shall be approved by the Montebello Police Department prior to issuance of the Certificate of Occupancy. The recordings shall be kept for a minimum of ninety (90) days. Recordings requested by the Police Department shall be provided immediately. The system shall record during the hours of the business operation’ and all equipment must be maintained in good working order at all times.

u. A responsible person over the age of 21 must be on the premises at all times while the business is open. This person must possess valid identification.

v. No gambling of any type shall be allowed on the premises.

w. The Police Department reserves the right to review this CUP at any time if there are excessive calls for service or if the Department feels that the operation of the establishment is a risk to public health, safety, welfare, or morals.
x. The Police Department reserves the right to close the business if it appears that the continued operation would create an unsafe environment for the employees, patrons, bystanders, or emergency personnel. Examples would include, but not limited to, patrons fighting, overcrowding, unruly crowds, etc.

y. The business owner shall install, maintain, and obtain City permits for a burglary and robbery alarm system. The Police Department shall approve the plans for the alarm system and placement of the panic buttons prior to the issuance of a Certificate of Occupancy.

z. Doors that are not utilized for customer access shall be locked from the outside and have alarmed panic hardware.

aa. If police or fire services are required at the location the applicant will be responsible for reimbursing the City of Montebello for all related costs.

bb. If Code Enforcement is required due to any code violations and/or violations of the conditions of this Conditional Use Permit, the applicant will be responsible to reimburse the City of Montebello for all inspections and costs.

c. An approved Emergency Access Plan shall be provided, subject to review and approval of the Police and Fire Departments prior to issuance of the Certificate of Occupancy.

dd. A signed copy of the Acceptance Form shall be kept at the business and presented to any law enforcement officer on demand.

ee. Any violation of the conditions of this permit may cause the revocation of the subject Conditional Use Permit.

PASSED AND ADOPTED this 7th day of April, 2020 by the Planning Commission.

Commissioner Mooradian: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Aliksanian: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Briseno: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Lomeli: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN
Commissioner Ramirez: ( ) AYE ( ) NOE ( ) ABSENT ( ) ABSTAIN

Sona Mooradian, Chair

ATTEST:

__________________________
Joseph A. Palombi, Director
Planning & Community Development Department
Notice of CEQA Exemption

To: County of Los Angeles
Registrar-Recorder/County Clerk
12400 Imperial Highway
Norwalk, CA 90650

From: City of Montebello
Planning & Community Development Department
1600 W. Beverly Blvd.
Montebello, CA 90640

Lead Agency: City of Montebello Planning and Community Development Department
Project Title: Conditional Use Permit Modification 07-20, 701 Restaurant & Bars, Inc.
Project Location: 620-624 W. Whittier Boulevard
Case Number(s): Conditional Use Permit 07-20

Description of Nature, Purpose, and Beneficiaries of Project: A Conditional Use Permit Modification to reinstate the sale and dispensing of a full line of alcohol for on-site consumption (Type 47 License) within a new restaurant located at 620-624 W. Whittier Boulevard.

Name of the Public Agency Approving the Project: City of Montebello
Name of Person or Agency Carrying Out the Project: 701 Restaurant & Bar, Inc.

Exempt Status (check one)

☐ Ministerial (Sec. 21080(b)(1); 15268(b)(3))
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: Class 1 - CEQA Guidelines Section 15301(Existing Facilities)
☐ Statutory Exemptions. State code number:

Justification for Project Exemption:

The project is Categorically Exempt per Section 15301 (Existing Facilities) because Class 1 consists of the operation, repair, maintenance, permitting, leasing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use and none of the exceptions set forth under CEQA Guidelines Section 15300.2 apply. In this case, the permitted restaurant would include the on-site sale of alcohol (Type 47 License) within a restaurant and bar.

Lead Agency Contact Person: Joseph Palombi, Director of Planning & Community Development

Area Code/Telephone/Extension: (323) 887-1200

If filed by applicant, attach certified document issued by the Planning and Community Development Department stating that the Department has found the project to be exempt.

Signature: ______________________________________ Date: __________________ Title: __________________

☒ Signed by Lead Agency ☐ Signed by Applicant

City of Montebello
NOTICE OF PUBLIC HEARING
CITY OF MONTEBELLO PLANNING COMMISSION

Conditional Use Permit Modification

Location: 620-624 W. Whittier Boulevard

Case No.: C.U.P. 07-20/ENV 04-20-CE

Project Description: A Conditional Use Permit Modification compliance of conditions to allow the sale of and dispensing of a full line of alcohol (beer, wine, and distilled spirits) for onsite consumption within a new restaurant located at 620-624 W. Whittier Blvd, Montebello.

Zone: C-2 (General Commercial)

General Plan Designation: Boulevard Commercial

Environmental: The proposal is considered a “Project” and is categorically exempt under the California Environmental Act (CEQA) Section §15301(Existing Facilities).

NOTICE IS HEREBY GIVEN that the City of Montebello Planning Commission will hold a public hearing on the Conditional Use Permit application. The meeting is scheduled on:

Date: Tuesday, April 7, 2020
Time: 6:30 p.m.
Place: City Hall Council Chambers
1600 West Beverly Boulevard
Montebello, CA 90640

Any party interested in speaking may appear at the public hearing and comment on the project. Written comments may also be mailed or delivered to the City of Montebello Planning Commission at the Planning Division office address identified below. If you challenge the matter in court, you may be limited to raising those issues you or someone else raised at the public hearing, or in written correspondence delivered to the City of Montebello at, or prior to, the public hearing.

For more information about the project and the related environmental documentation please contact:

Contact Person: Josephine Pham/Michael Donovan
Phone: 323.887.1200 Fax: 323.887.1488
Email: mdonovan@cityofmontebello.com
Address: City of Montebello, City Hall, Planning Division, 1600 W. Beverly Blvd, Montebello, CA 90640
City Website: www.cityofmontebello.com

Date of Publication: March 12, 2020
CITY OF MONTEBELLO
PLANNING COMMISSION

Subject: Referral of City Council’s Findings to Planning Commission per Montebello Municipal Code Section 17.78.130 - Resolution of the City Council Reversing the decision of the Planning Commission denying Condition Use Permit (“CUP”) No. 24-19 to allow the sales of alcohol (Type 20 License) for off-site consumption within a new convenience store located at 2900 West Beverly Blvd., Suite A and B.

Location: 2900 West Beverly Blvd., Suite A and B

Submitted By: Joseph Palombi, Director of Planning and Community Development
Josephine Pham, Associate Planner

SUMMARY

On August 6, 2019, the Planning Commission of the City of Montebello (“Planning Commission”) held a duly noticed public hearing and voted to deny the request from 7-Eleven Inc. (“Project Applicant”) to allow the sale of beer and wine (Type 20 License) for off-site consumption between the hours of 6:00 a.m. and 2:00 a.m., Monday through Friday, within a 2,892 square foot 24-hour convenience store pursuant to Conditional Use Permit (“CUP”) No. 24-19.

Subsequently, the Project Applicant filed an Appeal of the decision of the Planning Commission to deny CUP No. 24-19 pursuant to Montebello Municipal Code Section 17.78.070. On March 25, 2020, the City Council of the City of Montebello (“City Council”) held a public hearing regarding the Appeal filed by the Project Applicant of the Planning Commission’s denial of CUP No. 24-19.

Based on the whole of the record, the City Council unanimously voted to reverse the decision of the Planning Commission and approve CUP No. 24-19. There were a total of thirteen (13) public speakers who spoke during the public hearing. Twelve (12) public speakers spoke in support of the Project Applicant and the request to sell beer and wine at the proposed project Location. One public speaker requested that the public hearing be continued indefinitely.

In response to issues raised during the Planning Commission meeting on August 6, 2019, staff took the initiative to prepare additional conditions and presented them to the City Council on March 25, 2020. Pursuant to Resolution No. 24-20 (See Attachment B), the City Council
imposed three (3) additional conditions included as Condition Nos. 45, 46, and 47, which state the following:

45. The applicant and operator shall prepare and submit a quarterly project compliance report. This report is due quarterly for the first three years of operation and annually during the first quarter of the year every three years thereafter. The compliance report must be submitted to the Director of Planning and Community Development to demonstrate compliance with the Conditional Use Permit.

46. The applicant and operator shall acquire one additional alcohol license within the City of Montebello within two years of the effective date of the Conditional Use Permit. A one-year extension would be allowed to comply with this condition.

47. The property owner shall prepare and submit a landscape plan for review and approval by the Planning and Community Development Department within six months of the effective date of the Conditional Use Permit. The landscape plan shall include enhancements to the parking area and perimeter of the subject property and must be approved within the first year of operation.

Per Section 17.78.130 of the Montebello Municipal Code ("MMC"), if the decision of the City Council is in any way contrary to the action taken by the Planning Commission, the City Council shall refer its findings to the Planning Commission and Planning Commission, at its discretion, may issue a transmit a further report to the City Council. However, the City Council's decision on March 25, 2020 remains final pursuant to MMC 17.78.100 (Finality of City Council's Action).

The MMC does not obligate the Planning Commission to transmit a further report to the City Council. Because the City Council's decision is final, staff is recommending that the Planning Commission report to the City Council that it declines to submit a further report to the City Council. In the alternative, the Planning Commission may direct staff to prepare and transmit a further report on the matter to the City Council.

**FISCAL IMPACT**

None

**ATTACHMENTS:**

A. City Council Packet dated March 25th, 2020  
B. City Council Resolution No. 24-20 (final - unexecuted)  
C. Planning Commission Packet dated August 6, 2019
CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: René Bobadilla, City Manager

SUBMITTED BY: Joseph Palombi, Director of Planning & Community Development

SUBJECT: PUBLIC HEARING: Appeal of a Planning Commission decision of denial of Conditional Use Permit ("CUP") 24-19 to allow alcohol sales (Type 20 License) within a proposed convenience store located at 2900 West Beverly Blvd., Suite A&B.

DATE: March 25, 2020

RECOMMENDATION:

It is recommended that the City Council take one of the following actions:

(1) Conduct a public hearing to consider all matters presented at the public hearing, uphold the Planning Commission denial of CUP 24-19, and direct staff to bring back a City Council Resolution containing findings supporting the Planning Commission’s denial of CUP 24-19; or

(2) Conduct a public hearing to consider all matters presented at the public hearing, adopt a resolution overturning the Planning Commission decision to deny CUP 24-19 and approving CUP 24-19, which would become effective after City Council’s findings are referred to the Planning Commission and the Planning Commission provides a further report on the matter per Montebello Municipal Code 17.78.130 – "Council decisions contrary to planning commission action"; and

(3) Take such additional, related, action that may be desirable.

BACKGROUND:

On August 6, 2019, the Planning Commission held a duly noticed public hearing and considered a proposal to allow the off-premise sale of beer and wine (Type 20 License) at a proposed 7-Eleven convenience store at 2900 West Beverly Blvd (the "Subject Property") within the General Commercial (C-2) Zone. The Planning Commission concluded to deny the proposed application and established certain findings for denial for CUP 24-19, as outlined in Planning Commission approved Resolution No. 37-19.
On November 27, 2019, 7-Eleven, LLC (the “Applicant”) filed an appeal of the Planning Commission’s denial of CUP 24-19 seeking approval from the City Council to overturn the Planning Commission’s decision of denial.

On March 12, 2020, a Notice of Public Hearing was published in the Whittier Daily News and notices were also mailed to all property owners within 300 feet of the proposed business location (Please see Attachment A).

**DISCUSSION:**

The Subject Property is approximately 16,184 square feet and is located in the C-2 Zone with a General Plan Land Use Designation of Boulevard Commercial. The Subject Property is improved within an existing 6,900 square-foot multiple tenant building. The Applicant proposes a 2,892 square-foot 7-Eleven convenience store that will be located within two of the existing vacant spaces at the multi-tenant center and the Applicant submitted a Conditional Use Permit application (CUP 24-19) that would allow for the off-premise sale of beer and wine (Type 20 License) in connection with the operation of the proposed convenience store.

At the August 6, 2019 Planning Commission meeting, staff presented the staff report with a recommendation of approval and included a draft Resolution to approve CUP 24-19 (Please see Attachment D). The Planning Commission opened the public hearing and took testimony from the Applicant and the public. The Planning Commission raised questions regarding parking and the distance requirements for similar or like uses that were currently permitted for off-premise alcohol sales. Staff mentioned that the only limitation or restriction for alcohol licenses was the number within a census tract and the City has not surpassed the threshold limit for the current census tract (See Attachment C). The Planning Commission closed the public hearing, deliberated, and expressed concern regarding alcohol sales at the proposed location and the lack of on-site parking. Subsequently, the Planning Commission voted 4-0 to deny CUP 24-19. Please note that one commissioner was absent (See Attachment D).

**REQUIRED FINDINGS:**

Per the Montebello Municipal Code ("MMC"), Chapter 17.78.080 – Appeal of planning commission decision – Council to hear appeal, the City Council must make the same findings and consider the same criteria as required of the Planning Commission. Per Section 17.81.050 of the MMC, the City Council on appeal shall find that the proposed use is consistent with the purpose and intent of the Alcoholic Beverage Establishment of
the MMC and make the following findings in lieu of the findings required by Section 17.70.070:

That the proposed use:


The subject site is zoned for commercial uses and will continue to be utilized as such with the new convenience store. The proposed sale of beer and wine for off-site consumption would complement the new convenience store operated by 7-Eleven and would occupy a space within an existing commercial space that is currently vacant. The operator would install advanced security equipment that includes indoor/outdoor circuit cameras with audio capabilities and colored monitors to enhance security measures for the surrounding area. In addition to the sale of beer and wine for off-site consumption, the operator is committed to providing healthy fresh food delivered daily. These amenities would promote and preserve a healthy environment consistent with Chapter 17.61 of the MMC.

b. Would not adversely affect the general welfare of the surrounding property owners;

The approval of the conditional use request will not adversely affect the general welfare of the community. The property is zoned for commercial use and will continue to be utilized as such with the subject convenience store. With oversight from the California Department of Alcoholic Beverage Control and conditions which have been imposed upon the convenience store as well as the subject site, the project will be compatible with the character of the immediate neighborhood.

c. Would not result in an undesirable concentration of premises for the sale of alcoholic beverages in the area in light of the findings set forth below.

The subject request would allow the sale of beer and wine for off-site consumption. Pursuant to Condition No. 41, the operator would be required to acquire one additional alcohol license within the City of Montebello within two years of the effective date of the conditional use permit with the option for a one year extension. Nevertheless, the subject site is located within a census tract that is statutorily “over concentrated.” Please note that 7-Eleven would
offer a different mix of merchandise including healthy selection of grab and go food options.

d. Would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to other on-sale or off-sale alcoholic beverage establishments, residential districts and uses, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities.

The subject site is zoned for commercial uses and will continue to be utilized as such with the new convenience store. As mentioned above, 7-Eleven would offer a variety of snacks, including healthy food options, and a variety of medicines to serve the local community. Sensitive uses located within 600-feet include Ashiya Park and Temple B’nai Emet. These sensitive uses are buffered by other business establishments and public streets. The security measures, lockable cooler doors and conditions of approval would help mitigate any potential concerns associated with the new convenience store.

e. Would not aggravate existing problems created by the sale of alcohol (e.g. littering, loitering, noise, public drunkenness, calls for service, and sales to minors); and

The proposed Project would not aggravate existing problems created by the sale of alcohol. There will be added food amenities including healthy food options at a currently underutilized vacant commercial space. In addition, 7-Eleven is committed to becoming a community partner by donating fresh bottled water pallets to local high school athletic programs as well as contributing toward educational effort targeting youth crime prevention. Furthermore, 7-Eleven would install a surveillance system surrounding the building with indoor and outdoor closed circuit cameras with audio capabilities, silent alarm system, and colored high definition monitors. Additional lighting will be installed in the parking lot as part of upgrades to the landscaping and façade of the commercial center for customer and community safety. Adequate checks will be implemented through a point of sale system on all age restricted products. In addition, the conditions of approval will help mitigate any issues associated with the proposed sale of beer and wine for off-site consumption.
f. Is in conformance with the goals, policies, and objectives of the general plan and the purpose and intent of this code and any applicable specific plan.

There are 12 elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The Land Use Element of the City's General Plan designates the subject site as Boulevard Commercial (B-C) land uses with corresponding commercial zones. The subject site is zoned C-2 and the proposed use conforms to the following objectives of the General Plan: Objective No. 3, "cluster" type commercial development is preferential to proliferation of strip commercial; Policy Commercial #1, "Commercial development in the City should be sited in appropriate locations according to need," and Commercial Policy #4. "The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City"; therefore, the proposed Project is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of the Zoning Code because the Project site currently consists of vacant underutilized commercial space, and the Project will occupy the existing vacant commercial space and provide a service to the community while bringing tax revenues to the City.

Staff is requesting this City Council conduct a public hearing to consider all matters presented and either (1) adopt a resolution upholding the Planning Commission's denial of CUP 24-19; or (2) adopt a resolution overturning the Planning Commission's decision to deny CUP 24-19 and approve CUP 24-19, which as presented, would become effective after the City Council's findings are referred to the Planning Commission and the Planning Commission provides a further report on the matter as required under MMC 17.78.130.

It should be noted that should this City Council consider reversing the Planning Commission's decision to deny CUP 24-19 and approve CUP 24-19, staff is recommending additional conditions of approval that may address some of the concerns raised by the Planning Commission during its August 6, 2019 public hearing. The additional conditions are shown in double underline in the enclosed Attachment "A" and are listed as follows:

1. The applicant and operator shall prepare and submit a quarterly project compliance report. This report is due quarterly for the first three years of operation and annually during the first quarter of the year every three years thereafter. The
compliance report must be submitted to the Director of Planning and Community Development to demonstrate compliance with the Conditional Use Permit.

2. The applicant and operator shall acquire one additional alcohol license within the City of Montebello within two years of the effective date of the Conditional Use Permit. A one-year extension would be allowed to comply with this condition.

3. The property owner shall prepare and submit a landscape plan for review and approval by the Planning and Community Development Department within six months of the effective date of the Conditional Use Permit. The landscape plan shall include enhancements to the parking area and perimeter of the subject property and must be approved within the first year of operation.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA"): In addition to the above-referenced findings, this City Council must also approve and adopt a CEQA Categorical Exemption, Class 1 ("Existing Facilities") for the Project, in accordance with CEQA Guidelines Section 15301, based on the following findings:

1. The Project is Categorically Exempt per Section 15301 (Exiting Facilities) because Class 1 consists of the operation, repair, maintenance, permitting, leasing, or minor alteration of existing public or private facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use and none of the exceptions set forth under CEQA Guidelines Section 153002.2 apply. In this case, the permitted convenience store would include the off-site sale of beer and wine (Type 20 License) within a 7-Eleven. The Project is consistent with the applicable general plan designation and all applicable general plan policies, as well as with applicable zoning designations and regulations. No General Plan Amendment or Zone Change will be required to accommodate the proposed Project; and

2. The Project involves negligible expansion of use to the permitted convenience store and no expansion of the physical structure or floor area in the existing commercial structure.

FISCAL IMPACT

There is no fiscal impact to the General Fund
ATTACHMENT(S)

A. Proposed Resolution reversing the Planning Commissions’ denial of CUP 24-19
B. Public Hearing Notice
C. Planning Commission Packet dated August 6th, 2019
D. Planning Commission Minutes of August 6th, 2019 Planning Commission Meeting
E. Planning Commission Resolution No. 37-19
F. Notice of CEQA Exemption
RESOLUTION NO. 24-20

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO REVERSING THE DECISION OF THE PLANNING COMMISSION DENYING CONDITIONAL USE PERMIT (CUP 24-19) TO ALLOW THE SALES OF ALCOHOL (TYPE 20 LICENSE) WITHIN A NEW CONVENIENCE STORE LOCATED AT 2900 WEST BEVERLY BOULEVARD, SUITE A-B

WHEREAS, Conditional Use Permit (CUP 24-19) application was received and accepted;

WHEREAS, CUP 24-19 would allow sales of alcohol (type 20 License) within a new convenience store located at 2900 West Beverly Boulevard, Suite A-B;

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City of Montebello is the lead agency for the proposed Project;

WHEREAS, CUP 24-19 is considered a "project," as per the California Environmental Quality Act definition of a "project";

WHEREAS, the project is Categorically Exempt per CEQA Section §15301, Class 1 (Existing Facilities); and

WHEREAS, a duly notice public hearing on the proposed Project was held on August 6, 2019, at which the Planning Commission received and considered staff presentations, recommendations, public testimony, and all other matters presented at the public hearing and included in the record for this matter; and

WHEREAS, at the August 6, 2019 public hearing, the Planning Commission denied CUP 24-19; and

WHEREAS, an appeal was filed by the applicant in a timely manner and this City Council is now required to hold a public hearing and make the same findings and consider the same criteria as required of the Planning Commission; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.
NOW, THEREFORE, the City Council of the City of Montebello hereby resolves, finds, and declares as follows:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.

SECTION 2. The City Council hereby reverses the decision of the Planning Commission denying CUP 24-19 and approves CUP 24-19 based on the findings below.

SECTION 3. The City Council approves and adopts a CEQA Categorical Exemption, Class 1 ("Existing Facilities") for the Project, in accordance with CEQA Guidelines Section 15301, based on the following findings:

1. The Project is consistent with the applicable general plan designation and all applicable general plan policies, as well as with applicable zoning designations and regulations. No General Plan Amendment or Zone Change will be required to accommodate the proposed Project; and

2. The Project involves negligible expansion of use to the current restaurant use and no expansion of the physical structure or floor area in which the use is operating.

SECTION 4. That the City Council hereby finds and declares as follows:

1. The proposed use conforms with the City of Montebello General Plan Land Use Element, Goal 1, "[T]o formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;" Objective #3, "cluster" type commercial development is preferential to proliferation of strip commercial;" Policy Commercial #1, "Commercial development in the City should be sited in appropriate locations according to need," and Commercial Policy #4. "The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City"; because the Project site is currently vacant underutilized space, and the Project will occupy the existing commercial space and provide a service to the community while bringing tax revenues to the City.

2. Pursuant to Montebello Municipal Code, Title 17, Section 17.61.050, the proposed Project:

The subject site is zoned for commercial uses and will continue to be utilized as such with the new convenience store. The proposed sale of beer and wine for off-site consumption would complement the new convenience store operated by 7-Eleven and would occupy a space within an existing commercial space that is currently vacant. The operator will install advanced security equipment that includes indoor/outdoor circuit cameras with audio capabilities and colored monitors to enhance security measures for the surrounding area. In addition to the sale of beer and wine for off-site consumption, the operator is committed to providing healthy fresh food delivered daily. These amenities would promote and preserve a healthy environment consistent with Chapter 17.61 of the MMC.

b. Would not adversely affect the general welfare of the surrounding property owners;

The approval of the conditional use request will not adversely affect the general welfare of the community. The property is zoned for commercial use and will continue to be utilized as such with the subject convenience store. With oversight from the California Department of Alcoholic Beverage Control and conditions which have been imposed upon the convenience store as well as the subject site, the project will be compatible with the character of the immediate neighborhood.

c. Would not result in an undesirable concentration of premises for the sale of alcoholic beverages in the area in light of the findings set forth below.

The subject request would allow the sale of beer and wine for off-site consumption. Pursuant to Condition No. 41, the operator would be required to acquire one additional alcohol license within the City of Montebello within two years of the effective date of the conditional use permit with the option for a one year extension. Nevertheless, the subject site is located within a census tract that is statutorily “over concentrated.” It is noted that 7-Eleven would offer a different mix of merchandise including healthy selection of grab and go food options.

d. Would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with
respect to other on-sale or off-sale alcoholic beverage establishments, residential districts and uses, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities.

The subject site is zoned for commercial uses and will continue to be utilized as such with the new convenience store. As mentioned above, 7-Eleven would offer a variety of snacks, including healthy food options, and a variety of medicines to serve the local community. Sensitive uses located within 600-feet include Ashiya Park and Temple B’nai Emet. These sensitive uses are buffered by other business establishments and public streets. The security measures, lockable cooler doors and conditions of approval would help mitigate any potential concerns associated with the new convenience store.

e. Would not aggravate existing problems created by the sale of alcohol (e.g. littering, loitering, noise, public drunkenness, calls for service, and sales to minors); and

The proposed Project would not aggravate existing problems created by the sale of alcohol. There will be added food amenities including healthy food options at a currently underutilized vacant commercial space. In addition, 7-Eleven is committed to becoming a community partner by donating fresh bottled water pallets to local high school athletic programs as well as contributing toward educational effort targeting youth crime prevention. Furthermore, 7-Eleven would install a surveillance system surrounding the building with indoor and outdoor closed circuit cameras with audio capabilities, silent alarm system, and colored high definition monitors. Additional lighting will be installed in the parking lot as part of upgrades to the landscaping and façade of the commercial center for customer and community safety. Adequate checks will be implemented through a point of sale system on all age restricted products. In addition, the conditions of approval will help mitigate any issues associated with the proposed sale of beer and wine for off-site consumption.

f. Is in conformance with the goals, policies, and objectives of the general plan and the purpose and intent of this code and any applicable specific plan.

There are 12 elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The Land
Use Element of the City’s General Plan designates the subject site as Boulevard Commercial (B-C) land uses with corresponding commercial zones. The subject site is zoned C-2 and the proposed use conforms to the following objectives of the General Plan: Objective No. 3, “cluster” type commercial development is preferential to proliferation of strip commercial;” Policy Commercial #1, “Commercial development in the City should be sited in appropriate locations according to need,” and Commercial Policy #4. “The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City”; therefore, the proposed Project is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of the Zoning Code because the Project site currently consists of vacant underutilized commercial space, and the Project will occupy the existing vacant commercial space and provide a service to the community while bringing tax revenues to the City.

SECTION 5. The City Council finds and declares that the foregoing conditions of approval are necessary and appropriate, and therefore adopts and imposes such conditions on the Project:

1. The applicant shall defend, indemnify, and hold harmless the city, its elected and appointed officials, agents, officers, and employees from any claim, action, or proceeding brought against the city, its elected and appointed officials, agents, officers, or employees arising out of, or which are related to the applicant’s project or application (collectively referred to as “proceedings”). The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the city, if any, and cost of suit, attorney’s fees, and other costs, liabilities, and expenses incurred or awarded in connection with the proceedings whether incurred by the applicant, the city and/or the parties initiating or bringing such proceedings. This indemnity provision shall include the applicant’s obligation to indemnify the city for all the city’s costs, fees, and damages that the city incurs in enforcing the indemnification provisions set forth herein. The city shall have the right to choose its own legal counsel to represent the city’s interest in the proceedings.

2. The utilization of the subject site shall conform to the allowed use, except as provided for herein and by subsequent revisions found by the Director of Planning and Community Development to be in substantial compliance with these provisions.

3. The development of the subject site shall be consistent with all of the provisions of the Montebello Municipal Code (MMC) and Conditional Use Permit (CUP24-19).
4. The Director of Planning and Community Development, at any time, can call for a review of the approved conditions of approval at a duly noticed public hearing before the Planning Commission. These condition(s) may be modified, or new condition(s) added to reduce any impacts of the use. The Planning Commission may revoke the Conditional Use Permit (CUP24-19) if sufficient cause is given.

5. Any change in ownership, lease and/or any other change should be given written notice to the Director of Planning and Community Development prior to the change.

6. The applicant or successor in interest shall meet the applicable Code requirements and all other City Departments regulations.

7. All applicable conditions of approval from previous entitlements on the property shall remain in full force and effect, unless otherwise specifically noted in this Resolution.

8. The property owner will bear the full costs of all monitoring and inspection activities to be conducted by City staff, or its designated representative(s), as necessary to ensure compliance with the conditions of this Resolution.

9. Any change, expansion, intensification and/or modification to the proposed plans use, or mode of operations shall be subject to the review and approval by the Director of Planning and Community Development who may take action or call for review by the Planning Commission at a noticed public hearing.

10. The property owner shall have all graffiti on-site removed within 24 hours of its appearance.

11. The operation of the said use shall at all times be conducted in a manner not detrimental to surrounding properties or residents because of lights, noise, activities, parking or other actions.

12. All employees of the businesses on-site shall be out of the premises no later than one hour after closing. No "after hours" operations shall be permitted.

13. No loitering in the parking area and shall control noisy patrons leaving the location. Signs shall be posted notifying customers of the courtesy to adjacent residential uses. The size, content, and location of the sign(s) are subject to the review and
approval of the Director of Planning and Community Development prior to installation.

14. All business operators shall take the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises.

15. The establishment shall maintain all required permits and/or licenses for the sale of beer and wine in good standing.

16. The parking area shall be sufficiently lit and secured to discourage loitering and/or late night activity.

17. This approval shall not supersede the approval of any other responsible agencies. The applicant shall comply with all Federal, State and local laws.

18. The approval of this Conditional Use Permit (CUP24-19) shall expire if the rights granted are not exercised within two (2) years from the effective date of this Resolution. Exercise of rights shall mean the issuance of an ABC license to the applicant.

19. The approval of this Conditional Use Permit (CUP24-19) can be extended up to and not to exceed an additional two (2) years with a written request by the property owner stating the reason and need for an extension and upon review and approval by the Director of Planning and Community Development.

20. In the event of a violation of the conditions of approval, no further permits, licenses, approvals or certificates of occupancy shall be issued until such violation has been fully remedied.

21. The premises shall be kept clean, and the operator of the establishment shall ensure that no trash or litter originating from the site is deposited onto neighboring properties or public right-of-way.

22. If at any time, a litter problem arises, the Director of Planning and Community Development may require a litter clean-up plan to be submitted and reviewed. The litter clean-up plan shall include a schedule of time and frequency of litter clean-up activities. Upon approval of the plan by the Director of Planning and Community Development, the measures of the plan shall be implemented. This condition may require the operator of the use to post a bond to ensure litter compliance.
23. The development and utilization of the site shall comply with all the provisions of all of the current Building, Plumbing, Mechanical, Electrical Codes, and City Ordinances, as well as additional requirements from the Montebello Building and Safety Division.

24. The development and utilization of the site shall be subject to the review and approval of the Public Works Department. Additional Montebello Public Works Department requirements may be required prior to issuing building permits.

25. The development and utilization of the site shall comply with all the provisions of all of the California Fire Code, International Fire Code, and National Fire Protection Association standards as well as additional requirements from the Montebello Fire Department.

26. No pay telephone(s) on the exterior of the premises.

27. Exterior storage of any kind shall be prohibited.

28. No alcohol shall be consumed on the premises.

29. That no signs shall be installed on the site until a sign permit has been issued

30. The Planning Commission and the City Council on appeal shall have the right to impose additional conditions for the protection of the public health, safety, and welfare.

31. The following Mandatory Conditions of Approval for on-sale alcoholic beverage establishments (Section 17.61.080) shall be met, where applicable to the said use.

   a. Any off-sale alcoholic beverage establishments seeking to sell or store motor fuels on the same premises as alcoholic beverages shall comply with the following conditions:

   b. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.

   c. No advertisements of alcoholic beverages shall be displayed at motor fuel islands and no self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
d. No sale of alcohol beverages shall be made from a drive-up window.

e. No display or sale of beer or wine shall be made from an ice tub.

f. Employees on duty between the hours of ten p.m. and two a.m. shall be at least twenty-one years of age to sell beer and wine.

g. The permittee at all times shall comply with all terms and provisions of the license issued by the State Department of Alcoholic Beverage Control and/or the terms and provisions of the Alcoholic Beverage Control Act.

h. No sale of single containers of beer and/or wine coolers shall be made.

i. In addition to the conditions enumerated above, additional conditions may be imposed by city staff.

j. That the noise levels generated by the operation of such establishment shall not exceed sixty-five dBA between the hours of seven a.m. to ten p.m., and not exceed sixty dBA between the hours of ten p.m. to seven a.m., so as to mitigate the impact on adjoining properties zoned or used for residential purposes. The measurement of noise levels shall be taken at the location of the shared property line.

k. That exterior lighting of the parking area shall be kept at an intensity of between one- and two-foot candles, so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas. Light sources shall be shielded from adjacent properties and from the sky.

l. The sorting of empty bottles and other recyclable products shall be limited to the hours between eight a.m. to nine p.m. daily.

m. That the sale of alcoholic beverages for consumption on premises shall be prohibited and appropriate posting of signs
stating that drinking on the premises is prohibited by law shall
be posted both inside and outside the establishment. The
premises shall include the establishment proper and/or the
appurtenant common area if located in a commercial center.

n. That special security measures such as burglar alarm systems
as specified by the police department may be required.

o. That exterior public telephones that permit incoming calls may
not be located on the premises.

p. That exterior storage of any kind shall be prohibited.

q. That litter and trash receptacles shall be located at convenient
locations inside and outside establishments, and operators of
such establishments shall remove trash and debris on a daily
basis.

r. That paper or plastic cups shall not be sold or given away in
quantities less than their usual and customary packaging.

s. That no signs shall be installed on the site until a sign permit
has been approved by the building and safety division and the
planning department in conformance with the provisions set

32. Per Section 9.04.010 of the Montebello Municipal Code, no person shall drink any
intoxicating liquor in or upon any public street or public place within the city. Signs
shall be posted on the premises both inside and outside, citing Section 9.04.010 of
the Montebello Municipal Code.

33. Premises shall be kept clean and the operator of the establishment shall ensure
that no trash or litter originating from the site is deposited onto neighboring
properties or public right-of-way.

34. The management of any establishment selling alcohol shall take the necessary
steps to assure the orderly conduct of employees, patrons and visitors on the
premises.
35. The owner of the establishment shall maintain all required permits and/or licenses for the sale of alcoholic beverages in good standing.

36. No person shall sell alcoholic beverages for on-premises consumption if there has been any lapse or breach in the good standing of any one or more of the permits and/or licenses required for such sale.

37. In addition to the conditions enumerated above, any other condition may be imposed by city staff.

38. There shall be no exterior advertising of any kind or interior window signage visible from the exterior, advertising the sale of alcoholic beverages.

39. No alcoholic beverages shall be stored, maintained, displayed or sold from an ice tub.

40. Beer, malt liquor, wine cooler and any other similar type of alcoholic beverage shall be sold and purchased in minimum quantities of 6 or more, except that wine coolers may be sold and purchased in minimum quantities of 4 or more. The applicant shall not display, offer for sale or sell single units of such alcoholic beverages in any size. Further, the applicant shall not store, maintain, display, and offer to sell or sell the following sized containers of such alcoholic beverages: 32 ounces, 40 ounces, 64 ounces or greater.

41. The subject alcoholic beverage license shall not be exchanged for any other type of on-sale license.

42. Before the location opens, all employees who will sell alcoholic beverages shall be required to attend either ABC LEAD training or a comparable in-house training program approved by the Director of Community Department. If the employees are hired after the location is open, they shall be required to attend LEAD training or the approved in-house training within thirty (30) days of their hire date.

43. The sale of alcoholic beverages shall be limited between the hours of 6:00 a.m. to 2:00 a.m. Monday through Sunday. During the hours that the sale of beer and wine are not permitted the coolers must be locked to prohibit customers from purchasing alcohol.

44. The applicant shall post a permanent sign or signs complying with 16-31 PC, "Possession of Opened Alcoholic Beverages containers on the premise is
prohibited by law. The sign or signs shall be posted in areas that are clearly visible to patrons at all times.

45. The applicant and operator shall prepare and submit a quarterly project compliance report. This report is due quarterly for the first three years of operation and annually during the first quarter of the year every three years thereafter. The compliance report must be submitted to the Director of Planning and Community Development to demonstrate compliance with the Conditional Use Permit.

46. The applicant and operator shall acquire one additional alcohol license within the City of Montebello within two years of the effective date of the conditional use permit. A one-year extension would be allowed to comply with this condition.

47. The property owner shall prepare and submit a landscape plan for review and approval by the Planning and Community Development Department within six months of the effective date of the Conditional Use Permit. The landscape plan shall include enhancements to the parking area and perimeter of the subject property and must be approved within the first year of operation.

SECTION 6. Council decisions contrary to Planning Commission Action. Per MMC 17.78.130, if the decision of the City Council is in any way contrary to the action taken by the Planning Commission, including a decisions regarding the approval or denial of a conditional use permit (MMC 17.70.140), the City Council is required to refer its findings to the Planning Commission and request a further report of the Planning Commission on the matter. Failure of the Planning Commission to report to the City Council within forty (40) days after reference may be deemed to be approval by the Planning Commission.

SECTION 7. The City Council’s decision reversing the Planning Commission’s decision denying CUP 24-19 and approving CUP 24-19 shall go into effect upon the earlier date of: (i) the Planning Commission issues a further report to the City Council; or (ii) forty days after the City Council refers its findings. (MMC 17.78.130).

PASSED AND ADOPTED this ____ day of March, 2020 by the City Council.

AYES:
NOES:
ABSENT:
ABSTAIN:
ATTEST:

______________________________
Irma Barajas, City Clerk

APPROVED AS TO FORM:

______________________________
Arnold M. Alvarez-Glasman, City Attorney
TO: Honorable Chair and Planning Commissioners

DATE: August 6, 2019

FROM: Matthew Feske, Planning Manager

BY: Michael Donovan, Planning Intern

SUBJECT: Conditional Use Permit (CUP24-19) application to allow alcohol sales (Type 20 License) within a convenience store located at 2900 West Beverly Blvd., Suite A&B.

RECOMMENDATION:

Conduct a public hearing and upon conclusion adopt a Resolution approving Conditional Use Permit (CUP24-19) with conditions to allow alcohol sales (Type 20 License) within a new store located at 2900 West Beverly Boulevard., Suite A&B.

PROJECT/APPLICANT INFORMATION

Project Location: 2900 West Beverly Boulevard., Suite A - B
Project Applicant: 7-Eleven, Inc.
Property Owner: Alina, LLC
General Plan Designation: Commercial Boulevard
Zoning: C-2 (General Commercial)
Existing Use on Property: Multi-tenant building

SURROUNDING LAND USE

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<thead>
<tr>
<th>Direction</th>
<th>Zone</th>
<th>Land Use</th>
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<tbody>
<tr>
<td>North</td>
<td>C-2</td>
<td>Commercial/Retail/Restaurants</td>
</tr>
<tr>
<td>South</td>
<td>C-2</td>
<td>Commercial/Retail/Restaurants</td>
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<td>East</td>
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<tr>
<td>West</td>
<td>C-2</td>
<td>Commercial/Retail/Restaurants</td>
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BACKGROUND

The project site is located within the C-2 (General Commercial) zone. The project site is improved within an existing multiple tenant building.

The applicant proposes to sell alcohol which requires a Conditional Use Permit and the license
type 20 for the off-sale of beer and wine will be reviewed and issued by the California State agency, Department of Alcohol and Beverage Control (ABC).

ANALYSIS

GENERAL PLAN

The proposed project conforms with the Montebello General Plan, Land Use Element in that the proposed use will provide additional amenities for an existing business that will increase the taxable revenues from these properties to the City.

Goal #1: [T]o Formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development. Objective #3: "cluster" type commercial development is preferential to proliferation of strip commercial. Commercial Policy #4: The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City.

MONTEBELLO MUNICIPAL CODE (MMC)

Pursuant to Section 17.61.030 of the Montebello Municipal Code, Conditional Use Permit approval is required for the sale of alcohol. The said code section states, "...no place where alcohol beverages are sold, served or given away as a normal course of business for on-sale consumption, shall be established without first obtaining a conditional use permit from the city of Montebello." The proposed alcohol sales would be an ancillary use to the existing restaurant use, and alcohol sales would be permitted with a Conditional Use Permit.

ALCOHOL BEVERAGE CONTROL (ABC)

<table>
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<tr>
<th>County Name</th>
<th>Population</th>
<th>Ratio On Sale</th>
<th>Ratio Off Sale</th>
<th>Census Tract #</th>
<th>Census Tract Population</th>
<th>On Sale</th>
<th>Off Sale</th>
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ITEM # 8B
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<td>30708</td>
<td>ACTIVE</td>
<td>21</td>
<td>2924 W Beverly Blvd</td>
<td>Super A Foods</td>
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</table>

Findings

The proposed alcohol sales would not exceed the allotted Off Sale ABC Licenses Types and will not require the Planning Commission to make a finding of public convenience or necessity.

CEQA

The Conditional Use Permit (CUP24-19) application is considered a "project," per the California Environmental Quality Act definition of a "project." The project is Categorically Exempt per Section §15301 (a) (Existing Facilities) because Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination such as interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

PUBLIC COMMENTS RECEIVED

Pursuant to Section 17.61.040 (Increased Public Notification Requirements) of the MMC, the following noticing was performed:
• Public Hearing Noticing was published in the newspaper on July 25, 2019;
• Public Hearing Notice was mailed on July 25, 2019:
  o Mailed to occupants of buildings within five hundred feet of the site boundaries;
  and
  o Mailed to all property owners within three hundred feet of the site boundaries.

Staff has not received any public comments regarding the project, as of the writing of this report.

FISCAL IMPACT

None

ATTACHMENT(S)

A. Draft Resolution
B. Public Hearing Notice
CITY OF MONTEBELLO
PLANNING COMMISSION

RESOLUTION NO. ###-19

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTEBELLO ADOPTING CEQA EXEMPTION AND APPROVING A CONDITIONAL USE PERMIT (CUP24-19) TO ALLOW THE SALES OF ALCOHOL (TYPE 20 LICENSE) WITHIN A NEW CONVENIENCE STORE LOCATED AT 2900 WEST BEVERLY BOULEVARD, SUITE A-B.

WHEREAS, a Conditional Use Permit (CUP24-19) application has been received and accepted;

WHEREAS, the Conditional Use Permit would allow sales of alcohol (type 20 License) within a new convenience store located at 2900 West Beverly Boulevard, Suite A-B;

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City of Montebello is the lead agency for the proposed Project;

WHEREAS, the Conditional Use Permit (CUP24-19) is considered a "project," as per the California Environmental Quality Act definition of a "project";

WHEREAS, the project is Categorically Exempt per CEQA Section §15301, Class 1 (Existing Facilities); and

WHEREAS, a duty notice public hearing on the proposed Project has been held, at which the Planning Commission received and considered staff presentations, recommendations, public testimony, and all other matters presented at the public hearing and included in the record for this matter; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the Planning Commission of the City of Montebello hereby resolves, finds, and declares as follows:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.

SECTION 2. The Planning Commission approves and adopts a CEQA Categorical Exemption, Class 1 ("Existing Facilities") for the Project, in accordance with CEQA Guidelines Section 15301, based on the following findings:
1. The Project is consistent with the applicable general plan designation and all applicable general plan policies, as well as with applicable zoning designations and regulations. No General Plan Amendment or Zone Change will be required to accommodate the proposed Project; and

2. The Project involves negligible expansion of use to the current restaurant use and no expansion of the physical structure or floor area in which the use is operating.

SECTION 3: That the Planning Commission hereby finds and declares as follows:

1. The proposed use conforms with the City of Montebello General Plan Land Use Element, Goal 1, "[T]o formulate a plan which is responsive to the needs of the community and which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development;" Objective #3, "cluster" type commercial development is preferential to proliferation of strip commercial;" Policy Commercial #1, "Commercial development in the City should be sited in appropriate locations according to need," and Commercial Policy #4. "The City should contain ample commercial facilities to meet the needs of its residents as well as provide taxable revenues to the City"; because the Project site is fully developed for restaurant use, and the Project will occupy the existing commercial space and provide a service to the community while bringing tax revenues to the City.

2. Pursuant to Montebello Municipal Code, Title 17, Section 17.61.050, the proposed Project:

   a. Is consistent with the purposes and intent of Chapter 17.61 – Alcoholic Beverage Establishments – of the Montebello Municipal Code;

   b. Would not adversely affect the general welfare of the surrounding property owners;

   c. Would not result in an undesirable concentration of premises for the sale of alcoholic beverages in the area in light of the findings set forth below;

   d. Would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to other on-sale or off-sale alcoholic beverage establishments, residential districts and uses, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches and other places of religious worship, hospitals, clinics or other health care facilities;

   e. Would not aggravate existing problems created by the sale of alcohol (e.g. littering, loitering, noise, public drunkenness, calls for service, and sales to minors); and
f. Is in conformance with the goals, policies, and objectives of the general plan and the purpose and intent of this code and any applicable specific plan.

SECTION 4. The Planning Commission finds and declares that the foregoing conditions of approval are necessary and appropriate, and therefore adopts and imposes such conditions on the Project:

1. The applicant shall defend, indemnify, and hold harmless the city, its elected and appointed officials, agents, officers, and employees from any claim, action, or proceeding brought against the city, its elected and appointed officials, agents, officers, or employees arising out of, or which are related to the applicant’s project or application (collectively referred to as “proceedings”). The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the city, if any, and cost of suit, attorney’s fees, and other costs, liabilities, and expenses incurred or awarded in connection with the proceedings whether incurred by the applicant, the city and/or the parties initiating or bringing such proceedings. This indemnity provision shall include the applicant’s obligation to indemnify the city for all the city’s costs, fees, and damages that the city incurs in enforcing the indemnification provisions set forth herein. The city shall have the right to choose its own legal counsel to represent the city’s interest in the proceedings.

2. The utilization of the subject site shall conform to the allowed use, except as provided for herein and by subsequent revisions found by the Director of Planning and Community Development to be in substantial compliance with these provisions.

3. The development of the subject site shall be consistent with all of the provisions of the Montebello Municipal Code (MMC) and Conditional Use Permit (CUP24-19).

4. The Director of Planning and Community Development, at any time, can call for a review of the approved conditions of approval at a duly noticed public hearing before the Planning Commission. These condition(s) may be modified, or new condition(s) added to reduce any impacts of the use. The Planning Commission may revoke the Conditional Use Permit (CUP24-19) if sufficient cause is given.

5. Any change in ownership, lease and/or any other change should be given written notice to the Director of Planning and Community Development prior to the change.

6. The applicant or successor in interest shall meet the applicable Code requirements and all other City Departments regulations.

7. All applicable conditions of approval from previous entitlements on the property shall remain in full force and effect, unless otherwise specifically noted in this Resolution.
8. The property owner will bear the full costs of all monitoring and inspection activities to be conducted by City staff, or its designated representative(s), as necessary to ensure compliance with the conditions of this Resolution.

9. Any change, expansion, intensification and/or modification to the proposed plans use, or mode of operations shall be subject to the review and approval by the Director of Planning and Community Development who may take action or call for review by the Planning Commission at a noticed public hearing.

10. The property owner shall have all graffiti on-site removed within 24 hours of its appearance.

11. The operation of the said use shall at all times be conducted in a manner not detrimental to surrounding properties or residents because of lights, noise, activities, parking or other actions.

12. All employees of the businesses on-site shall be out of the premises no later than one hour after closing. No "after hours" operations shall be permitted.

13. No loitering in the parking area and shall control noisy patrons leaving the location. Signs shall be posted notifying customers of the courtesy to adjacent residential uses. The size, content, and location of the sign(s) are subject to the review and approval of the Director of Planning and Community Development prior to installation.

14. All business operators shall take the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises.

15. The establishment shall maintain all required permits and/or licenses for the sale of beer and wine in good standing.

16. The parking area shall be sufficiently lit and secured to discourage loitering and/or late night activity.

17. This approval shall not supersede the approval of any other responsible agencies. The applicant shall comply with all Federal, State and local laws.

18. The approval of this Conditional Use Permit (CUP24-19) shall expire if the rights granted are not exercised within two (2) years from the effective date of this Resolution. Exercise of rights shall mean the issuance of an ABC license to the applicant.

19. The approval of this Conditional Use Permit (CUP24-19) can be extended up to and not to exceed an additional two (2) years with a written request by the property owner stating the reason and need for an extension and upon review and approval by the Director of Planning and Community Development.
20. In the event of a violation of the conditions of approval, no further permits, licenses, approvals or certificates of occupancy shall be issued until such violation has been fully remedied.

21. The premises shall be kept clean, and the operator of the establishment shall ensure that no trash or litter originating from the site is deposited onto neighboring properties or public right-of-way.

22. If at any time, a litter problem arises, the Director of Planning and Community Development may require a litter clean-up plan to be submitted and reviewed. The litter clean-up plan shall include a schedule of time and frequency of litter clean-up activities. Upon approval of the plan by the Director of Planning and Community Development, the measures of the plan shall be implemented. This condition may require the operator of the use to post a bond to ensure litter compliance.

23. The development and utilization of the site shall comply with all the provisions of all of the current Building, Plumbing, Mechanical, Electrical Codes, and City Ordinances, as well as additional requirements from the Montebello Building and Safety Division.

24. The development and utilization of the site shall be subject to the review and approval of the Public Works Department. Additional Montebello Public Works Department requirements may be required prior to issuing building permits.

25. The development and utilization of the site shall comply with all the provisions of all of the California Fire Code, International Fire Code, and National Fire Protection Association standards as well as additional requirements from the Montebello Fire Department.

26. No pay telephone(s) on the exterior of the premises.

27. Exterior storage of any kind shall be prohibited.

28. No alcohol shall be consumed on the premises.

29. That no signs shall be installed on the site until a sign permit has been issued.

30. The Planning Commission and the City Council on appeal shall have the right to impose additional conditions for the protection of the public health, safety, and welfare.

31. The following Mandatory Conditions of Approval for on-sale alcoholic beverage establishments (Section 17.61.080) shall be met, where applicable to the said use.
a. Any off-sale alcoholic beverage establishments seeking to sell or store motor fuels on the same premises as alcoholic beverages shall comply with the following conditions:

b. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.

c. No advertisements of alcoholic beverages shall be displayed at motor fuel islands and no self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.

d. No sale of alcohol beverages shall be made from a drive-up window.

e. No display or sale of beer or wine shall be made from an ice tub.

f. Employees on duty between the hours of ten p.m. and two a.m. shall be at least twenty-one years of age to sell beer and wine.

g. The permittee at all times shall comply with all terms and provisions of the license issued by the State Department of Alcoholic Beverage Control and/or the terms and provisions of the Alcoholic Beverage Control Act.

h. No sale of single containers of beer and/or wine coolers shall be made.

i. In addition to the conditions enumerated above, additional conditions may be imposed by city staff.

j. That the noise levels generated by the operation of such establishment shall not exceed sixty-five dBA between the hours of seven a.m. to ten p.m., and not exceed sixty dBA between the hours of ten p.m. to seven a.m., so as to mitigate the impact on adjoining properties zoned or used for residential purposes. The measurement of noise levels shall be taken at the location of the shared property line.

k. That exterior lighting of the parking area shall be kept at an intensity of between one- and two-foot candles, so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas. Light sources shall be shielded from adjacent properties and from the sky.
I. The sorting of empty bottles and other recyclable products shall be limited to the hours between eight a.m. to nine p.m. daily.

m. That the sale of alcoholic beverages for consumption on premises shall be prohibited and appropriate posting of signs stating that drinking on the premises is prohibited by law shall be posted both inside and outside the establishment. The premises shall include the establishment proper and/or the appurtenant common area if located in a commercial center.

n. That special security measures such as burglar alarm systems as specified by the police department may be required.

o. That exterior public telephones that permit incoming calls may not be located on the premises.

p. That exterior storage of any kind shall be prohibited.

q. That litter and trash receptacles shall be located at convenient locations inside and outside establishments, and operators of such establishments shall remove trash and debris on a daily basis.

r. That paper or plastic cups shall not be sold or given away in quantities less than their usual and customary packaging.

s. That no signs shall be installed on the site until a sign permit has been approved by the building and safety division and the planning department in conformance with the provisions set forth in Chapter 17.62 of the Montebello Municipal Code.

32. Per Section 9.04.010 of the Montebello Municipal Code, no person shall drink any intoxicating liquor in or upon any public street or public place within the city. Signs shall be posted on the premises both inside and outside, citing Section 9.04.010 of the Montebello Municipal Code.

33. Premises shall be kept clean and the operator of the establishment shall ensure that no trash or litter originating from the site is deposited onto neighboring properties or public right-of-way.

34. The management of any establishment selling alcohol shall take the necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises.

35. The owner of the establishment shall maintain all required permits and/or licenses for the sale of alcoholic beverages in good standing.
36. No person shall sell alcoholic beverages for on-premises consumption if there has been any lapse or breach in the good standing of any one or more of the permits and/or licenses required for such sale.

37. In addition to the conditions enumerated above, any other condition may be imposed by city staff.

38. There shall be no exterior advertising of any kind or interior window signage visible from the exterior, advertising the sale of alcoholic beverages.

39. No alcoholic beverages shall be stored, maintained, displayed or sold from an ice tub.

40. Beer, malt liquor, wine cooler and any other similar type of alcoholic beverage shall be sold and purchased in minimum quantities of 6 or more, except that wine coolers may be sold and purchased in minimum quantities of 4 or more. The applicant shall not display, offer for sale or sell single units of such alcoholic beverages in any size. Further, the applicant shall not store, maintain, display, and offer to sell or sell the following sized containers of such alcoholic beverages: 32 ounces, 40 ounces, 64 ounces or greater.

41. The subject alcoholic beverage license shall not be exchanged for any other type of on-sale license.

42. Before the location opens, all employees who will sell alcoholic beverages shall be required to attend either ABC LEAD training or a comparable in-house training program approved by the Director of Community Department. If the employees are hired after the location is open, they shall be required to attend LEAD training or the approved in-house training within thirty (30) days of their hire date.

43. The sale of alcoholic beverages shall be limited between the hours of 6:00 a.m. to 2:00 a.m. Monday through Sunday. During the hours that the sale of beer and wine are not permitted the coolers must be locked to prohibit customers from purchasing alcohol.

44. The applicant shall post a permanent sign or signs complying with 16-31 PC, "Possession of Opened Alcoholic Beverages containers on the premise is prohibited by law. The sign or signs shall be posted in areas that are clearly visible to patrons at all times.

**PASSED AND ADOPTED** this 6th day of August, 2019 by the Planning Commission.

AYES: Commissioner(s):
NOES: Commissioner(s):
ABSENT: Commissioner(s):
ABSTAIN: Commissioner(s):

Sona Mooradian, Chair

ATTEST:

Matthew Feske
Secretary to the Planning Commission