

**PLANNING COMMISSION MINUTES  
OF THE DECEMBER 12, 2005 MEETING  
HELD IN THE COUNCIL CHAMBER  
OF THE MONTCLAIR CIVIC CENTER  
5111 BENITO STREET, MONTCLAIR**

**CALL TO ORDER**

Chairman Flores called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Commissioner Vodvarka led those present in the salute to the flag.

**ROLL CALL**

Present: Chairman Flores, Vice Chairman Lenhert, Commissioner Vodvarka, Director of Community Development Clark, City Planner Lustro, Associate Planners Lai and Frazier-Burton, and City Attorney Robbins

Excused: Commissioners Johnson and Sahagun

**MINUTES**

The minutes of the November 28, 2005 Planning Commission meeting were presented for approval. Vice Chairman Lenhert moved to approve, Commissioner Vodvarka seconded, there being no opposition to the motion, the minutes were approved 3-0.

**ORAL AND WRITTEN COMMUNICATIONS**

**AGENDA ITEMS**

1. Workshop regarding Municipal Code cleanup and proposed amendments

City Planner Lustro stated that this informal workshop was scheduled to look at various sections of the Municipal Code. As indicated in the memo, staff has been assembling a list of typographical, grammatical and other minor errors in the Municipal Code over a period of time for correction at some point in the future and that point has arrived. In addition, staff runs into issues on a day-to-day basis with regard to various sections of the Code that staff believes are not satisfactorily addressed or leave themselves open to interpretation. Staff has included an attachment to the memo a list of these Code sections with recommended changes to clear up any misunderstandings or vagueness so it will become easier to deal with in the future. Staff would note that this is not an all-inclusive list and staff will continue to look at various sections of the Code for amendment in the future. However, we believe it

would be appropriate to start the process and get some of these cleaned up now and bring any others to the Commission at a future time.

Rather than go through each item individually, staff has provided the particular code sections where staff is recommending a change of some sort. The strikethrough language would be removed and any language that is underlined would be added. Under each code section is the rationale for the change. The first section of changes starting on Page 1-2 and going through the top of Page 1-5 are code sections where staff is recommending either grammatical changes or corrections of typos and corrections of sections that did not get changed when the code was recodified in 1999. There are still some sections where it makes reference to the old Municipal Code. Beginning on Page 1-5 and going through Page 1-11, staff has a list of sections where changes are recommended to tighten up the code. The intention this evening is to field questions from the Commission and take input and suggestions regarding any changes that should be made. Staff will incorporate the changes, if any, and bring the item back in January for formal consideration.

Commissioner Vodvarka asked for clarification regarding Section 8.36.090.B on page 1-5. He explained that there is a situation on Saratoga Avenue, between Orchard and Kingsley Streets, where there is a man who runs a business. There is more than one vehicle there all the time, some in the driveway and some out in the street. None weigh over 10,000 pounds but this is a business and some of the neighbors have been complaining about the parking of the vehicles. City Planner Lustro stated that that he was not minimizing the importance of the issue, but it is a different issue. What it sounds like is that the individual is running a plumbing business out of his residence, which is not permitted and he recommended that the item be brought to the attention of Code Enforcement. It is possible that the individual came in to obtain a home occupation permit and misrepresented the operation. Mr. Lustro stated that staff would be happy to pursue the issue with Code Enforcement.

Vice Chairman Lenhart asked if there was anything in the Code that limited the size of boats or campers in the front driveway. City Planner Lustro stated that the only restriction is that vehicles parked in the front driveway not obstruct the sidewalk.

City Planner Lustro stated that on page 1-4, City Attorney Robbins advised him of some recommended corrections. The first one is in Section 11.36.050.E.2.b, staff left out an "and" and on the same page, Section 11.68.080 under "Amortization", the existing code uses the word "grandfathered" and that word is not defined in the Municipal Code. When staff brings this back for formal consideration, it will be changed to "considered legal nonconforming."

Commissioner Vodvarka asked about maximum lot width and asked if Montclair had pieces of property within the city limits that have homes built on narrower lots and how would they fit. City Planner Lustro stated that we have many situations in the city that are existing legal nonconforming conditions. One example is that we have homes in the R-1 zone that are developed on lots less than the minimum required 7,500 square feet; they are legal nonconforming lots but they can still be developed to whatever their potential would be. Some of the non-conforming conditions were created prior to the City's incorporation, because the County had different standards in place, including minimum lot sizes and setbacks. As you know in the R-1 zones, interior lots are required to have side yard setbacks of five and 12 feet. Under County standards, many tracts built prior to 1956 called for five

feet in both side yards. The section that Commissioner Vodvarka is referring to on Page 1-2, Section 11.18.040.B, is simply a language clarification that came out of the discussion that occurred several meetings ago regarding the creation of a flag lot on Orchard Street. In that case, the applicant interpreted the code differently than staff. This particular language change was drafted by Director Clark the day after that meeting and put it on the list to bring to the Commission. So the word "building" was changed to "front lot line" to clarify that code section.

Vice Chairman Lenhert asked how the minimum lot frontage affected an existing vacant lot and could you build on it. City Planner Lustro replied that you could build on it, but it would be a legal nonconforming lot that would likely be a candidate for a variance. For example, say you have a 50' by 400' R-1 lot and the City requires a five-foot setback on one side and a 12-foot setback on the other. The house width could not exceed 33 feet, which is very narrow, particularly if you want to do any type of traditional construction where you have a front-loading garage, which takes up 22 feet. There may be argument for variance in that case or staff might try to work with an applicant to come up with a design that works better with the lot. If it is a legally existing lot, it is a nonconforming lot and it can be developed. You cannot take away a person's right to develop their property but you can work with them to try to come up with a development that is compatible with what is surrounding it.

Vice Chairman Lenhert asked about a circular driveway. City Planner Lustro stated that this particular section was generated by a number of requests for circular drives on lots that are 60 feet wide. The concern is that if we allow one, we cannot say no to neighbors who want to do the same thing. In a traditional subdivision where you have 60- to 65-foot-wide lots, all of a sudden each property would have two curb cuts, significantly minimizing the front yard landscaping and significantly cutting into street parking. The way the code is presently written, it talks about circular drives primarily on arterial streets where it is difficult to back out because of the traffic. Staff agrees with that. In looking at that and realizing that we have standard size lots on arterial streets, the lots do not loan themselves to a circular drive. Staff would rather try to work with the property owner and see if we can come up with a different option.

Vice Chairman Lenhert asked about the two-and-one-half stories (Chapter 11.26 on Page 1-3). City Planner Lustro stated that that chapter of the code refers to the C-2 zoning district and there were sections omitted out of that section even before the code got recodified. It made reference to minimum lot dimensions and the building height limits were completely left out of that chapter. In Chapter 11.26, staff is adding in the section on building height limits which does not currently exist. So we needed to add that one in and then renumber the subsequent code sections.

Commissioner Vodvarka asked about height limits. City Planner Lustro stated that it depends on the zone. For example, in the C-3 zone, the height limit is 75 feet or six stories. Commissioner Vodvarka asked if the City has fire equipment that can handle that. City Planner Lustro stated that he is unsure of what equipment the Fire Department has, but that any building built to that height would require fire sprinklers anyway. Another example, in the MIP zone, the maximum building height is 50 feet, except when adjacent to a residential zone.

Chairman Flores complimented staff on a thorough job in assembling and proposing corrections to the various Code sections.

### **INFORMATION ITEMS**

Director Clark advised that staff followed up on the green waste containers for Chairman Flores. A rate increase that reached the limit under Proposition 218 was just passed, so if we were to implement a green waste program and acquire new containers, it would be on the City's bill. They want to evaluate that and the spring clean-up so it's not a dead issue, it may be something that comes out of some future changes in the waste hauling.

Director Clark advised that the second meeting of December has been cancelled and he wished the Commission happy holidays.

Chairman Flores adjourned the meeting at 7:40 p.m.

Respectfully submitted,

Laura Berke  
Recording Secretary