



CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES
REGULAR ADJOURNED MEETING
Monday, December 8, 2008

COUNCIL CHAMBER
5111 Benito Street, Montclair, California 91763

CALL TO ORDER

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

Excused: Chairman Flores

MINUTES

The minutes of the November 24, 2008 meeting were presented for approval. Commissioner Lenhert moved, Commissioner Sahagun seconded, there being no opposition to the motion, the minutes were approved 4-0.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

6.a. PUBLIC HEARING – CASE NUMBER 2008-32

Project Address: 4545 Mission Boulevard, Suite A
Project Applicant: M&N Properties
Project Planner: Carol Frazier-Burton, Associate Planner
Request: Conditional Use Permit for a convenience store with off-sale beer and wine

Associate Planner Frazier-Burton reviewed the staff report.

Vice Chairman Vodvarka asked if staff had received any communication from the public. Associate Planner Frazier-Burton replied that staff had not.

Vice Chairman Vodvarka opened the public hearing. There being no one in the audience desiring to speak on the item, Vice Chairman Vodvarka closed the public hearing.

Commissioner Johnson asked if there was any comment by the Police Department because of the sale of beer and wine. Associate Planner Frazier-Burton replied that the Police Department did not have a problem with it since the amount of beer and wine sales would be small and it would be mostly food products. Commissioner Johnson commented that she did like the part of the staff report that stated only a certain portion could be beer and wine sales.

Commissioner Johnson moved that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts the operation, leasing, permitting, repair, and minor alterations of existing structures that involve little to no expansion of the use. The project involves a retail use within an existing shopping center designed for retail uses and as such poses no significant impact on the environment. The Planning Commission has reviewed the Planning Department's determination of exemption and based on its own independent judgment, concurs with staff's determination of exemption. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 4-0.

Commissioner Sahagun moved that a finding be made that the proposal for off-sale of beer and wine as an accessory to a convenience market, as approved by this action, is desirable to the public convenience and a necessity to this use in compliance with Department of Alcoholic Beverage Control (ABC) policy, seconded by Commissioner Lenhert, there being no opposition to the motion, the motion passed 4-0.

Vice Chairman Vodvarka moved to approve the CUP under Case No. 2008-32 to allow a 1,288 square-foot convenience market with off-premises sale of beer and wine (Type 20 license for Off-Sale Beer & Wine) at 4545 Mission Boulevard by adopting Resolution

No. 08-1689, making the required findings and subject to the 17 conditions of approval, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 4-0.

1. This Conditional Use Permit (CUP) approval shall allow a convenience market with off-sale beer and wine (Type 20 license for Off-Sale Beer & Wine) within a 1,288 square-foot lease area at 4545 Mission Boulevard, Suite A. The 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.
2. Approved hours of operation for the establishment shall be 6:00 a.m. to 11:00 p.m. daily. Requests for any changes to the business hours shall be submitted in writing to the City Planner for review and approval.
3. No more than fifteen percent (15%) of the total display area within the store, including refrigerated coolers, shall be dedicated to display or store beer and wine products offered for sale.
4. No single can sales (which encourage street drinking) shall be allowed. Beer shall be sold only in standard six-packs or larger quantities.
5. No public telephones within or adjacent to the convenience store shall be allowed.
6. No video games or other forms of entertainment shall be allowed.
7. Prior to offering retail sales of beer and wine, the applicant shall obtain the appropriate license (Type 20 license for Off-Sale Beer & Wine) from the Department of Alcoholic Beverage Control (ABC), and demonstrate to the Planning and Building Divisions that all necessary conditions have been met.
8. On-premise consumption of alcohol beverages is expressly prohibited, whether inside the store or outside in the parking lot. Applicant shall post notification of this limitation within plain view of employees and customers.
9. The business may not display any banner signs without proper permits through the Planning Division. At no time shall any signs related to the business be installed or displayed off-site.
10. No outdoor display or storage of merchandise, pallets, etc., shall be permitted.

11. The floor plan for the convenience market shall not result in the display of items or the placement of storage racks/cabinets that block visibility into the premises from exterior windows by emergency personnel, as approved by the City Planner. The cashier station shall be designed to be visible from the parking area. Counters shall be maintained free from excess displays to enhance the visibility of the cashier station.
12. The business shall maintain a litter-free environment to the business as well as the surrounding areas. The business shall provide litter and trash receptacles at convenient locations inside and outside the premises. In addition, the business shall remove trash and debris on a daily basis.
13. Window signs (temporary and permanent) shall be limited to a maximum of twenty-five percent (25%) of the window area at all times. Windows or doors shall not be blocked with posters or signs which obstruct visibility into the premises.
14. 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 at the site.
15. All exterior signage shall comply with the adopted sign program for the property and require Planning Division approval and a building permit prior to installation.
16. The following mandatory conditions are hereby imposed as part of the CUP approval for off-sale beer and wine:
 - a. The premises shall be maintained at all times in a neat and orderly manner.
 - b. No beer and wine shall be sold, dispensed or offered for consumption within the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission.
 - c. The permittee shall comply with all State statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
 - d. 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 (c) 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.

- e. 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.
17. Any substantial changes to the nature or scope of the business as approved by this permit, such as but not limited to, added services, an increase in floor area, relocation and/or exterior appearance, etc., shall require prior City review and approval. Any discontinuation or substantial changes to the establishment without City approval shall be a violation of this CUP and may be cause for revocation. Upon transfer, sale or re-assignment of the establishment to another individual or entity, the applicant shall make full disclosure of these CUP requirements and restrictions to future buyers, transferees or assignees.
 18. A copy of the CUP approval letter with all conditions of approval relating to this application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy, and shall be made available for viewing to any law enforcement officer, fire, building, or code enforcement inspector in the course of conducting an inspection on said premises.
 19. Any violations of the conditions of approval could result in the revocation or modification of this permit, including the imposition of fines in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
 20. 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 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 2008-36

Project Address: 10580 Silicon Avenue
Project Applicant: Dale Scheffler
Project Planner: Jim S. Lai, Associate Planner
Request: Conditional Use Permit for outdoor storage

Associate Planner Lai reviewed the staff report with a recommended revision to Condition No. 5 regarding outside storage. He announced that the applicant and architect were in attendance.

Commissioner Johnson asked about the parking of the vehicles outside, stating that in reviewing Photo #2 provided in the packets, she wondered if the area near the driveway was the area proposed for parking of the vehicles. Associate Planner Lai replied that all of the vehicles will be parked behind the fence. Currently there is a gated driveway on the north side of the property and a smaller one on the south side of the building.

Commissioner Sahagun asked about the physical condition of the building; he knew it would be brought up to standards, but wondered if the building would be painted. Associate Planner Lai stated that staff's discussion with the architect is that they will clean up the building but it is not necessary to do any type of architectural treatment. Commissioner Sahagun stated that he was not concerned about architectural treatment, but a general clean-up because it is in disrepair and has suffered from lack of maintenance for the last few years. He noted that it would be good to see the new landscape and paving.

Vice Chairman Vodvarka asked the applicant how they are going to refuel the vehicles that will be stored on the lot.

John McCafferty, who works for Dale Scheffler, 1500 W. Pomona Boulevard, Pomona, CA 91768, stated that at the moment they do not intend to refuel the vehicles on the property. Most of the vehicles are fueled on-site where they are working and they are brought back for storage on the property. They have a refueling facility at their other yard in Pomona and if they need fueling, they can refuel them there.

Vice Chairman Vodvarka closed the public hearing.

City Attorney Robbins asked Vice Chairman Vodvarka to officially open the public hearing. Vice Chairman Vodvarka opened the public hearing and included the

comments from Mr. McCafferty. There being no one else present to speak, Vice Chairman Vodvarka closed the public hearing.

Commissioner Lenhart commented that this will be a good improvement to those buildings, and relocating the address number will be to a great advantage because when he went to review the site, he had trouble finding it.

Commissioner Lenhart moved that, based upon evidence submitted, there will be no significant impact on the environment as a result of the minor improvements associated with the project and that a DeMinimis finding of no impact on fish and wildlife and the project is categorically-exempt from CEQA under Section 15301, Class 1 for minor improvement to an existing facility that is found to be consistent with the City Zoning Code and General Plan, seconded by Vice Chairman Vodvarka, there being no opposition to the motion, the motion passed 4-0.

Commissioner Johnson moved to approve a Conditional Use Permit for an outdoor contractor storage yard involving heavy equipment and vehicles on a 2.37-acre parcel at 10580 Silicon Avenue in the BP (Business Park) land use district of the Holt Boulevard Specific Plan under Case No. 2008-36 per the submitted plans and as described in the staff report by adopting Resolution No. 08-1690, subject to the 48 conditions of approval, with revision to Condition No. 5, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 4-0.

Commissioner Lenhart moved to approve a Precise Plan of Design for the site improvement, including new paved surface, landscaping, fencing, lighting, truck wash, and 1,200 square-foot paint booth and other associated improvements at an existing industrial property located at 10580 Silicon Avenue, subject to the 48 conditions of approval, with revision to Condition No. 5, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 4-0.

1. This Conditional Use Permit and Precise Plan of Design approval for the site shall be for outdoor storage of heavy equipment and construction items associated with a construction contracting company, as depicted on the submitted plans and as described in the application.
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 this 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. 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.

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. Outdoor storage of equipment, vehicles and supplies (e.g., wood forms, steel casing, drill bits and augers, reinforcing cages, etc.) shall be limited to those items directly associated with the construction business. All items shall be stored and maintained in a neat and organized fashion at all times maintaining appropriate clearances and heights as required by the City and depicted on the approved site plan. Outdoor storage, with the exception of high-profile vehicles and equipment, shall be no higher than the perimeter walls.
6. No recreation vehicles, trailers, buses, or other items not directly related to the approved business may be stored or parked on the premises. All vehicles parked on the property shall be maintained in a sound and presentable condition at all times.
7. All equipment maintenance and fabrication shall be conducted inside the existing building to minimize and/or eliminate noise, dust or visual impacts to the surrounding properties.
8. Business operations at the site shall be subject to the applicable noise requirements of Chapter 6.12 of the Montclair Municipal Code. Outdoor noise levels for industrial areas are a maximum of 70 dBA between the hours of 7:00 a.m. to 10:00 p.m.
9. Any subsequent sale, sub-leasing or rental to another industrial operator or operators involving outdoor storage shall require separate review and approval by the Community Development Director in order to determine its compatibility with this CUP approval.
10. Prior to issuance of building permits, the applicant shall submit the following documents for review and approval by the City Engineer:
 - a. Plans for the implementation of erosion control and stormwater pollution prevention consistent with the approved Water Quality Management Plan (WQMP). A general industrial permit will be required. Contact Joe Rosales, NPDES Coordinator, at 909/625-9470 for requirements and inspections of the improvements before requesting a Certificate of Occupancy.

- b. A disabled-accessible path-of-travel from the public sidewalk to the building on-site shall be shown on the grading plan. Sidewalks, pathways and curb cuts shall comply with the Americans with Disabilities Act of 1990 (ADA). The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).
 - c. A letter of non-interference from any utility company that may have rights of easement within the property boundaries.
 - d. "Will-serve" letters from all utilities serving the site. The subdivider/developer will be required to coordinate with the various public utilities for the necessary improvements for said utilities to service the site.
 - e. Enhanced Best Management Practices (BMPs) to adequately treat surface water runoff before it is conveyed to the swale/infiltration basin, to the satisfaction of the NPDES Coordinator. Areas designated for equipment and vehicle washing shall be provided with concrete barriers to contain spillage or leakage of industrial waste and solvent from entering the drainage swale or driveway. In addition, wastewater treatment plan shall be subject to the review and approval of the Environmental Manager and the City Engineer. (Contact phone number is 909-625-9446.)
11. Any construction work on the street or public right-of-way for the Silicon Avenue frontage of the property shall conform to city standards and shall be subject to inspection by and to the satisfaction of the City Engineer. Plans shall comply with State and/or City disabled-accessible requirements for ramps, street access, and parking. Street improvement plans may include, but not be limited to, removal and replacement of drive approach with P.C.C. curb, gutter and sidewalk, and removal and replacement of all substandard P.C.C. curb, gutter, sidewalk and A.C. pavement. Disabled-accessible path-of-travel shall be maintained through drive approaches.
12. Prior to issuance of building permits for construction of the proposed improvement and any renovation to the existing building, the applicant shall:
- a. Submit five complete sets of plans for the project, including building elevations, colors and materials, electrical, plumbing, mechanical, irrigation and 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 the Building Division at 909/625-9477 for an appointment to submit plans.

- b. Submit detailed plans for the proposed truck and equipment wash facility and the 1,200 square-foot freestanding paint booth.
 - c. Submit detailed plans for all exterior building-mounted and pole lighting 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 25'-0" as measured from adjacent grade to top of luminaries.
 - d. Submit detailed landscaping and irrigation plans for review and approval by the Planning and Building Divisions. The landscape plan shall include the planting of drought-tolerant, low-maintenance shrubs, climbing vines, ground covers and/or lawn within the planters.
 - 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. Inspection of the facility by the Montclair Fire Department will be required before issuance of a Certificate of Occupancy.
 - g. Pay all required Montclair Fire Department fees.
13. Prior to installation of any new or replacement signs on the property, the applicant shall submit a detailed sign plan to the Planning and Building Divisions for review and approval. A monument sign of no more than 40 square feet and 6 feet in height identifying the business may be permitted. Exposed raceways shall be prohibited on all building-mounted and freestanding signs.
14. 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.
15. No pay telephones or vending machines shall be located on the exterior of the building.

16. All hazardous materials, including but not limited to, used motor oil, grease and industrial solvents, shall be stored inside the building with secondary containment. All service areas shall have floor drains to collect wastewater. Drains shall connect to an approved hydrocarbon clarifier before being discharged to the sanitary sewer to the satisfaction of the Environmental Manager.
17. Any vehicle or equipment repair or painting outside of the approved building and paint booth shall be expressly prohibited on the property.
18. The existing building shall be brought up to current building code requirements and standards for use as an office and warehouse. No part of the building shall be converted for use as a caretaker unit.
19. Security gates and locking devices to the facility shall be equipped with Medeco locks or other acceptable devices to allow access by emergency personnel and utility providers at all times.
20. All new utility services to the buildings shall be installed underground.
21. All 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.
22. 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.
23. Fire sprinkler risers and roof access ladders, if applicable, shall be located entirely within the enclosed buildings.
24. A new trash enclosure shall be constructed of masonry blocks consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City Development Standard #106 and shall have a solid roof complementary to the main building. Location shall be indicated on the submitted plan and subject to Planning Division approval.
25. 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.
26. 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.

27. All landscape planting area shall have 100 percent irrigation coverage by an automatic irrigation system.
28. 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.
29. 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). Failure to properly maintain trees in an acceptable manner consistent with the above-mentioned guideline may result in replacement of trees in a quantity and size to the satisfaction of the City Planner.
30. 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 or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.
31. 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 address of the main building (10580) shall be located on the west-facing elevation. Numerals shall be Helvetica font, minimum 10 inches in height, minimum 1½ inches in depth, and in a color that adequately contrasts with the background to

which they are attached. Individual unit or suite numbers shall be installed immediately adjacent to the office entrance of each unit.

- b. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of normal business hours on every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
32. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
33. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact the City's Environmental Manager, at 909/625-9446 for fees.
34. 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 the City's Environmental Manager, at 909/625-9446 for fees.
35. 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.
36. Underground Service Alert shall be notified 48 hours prior to any excavation at 800/422-4133.
37. 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.
38. 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.
39. The applicant/developer is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.
40. 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).

41. 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.
42. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
43. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
44. An approved, emergency keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
45. 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.
46. 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.
 - c. Install all approved landscaping, fencing, gates and exterior lighting.
 - d. Install all ADA-required parking stalls and parking lot signs.
47. 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.
48. 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.c. Annual Planning Commission reorganization

Director Lustro explained that the Commission needs to reorganize annually (nominates and votes for positions of Chair and Vice Chair for the coming year).

Director Lustro asked for nominations for Chairman. Commissioner Johnson asked if it was possible to continue the item to the next scheduled meeting since not all commissioners were in attendance. Director Lustro answered that if it is the pleasure of the Commission to move it to the first meeting in January, it would be acceptable, but there needed to be a motion, a second, and vote to do so.

Commissioner Johnson moved to continue the item to the meeting of January 12, 2009, seconded by Vice Chairman Vodvarka. Commissioner Lenhert commented that he did not see any reason to postpone the reorganization. Vice Chairman Vodvarka commented that he felt Chairman Flores should be able to vote. Commissioner Sahagun stated that he agreed with Commissioner Lenhert. Director Lustro stated that the Commission needed to take a vote to count the ayes and nays regarding Commissioner Johnson's motion so that it is on the record. Vice Chairman Vodvarka asked for a vote on the reorganization now. City Attorney Robbins restated the motion on the floor was to continue this item to the first meeting in January 2009. Vice Chairman Vodvarka called for the vote. Vice Chairman Vodvarka and Commissioner Johnson were in support; Commissioners Lenhert and Sahagun opposed.

Attorney Robbins stated that because it was a 2-2 vote, it meant that the motion failed and the Commission was at a stalemate unless someone could come up with a motion with three votes to pass a motion. Vice Chairman Vodvarka commented that he would like to rescind his vote and change it to a yes vote. Attorney Robbins instructed that we do not need to rescind votes, but place a new motion on the floor for consideration. Commissioner Lenhert moved that the reorganization be considered tonight, seconded by Commissioner Sahagun. Vice Chairman Vodvarka called for the vote. The motion passed 3-1, Commissioner Johnson dissenting.

The nominations for Chairman were opened with Commissioner Sahagun nominating Luis Flores as Chairman. There being no other nominations for Chairman, the nominations for Chairman were closed.

Commissioner Johnson asked how the Commission knows that Chairman Flores wants to be the Chairman for another year without him being present to ask. Commissioner Sahagun stated that Chairman Flores mentioned to him that he would be interested if no one else wanted to be Chairman. Commissioner Johnson stated that she had no problem with Chairman Flores continuing to be Chair for another year, she just thought that he had to be present to officially accept.

Vice Chairman Vodvarka called for a vote to re-elect Commissioner Flores as Chairman; there being no opposition to the nomination, it was approved 4-0. City

Attorney Robbins suggested that nominations be accepted for Vice Chairman. Commissioner Johnson nominated Commissioner Sahagun for Vice Chairman. Commissioner Sahagun nominated Commissioner Lenhert. There being no other nominations, Vice Chairman Vodvarka closed the nominations for Vice Chairman. Vice Chairman Vodvarka called for a vote on the nominations. Commissioner Lenhert was selected by a 4-0 vote.

INFORMATION ITEMS

Director Lustro reminded the Commission that there will no second meeting in December and that the next scheduled meeting will be January 12, 2009 and wished the Commissioners Happy Holidays.

Attorney Robbins congratulated Commissioners Lenhert and Flores (who was not present) and wished everyone a Merry Christmas and Happy New Year.

Commissioner Sahagun thanked Commissioner Johnson for the nomination and congratulated Commissioners Flores and Lenhert.

Commissioner Sahagun asked about the traffic signal at Palo Verde and Fremont; he stated that the light always defaults to green for north-south traffic. He has brought this up previously, and he seems to remember the solution was costly but that the City Engineer was going to look at it. It is a very frustrating problem and waste of gasoline.

Commissioner Sahagun asked about the westbound traffic signal on Palo Verde at Monte Vista, which he believes is a Caltrans signal. It only lets 2-3 cars through on the left turn phase.

Commissioner Sahagun commented that southbound Monte Vista at Holt is a pretty busy intersection and was not sure of any accidents, but asked about the possibility of protected left turn signals for Monte Vista, especially if we do the Ramona grade separation.

Director Lustro responded to the question about the Palo Verde/Fremont traffic signal by stating that the City Engineer has previously indicated that the loop sensors for southbound traffic on Autoplex Drive have been broken for years. They are located in the decorative pavement and would be very costly to repair. They have looked into the possibility of doing a camera or wireless system, but not only would they be costly, it is not certain that they can be used on just one leg of the intersection, they would probably have to install it on all four legs of the intersection and it is cost-prohibitive at this time.

Director Lustro responded to the question about Palo Verde/Monte Vista signal and indicated that part of the problem is that it is interconnected with the signal on the north side of the freeway so that they run in tandem with each other so as to not impact north-south traffic on Monte Vista so that the intersection gets blocked. Staff has experienced the short signal cycles, but they are that way for a reason because not only do you have a number of traffic movements at that intersection; there is a single phase for traffic exiting the freeway, split phasing for westbound traffic that is divided into right

turns only and then left and right turns together, then you have southbound traffic, which has protected/permissive left turns and a single phase northbound so it is very difficult to do anything with that signal without messing up the one on the north side of the freeway. He agreed with Commissioner Sahagun that if the Monte Vista undercrossing ever gets widened and everything is re-worked in that area, then maybe something can be done with the signals.

Commissioner Lenhert stated that the same issue applies to the signal at Holt and Ramona. Making a left turn traveling southbound is difficult and sometimes you have to wait through two or three cycles.

Commissioner Lenhert commented that he was riding around with Councilmember Paulitz in that area and there sure is a lot going on down there with the construction for the new senior housing project on Mills and he wonders what will happen with the landlocked properties that are in there. He felt Cardenas Market should have been tied into the previous development and wondered if there was anything at Holt and the San Antonio Wash that was approved. City Planner Diaz replied that staff is working with the applicant/property owner to try to resolve the access issue at 4110 Holt. The owner was working diligently with the Army Corps of Engineers and everything seemed to be going okay until the very end when the Corps said they would not approve plans to use a portion of their easement. He now has to try to get access from the Cardenas side (west side) of the property and that they are currently in negotiations to resolve the issue and allow him to move forward. Commissioner Lenhert commented that the building is vandalized with graffiti. City Planner Diaz replied that he paints out graffiti and it gets tagged again because there is no activity on the site since he cannot pull building permits without the access resolved. We're hoping that it gets resolved soon.

Commissioner Lenhert wished everyone a Merry Christmas.

Commissioner Johnson wished everyone Happy Holidays and that everyone stay well and healthy and reminded everyone to wash their hands more often to stay well.

Vice Chairman Vodvarka asked how many cars on a driveway on private property with "for sale" signs make it a car lot. Would six do it? Director Lustro replied that while it is not defined within the Municipal Code, he thought that six vehicles or more than one, would probably be a reason to do a little investigation to determine whether the cars that are "for sale" on the property are, in fact, registered to the people who live at the property. Vice Chairman Vodvarka stated that the people who own the house work for a car dealership and all the inhabitants of the house were driving with vehicles that had paper license plates. He sees people coming and going looking at the cars, even test-driving the vehicles. Director Lustro suggested reporting the site to Code Enforcement and let them check it out.

Vice Chairman Vodvarka adjourned the meeting at 7:38 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary