



CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES
REGULAR ADJOURNED MEETING
Monday, February 9, 2009

COUNCIL CHAMBER
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 Vodvarka led those present in the salute to the flag.

ROLL CALL

Present: Chairman Flores, Vice Chairman Lenhart, Commissioner Vodvarka, Community Development Director Lustro, City Planner Diaz, Associate Planner Lai and City Attorney Robbins.

Excused: Commissioners Johnson and Sahagun, Associate Planner Frazier-Burton.

MINUTES

The minutes of the January 26, 2009 meeting were presented for approval. Vice Chairman Lenhart moved, Commissioner Vodvarka seconded, there being no opposition to the motion, the minutes were approved 3-0.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

6.a PUBLIC HEARING - CASE NUMBER 2009-1

Project Address: 5100 block Bandera Street
Project Applicant: La Casa Building Contractors
Project Planner: Jim S. Lai, Associate Planner
Request: Tentative Parcel Map 18728 and Precise Plan of Design for a five-unit residential condominium development

Associate Planner Lai reviewed the staff report.

Commissioner Vodvarka asked for clarification about two homeowners' associations. Associate Planner Lai replied that since this proposed five-unit development was being developed as a separate tract, there would be two homeowners' associations that would work together as one.

Chairman Flores questioned the drainage on the west side of units 2 and 3, stating the plans showed top of grade elevations near the property line, but did not show where the water would be coming from to get into the top of grade. From the front page, he could not tell what was supposed to happen. He wondered how the water was supposed to get in and that he thought it looked like there was no place for the water to get out since there is a block wall and a V-ditch already on the other property. Associate Planner Lai replied that the applicant just submitted the tentative grading plan to the City Engineer and that a separate Water Quality Management Plan was prepared to address on-site drainage issues. Mr. Lai indicated that the property to the south of this parcel, owned by Mr. Koopman, is required to provide a drainage easement in favor of the subject parcel should it be necessary. This was similar to the parcel to the east that has the ability to drain to Holt Boulevard.

Commissioner Vodvarka commented that he was concerned about the garages becoming storage bins and asked if the homeowners' association can require owners to use the garages for parking vehicles so they will not be parking outside. Associate Planner Lai stated there is a common driveway plus the one to the east and it will be posted "No Parking" and visitor parking is very limited, only two on this one and six on the one to the east. So, it should be enforceable that all residents' vehicles be parked inside the garages and not on the street.

Chairman Flores opened the public hearing. There being no one present to speak, Chairman Flores closed the public hearing.

Commissioner Vodvarka moved that based on the evidence presented, there will be no significant impact on the environment as a result of the proposed five-unit residential development at the subject site. The Planning Commission has reviewed the Planning Division's determination of exemption pursuant to Section 15332 of the State CEQA Guidelines, and based on its own independent judgment, concurs in the staff's determination, Chairman Flores seconded, there being no opposition to the motion, the motion passed 3-0.

Vice Chairman Lenhart moved to recommend City Council approval of Tentative Tract Map No. 18728 for a single-lot subdivision for condominium purposes, as described in the staff report, at 5165-5195 Bandera Street and subject to the 34 conditions of approval, Commissioner Vodvarka seconded, there being no opposition to the motion, the motion passed 3-0.

Vice Chairman Lenhart moved to approve a Precise Plan of Design for the site plan, floor plans, building elevations, landscaping and associated on- and off-site improvements for a five-unit Planned Residential Development at 5165-5195 Bandera Street, per the submitted plans and as described in the staff report, subject to the 34 conditions of approval, Chairman Flores seconded, there being no opposition to the motion, the motion passed 3-0.

Planning

1. This approval shall be for the following:
 - a. Tentative Tract Map No. 18728, a single lot subdivision of a 0.49-acre site for condominium purposes on the south side of Bandera Street, between Central and Marion Avenues. The maximum number of condominiums shall be limited to five (5) units.
 - b. A Precise Plan of Design for the tract plot plan, floor plans, elevations, colors and materials associated with the construction of five single-family attached condominium units in two buildings.
2. The tentative tract map shall expire three years from the date of the Planning Commission resolution unless extended under Government Code Section 66452.6. The final tract map shall be filed with the City Engineer and shall comply with the Subdivision Map Act of the State of California and all applicable ordinances, requirements, and resolutions of the City of Montclair.
3. The 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. Any modification, intensification, or expansion of the use and design plan beyond that which is specifically approved with this PPD shall require review and approval by the Planning Commission.

5. Within five (5) days of approval, the applicant shall submit a check in the amount of \$50 to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
6. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval and owner's signature, 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.
7. The applicant shall submit to the City for review and approval, as to form and content, three (3) copies of Covenants, Conditions and Restrictions (CC&Rs) for Tentative Tract Map No. 18728 and Tract No. 16782 tying both tracts under the same ownership together, in accordance with all provisions of Section 11.90.390 of the Montclair Municipal Code. Such submittal shall be made at least 90 days prior to the anticipated recordation of the final map.
8. Prior to the issuance of any building permits, the applicant shall submit the following plans and/or documents for City Planner review and approval:
 - a. A wall/fence plan detailing all existing and proposed walls or fences for the site. The plan shall indicate the proposed heights, materials, colors, and wall sections as appropriate. Where possible, the use of vines shall be applied to any walls having direct exposure and immediate access to the street to deter graffiti as much as possible, as determined by the City Planner. Thereafter, the vines shall be continually fed, watered, and neatly maintained by the property owner.
 - i. Metal gates shall be integrated with the wall/fence plan and designed and finished to complement the architecture of the buildings. High quality and durable materials such as tubular steel or decorative wrought iron with wire mesh shall be used.
 - ii. Locking devices for electric security gate(s) shall be equipped with Medeco locks or other acceptable device to allow access by emergency personnel at all times.
 - b. A detailed landscape/irrigation plan prepared by a licensed landscape architect for all plant areas (including required setbacks and parking areas) on the site for review and approval by the Planning and Building Divisions. Planting plan shall call out all species, quantities and container sizes. An automatic irrigation system for all plant areas shall be required. The use of an efficient irrigation system (e.g., drip irrigation) is highly encouraged.

- c. Renderings and proposed locations for neighborhood mailboxes within the project. Before submission to the City for review, the applicant shall first obtain approval of the design style and siting from the United States Postal Service.
- d. A photometric plan for the entire site. The photometric plan shall include the location of all exterior light fixtures (area, building, parking lot, etc.) and the overall illumination levels across the site. All proposed exterior lighting shall comply with the following standards:
 - i. Provide a minimum maintained illumination level of one (1) foot-candle across the site. After-hours, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
 - ii. Lighting fixtures shall be vandal resistant and of a design that complements the architecture of the building.
 - iii. All light fixtures shall incorporate 90-degree cut-off style luminaires and flat lenses so as to direct illumination downward to the surface to be illuminated and away from public rights-of-way or adjacent residential properties/uses.
 - iv. Freestanding light fixtures and poles shall not exceed a maximum height of 20'-0" as measured from adjacent grade to top of luminaries.
 - v. The use of wall packs, barn lighters, other similar unshielded luminaires, and/or decorative lighting installed solely for the purpose of illuminating the roof shall be prohibited.
 - vi. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Planning Division.
 - vii. Above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be enhanced or "wrapped" with a decorative building material or texture consistent with those used on the main building.
- 9. The applicant and/or property owner shall be responsible for maintaining the site, building, and associated improvements such as, but not limited to, signs, light fixtures, landscaping and irrigation, etc., in good condition and/or 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 or etching of glass areas on the building or associated improvements shall be removed/replaced immediately by the applicant/property owner upon notification by the City.

10. 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.
11. All new trees incorporated into the project shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA).
12. 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.
13. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

Building

14. The street address assignment for this project shall be 5185 and 5195 in Building "E" and 5165, 5167 and 5169 in Building "F". The address of each new residence shall be displayed in minimum four-inch (4") tall numerals on a contrasting background and backlit with a low-voltage illumination source. Said identification shall be installed in a consistent location on each residence.
15. All plans shall be marked with the case number (2009-1). The applicant shall comply with the latest adopted California Codes and other applicable codes, ordinances, and regulations in effect at the time of permit application.
16. Prior to acceptance of plans for review, a plan check deposit shall be required at the established rate.

17. Prior to issuance of building permits, the applicant shall prepare, submit and/or comply with the following requirements for the review and approval by the Building and Planning Divisions:
 - a. Five (5) complete sets of plans for the project, including building elevations, colors and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details, plus two sets of soils, structural and Title 24 calculations for review and approval by the Building and Planning Divisions.
 - b. Each dwelling unit shall incorporate sound attenuation measures (i.e. dual-paned glazing, upgraded insulation, etc.) to achieve a maximum interior noise level no greater than 45 dBA.
 - a. Clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible parking lot signs. Sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the handicap accessible regulations as required by Chapter 11 of the 2007 California Building Code.
18. Prior to the issuance of any permits, the applicant shall pay all required fees, including, but not limited to, the following:
 - a. Montclair Fire Department fees.
 - b. Transportation impact fees per the adopted Engineering Division fee schedule at the time building permits are obtained.
 - c. School fees for the Ontario-Montclair School District and the Chaffey Joint Union High School District.
 - d. Sewer reimbursement fees as imposed by a district, if any, or any assessments as required. Contact Nicole Greene, Environmental Manager at 909/625-9446 for fees/assessments.
 - e. Regional Sewerage Supplemental Capital Outlay fees as 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.
 - f. Pay adopted parkland development fee. (Current adopted fee is \$2,800 per dwelling unit.)
19. All utility services to the building shall be installed underground.
20. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, utility meters, 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. Air conditioners shall be located on the ground, subject to staff review.

21. Trash enclosure, if required as part of the project, shall be constructed of masonry and faced with a material 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 include a solid cover roof compatible with the architectural design of the main building and a fire sprinkler system designed to the satisfaction of the Deputy Fire Marshal.
22. Prior to issuance of the first Certificate of Occupancy, the person or corporation responsible for the preparation of the Water Quality Management Plan shall certify in writing to the Building Official that all conditions and requirements of the Water Quality Management Plan have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.

Public Works / Engineering

23. Prior to submittal of grading plans or other improvement plans, the applicant should have prepared and received approval from the City Engineer a Water Quality Management Plan (WQMP) in accordance with the State of California Santa Ana Regional Water Quality Control Board Guidelines for San Bernardino County. WQMP Guidelines are available for review on-line at www.swrcb.ca.gov/rwqcb8/html/san_bernardino_permit.html or may be purchased from the City of Montclair. The Water Quality Management Plan shall be prepared by a Registered Civil Engineer or other qualified professional as may be authorized in the guidelines.
 - a. Sanitary sewers serving this development shall be designed to City standards and shall be privately maintained. The discharge of any wastewater into the sanitary sewer system shall conform to the requirements of Chapter 9.20 of the Montclair Municipal Code and Chapter 7 of the California Plumbing Code, as determined by the Building Official and Montclair Environmental Manager.
 - b. Prior to filing the original signed final map and issuance of grading and/or building permits, the applicant shall comply with and/or submit the following documents for review and approval by the City Engineer and Community Development Director:

- i. A preliminary soils report, addressing the geology, stability of the site, and grading requirements.
- ii. A precise grading plan shall be prepared subject to the approval of the Community Development Director and the City Engineer. Grading plan shall be prepared in accordance with City of Montclair Public Works Department's requirements on 24" by 36" plan sheets. No other plan sheet size is acceptable. Scale shall be sufficient to show all details required. An erosion control plan is considered an integral part of the grading plan. The grading plan shall include disabled-accessible path(s)-of-travel from the public sidewalk to the buildings and trash enclosures on-site. Sidewalks, pathways, drive approaches 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%).
- iii. Dedication to the City of Montclair public street rights-of-way along Bandera Street within or adjacent to the tract boundaries to the satisfaction of the City Engineer, if applicable.
- iv. Dedication to the City of Montclair and/or other public agencies easements for water, storm drains, sanitary sewers and other utilities.
- v. No soil may 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 acceptable to the City Engineer shall be prepared showing proposed haul routes within the City. Plan shall include provisions for street sweeping and cleanup. Contractor(s) shall comply with all NPDES requirements.
- vi. Street improvement plans for Bandera Street showing construction of new drive approaches, and sidewalks. Plans shall be prepared in a format acceptable to the City Engineer, and improvements may be shown on the precise grading plans, subject to the following requirements:
 - A. Gates at driveways shall be placed a minimum of 20 feet behind sidewalks to allow vehicles to be out of street and not blocking sidewalks while gate is opening. Turn-around areas shall be provided at each driveway for motorists unable to access the gated entrances.

- B. Sidewalks shall be constructed, reconstructed, or realigned as necessary to maintain a minimum width of five feet, or four feet where obstructions such as power poles, streetlights, and traffic signal equipment exist and/or are proposed. Plans shall comply with State and/or City disabled-accessible requirements for ramps, street access, and parking.
 - C. Prepare a streetlight plan to the satisfaction of the City Engineer.
 - D. Install *Cinnamomum camphora* (Camphor) street trees, 40 feet on center, along the Bandera Street frontage. Street trees shall be minimum 24-inch box size and double-staked per City standards.
- c. All off- and on-site trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
 - d. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 800-422-4133.
 - e. A drainage plan prepared to the satisfaction of the City Engineer is required. It is recommended that runoff drain to Bandera Street. If that is impractical, then developer shall obtain drainage easement from properties to the south to drain across their properties to Holt Boulevard. Copies of recorded easement documents shall be submitted to the City prior to the recordation of the tract map.
 - f. Sewer service is required to each dwelling unit. Each unit shall have its own lateral. The system may be designed either as a public or as a private system, subject to meeting City specifications. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9 of the Montclair Municipal Code.
 - g. Prior to filing the original signed final map with the City Engineer, the applicant shall conduct a Phase I environmental analysis of the entire site, to be performed by an environmental consulting firm acceptable to the City, to determine whether any contamination is present on the site. Any and all clean-up, as required by the results of said analysis, shall be completed prior to acceptance of the final tract map by the City for recordation. All clean-up activities shall be in compliance and completed in accordance with all applicable local, state and federal regulations. The environmental analysis report shall be approved by the Director of Community Development. The applicant shall be responsible for staff and City Attorney costs associated with this review.

- h. Prior to issuance of a Certificate of Occupancy for the project, the applicant shall complete the following improvements to the satisfaction of the City Engineer:
 - i. Remove all on-site utility poles and overhead utility lines from the project site.
 - ii. Underground all overhead utility lines along the south side of Bandera Street for the length of the project limits to the nearest pole not adjacent to the property frontage and remove all abandoned utility poles.
 - iii. Construct all approved improvements along the Bandera Street frontages of the project site, including, but not limited to, removal and replacement/relocation of P.C.C. curb, gutter and sidewalk, and asphaltic concrete (A.C.) pavement, installation of concrete standard street lights, and installation of landscaping and irrigation, including required street trees.
 - iv. Connect the new development to the City of Montclair sanitary sewer system.
 - v. Plans for erosion control and stormwater pollution prevention. A general construction permit may be required. Contact Joe Rosales, NPDES Coordinator, at 909/625-9470 for requirements.
 - vi. A letter of non-interference from any utility company that may have rights of easement within the property boundaries.
 - vii. "Will-serve" letters from all utilities serving the site. The developer will be required to coordinate with the various public utilities for the necessary improvements for said utilities to service the site.
- i. No construction within the public right-of-way shall commence until a public works permit is obtained from the City's Public Works Department and all applicable fees paid. All utility lines installed to serve the new development shall be placed underground from the nearest existing power pole or other point of connection not adjacent to the property frontage. The sewer connection improvements may be shown on either the street improvement or grading improvement plans.

Fire Department

- 24. The project shall comply with all Fire Department requirements, including, but not limited to, the following items:

- a. Provide a 20-foot wide base asphalt or concrete roadway capable of supporting firefighting apparatus within 150 feet of all structures prior to the framing stage of construction. This access is required to be maintained unobstructed throughout construction. Roadway is subject to Fire Department approval prior to construction.
 - b. The inside turning radius for an access road shall be 32 feet or greater. The outside turning radius for an access road shall be 45 feet or greater.
 - c. The proposed residential structures shall require an approved automatic fire-sprinkler system. The system shall conform to all local and national standards and be designed to provide a signal to a UL-listed monitoring station in the event of a water flow or tampering. Submit three (3) copies of an automatic fire sprinkler system plan directly to the Fire Marshal's office for review and approval, including two sets to be microfilmed/digitally imaged.
 - d. Make adjustments to site plan where applicable to meet Fire Department access requirements as follows:
 - i. Planter areas in the center of drives should be setback 20 feet from curb line, and plant materials shall be of low profile.
 - ii. Landscaping adjacent to the entrance drives should be of low profile types not exceed eight (8) feet in height when mature.
25. The applicant/developer/general contractor is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.
- a. All Fire Department access and fire lanes shall be posted as "No Parking, Fire Lane." Signs shall be designed and installed in accordance with Montclair Fire Department standards.
 - b. A fire hydrant system shall be required to provide the necessary water flow to the proposed subdivision. Exact number, location and design of hydrants shall be determined by the Fire Marshal's Office when building plans are received. Hydrants shall be active prior to the framing stage of construction.
 - c. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
 - d. In those structures covered by CAC Title 19, all drapes, hangings, curtains, drops, and all other decorative material shall be made from non-flammable material, or shall be treated and maintained in

- a flame retardant condition, by means of a flame retardant solution or process approved by the State Fire Marshal.
- e. 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. Facilities with gate drive approaches shall contact the Fire Marshal's Office for additional key and strobe requirements.
 - f. Vehicle security gates shall be approved only with the use of hold-open devices to allow for emergency vehicles access. Contact the Fire Marshal's office for specific requirements.
 - g. Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
- 26. The developer/general contractor shall be responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.
 - 27. The proposed commercial structure(s) shall require an approved automatic fire-sprinkler system. The system shall conform to all local and national standards. Three complete sets of the sprinkler system plans shall be submitted directly to the Fire Marshal's Office for approval prior to installation of the system in commercial structures. The system shall be so equipped as to provide a signal to a UL-listed monitoring station in the event of water flow or tampering.
 - 28. Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
 - 29. Commercial occupancies with cooking areas shall require an approved, fixed fire extinguishing system for protection of the hood and duct system and overall cooking areas. This system shall be equipped with an automatic fuel shutoff to all equipment protected by this system. Three complete sets of drawings of this system shall be submitted to the Fire Marshal's Office prior to issuance of a permit.
 - 30. In the event that the structure is to be used for the purpose of public assembly, the developer/architect shall contact the Fire Marshal's Office for requirements prior to submission of building plans.
 - 31. In those structures covered by CAC Title 19, all drapes, hangings, curtains, drops, and all other decorative material shall be made from non-flammable material, or shall be treated and maintained in a flame-retardant condition, by means of a flame retardant solution or process approved by the State Fire Marshal.

32. Commercial/industrial occupancies shall install approved emergency lighting to provide adequate illumination in the event of any interruption of normal lighting.
33. An approved emergency keyed access system shall be required to facilitate access to buildings or gates by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at the Montclair Fire Department Headquarters for these occupancies requiring such a system. Facilities with gated drive approaches shall contact the Fire Marshal's Office for additional key and strobe requirements.
34. All Montclair Fire Department fees are due prior to any permit issuance.

6.b PUBLIC HEARING - CASE NUMBER 2009-2

Project Address: 4911 Holt Boulevard
Project Applicant: Phuoc "Frank" Nguyen
Project Planner: Jim S. Lai, Associate Planner
Request: Conditional Use Permit for an off-site real estate directional sign

Associate Planner Lai reviewed the staff report and indicated that staff had received an inquiry from an adjoining property owner who was concerned and objected to the placement of the sign because he thought it would block visibility of his tenants' sign in the shopping center to the east. Mr. Lai indicated that staff conducted a site inspection at the intersection from different vantage points and found the vertical height of the sign did not adversely obstruct signage of the properties to the east and concluded that the sign height and vertical clearance would not be an issue. He mentioned that staff has very specific requirements for the eventual removal of the sign its maintenance and the clearing of any overgrown vegetation or weeds on the site.

Commissioner Vodvarka commented that he had a copy of the public hearing notice that was published in the newspaper and what disturbed him was that the notice states that the sign they want to put up is already erected and it bothered him that they already put up the sign before they got permission.

Director Lustro stated that staff observed the sign just after the holidays, which was erected without the benefit of any approvals because it had not been reviewed by the Commission. He indicated that the developer was contacted the same day and told that they needed to come in and submit a CUP application for the sign, and if they did not come in and submit an application, then City crews would remove the sign. The applicant was in within a couple business days with their application, they were

apologetic, and staff told them that since they responded quickly, staff would not require them to remove the sign for the time being. If the Commission approved the CUP, then the sign would be allowed to stay.

Chairman Flores commented that when this happened, was there any way to throw in a little penalty when they get their building permit? He felt if we did that and got it in the newspaper, anyone else that has that notion would think twice before doing it. Director Lustro replied that the City does have the ability to double-fee the contractor, the applicant, or property owner when construction occurs without permits. In retrospect, we could probably do that in this case. However, given the weak economy, the City is trying to be a little more business-friendly than we already are. In this case, the developer followed our direction, came in and went through the process. Staff felt that was sufficient.

Chairman Flores opened the public hearing. There being no one present to speak, the public hearing was closed.

Commissioner Vodvarka moved that based on the evidence presented, there will be no significant impact on the environment as a result of the proposed freestanding subdivision sign at the subject site. The Planning Commission has reviewed the Planning Division's determination of exemption, pursuant to Section 15303 of the State CEQA Guidelines, and based on its own independent judgment, concurs in the staff's determination of exemption, Chairman Flores seconded, there being no opposition to the motion, the motion passed 3-0.

Vice Chairman Lenhart moved to grant the Conditional Use Permit request to allow an off-site real estate subdivision sign at 4911 Holt Boulevard by adopting Resolution No. 09-1693, subject to making the four required findings and the 16 conditions of approval, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 3-0.

Planning

1. The entitlement authorized by this Conditional Use Permit is for the installation of a 120 square-foot, 16-foot high, double-sided, off-site subdivision sign to advertise a bona fide subdivision ("Bellafina") in the 4100 block of Holt Boulevard, Montclair, as generally described in the staff report and depicted on approved plans on file with the Planning Division.
2. This CUP approval shall be valid for a period of two years (24 months) from the date of Planning Commission action and is not perpetuated with the land. The applicant and developer shall remove the entire sign structure upon the sale of the final unit in the Bellafina development or at the end of the two-year permit (February 9, 2011), whichever comes first. Extension of such sign may be allowed, subject to provisions of Sec. 11.72.310(H) of the Municipal Code and subject to the review and approval of the Community Development Director.

3. A refundable cash deposit (\$350) shall be submitted to the City before a building permit is issued for the sign structure to remain on site.
4. Within five days of approval, the applicant shall submit a check in the amount of \$50 to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
5. Any modifications to the approved subdivision sign for the subject site beyond that which is specifically approved with this CUP shall require review and approval by the Planning Commission.
6. No advertising devices such as banners, pennants, spinners, flags, balloons, other than the approved 10' X 12' double-sided sign board shall be attached to the sign structure. Furthermore, the message board, in whole or in part, may not be used to advertise other businesses, services or products. Trailer-mounted electronic sign/message boards or other similar types of portable signs shall be prohibited.
7. The applicant shall commence immediate weed abatement of the entire parcel upon which this sign is located to the satisfaction of the City. Inspection of the site shall be conducted by the Code Enforcement Division on February 13, 2009 to ensure compliance.
8. The property owner shall ensure that the property is kept free and clear from debris, trash and over-grown vegetation at all times.
9. All graffiti on the sign structure shall be removed within 24 hours of its appearance. If graffiti is not removed within 24 hours of notification, the City shall remove the graffiti and invoice the applicant for the cost of clean-up.
10. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when clean up of the site has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
11. This CUP shall be subject to revocation or modification by the Planning Commission or City Council at such time as any of the following conditions are found to exist:
 - a. Conditions of Approval have not been fulfilled;
 - b. The use has resulted in a substantial adverse impact on the health and/or general welfare of users of adjacent or proximate property;
 - c. The use has resulted in a substantial adverse impact on public facilities or services.

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.

Building

13. Submit two (2) complete sets of plans for the freestanding sign structure. Contact the Building and Safety Division for any further plan review submittal requirements.
14. All plans shall be marked with the case number (2009-2). The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances and regulations in effect at the time of permit application.
15. Prior to acceptance of plans for review, a plan review deposit shall be required at the established rate.
16. Prior to the issuance of building permits, the required development fees shall be paid in full and documentation presented to the Building Division as proof of payment.

INFORMATION ITEMS

Director Lustro commented that the Public Works Department will be opening bids for the renovation of the Youth Center on February 19, 2009. The original set of bids was tossed out due to a number of discrepancies, so it was re-advertised and we're expecting a significant number of bids to come in.

Vice Chairman Lenhart commented that just because we got a fairly good rain doesn't mean that you don't need to conserve water because if we do not conserve, we will be on rationing or facing extreme penalties.

Commissioner Vodvarka wondered how soon the City's water softeners that use salt will be up for discussion. Director Lustro replied that he did not know the details. He did state that the city's Environmental Manager has discussed the issue and has some concerns about the impacts of the waste salt on our sewer system. While he could not answer the question directly, he stated he would try to find out and have some information at the Commission's next meeting. Commissioner Vodvarka commented that the main reason he brought it up was because someone out there is going to read this and think about it. He stated that he just removed his system because he was told

it went bad and is in the process of doing something else without salt and he will be able to help people in the future if that happens.

Chairman Flores adjourned the meeting at 7:27 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary