



**CITY OF MONTCLAIR  
PLANNING COMMISSION MINUTES**

**REGULAR ADJOURNED MEETING  
Monday, August 28, 2006**

**CITY COUNCIL CHAMBERS  
5111 Benito Street, Montclair, California 91763**

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**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

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

**ROLL CALL**

Present: Chairman Flores, Vice Chairman Lenhart, Commissioners Johnson, Sahagun and Vodvarka, Community Development Director Clark, City Planner Lustro, Associate Planners Frazier-Burton and Lai and Deputy City Attorney Holdaway

**MINUTES**

The minutes of the August 14, 2006 Planning Commission meeting were presented for approval. Chairman Flores commented that his comments regarding the graffiti on his property wall were left out of the minutes under Information Items. Vice Chairman Lenhart moved to approve, Commissioner Sahagun seconded, there being no opposition to the motion, the minutes were approved 5-0, as corrected.

**ORAL AND WRITTEN COMMUNICATIONS**

None.

## AGENDA ITEMS

- 6.a PUBLIC HEARING - CASE NUMBER 2006-32  
Project Address: 5461 Holt Boulevard, Suite G  
Project Applicant: Susan Lee  
Project Planner: Jim S. Lai, Associate Planner  
Request: Conditional Use Permit to allow on-sale beer and wine in conjunction with a bona fide eating establishment

Associate Planner Lai reviewed the staff report.

Commissioner Johnson commented that she liked that staff sent courtesy notices to the other businesses within the commercial center.

Commissioner Vodvarka commented that when Tools R Us was in the tenant space, there was only one disabled-accessible parking stall and he felt that a restaurant should have at least one more accessible stall. Director Clark advised that the required number of disabled-accessible parking spaces that are required are dictated by State law. The property has a total of four accessible spaces, which exceeds the State requirement by one space. He was unsure where they were located on the property in relation to the restaurant but a clear path of travel across sidewalks is required once you are in the center and also from the public right-of-way.

Chairman Flores inquired whether the adjacent billiard facility still has a problem with beer being brought in illegally. Associate Planner Lai responded that was a problem when the facility was under a different ownership and management and that it is no longer an issue according to the Police Department.

Chairman Flores commented that the location being open until 3 a.m. could present a problem. Associate Planner Lai stated that a condition was included, and the owner has agreed, to prohibit alcohol sales after 12 midnight. Chairman Flores asked if the Commission has the final say or if ABC had the final say. Director Clark advised that ABC would follow our recommendations and they would enforce the condition regarding no alcohol being served after midnight. The Police Department is supportive of the restaurant being open until 3 a.m., as there are individuals out at that hour desiring a meal. Chairman Flores stated that he is not against it, but he wanted to make sure problems did not occur later.

Commissioner Vodvarka asked if the restaurant would be serving traditional Mexican food, seafood, or both.

Rafael Alvarado, owner and operator of La Casa de Alvarado Mexican Seafood Restaurant, 5461 Holt Boulevard, Suite G, Montclair, replied that it would be both.

Vice Chairman Lenhert moved that, based on the evidence submitted, a finding is made that there will be no significant environmental impact, including a DeMinimis finding of no effect on

fish or wildlife, and a Negative Declaration has been prepared, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Commissioner Vodvarka moved to approve the CUP under Case No. 2006-32 for on-sale beer and wine (Type 41) in conjunction with a bona fide eating establishment at 5461 Holt Boulevard, Suite G, by adopting Resolution No. 06-1635, subject to making the required findings and subject to the 13 conditions of approval, seconded by Vice Chairman Lenhart, there being no opposition to the motion, the motion passed 5-0.

1. Approval is granted for a CUP to allow on-sale beer and wine (Type 41) in conjunction with a bona fide eating establishment, La Casa de Alvarado Mexican Seafood Restaurant, at 5461 Holt Boulevard, Suite G, based on a finding of public convenience and necessity. Any substantial changes to the operation, increase in floor area of the demised space, physical location, or upgrade of license to full alcohol (distilled spirits) sales shall require prior City approval. Any discontinuation or substantial changes to the full service restaurant without City approval shall be a violation of this CUP and may be cause for revocation.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six months from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
3. The restaurant shall be operated, maintained and open to the general public as a full service (bona fide) eating establishment, serving meals at all times that beer and wine are offered for sale and consumption on the premises. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar, sports bar, entertainment venue, night club, dance hall or banquet hall operated by either the restaurant owner or outside vendors or promoters. Occasional rental of the dining room for private functions where meals are also served may be permitted. Live entertainment requires separate review and approval from the City.
4. Approved hours of operation for the restaurant are 8:00 a.m. to 12:00 midnight, Monday through Thursday; 8:00 a.m. to 3:00 a.m. on Friday and Saturday and 8:00 a.m. to 11:00 p.m. on Sunday. No alcoholic beverages shall be served past 12:00 midnight. The applicant may close the restaurant earlier than those stated herein. Any changes to the restaurant hours require written notification to the Planning Division and subject to City approval.

5. Take-out, off-sale, or “to go” beer and wine sales shall not be permitted under this approval. Furthermore, no alcoholic beverage is allowed to be served or consumed outside of the restaurant premises. Applicant shall post notification of this limitation in English and Spanish within plain view of employees and customers. This CUP approval does not include patio dining.
6. Prior to the serving of beer and wine on the subject premises, the applicant shall obtain the appropriate license from the Department of Alcoholic Beverage Control (ABC), and demonstrate to the Planning Division that all necessary conditions have been met.
7. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase.
8. The applicant and restaurant operator shall provide on-site uniformed security guards during the restaurant operating hours of 9:00 p.m. until closing. The security guards may be employed in coordination and conjunction with the other tenants in the shopping center. The applicant may be required to increase the number of security guards at the discretion of the Montclair Police Department if security concerns warrant such adjustment.
9. The applicant shall remove the un-permitted hand-painted numbers on the parking stalls located on the west and south sides of the building within 14 days of this approval. Replacement signage of these parking spaces using uniform stenciled letterings and color code may be allowed upon submittal of a parking identification plan to the Planning Division.
10. The non-conforming sign panels on the center’s monument sign shall be replaced with approved panels within 14 days of this approval. All sign panels shall have routed-out copy with opaque background. Submit scaled drawings to the Planning and Building Divisions for review and approval prior to installation.
11. This CUP for on-sale beer and wine may be modified or revoked for failure to abide by these conditions or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
12. The following mandatory conditions are hereby imposed as part of the CUP approval for on-sale beer and wine:
  - a. The premises shall be maintained at all times in a neat and orderly manner.
  - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.

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

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

- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
13. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of

this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

6.b CASE NUMBER 2006-31

Project Address: 5510 Palo Verde Street  
Project Applicant: Eduardo and Bertha Heredia  
Project Planner: Jim S. Lai, Associate Planner  
Request: Precise Plan of Design to allow a two-story addition to an existing single-family residence

Associate Planner Lai reviewed the staff report.

Commissioner Johnson moved that, based on the evidence submitted, a finding is made that there will be no significant environmental impact, including a DeMinimis finding of no effect on fish or wildlife, and a Negative Declaration has been prepared, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Lenhart approved the Precise Plan of Design request for the site plan, elevations, colors and materials for a two-story addition to the existing single-family residence plus balcony and front porch per the submitted plans and as described in the staff report, subject to the following ten conditions of approval, seconded by Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

1. This Precise Plan of Design (PPD) approval is for a two-story, 1,151 square-foot residential addition at 5510 Palo Verde Street, in the R-1 (Single-Family Residential) zoning district, subject to meeting all building setbacks, height and lot coverage requirements. The proposal consists of a 1,069 square-foot second story addition, inclusive of a 159 square-foot balcony; an 82 square-foot first floor addition with a new fireplace; and a 24 square-foot laundry area addition to the existing garage.
2. Precise Plan of Design (PPD) approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval, unless the applicant is diligently pursuing building plan check toward eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.

3. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
4. Applicant shall commence construction of the approved second-story project within 180 days of the issuance of a building permit and shall diligently complete the construction within 180 days from permit issuance date unless an extension is granted by the Community Development Director in the event of unavoidable circumstances.
5. Prior to issuance of a building permit, the applicant shall:
  - a. Submit five complete sets of architectural plans for the project, including building elevations, colors and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details, plus two sets of soils, structural and Title 24 calculations for review and approval by the Building and Planning Divisions. Contact Rudy Gomez, Senior Building Inspector, at 909/625-9437 for an appointment to submit plans.
  - b. Submit revised building elevations illustrating the following:
    - i. The proposed windows on all four elevations shall be enhanced with projecting moldings, surrounds, shutters or similar enhancement, subject to Planning Division approval.
    - ii. The south building elevation illustrated on Sheet A-4 shall show the proposed fireplace.
  - c. Submit three (3) complete sets of plans for an approved, automatic fire sprinkler system for the entire residence directly to the Fire Marshal's office for review and approval, including two sets to be microfilmed/digitally imaged. The system shall conform to national standards.
  - d. Pay all required Montclair Fire Department fees at time of fire sprinkler plan submittal.
  - e. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District.
6. Any new air conditioning condenser units shall be located on the ground in the rear yard of the residence. All rooftop exhaust vents shall be painted to match as closely as possible the color of the roofing material on the residences.

7. The applicant/developer is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.
8. Prior to approval of a final inspection for the addition, the applicant shall submit to the Building Division electronic images of all plans and records for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Archiving Policy.
9. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
10. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

## **INFORMATION ITEMS**

Commissioner Sahagun commented that with regard to the area in his neighborhood where curb and gutter are being replaced, he phoned Mayor Pro Tem Dutrey and asked if the City could pay for the Harvard Street parkway to be irrigated. Mayor Pro Tem Dutrey responded that he would be willing to walk the neighborhood and take a look. Commissioner Sahagun commented that it has been 40 years since the tract was built and that maybe PVC can be placed under the sidewalks before they are poured to facilitate installation of irrigation at a later date.

Vice Chairman Lenhert inquired about the status of the vacant lot on the south side of Palo Verde Street west of Vernon Avenue. Director Clark replied that the developer had some grading issues that he needed to resolve with a soils engineer. The pads for the two dwellings are at the wrong elevation and need to be corrected.

Commissioner Vodvarka asked if there are guidelines regarding newsracks, especially the ones located at the Plum Tree restaurant on Central Avenue. He felt the owner of the restaurant should not be responsible for that. Vice Chairman Lenhert stated that one of the newsracks has the front Plexiglas knocked out and everyone uses it as a trash can. Director Clark replied that we currently do not regulate them, but we do require them to be moved or removed when they are obstructing public sidewalks or sight distance. A newspaper rack ordinance is on staff's "to-do" list but we have not had time to get to it.

Commissioner Vodvarka added that he attended the recent workshop on Commission ethics at the Monte Vista Water District and found it informative.

Chairman Flores said that he also attended the workshop and felt it was lengthier than it needed to be.

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

Respectfully submitted,

Laura Berke  
Recording Secretary