



CITY OF MONTCLAIR  
PLANNING COMMISSION MINUTES  
REGULAR ADJOURNED MEETING  
Monday, October 8, 2007

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 Sahagun led those present in the salute to the flag.

**ROLL CALL**

Present: Chairman Flores, Vice Chairman Lenhert, Commissioners Johnson, Sahagun and Vodvarka, City Planner Lustro, Associate Planner Lai and City Attorney Robbins.

Excused: Community Development Director Clark and Associate Planner Frazier-Burton.

**MINUTES**

The minutes of the September 24, 2007 Planning Commission meeting were presented for approval. Vice Chairman Lenhert moved, Commissioner Johnson seconded, there being no opposition to the motion, the minutes were approved 5-0.

**ORAL AND WRITTEN COMMUNICATIONS**

None.

## AGENDA ITEMS

- 6.a PUBLIC HEARING - CASE NUMBER 2007-32  
Project Address: 5050 Arrow Highway  
Project Applicant: Miriam A. Kendall Trust  
Project Planner: Carol Frazier-Burton, Associate Planner  
Request: Conditional Use Permit Amendment to allow expansion of an existing ballet studio

City Planner Lustro reviewed the staff report.

This project falls within the North Montclair Downtown Specific Plan and one of the reasons that staff is not requiring property upgrades to the degree that we normally would see on a Conditional Use Permit is that staff's expectation is, at some point in the future, maybe five to ten years out, that this building will be demolished in favor of a project that would be consistent with the overall Downtown Specific Plan. We tend to look at this particular building, which has been on the site for well over 50 years, as a placeholder for the time being until the property owner decides to develop the property consistent with the Specific Plan.

Commissioner Johnson stated that she knew we had been talking for quite some time about including a facility for the arts in the North Montclair area and she was glad that the applicant is staying and not moving out of the area.

Commissioner Sahagun commented although the Commission was glad the applicant was staying and growing, the building needs to go and he was glad staff worked with the applicant.

Chairman Flores asked Commissioner Sahagun if he was going to ask for double-striping of the parking lot. City Planner Lustro stated that staff's intent on this particular project is to simply restore what is currently in place and we can probably survive with that for the time being. Commissioner Sahagun commented that he was happy with that because he understands the applicant does not want to put too much money into the project. Chairman Flores stated that he just thought it was a good idea as projects come up.

Chairman Flores commented that there was no vicinity map included and no "north" arrow on the map.

Commissioner Sahagun commented that when he reviewed the map he noticed "existing sidewalk" and was hoping to see more notations on the site plan. He understands that they are doing primarily interior work and wondered if that was one of the reasons the site plan was lacking information. City Planner Lustro stated that staff had to work very hard to get the plans that we got for this project.

Chairman Flores opened the public hearing. Since there were no members of the public wishing to speak on the item, Chairman Flores declared the public hearing closed.

Vice Chairman Lenhart 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 15301, Class 1, 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 Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

Commissioner Vodvarka moved to grant a Conditional Use Permit Amendment under Case No. 2007-32 by adopting Resolution No. 07-1670, making the four necessary findings, and subject to the eight conditions of approval, seconded by Commissioner Johnson, 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 4,960 square-foot expansion in the existing building at 5050 Arrow Highway, 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. Should the applicant or tenant desire to add or modify anything 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.
4. 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.
5. The applicant shall obtain building permits from the Building Division prior to any construction work on the property.
6. Prior to issuance of a final approval of the project, the applicant shall:
  - a. 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.

- b. Complete all exterior work related to construction of an accessible pedestrian path-of-travel from Arrow Highway, disabled-accessible parking stalls, and complete re-striping of the east parking lot.
  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, 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 PUBLIC HEARING – CASE NUMBER 2007-34
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| Project Address:   | 5110 Holt Boulevard   |
| Project Applicant: | Fanon Realty West   |
| Project Planner:   | Jim S. Lai, Associate Planner   |
| Request:           | Conditional Use Permit for on-sale beer and wine (ABC License Type 41) in conjunction with a bona fide eating establishment |

Associate Planner Lai reviewed the staff report.

Commissioner Johnson commented that staff did a great job, as always. With regard to the attachment enclosed in the packet, she commented that this was the first one where the applicant listed in detail what they had done and that provided answers to questions the Commission might have had.

Commissioner Vodvarka stated that he toured the location and was so impressed with the applicant and the way the building had been fixed up, he felt it was the most impressive menu and presentation to a Commission that he has ever seen. He wished the applicant lots of luck in his business and commented that it was great to see the applicant's mother helping run the business, because it made you feel like you were getting a home-cooked meal.

Commissioner Sahagun commented that he agreed with Commissioners Johnson and Vodvarka in that the presentation was great. He asked what type of entertainment the letter referred to. Chairman Flores stated that the applicant should answer that question.

Chairman Flores stated that he was worried about the Rio Grande night club being so close, but in celebrating his 47<sup>th</sup> anniversary recently, he felt it was a very well-run place. He also felt it was a great presentation.

Chairman Flores opened the public hearing.

Gus Campos, one of the owners of Taqueria Mi Mexico, 5110 Holt Boulevard, stated that the restaurant is family owned and operated, as Commissioner Vodvarka observed, including his mother, brother, sister and brother-in-law. The entertainment now is only the television. They do want to have some sort of entertainment in the future, possibly a trio or a mariachi. The prime objective in opening the restaurant was to create a place where families could afford to eat. He made the menu and pricing very reasonable so that a family of four could eat for under \$20. He does not run a bar, he does not run a nightclub, all he knows is food and he tries to dress that food up as best he can. Alcohol, desserts and entertainment go along with that picture. He knows the Rio Grande is right next to him and they offer entertainment. That was why he sat down with Associate Planner Lai and Officer Rob Hill from the Police Department and told them that he will do whatever is necessary to obtain his approvals. He was the one who offered the 11:00 p.m. cut-off time for serving alcohol because he believes serving alcohol later in the evening could become a nuisance. He was not here to become a nuisance to the City; he is here to offer his services to the community and be involved. He worked with the City and has pretty much done everything staff asked for. Any problems that occur in the future, they will be held responsible.

Commissioner Sahagun commented that he enjoys Mexican food, has three young kids, and was touched by the applicant's discussion about family meals.

Mr. Campos commented that he originally thought that most families ate by 11:00 p.m., but he has had families come in as late as 1:30 a.m. His security guards will actually be on his payroll; Rio Grande has their own guards.

There being no further comments from the public, Chairman Flores declared the public hearing closed.

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 allowing on-sale beer and wine in conjunction with a bona fide eating establishment, 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 Lenhart moved to approve the CUP under Case No. 2007-34 for the on-sale of beer and wine (ABC License Type 41) in conjunction with a bona fide eating establishment at 5110 Holt Boulevard, by adopting Resolution No. 07-1669, subject to making the required findings and subject to the 14 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, Taqueria Mi Mexico Mexican Restaurant, at 5110 Holt Boulevard, 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 the required license from the Department of Alcoholic Beverage Control (ABC) or implementation of the provisions of this project 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. 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 7:00 a.m. to 12:00 midnight, Sunday through Thursday, and from 7:00 a.m. to 2:00 a.m., Friday and Saturday. No alcoholic beverages shall be served past 11:00 p.m. The applicant may close the restaurant earlier than the hours stated herein. Any changes to the restaurant hours require written notification to the Planning Division and are 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. The security guard(s) may be employed in coordination and conjunction with the other tenants in the retail center and/or the Rio Grande Night Club located at 5074 Holt Boulevard. 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. Property, inclusive of the building storefronts, exterior and perimeter walls, light fixtures, and sign structure shall be maintained to be free of graffiti at all time. The applicant shall be responsible to remove any and all graffiti from the premises immediately or no later than 24 hours upon notification by the City.
10. Existing landscaping shall be maintained at all times. Dead plant material shall be replaced and/or barren planters shall be planted with plants within 14 days from this approval, subject to Planning Division staff approval.
11. Missing gates on the trash bin enclosure located in the rear of the property shall be replaced within 14 days of this approval per City standards.
12. 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.
13. 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 to be free of trash and debris.
  - 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.
14. 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 Planner Lustro stated that staff has two items. The first was an invitation from the Landscape Alliance to attend a workshop on November 1 at the Preserve in Chino. They will talk about a number of the best management practices that have been implemented on that project. Staff has been there and it is very interesting to see what has been done to do their part to conserve water on a fairly large project.

Second, at the last meeting, Commissioner Sahagun mentioned that he would like to see an update on the projects that the Commission has approved in the past. In the Commission packets, staff placed a copy of the development summary log that is updated on a twice-monthly basis and are distributed to selected staff members who have an interest in knowing the current status of projects. It might be a little bit more information than you were looking for, but he felt it was the easiest way to provide the information. If the Commission chooses, the Log can be provided on a regular basis. Chairman Flores asked for a consensus from the Commission.

Commissioner Sahagun asked about the General Growth expansion. City Planner Lustro stated that the exterior expansion is still on hold. The application was originally submitted in 2004 and at the 5:45 p.m. study session prior to the last Council meeting, Ron Malnar, Vice President of Development for General Growth, gave an update on where they are on the exterior expansion. General Growth is still developing plans, which do not resemble what was submitted three years ago. The application is still there, but basically a placeholder until they resubmit new plans for the exterior expansion of the Plaza. What will be submitted to staff within the next 2-3 weeks, are the plans for the interior renovation of the mall and that will likely come to the Planning Commission next month because General Growth's intention is to begin the interior renovations immediately after the holidays. The Commission will be reviewing those plans, which are fairly extensive and overwhelming, but it is such an important project that staff wanted to provide all the details that you need to have just to become familiar with what they are proposing.

Vice Chairman Lenhert stated that at the City Council presentation, Mr. Malnar stated that some shoppers have abandoned Victoria Gardens because of the parking situation and the walking distance between stores. One of the things he emphasized was the impending demolition of the former Macy's store and building slightly forward toward Central Avenue. They are looking for some upscale restaurants.

Commissioner Vodvarka asked about the property at 5477 Palo Verde Street and whether the owner obtained a permit to erect a chain-link construction fence. City Planner Lustro replied that we generally do not require a permit for a construction fence because of its temporary nature. We do not allow chain-link as a permanent installation since the fence code amendment, but we allow chain-link fencing temporarily without a permit. Commissioner Vodvarka asked if he was going to start some type of construction since he put that fence up. City Planner Lustro stated that it is doubtful because the plans for that project have long expired. If the current owner, or any subsequent developer, wants to do something on those two lots, they are going to have to come back to the Planning Commission. Commissioner Vodvarka stated that there is another house in the immediate neighborhood where a second story is being constructed that looks very nice.

Vice Chairman Lenhart asked about the eight-foot high chain-link fence that a local water company erected on Palo Verde Street near Ramona Avenue. City Planner Lustro responded that no permits were obtained for that fence and it was referred to Code Enforcement for action.

Chairman Flores commented regarding the bus stop benches without shelters on Moreno Street and felt the number and frequency of them should be more uniform. He went by the new police station and noticed a bus stop in front and there is no bench there and he hoped that when the police station opened, the bus stop will have a bench. There is another bus stop to the west on Arrow, about halfway to Mills, which does not have a bench. He felt that the main streets, where the bus routes are, should have benches for the bus stops. The one that bugs him the most is the one on Ramona, just south of Howard Street. He picks up his grandkids there and he estimates someone is waiting for the bus 60 percent of the time, and they are usually sitting on the curb with their feet sticking in the street. He felt it did not even have to be a shelter, just a bench. He thought staff was going to find out why certain bus stops do not have a bench and, if need be, he could get a contractor to move the unused ones on Moreno Street, to other sites. He felt it was sad to not have shade and pretty bad to not have a bench. City Planner Lustro replied that staff's understanding of the concrete benches along Moreno Street along the Plaza frontage is that they were installed when the Plaza was renovated twenty years ago. Clearly, all those benches are not for bus stops, they are rest stops, but there is not a lot of pedestrian traffic along Moreno Street so it does seem ridiculous. With respect to installation of new bus benches, Planning is continuing to have a dialog with Public Works and with Omnitrans with respect to installing bus benches at certain locations. The problem we run into in some locations where benches are needed is the amount of right-of-way that is available to install a bench. Many times these locations have a five and one-half or six-foot wide sidewalk. If there is no room at the back of sidewalk to install a concrete pad for a bus bench, we cannot place one in the sidewalk because it obstructs accessibility. Where there is room, it makes it a little bit easier. Where the sidewalk is not of adequate width but there is room behind the sidewalk, we have to check to see if adequate right-of-way exists because we do not want to put in a bus bench on private property. Further, pouring additional concrete for a bus bench results in additional expense. So, staff is continuing

to explore the possibilities and working with Omnitrans, but some of these locations are going to take more time and are going to present more challenges than others. Chairman Flores commented that he was very glad to hear that staff had dialog continuing with Omnitrans.

Chairman Flores adjourned the meeting 7:40 pm.

Respectfully submitted,

Laura Berke  
Recording Secretary