CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES

REGULAR ADJOURNED MEETING
Monday, September 24, 2007

CITY COUNCIL CHAMBERS
5111 Benito Street, Montclair, California 91763

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 Lenhert, Commissioners Johnson, Sahagun and Vodvarka, Community Development Director Clark, City Planner Lustro, Associate Planners Frazier-Burton and Lai and City Attorney Robbins.

MINUTES

The minutes of the September 10, 2007 Planning Commission meeting were presented for approval. Chairman Flores made a correction to paragraph 3 on page 2 amending the paragraph to read that Commissioner Sahagun questioned why the applicant was not proposing a continuous screen wall while he inquired why the antennas were being proposed at diagonal corners of the building. Commissioner Johnson made a correction to the last line of paragraph 5 on page 3, changing the word “houses” to “windows.” Commissioner Johnson moved, Commissioner Vodvarka seconded, there being no opposition to the motion, the minutes were approved 5-0, as amended.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

6.a PUBLIC HEARING - CASE NUMBER 2007-31

Project Address:	9730 Central Avenue
Project Applicant:	Montclair Town Center LLC
Project Planner:	Carol Frazier-Burton, Associate Planner
Request:	Conditional Use Permit Amendment to allow the addition of a second automated teller machine (ATM)

Associate Planner Frazier-Burton reviewed the staff report.

Chairman Flores felt it was great they needed a second ATM there because the center is filling up.

Vice Chairman Lenhert had a problem with the design. He believes that a person parking in the nearest disabled-accessible space will have to travel at least 250 feet to get to the ATM, so he feels the location of the accessible spaces should be revisited. The two closest accessible spaces near 24 Hour Fitness should be moved to the north end and there should be a curb cut there. Commissioner Sahagun commented that he agreed with Vice Chairman Lenhert. He knew there used to be an accessible space in the area of the ATM, but it was relocated. Director Clark confirmed that the space tended to be abused by the ATM patrons because customers are only there for a few minutes and then they are gone. Staff looked at this issue and the center meets the state requirements for accessible parking spaces. When the accessible space was relocated about 150 feet or so south, he believed it was the owner's intent in trying to put it in a place where it was least disruptive to the line tenants. You cannot just cut a ramp in the sidewalk because there are issues with grades and points of access. Staff could look at it but the owner would likely have to restructure the parking stalls along the line shops. Chairman Flores observed that maybe one stall would be lost, but maybe it is a worthwhile suggestion that should be looked into. Chairman Lenhert stated there are a lot more disabled people in Montclair than people realize and if you do not believe it, come down to the senior nutrition site sometime. Commissioner Sahagun commented that he agreed with Commissioner Lenhert. There are a lot of people on electric or push scooters and this is one of the reasons he brought up the raised curbs issue throughout the City, because not everyone is in a car. There are a lot of pedestrians, people on motorized vehicles, and the population is aging and we need to consider these things. Commissioner Vodvarka stated that he was looking at the picture of the tailor shop and the old layout with the single and the existing elevation. If we could legally take that last stall next to the sidewalk and make it van accessible handicapped parking, because it ends at the sidewalk, they could open the door from the passenger side onto the sidewalk and access the ATM and there would not be a

need for a curb cut. Vice Chairman Lenhert stated that we still needed a curb cut because people with walkers and so forth have a hard time getting up over a curb. Director Clark stated that if you have an accessible parking space, you have to have a ramp. Commissioner Vodvarka asked if a ramp could be installed on the east end of the building. Commissioner Johnson stated she was not sure why we would need to designate that with the blue striping and re-stripe the whole parking area rather than just have a ramp available. Every time you go to an intersection where you have to cross the street, there is a ramp, but it is not painted blue and if that was an accessible spot in the past and it was routinely violated, doesn't it make sense to make it an accessible space again, but at least to have the curb cut and if staff could clarify what the issues are with that, you could have the curb cut but not the striping. Chairman Flores stated the accessible space dimensions may not be the same standard as the ones that are there now so if you change the northerly one, you would have to re-stripe. Commissioner Johnson commented that she meant just a ramp and not designate the space. Director Clark stated that it is rather convoluted if you look at all the rules that apply to it as far as the grades. You do not want to encourage people to travel in a wheelchair behind parked cars. You want a direct path from the exit of a vehicle to a sidewalk and to a ramp. So, there are alternatives staff can look at and work with to see if there is an alternative. It would likely require the loss of a parking space or completely re-striping that entire row. Vice Chairman Lenhert commented that he did not think there was a problem with the number of parking spaces. Commissioner Sahagun stated that the shopping center is filling up and he believed that there never was appropriate signage, only a legend on the asphalt and maybe that is why people were abusing it.

Chairman Flores stated that for clarification, the Commission was OK with the two ATMs, and that staff would look into the parking issue. Director Clark stated that staff could add a condition that it would work with the property owner to investigate the possibility of relocating an accessible parking space closer to the ATM. That way, the applicant can go forward with their plans. Commissioner Sahagun commented that the property owners have been very good and diligent about working with staff. Director Clark agreed that they are very conscientious property owners.

Commissioner Vodvarka noticed the elimination of the front door in order to install the second ATM and wondered how the ATMs will be serviced. Director Clark advised it is from the back. Commissioner Vodvarka asked what type of security they are going to have in the back of the building because that is a back alley and it needs security or a camera.

Chairman Flores opened the public hearing to the public for comment.

Steve Hamilton of LA Architects, 224 E. Olive Avenue #305, Burbank, the firm that prepared the documents for the project representing Bank of America and a representative of Bank of America was also present to answer any questions.

Commissioner Sahagun asked if the bank had any concerns about safety. Mr. Hamilton stated that he is sure the bank does and deferred to the representative from Bank of America.

Rachna Lal, representing Bank of America, responded that she would pass the Commission's concerns on to their corporate security team, which would take a look at it. Commissioner Sahagun stated that was satisfactory to him and if Bank of America's security was happy with it, then he was satisfied. Commissioner Vodvarka stated that his questions had been answered and he was happy with it.

Chairman Flores reiterated that staff would explore the issue of the accessible parking with the property owner.

Chairman Flores closed the public hearing.

Commissioner Johnson commented the zip code on the map was incorrect. It reads "Montclair 91342."

Commissioner Johnson asked about Condition No. 9. Director Clark advised that staff will add a Condition No. 9 requesting the applicant/property owner investigate and consider relocating a disabled-accessible parking stall closer to the proposed ATM.

Commissioner Vodvarka moved that, based upon evidence submitted, a finding is made that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15303, Class 3, in that the project involves a minor expansion of an existing land use, resulting in only minor modifications to the façade of the subject tenant space, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 5-0.

Commissioner Johnson moved to grant a Conditional Use Permit amendment under Case No. 2007-31 by adopting Resolution No. 07-1666, making the four necessary findings, and subject to the eight conditions of approval, with the addition of Condition No. 9, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

1. This Conditional Use Permit (CUP) amendment approval is granted specifically for a second automated teller machine (ATM) at 9730 Central Avenue to be located on the east elevation of the subject tenant space, immediately south of the existing ATM as depicted on the submitted plans.

2. CUP approval shall be valid for a period of six (6) months from the date of Planning Commission approval, unless the applicant is diligently pursuing commencement of the event. 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. Suspension of any of the

approved uses for a period of six months or more voids the CUP for the specified use.

3. All electrical services to the proposed ATM shall be provided underground or concealed within the existing tenant space.

4. Should the applicant or tenant desire to add or modify exterior lighting in association with this approval or in the future, detailed plans shall be submitted to the Building and Planning Divisions for review and approval prior to installation.

5. The permit may be modified or revoked for failure to abide by the conditions contained herein, or in the event the use is determined to be a nuisance to surrounding properties, businesses, or community at-large.

6. Prior to issuance of a final approval of the project, 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.

7. To ensure compliance with the conditions of approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspection.

8. 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, of 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.

9. Staff shall explore with the applicant the feasibility of relocating at least one disabled-accessible parking stall to a location in close proximity to the subject tenant space.

6.b PUBLIC HEARING – CASE NUMBER 2007-29

Project Address:	4234 Holt Boulevard
Project Applicant:	Chung H. Kang
Project Planner:	Jim S. Lai, Associate Planner
Request:	Conditional Use Permit to allow a coin laundry and Precise Plan of Design for site improvements

Associate Planner Lai reviewed the staff report.

Chairman Flores commented that he found a couple of lights in the south parking lot in the plan, but he did not see any other parking lot lights. There is no lighting at all in the proposed north parking area. Associate Planner Lai stated that the plan did not show it clearly, but the applicant is aware of the City's security ordinance requirements to have at least one foot-candle of lighting across the parking lot.

Chairman Flores asked with regard to the legend, does the circle that is completely black indicate existing trees or trees that need to go in. Associate Planner Lai stated that he believed the black dots indicate existing trees but believed it not to be accurate.

Commissioner Vodvarka asked about air conditioning not existing in that building and the installation of swamp coolers. According to the drawing, they are installing three swamp coolers and was there a reason for that, maybe the heat in the building. Associate Planner Lai stated he believed they do have air conditioning. Director Clark stated that he could only guess that it is the applicant's preference to use evaporative cooling.

Commissioner Sahagun asked about the grading comments on the report and asked if there would be any kind of re-striping or surface work on the parking lot. Associate Planner Lai replied that the existing parking lot will be completely reconfigured and there is a condition requiring the middle portion of the parking lot be converted to 90-degree instead of angle parking so they will have to do a significant amount of improvements. Commissioner Sahagun suggested that we shorten some of the finger islands and asked if they are doing anything with the ingress and egress, because it would be nice to widen the driveway and remove the middle planter because he believed the coin laundry will be busy. The nearby coin laundry stays pretty busy and he felt this one would be well utilized. He also asked that we require the applicant to double-stripe the new paved parking lot.

Commissioner Johnson asked if there was a condition regarding the double-striping in the parking lot. City Planner Lustro stated that the hairpin striping would be addressed through plan check. Commissioner Johnson felt it was important, especially for a coin laundry because the intended users of the site will be coming out with a laundry cart and need extra room. City Planner Lustro clarified that using hairpin striping does not result in a wider parking space, it just visually helps you aim better and center yourself

in the space. Each space is still nine feet wide as measured center of hairpin to center of hairpin, rather than stripe to stripe.

Chairman Flores opened the public hearing. There being no members of the public wishing to speak, Chairman Flores closed the public hearing.

Vice Chairman Lenhert moved that, based upon evidence submitted, there will be no significant impact on the environment as a result of the establishment and operation of a coin laundry and site improvements to the existing commercial property and that a DeMinimis finding of no impact on fish and wildlife and a Negative Declaration have been prepared, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Commissioner Sahagun moved to approve a Conditional Use Permit under Case No. 2007-29 to allow the establishment of a 4,400 square-foot self-serve coin laundry within an existing commercial building at 4234 Holt Boulevard by adopting Resolution No. 07-1667, making the four findings and subject to the 37 conditions of approval, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Lenhert moved to approve a Precise Plan of Design under Case No. 2007-29 for a new parking lot and associated property improvements at 4232-4238 Holt Boulevard in the "Commercial" land use district of the Holt Boulevard Specific Plan per the submitted plans and as described in the staff report, subject to the 37 conditions of approval, seconded by Commissioner Vodvarka, there being no opposition, the motion passed 5-0.

1. This approval is for the following:

    a. A Conditional Use Permit (CUP) for a new coin-operated laundry facility to occupy a 4,400 square-foot tenant space within an existing commercial building at 4234 Holt Boulevard per the submitted plans and as described in the application.

    b. Precise Plan of Design (PPD) for the parking lot improvements as depicted on the submitted plans and as described in the application.

2. CUP shall be valid for a period of six (6) months from the date of Planning Commission approval, unless the applicant is diligently pursuing submittal of plans and construction permits for tenant improvement for the convenience store and laundry facility as per the CUP approval. 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. 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.

4. 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.

5. Prior to issuance of building permits, the applicant shall:

   a. Submit five complete sets of plans for the project, including but not limited to, colors and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details relating to the proposed laundry facility and parking lot, plus two sets of soils, structural and Title 24 calculations, if applicable, for review and approval by the Building and Planning Divisions. Contact the Building Division at 909/625-9430 for an appointment to submit plans.

   b. Submit detailed plans for all exterior building-mounted and pole lighting throughout the entire property for review and approval by the Planning and Building Divisions. All lighting shall incorporate 90-degree cut-off style luminaires and flat lenses. Submitted plans shall include a photometric analysis of all exterior lighting. Pole lighting shall be a maximum height of 20'-0" as measured from adjacent grade to top of luminaires. All existing non-conforming barnlighters, wall packs, spotlights and similar unshielded fixtures shall be removed in conjunction with this remodeling.

   c. Submit detailed landscaping and irrigation plans for review and approval by the Planning and Building Divisions. The landscape plan shall include the following:

      i. Location, size and species of all existing and proposed trees, shrubs, and ground covers on the property, including those that are to be added, relocated, retained or removed as part of this project.

      ii. Irrigation plans showing a fully automatic irrigation system providing 100 percent coverage with control valves, back-flow devices and timers along with all standard specifications

relevant to soil conditions, planting, irrigation and maintenance of the above.

iii. All new trees are to be double-staked per City standards.

d. Submit architectural plans illustrating the following:

i. Permanent extension of the height of the parapet walls on all four sides of the building to blend architecturally with the existing building and screen all roof-mounted equipment.

ii. A minimum of two (2) disabled-accessible parking stalls, including one (1) van-accessible stall in compliance with the Americans with Disabilities Act of 1990 (ADA).

iii. Identify exact locations and specifications of two trash receptacles in accordance with City standard drawings.

e. Clearly indicate on submitted plans disabled-accessible path of travel to the public right-of-way and all required disabled-accessible parking lot signs.

f. Pay all required Montclair Fire Department fees.

6. Prior to issuance of building permits, the applicant shall submit the following documents for review and approval by the City Engineer:

a. A parcel merger application consolidating the three parcels (APNs 1009-511-27, 1009-511-29 and 1009-511-85) with all applicable filing fees and documentation. Said parcel merger shall be recorded with the County of San Bernardino before a final inspection is conducted on the building and property improvements.

b. Dedication to the City of Montclair and/or other public agencies easements for water, storm drains, sanitary sewers and other utilities, if applicable.

c. Plans for erosion control and stormwater pollution prevention for parking lot and landscape improvements. A general construction permit may be required. Contact Joe Rosales, NPDES Coordinator, at 909/625-9470 for requirements.

d. A revised site plan illustrating the following:

i. Elimination of the cross driveway at the south side of the property and replacing it with landscaping.

ii. Moving the middle two rows of parking westerly and converting the parking stalls in those rows to 90-degree parking.

iii. Replacement of the existing chain-link fence along the easterly property line at the rear of the building with a split-face masonry wall, minimum 6'-0" in height, matching the color of the existing wall along the northerly property line.

7. Submit a revised sign program for the center to the Planning and Building Divisions prior to issuance of a building permit for the laundry facility and the new parking lot to include the following:

a. A new monument sign, maximum eight feet (8'-0") in height and 48 square feet in sign area to identify the name of the center and up to three tenants' names. Details, colors and materials of the sign shall be subject to the review and approval of the Planning Division. Sign copy shall consist of routed-out letters with opaque background in a texture and color to match the main building. Sign support or pedestal shall incorporate materials and colors that are architecturally compatible with the buildings. The numerical street address range (4232-4238) of the property shall be incorporated into the sign structure. The existing, non-conforming pole sign shall be removed prior to issuance of a new sign permit.

b. Replacement of all non-conforming cabinet signs with individual channel letter signs, maximum 24 inches for single-line copy and 36 inches for two-line stacked copy.

c. Exposed raceways shall be prohibited on all building-mounted and freestanding signs.

8. Prior to any future changes to the approved sign program, an application shall be submitted to the Planning Division for review and approval by staff or the Planning Commission.

9. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to the following:

a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.

b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.

c. At no time shall pennants, inflatable signs, "human" signs, other similar advertising devices be utilized on the property or off-site.

10. No pay telephones, coin-operated or free vending machines, or children's rides shall be located on the exterior of the building.

11. All utility services to the building shall be installed underground.

12. All existing and new mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.

13. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.

14. All trash enclosures shall be constructed of masonry consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standard drawings and shall have a solid roof complementary to the main building.

15. Should the applicant desire to construct a gate to secure the rear parking lot after hours for security purposes, the locking device shall conform to Fire Department specifications and subject to its review and approval.

16. Above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be enhanced with split-face block, stone veneer or other materials consistent with those used on the main building.

17. All decorative exterior lighting shall incorporate illumination sources of an appropriate wattage so as to not create any nuisance glare to the adjacent parking areas, private roadways, public rights-of-way, or neighboring properties. Should the applicant desire to install any building-mounted wide area lighting, it shall consist of fixtures set at 90 degrees to the building wall and incorporating fully cut-off lenses so as to direct illumination down to the surface to be illuminated. All soffit lighting installed within the building shall be flush-mounted so that the lens or bottom of the fixture is flush with the underside of the soffit. The use of wall packs, barnlighters, other similar unshielded luminaries, or decorative lighting installed solely for the purpose of illuminating the roof shall be prohibited. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Planning Division.

18. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.

19. Landscape maintenance shall be subject to immediate and periodic inspections by the City. The property owner shall be required to remedy any defects in grounds maintenance and replace any trees, shrubs, vines, or groundcover with a similar species, size, and quantity that are lost due to unauthorized removal, disease, windstorm, or other natural disaster as indicated by the City inspector, within two weeks after notification. Inspections shall be based on automatic landscape irrigation schedule, plant maintenance, weed and rubbish control, landscape plan approval, and any other area that is incidental to grounds maintenance.

20. All existing trees and new trees incorporated into the project shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA).

21. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building, exterior security shutters, or other improvements shall be removed immediately by the applicant/property owner upon notification by the City.

22. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:

    a. The numerical addresses of the tenant spaces shall be displayed on the window over the door to each entrance. Numerals shall be Helvetica font, six inches (6") in height, and white in color.

    b. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.

23. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code. The proposed coin laundry facility shall require the payment of sewer connection and discharge fees. Contact Nicole Greene, Environmental Manager, at 909/625-9446 for fees.

24. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact Nicole Greene, Environmental Manager, at 909/625-9446 for fees.

25. Regional Sewerage Supplemental Capital Outlay fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code and the

Inland Empire Utilities Agency (IEUA). Contact Nicole Greene, Environmental Manager, at 909/625-9446 for fees.

26. No soil shall be imported or exported to or from the project site from an adjacent building site or from other sources for construction purposes without first obtaining approval from the City Engineer. A plan satisfactory to the City Engineer shall be prepared showing the proposed haul route within the City. Subject plan shall include provisions for street sweeping and cleanup. Applicant/contractor shall comply with all NPDES requirements.

27. Underground Service Alert shall be notified 48 hours prior to any excavation at 800/422-4133.

28. All off-site and on-site trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.

29. A 20-foot wide, unobstructed roadway capable of supporting firefighting apparatus shall be maintained within 150 feet of the structure prior to and for the duration of construction. Roadway is subject to Fire Department approval prior to commencement of construction.

30. The applicant/developer is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.

31. Landscaping adjacent to the entrance drives should be of low profile types not to exceed 8'-0" in height when mature (with the exception of trees).

32. All Fire Department access and fire lanes shall be clearly posted as “No Parking, Fire Lane.” Signs shall be designed and mounted in accordance with Montclair Fire Department standards.

33. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.

34. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.

35. Prior to issuance of a Certificate of Occupancy, the applicant shall:

    a. Submit to the Building Division electronic images of all plans and records, which are submitted for the purpose of obtaining a building

permit, to the Building Division. Electronic images shall meet the City's Electronic Archiving Policy.

b. Complete all on- and off-site improvements, if applicable, per the approved plans under this CUP and PPD.

c. Complete construction of the two trash enclosures per City standards and remove the existing trash enclosure.

d. Install all approved landscaping and exterior lighting.

e. Install all ADA-required parking stalls and parking lot signs.

f. Remove the non-conforming pole sign.

g. Remove all abandoned on-site utility poles.

36. 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.

37. 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, of 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.c PUBLIC HEARING – CASE NUMBER 2007-30

Project Address:	10220 Central Avenue
Project Applicant:	Rick Gardner
Project Planner:	Jim S. Lai, Associate Planner
Request:	Conditional Use Permit to allow on-sale beer and wine in conjunction with a bona fide restaurant

Associate Planner Lai reviewed the staff report.

Commissioner Sahagun commented that the police are mentioned and he did not recall that location ever having any problems as far as law enforcement. Associate Planner Lai stated that it has always been a family-oriented restaurant.

Chairman Flores opened the public hearing. There being no members of the public wishing to speak, Chairman Flores closed the public hearing.

Commissioner Vodvarka moved that, based on the evidence submitted, a finding is made that there will be no significant environmental impact as a result of the on-sale of beer and wine in conjunction with a bona fide restaurant, including a DeMinimis finding of no effect on fish or wildlife, and a Negative Declaration has been prepared, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Lenhert moved to approve a Conditional Use Permit (CUP) under Case No. 2007-30 for the on-sale of beer and wine (ABC License Type 41) at a bona fide eating establishment at 10220 Central Avenue, by adopting Resolution No. 07-1668, subject to making the required findings and subject to the 12 conditions of approval, seconded by Commissioner Sahagun, 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, Café Montclair Restaurant, at 10220 Central Avenue, based on a finding of public convenience and necessity. Any substantial changes to the business 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 6:00 a.m. to 10:00 p.m., Sunday through Thursday, and 6:00 a.m. to 11:00 p.m. on Friday and Saturday. No alcoholic beverages shall be served past the evening closing hours. 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.

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 may be required by the City to provide at least one on-site uniformed security guard during the restaurant operating hours of 9:00 p.m. until closing should the Police Chief determine that such security measure is needed due to the on-sale of alcoholic beverages. The security guard(s) 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 recent change of monument sign face requires the approval of the sign design and the issuance of a sign permit. The applicant shall submit scaled drawings of such sign to the Planning and Building Divisions within 14 days of this approval. Illumination of the monument sign and building exteriors shall also be subject to City review and approval.

10. 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.

11. 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 permitee'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.

12. 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

City Attorney Robbins commented that if the Commissioners so choose, they can state, “move Part A” or “move Part B” rather than reading each motion verbatim as it is written out in the agenda. You can read it or shorten it if you like.

Commissioner Sahagun would like an update on some of the projects that were approved in the past six months.

Commissioner Vodvarka asked about the coffee business that was approved for the Montclair Town Center. City Planner Lustro stated that he had a conversation with one of the owners of the center and the project has been slowed down by the County Health Department. It seems that the prototype for Dutch Bros. does not meet the minimum standards for floor area as required by the Health Department, including providing adequate storage or a changing room for employees. They evidently have not been faced with this issue at their locations in Oregon, where they are based. They are trying to work through the issues with the Health Department, but he also understands that they are finding the same requirements in Los Angeles County. It is likely that Dutch Bros. will have to develop a slightly modified prototype for use in Southern California. The intention is that they still intend to go forward with the project. Commissioner Vodvarka asked if they make the required modifications, will they have to come back to the Commission. City Planner Lustro responded that if the building expansion involves only 50 to 75 square feet, which is what the property owner estimates, then it would be reviewed at staff level.

Commissioner Johnson gave kudos to the Montclair Police Department for shutting down loud parties by 10:00 p.m.

Commissioner Johnson asked about the cell tower at I-10 and Monte Vista. She sees there is work going on there and she wondered if lights were going to be installed to illuminate the "M." City Planner Lustro replied that is correct; the Montclair logo will be illuminated on all four sides of the tower from dusk until dawn. Unfortunately, there was vandalism during the time the scaffolding has been up. The contractor has been trying to stay up with it, but it will necessitate the entire tower being painted and they now have a security guard there. Commissioner Vodvarka stated that the newspaper reported that they caught the vandals while they were still on the scaffolding.

Chairman Flores commented that a property on Monte Vista, across from the vacant gas station site, does not look good.

Chairman Flores reported that on the south side of Moreno, there are about 20 concrete slabs about 4 foot long, 6 inches wide with two concrete plates on it, two of them have a bus shelter and the rest are just there. He wondered what that was.

Chairman Flores stated Mission Boulevard looks very nice where all the improvements have been made, but about 100 feet east of Central everything stops and its back to the old – dilapidated fences, tall weeds, etc. City Planner Lustro stated that everything east of Central is in the County. The next phase of the Mission Boulevard street improvements will pick-up where it currently stops, 300 feet east of Monte Vista Avenue, and will continue through Ada Avenue, which is one block west of Central Avenue and the current city boundary on the north side of Mission. The next phase of street improvements is scheduled to begin construction soon and will be completed in early 2008. Chairman Flores stated that it was a shame that we're improving Mission Boulevard and then residents see all the tumbleweeds and you get to our part with Palm trees, etc. and it was a shock. The County could clean it up, it wouldn't take that much to clean it up.

Commissioner Sahagun stated that he sits on the Oversight Committee for Measure T, the general obligation measure passed a couple years back to improve existing facilities and build new schools in the Ontario-Montclair School District. They are looking for new committee members and he wanted staff to pass the word on. There is no Montclair representation except for him and that is one of the reasons he is involved. They are looking for someone from a tax advocate group and he knows they have made pitches to the City Council and maybe staff could bring something up at the City Council meeting because it is televised and would let citizens know. They meet only four times annually plus the general meeting, which is a very small amount of time to commit.

Commissioner Vodvarka stated that a sprinkler next to the freeway, just before the eastbound Monte Vista off-ramp, needs repair. Someone phoned him to advise that every morning around 6:00 a.m. the sprinkler is a geyser, shooting straight up in the air. City Planner Lustro stated that he should contact Caltrans District 8, the phone number for which is in the City phone book recently distributed to the Commission. City Planner Lustro added that District 8 maintenance issues can also be communicated online.

Vice Chairman Lenhert stated that Monte Vista Water District has just made an agreement with Caltrans to remove all the vegetation along the eastbound Monte Vista off-ramp and re-landscape it at no cost to the state. Commissioner Sahagun added that they have already started removing the fencing.

Chairman Flores stated there is a water leak on Ramona Avenue but evidently, the City already knows about it because there is a barricade that has been out there for almost one week. The water runs from the street, onto the curb, into the gutter and is flowing south. It's been a week and it is still leaking. City Planner clarified that a water leak in the street would be the responsibility of Monte Vista Water District, not the City.

Chairman Flores adjourned the meeting at 8:00 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary