



CITY OF MONTCLAIR
PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS
5111 Benito Street, Montclair, California 91763

REGULAR ADJOURNED MEETING
Monday, November 9, 2009
7:00 p.m.

It is respectfully requested that you please silence your cell phones and other electronic devices while the meeting is in session. Thank you.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Chairman Luis Flores, Vice Chairman Maynard Lenhart, Commissioner Tenice Johnson, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

4. APPROVAL OF MINUTES

The minutes of the October 26, 2009 Planning Commission meetings are presented for consideration.

5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS

The public is invited to address the Planning Commission regarding any items that are not on the agenda. Comments should be limited to matters under the jurisdiction of the Planning Commission. It is respectfully requested that speakers limit their comments to no more than three minutes in length.

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete a speaker's card and submit it to the City Planner. Speaker's cards are available at the entrance to the Council Chambers.

6. AGENDA ITEMS

- a. PUBLIC HEARING - CASE NUMBER 2008-33 'A'
(CONTINUED FROM OCTOBER 12 and 26, 2009)
Project Address: 9720 Central Avenue
Project Applicant: Nithyananda Foundation (aka Vedic Temple)
Project Planner: Michael Diaz, City Planner
Request: Conditional Use Permit amendment

- b. PUBLIC HEARING - CASE NUMBER 2009-19
Project Address: 5045 State Street
Project Applicant: Barbara Jacobson/Kelly Flanagan
Project Planner: Jim S. Lai, Associate Planner
Request: Conditional Use Permit

- c. PUBLIC HEARING - CASE NUMBER 2009-22
Project Address: 4650 Arrow Highway, Units D-5 & D-6
Project Applicant: MNW Essex Montclair, LLC
Project Planner: Carol Frazier-Burton, Associate Planner
Request: Conditional Use Permit

7. INFORMATION ITEMS

Although the Planning Commission is prohibited from taking action on or discussing items not on the posted agenda, a member of the Planning Commission may ask for information, request a report back or to place a matter of business on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly report on his or her own activities, provided the foregoing are related to, or within the jurisdiction of, the Planning Commission.

8. PUBLIC INSPECTION OF MATERIALS

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of November 23, 2009 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California.

CERTIFICATION OF AGENDA POSTING

I, Laura Berke, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the south door of Montclair City Hall on November 5, 2009.

Report on Item Number 6.a

PUBLIC HEARING – CASE NUMBER 2008-33 'A'

| | |
|-----------------------------|----------------------------------------------------------------|
| APPLICATION TYPE(S) | Conditional Use Permit Amendment |
| NAME OF APPLICANT | Nithyananda Foundation (aka Vedic Temple) |
| LOCATION OF PROPERTY | 9720 Central Avenue |
| GENERAL PLAN DESIGNATION | General Commercial |
| ZONING DESIGNATION | C-3 (General Commercial) |
| EXISTING LAND USE | Public Assembly Use |
| ENVIRONMENTAL DETERMINATION | Categorical Exemption – Section 15301 (Existing Facilities) |
| PROJECT PLANNER | Michael Diaz |

Project Proposal

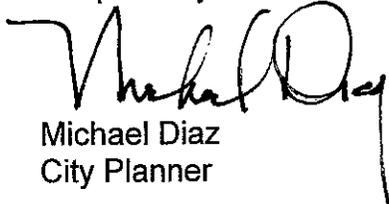
The Planning Division is requesting that the Planning Commission continue the review of this item. As before, the necessary plans (i.e., an updated floor plan) have not yet been completed and submitted in time for analysis and inclusion in the Commission packets. When all plans have been properly completed and submitted in a timely fashion for review, the item will be rescheduled for Commission consideration.

The applicant will be responsible for the cost of re-noticing the public hearing in the Inland Valley Daily Bulletin when a future meeting date has been selected.

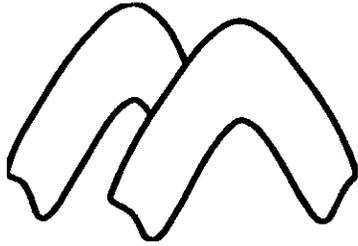
Planning Division Recommendation

Staff recommends that the Planning Commission continue the review of the item to a date unspecified.

Respectfully Submitted,



Michael Diaz
City Planner



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 11/09/09

AGENDA ITEM 6.b

Case No.: 2009-19

Application: Conditional Use Permit

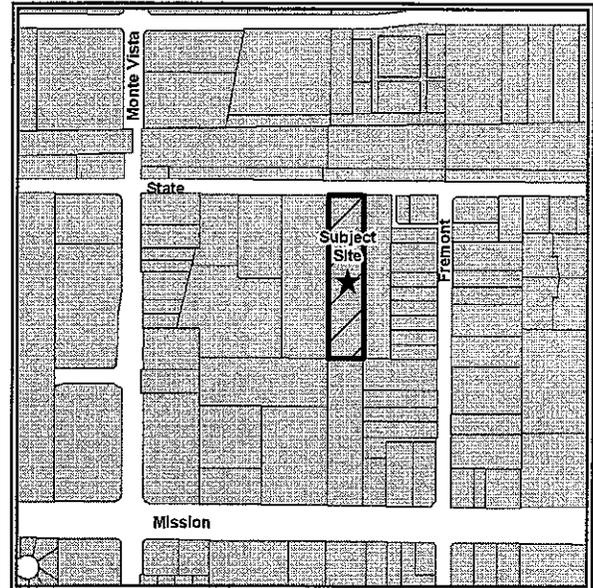
Property Owner/Applicant:
 Barbara Jacobson / Kelly Flanagan

General Plan: Industrial Park

Zoning: M-1 (Limited Manufacturing)

Project Address: 5045 State Street

APN: 1011-301-10



Location Map

EXISTING SITE FEATURES/CONDITIONS

Structures: Existing ±7,000 square-foot single-story industrial building on front half of property

Parking: Un-striped parking area for front building

City/Public Utility Easements: Right-of-way and utility easements on State Street frontage

Trees/Significant Vegetation: None

ADJACENT LAND USE DESIGNATIONS AND USES

| | <i>General Plan</i> | <i>Zoning</i> | <i>Use of Property</i> |
|--------------|---------------------|-----------------------------|---------------------------------------------------------|
| Site | Industrial Park | M-1 (Limited Manufacturing) | Industrial / unpermitted RV storage yard in rear of lot |
| North | Industrial Park | M-2 (General Manufacturing) | Railroad tracks / Industrial buildings |
| East | Industrial Park | M-1 (Limited Manufacturing) | Dog kennel / residence |
| South | Industrial Park | M-1 (Limited Manufacturing) | Contractor yard / vacant building |
| West | Industrial Park | M-1 (Limited Manufacturing) | Misc. industrial operations |

Report on Item Number 6.b

PUBLIC HEARING – CASE NUMBER 2009-19

| | |
|-----------------------------|------------------------------------------------------|
| APPLICATION TYPE(S) | Conditional Use Permit and Precise Plan of Design |
| NAME OF APPLICANTS | Barbara Jacobson / Kelly Flanagan |
| LOCATION OF PROPERTY | 5045 State Street |
| GENERAL PLAN DESIGNATION | Industrial Park |
| ZONING DESIGNATION | M-1 (Limited Manufacturing) |
| EXISTING LAND USE | Industrial / Unpermitted RV yard |
| ENVIRONMENTAL DETERMINATION | Categorically Exempt (Sections 15301 and 15303) |
| PROJECT PLANNER | Jim S. Lai |

Applicant's Proposal

The applicant is requesting approval of a Conditional Use Permit (CUP) and Precise Plan of Design (PPD) to allow the operation of a recreational vehicle (RV) storage facility at the rear portion of a 2.36-acre site at the above-referenced location. The storage facility will be approximately 1.44 acres in size. An existing 7,000 square-foot building with associated site improvements occupies the front (north) portion of the same property and is being used by a separate tenant, Corsair Powder Coating, and is not part of this application.

The applicant proposes to have 75 stalls ranging in size from 20 to 52 feet in length to accommodate various types of RVs, travel trailers, fifth wheels, boats, boat trailers, watercraft and similar items. The facility will have no on-site management or office, no visible signage and no walk-in customer traffic. Potential customers would make an initial contact with the facility operator to schedule a pre-lease meeting and inspection of the RVs, travel trailers or watercrafts before being issued a set of keys to gain access to the pre-assigned space of the storage yard. The gated storage yard will be open between the hours of 7:00 a.m. and 9:00 p.m., seven days per week.

New construction associated with this RV storage facility would include a fully paved parking lot, drainage facility, landscaping, trash bin enclosure, new fences with security gates and lighting. No buildings will be constructed on-site. No electricity (other than for light fixtures), water, propane or sewer dump stations will be provided for customer use. Furthermore, no mechanical repair, washing or detailing of RVs will be allowed on-site. The applicant has provided a detailed description of the business concept and operation of the RV storage yard for the Commission's review. A copy is included in the Commission's package along with the site plan.

Background

- Section 11.78.030.E of the Montclair Municipal Code requires approval of a CUP for a storage facility for vehicles or equipment in industrial zones.
- The subject property was part of a 121-acre annexation to the City of Montclair in 2006 (Annexation No. 26). The existing industrial building pre-dated this annexation and the "RV storage yard" did not have County or City approval.
- In 2008, the Code Enforcement Unit contacted the applicant and informed him that RV storage required City approval or had to cease operation. Since then, the applicant has been working with staff to prepare appropriate plans for review.

Planning Division Comments

Overall, staff is supportive of the proposed project as it will legally establish the existing use and result in a properly improved property. The added improvements, including paving, lighting, security fencing, drainage control, and landscaping, will add value to the property and help to upgrade the appearance of the property and surrounding area.

In recent years, staff has worked hard to see former County properties successfully improved. When the improvements have been completed, the new use will provide the public with another choice for storage of large RVs, trailers and boats, instead of on a dirt lot or on residential property. With conditions of approval, staff believes the use can be properly operated and compatible with the M-1 zone and not be detrimental to the surrounding area.

Conditional Use Permit Findings

- A. The proposed storage facility for recreational vehicles in the M-1 zone would be an essential and desirable use for the general public convenience and welfare, in that this facility would meet a public need and demand for the storage of large RVs, trailers and boats in a properly improved and safe facility.
- B. Granting of the CUP for the proposed RV storage facility will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located in an industrial area of adequate size, is visually screened from public view and will comply with all required site drainage and development standards. Lastly, the proposed use will not negatively impact any land uses in the surrounding area.
- C. The proposed RV storage facility at the subject site conforms to good zoning practice, in that the Montclair Municipal Code allows the storage of RVs, watercraft and the like in the M-1 (Limited Manufacturing) zoning district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the type, sizes and weight of the RVs so that it does not adversely impact surrounding land uses.

- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of service uses within the industrial area.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on October 30, 2009. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Assessment

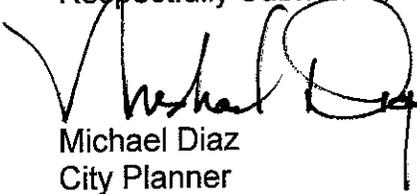
The project qualifies as a Class 1 exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects involving little to no expansion of existing structures, and a Class 3 exemption under Section 15303, as it would involve the construction of only minor structures such as fences, lighting, and small drainage detention structures. The proposed yard is passive in nature as it involves no permanent buildings, significant grading work or industrial operations. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

Planning Division Recommendation

Staff recommends that the Planning Commission take the following action(s):

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 and Class 3 exemption under State CEQA Guidelines Sections 15301 and 15303, respectively.
2. Move to approve a Conditional Use Permit and Precise Plan of Design under Case No. 2009-19 to allow a RV storage facility at 5045 State Street, per the submitted plans, as described in the staff report, and required findings subject to the conditions in attached Resolution Number 09-1708.

Respectfully Submitted,



Michael Diaz
City Planner

Attachment: Draft Resolution No. 09-1708 of Approval for Case No. 2009-19

RESOLUTION NUMBER 09-1708

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2009-19 TO ALLOW THE OPERATION OF A RECREATIONAL VEHICLE STORAGE FACILITY IN THE M-1 (LIMITED MANUFACTURING) ZONING DISTRICT AT 5045 STATE STREET (APN 1011-301-10)

A. Recitals

WHEREAS, on September 28, 2009, Kelly Flanagan, with the consent of the property owner, Barbara Jacobson, filed an application for a Conditional Use Permit (CUP) to allow the operation of a Recreational Vehicle (RV) storage yard on the southerly, 1.44-acre portion of a 2.36-acre industrial parcel located at 5045 State Street, and

WHEREAS, Section 11.78.030(E) of the Montclair Municipal Code requires a CUP for such use upon review of development standards, zoning regulations and land use compatibility with surrounding properties; and

WHEREAS, staff has determined that the proposal meets the intent and requirements of the ordinance for such use and the applicable development standards of the M-1 (Limited Manufacturing) zoning district; and

WHEREAS, staff has determined that the proposed outdoor storage of recreational vehicles, boats and the like would not have a significant effect on the environment and has prepared a Categorical Exemption pursuant to Sections 15301 and 15303 of the California Environmental Quality Act (CEQA) and a DeMinimis finding of no effect on fish and wildlife; and

WHEREAS, a notice of public hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on November 9, 2009, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP request were heard, and said CUP was fully studied.

B. Resolution

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on November 9, 2009, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. The proposed storage facility for recreational vehicles in the M-1 zone would be an essential and desirable use for the general public convenience and welfare, in that this facility would meet a public need and demand for the storage of large RVs, trailers and boats in a properly improved and safe facility.
 - b. Granting of the CUP for the proposed RV storage facility will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located in an industrial area of adequate size, is visually screened from public view and will comply with all required site drainage and development standards. Lastly, the proposed use will not negatively impact any land uses in the surrounding area.
 - c. The proposed RV storage facility at the subject site conforms to good zoning practice, in that the Montclair Municipal Code allows the storage of RV, watercrafts and the like in the M-1 (Limited Manufacturing) zoning district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use, including the type, sizes and weight of the RVs so that it does not adversely impact surrounding land uses.
 - d. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of service uses within the industrial area.
3. Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15311, which exempts projects involving little to no expansion of existing structures, and a Class 3 exemption under Section 15303, as it would involve the construction of only minor structures such as fences, lighting, and small drainage detention structures. In addition, there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption and, based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; and
4. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3, above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This Conditional Use Permit (CUP) approval shall allow the operation of a Recreational Vehicle (RV) storage yard on the southerly, 1.44-acre portion of a 2.36-acre industrial parcel located at 5045 State Street. The approved RV storage yard shall allow a maximum number of 75 parking stalls as depicted on the approved site plan.
2. Permitted recreational vehicles (RVs) shall mean vehicles for non-commercial, recreational use, including motor homes (including Class A, B and C), travel trailers, cab-over-campers, fifth wheels, horse trailers, or trailers mounted with RVs such as watercraft or off-road vehicles in operable condition.
3. The storage of inoperative cars or trucks, unattached camper shells, heavy equipment or large trucks, storage containers, mobile homes or manufactured housing, modular offices, vehicle parts, new or used building materials, scrap products or industrial waste and the like shall not be permitted.
4. Any modification, intensification, or expansion of the use beyond that which is specifically approved with this approval shall require review and approval by the Planning Commission. No expansion of the storage yard or construction of any building shall be permitted without prior City review and approval.
5. Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m., seven (7) days per week.
6. No electricity, water, propane or sewer dump station shall be installed and/or provided for customer use on-site.
7. Vehicle washing/detailing, repair, servicing, body work or auto painting shall not be allowed.
8. The sale of any vehicle, boats, or other items shall be allowed on the premises.
9. No loitering, overnight camping, or person(s) living on the premises shall be permitted at any time.
10. No outdoor pay telephones or vending machines shall be installed or used on the property in conjunction with this approval.
11. This CUP approval shall be valid for a period of six months (180 days) 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 obtaining the necessary permits to implement the construction plan and a city business license. 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. Notwithstanding the aforementioned, the applicant shall submit plans to the Building and Planning Divisions for the purpose of commencing plan check on the project no later than 60 days from the date of this Planning Commission approval (January 8, 2010) in order to avoid any continuing delays on implementing this project.

12. This Precise Plan of Design (PPD) approval is for the construction of parking lot, fire access lane, drainage facility, lighting, landscaping and security fencing, as depicted on approved plans on file with the Planning Division and as described in this report.
13. 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.
14. All required fencing shall consist of wrought iron or other decorative metal.
15. All electrical and utility connections serving the facility shall be placed underground in accordance with the requirements of the Montclair Municipal Code.
16. During construction of required site improvements associated with this approval, all existing vehicles shall be temporarily relocated off-site until said improvements are completed and inspected.
17. Approval of this PPD shall not waive compliance with any applicable regulations as set forth by the California Building Code and/or City Ordinances, the San Bernardino County Health Department, or the State of California.
18. The applicant and/or property owner shall be responsible for maintaining the overall appearance and condition of the new improvement and the property at large. All graffiti and other forms of vandalism and damage to the subject improvements shall be removed and/or repaired within 72 hours of notice by the City. The facility shall maintain a litter free environment to the business as well as the surrounding areas.

19. 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 inspections.
20. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions which are a part thereof.
21. 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 officers, fire and building inspectors in the course of conducting inspections or bar checks on said premises.
22. This decision, or any aspect of this decision, may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
23. Any violations of the conditions of approval may 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.
24. The applicant shall agree to defend, at his 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 his obligations under this condition.

Building

25. Prior to issuance of building permits, the applicant shall:
 - a. Submit three (3) complete sets of plans for the project, including all codes and specifications that apply: materials, electrical, plumbing, and mechanical, landscaping, lighting, and accessibility details for review and approval by the Building Division. Contact the Building Division at 909/625-9477 for an appointment to submit plans.
 - b. The Code requirements shall be in compliance with the 2007 California Codes.

- c. Submit detailed plans for all walls and fencing associated with the project.
 - d. 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 California Building Code, Title 24.
 - e. Contact the Building Division for the specific requirements for submittal of light poles.
26. Grading plans shall be submitted to the Engineering Division for approval. After approval of the grading plans by the Engineering Division, the applicant shall submit to the Building Division for a grading permit.
27. Security gates 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.
28. The construction of the trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.
29. 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:
- 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. Numerals shall be affixed to a durable placard or plate attached to the perimeter fence immediately adjacent to the facility entrance.
 - The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
30. 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.
31. Prior to issuance of a Certificate of Occupancy, the applicant shall 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.

Engineering/Environmental Control

32. Payment of transportation development impact fees in effect at the time of payment, if required by the City Engineer.
33. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact the Environmental Manager at (909) 625-9446 for fees/assessments.
34. Regional Sewerage Capital Outlay fees, if required, shall be paid as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.
35. Discharge of wastewater into the sewer collection system, if proposed, shall conform to all requirements of the Montclair Municipal Code, upon approval by the Environmental Manager.
36. Sanitary sewers serving this development shall be designed to City standards and shall be privately maintained.
37. A Water Quality Management Plan (WQMP) has been approved for this project. Implementation of the water runoff containment and detention measures as specified and required by the WQMP shall be subject to the inspections, approval and acceptance of the City NPDES Coordinator and the City Engineer. Requirements for the WQMP may be obtained from the City NPDES Coordinator, Joseph Rosales, at 909-625-9470.
38. A disabled-accessible path of travel from the public sidewalk to the facility entrance shall be shown on the grading plan. Sidewalks, pathways, and curb cuts shall comply with the Americans with Disability Act requirements. The maximum cross slope on a sidewalk or path of travel shall not exceed 2%.
39. Prepare a grading plan to the satisfaction of the City Engineer and Building Official. An erosion control plan is to be included and considered an integral part of the grading plan. Grading and landscaping shall be done to minimize impacts on the storm drain system.
40. 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.
41. 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.

42. All utilities serving development shall be placed underground. Pad mount transformers and/or switches will be acceptable, provided they are screened from public view with walls or landscaping.
43. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 8-1-1.

Fire

44. A 20-foot wide base asphalt or concrete roadway capable of supporting firefighting apparatus within 150 feet of all structures is required 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.
45. The developer/general contractor is to be responsible for reasonable periodic clean up of the construction site to avoid hazardous accumulation of combustible trash and debris.
46. Planter areas in the center of drive and adjacent to entrances should be low profile type, not to exceed eight feet in height when mature.
47. 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.
48. All Fire Department access and fire lanes shall be posted as "No Parking, Fire Lane." Signs shall be designed and mounted in accordance with Montclair Fire Department standards.
49. Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
50. A fire hydrant system shall be required to provide the necessary water flow to the proposed structure(s). 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.
51. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
52. 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 those occupancies requiring such a system.
53. All Montclair Fire Department fees are due prior to any permit issuance.

The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 9TH DAY OF NOVEMBER, 2009.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Luis Flores, Chair

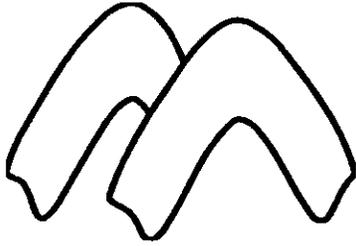
ATTEST: _____
Steve Lustro, Secretary

I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 9th day of November, 2009, by the following vote, to-wit:

AYES:

NOES:

ABSENT:



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 11/09/09

AGENDA ITEM 6.c

Case No.: 2009-22

Application: CUP for martial art studio use

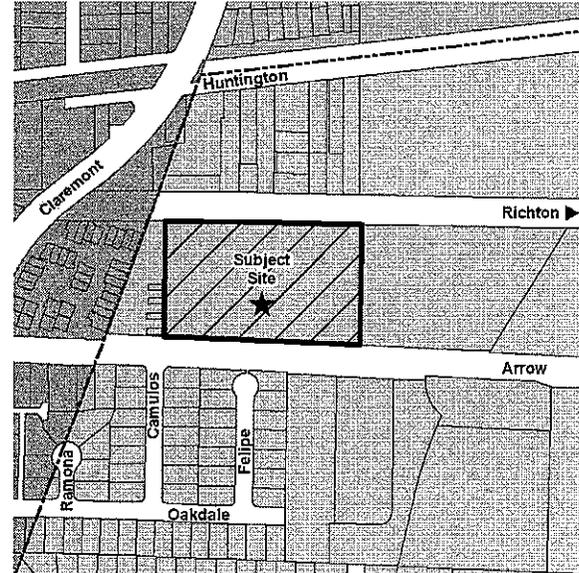
Applicant/Property Owner:
 MNW Essex Montclair, LLC

General Plan: Business Park

Zoning: Manufacturing Industrial (MIP) per North Montclair Specific Plan

Project Address: 4650 Arrow Highway, Suites D-5 and D-6

APN: 1007-733-20



Location Map

EXISTING SITE FEATURES/CONDITIONS

Structures: Six (6) existing single-story Industrial buildings

Parking: Site is paved with required parking spaces

City/Public Utility Easements: None

Trees/Significant Vegetation: required setbacks and landscaping, no significant or heritage trees.

ADJACENT LAND USE DESIGNATIONS AND LAND USES

| | <i>General Plan</i> | <i>Zoning</i> | <i>Use of Property</i> |
|--------------|---------------------|--------------------------------------------------------|---------------------------|
| Site | Business Park | "MIP" per North Montclair SP | Business Park |
| North | Planned Development | "Corridor Residential" per North Montclair Downtown SP | Single Family Residential |
| East | Business Park | "MIP" per North Montclair SP | Business Park |
| South | Business Park | "MIP" per North Montclair SP | Business Park |
| West | Business Park | "MIP" per North Montclair SP | Business Park |

Report on Item Number 6.c

PUBLIC HEARING - CASE NUMBER 2009-22

| | |
|-----------------------------|----------------------------------------------------------------|
| APPLICATION TYPE (S) | Conditional Use Permit |
| NAME OF APPLICANT | MNW Essex Montclair, LLC |
| LOCATION OF PROPERTY | 4650 Arrow Highway, Suites D-5 and D-6 |
| GENERAL PLAN DESIGNATION | Business Park |
| ZONE DESIGNATION | Manufacturing Industrial Park (MIP) |
| EXISTING LAND USE | Business Park |
| ENVIRONMENTAL DETERMINATION | Categorical Exemption – Section 15301 (Existing Facilities) |
| PROJECT PLANNER | Carol Frazier-Burton |

Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a marital arts and yoga studio at the above-referenced location in the Montclair Business Center. The studio is known as Musubi Dojo and is relocating from Claremont. Its instructors teach the art of Aikido and offer classes in Yoga and Shodo (Japanese brush calligraphy). The owners also operate a small desktop publishing business at the location, which distributes the Aikido Today magazine.

The subject lease space consists of units D-5 and D-6, comprising approximately 4,790 square feet in area. The space will consist of a mat and multipurpose room, two offices, a reception area and three restrooms. Classes and workshops average ten students and run 1-2 hours in length. Classes are scheduled seven days a week, with class times as early as 6:30 a.m. and the last class ending at 9:00 p.m. The ages of the students range from five to 67 years old. The Dojo hosts no tournaments or competitions.

Background

- Ronald Rubin and Susan Perry have operated Musubi Dojo since 1983 and have taught Aikido at the Claremont Colleges for over 15 years. Both instructors are 5th degree black belts and hold PhDs in Philosophy.
- Section 11.78.030 of the Montclair Municipal Code requires approval of a Conditional Use Permit for "indoor commercial recreational" uses.
- The existing industrial complex was constructed in 1979 and consists of six buildings and required parking. Some of the major tenants in the center include OPARC, a uniform store, scrapbook business, and various other small businesses.

Planning Division Comments

Staff believes the proposed use is appropriate for the site. The use is low key and all activities occur indoors. Classes are small, low key, and largely held during off-peak hours or during weekends when many of the other businesses in the center are closed. Those classes which occur during regular business hours are not likely to draw more persons to the building/center than a regular business. Since the Dojo does not host tournaments or competitions, the chance of any disruption to surrounding uses is low. Moreover, the publishing aspect of the Dojo does not pose any significant concern and is similar to other office type uses in the center.

Based on the size of the lease space, a minimum of parking spaces is required and provided as part of the Montclair Business Center's on-site parking. According to a parking analysis provided by the Montclair Business Center, there is an excess of 28 spaces on the site. Staff visits to the center confirmed availability of parking spaces in front of and in close proximity to the lease space.

The Dojo's existing location in Claremont successfully operated in a similar type center with no known problems. As such, staff believes, Musubi Dojo will operate in similar fashion with no negative impact to the center.

Conditional Use Permit Findings

Staff finds that the request to operate a martial arts studio to be appropriate and believes the necessary findings for granting a CUP can be made as follows:

- A. The proposed martial arts studio use is a desirable land use that offers the greater public opportunities for fitness, self-defense, and cultural awareness in a structured and safe environment.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, as all activities associated with the business will be conducted entirely within an enclosed building and the proposed use will not have a significant affect on the existing tenants in the businesses park.
- C. That such use in such location conforms to good zoning practice, in that indoor recreational uses are permitted in the Manufacturing Industrial (MIP) land use district, subject to approval of a CUP.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan recognizes the need for a variety of recreational uses and services.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on October 30, 2009. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding the proposal.

Environmental Assessment

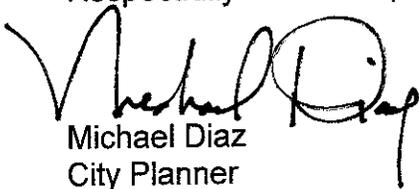
The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

Planning Division Recommendation

Staff recommends that the Planning Commission take the following action(s):

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which covers infill projects in significantly developed areas.
2. Move to approve a Conditional Use Permit under Case No. 2009-22, subject to making the required findings and subject to the 20 conditions as described in attached Resolution Number 09-1709.

Respectfully Submitted,



Michael Diaz
City Planner

Attachments: Draft Resolution of Approval for Case 2009-22

RESOLUTION NUMBER 09-1709

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2009-22 TO ALLOW A 4,790 SQUARE-FOOT MARTIAL ARTS STUDIO IN THE "MANUFACTURING INDUSTRIAL PARK" (MIP) ZONING DISTRICT AT 4650 ARROW HIGHWAY, UNITS D-5 AND D-6 (APN 1007-733-20)

A. Recitals.

WHEREAS, Ronald Rubin, Ph.D, and Susan Perry, Ph.D, with the consent of the property owner, MNW Essex Montclair LLC, filed an application for a Conditional Use Permit (CUP) for a 4,790 square-foot martial arts studio at 4650 Arrow Highway, Units D-5 and D-6, on October 14, 2009; and

WHEREAS, Chapter 11.78.030 of the Montclair Municipal Code requires a CUP for such use upon review of development standards and land use compatibility with surrounding properties; and

WHEREAS, staff has determined that the proposal meets the intent and requirements of the ordinance for such use and the applicable development standards of the "Manufacturing Industrial Park" land use district; and

WHEREAS, staff has determined that the proposed martial arts studio could not have a significant effect on the environment and has prepared a Categorical Exemption Section 15301 and a DeMinimis finding of no effect on fish and wildlife; and

WHEREAS, a notice of public hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on November 09, 2009, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP were heard, and said CUP was fully studied.

B. Resolution

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on November 9, 2009, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

Staff finds that the request to operate a martial arts studio in the Manufacturing Industrial land use district is consistent with the Montclair Municipal Code, and General Plan, and believes the necessary findings for granting a CUP can be made as follows:

- A. That said use is essential or desirable to the public convenience and public welfare, in that the use will provide the public with structured and disciplined self-defense classes for physical and mental fitness in a safe environment.
 - B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, as all activities associated with the business will be conducted entirely within an enclosed building and the proposed use will not have a significant effect on the existing tenants in the business park.
 - C. That such use in such location conforms to good zoning practice, in that indoor recreational uses are permitted in the "Manufacturing Industrial Park" (MIP) zoning district, subject to approval of a CUP.
 - D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan recognizes the need for a variety of recreational uses and services.
3. Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures. In addition, there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption and, based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; and
 4. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3, above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This CUP approval is for the operation of a martial arts studio and related activities and administration on the subject property, as described above, in the staff report, and depicted on approved plans. Said approval shall be limited to use within Units D-5 and D-6 of the Montclair Business Center, totaling no more than 4,790 square feet.
2. Within five (5) days of approval by the Planning Commission, 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 the California Environmental Quality Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
3. A copy of the signed Resolution of Approval 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.
4. This CUP approval shall be valid for six months (180 calendar days) from the date of Planning Commission action. Failure to initiate the approved use and/or improvements prior to the end of the six-month period shall result in the termination of and automatically void the CUP approval.
5. Any modification, intensification, or expansion of the use, including an increase in the floor area beyond that which is specifically approved with this Conditional Use Permit shall require review and approval by the Planning Commission.
6. Applicant shall adhere to the standard operating hours of 6:00 a.m. to 10:00 p.m., seven days per week.
7. No special tournaments or competitions shall be permitted at this location.
8. No temporary or permanent residential living quarters shall be established on the premises.
9. 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.
10. No outdoor amplified sound systems shall be installed or used on the property.
 11. No pay telephones or vending machines shall be located on the exterior of the building or on the subject property.
 12. Portable fire extinguishers and first aid kit shall be required on-site at all times when the business is open to the public. Type, number, and location shall be determined by the Montclair Fire Department.
 13. All mechanical equipment, devices and their component parts (e.g., wiring, conduit, meters, etc.) for such items as air conditioners, evaporative coolers, exhaust fans, vents, transformers, utility meters, or similar equipment, whether located on the ground, building walls, 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 to the satisfaction of the City Planner.
 14. 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.
 15. Prior to the installation of any signs on the property, the applicant shall submit plans prepared by a licensed sign contractor for review and approval by the Planning and Building Divisions. Signs shall conform to an approved sign program for the center, if applicable. Otherwise, sign shall consist of individual channel letters (illuminated or not). Cabinet signs with translucent backgrounds and vinyl graphics are not permitted. Exposed raceways for building mounted signs are also prohibited.
 16. Portable signs shall not be permitted on the property.
 17. 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.
 18. 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. Portable flags, pennants, spinners, painted-on signs or the like shall be prohibited.
 - d. No trailer-mounted electronic sign/message boards or other similar types of portable signs shall be permitted on the property at any time.
19. 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.
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 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.

The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 09TH DAY OF NOVEMBER, 2009.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Luis Flores, Chair

ATTEST: _____
Steve Lustro, Secretary

I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 9th day of November, 2009, by the following vote, to-wit:

AYES:

NOES:

ABSENT: