



CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES
REGULAR ADJOURNED MEETING
Monday, November 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

Chairman Flores led those present in the salute to the flag.

ROLL CALL

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

MINUTES

The minutes of the October 26, 2009 regular meeting were presented for approval. Commissioner Johnson moved, Chairman Flores seconded, there being no opposition to the motion, the minutes were approved 5-0.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

- 6.a PUBLIC HEARING - CASE NUMBER 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

City Planner Diaz stated that staff had anticipated bringing it back for a conclusion on the matter, but, unfortunately, the applicant is still experiencing difficulties in getting the necessary plans done on time for the meeting. Staff asked the Commission to continue the item to an unspecified date so that whenever the applicant is ready to come back, staff will publish a notice and then bring it back to the Commission with a recommendation to take action.

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

City Attorney Robbins stated that the Commission cannot continue the item to an uncertain date, but the motion might be that if staff agrees to table it off calendar and remove it from the agenda.

Commissioner Johnson moved to remove the item from the agenda until the applicant is ready to submit the appropriate documents, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

- 6.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

Associate Planner Lai reviewed the staff report. Public hearing notices were sent out based on the State requirements and staff had not received any response or inquiry to this proposal. He stated that the applicant was in attendance to answer any questions.

Commissioner Johnson asked for clarification whether the site will be unattended versus open from 7:00 a.m. to 9:00 p.m. and did that mean someone will come with a key and unlock it at 7:00 a.m. and then leave, and, if that is the case, is there a visual inspection they do to make sure that nothing happened to the property overnight or will they open it and leave.

Associate Planner Lai answered that each of the tenants or lessees will be given a set of keys to open the gate and they come in on their own during those hours. Commissioner Johnson asked if the keys were to the gate or to their individual space. Associate Planner Lai responded that the keys are to the gate.

Commissioner Vodvarka stated, as a former RV owner, that he would never put his RV in one of these storage lots and the reason is that because he knew people who stored their RVs this way and they were vandalized and the only way it stopped was after they got video surveillance. They could not even trust the people who owned other RVs. They can give that key to anyone they know. He stated that he has no faith in that type of surveillance.

Commissioner Johnson asked if there was a specialized lock that can be remotely set that only works from 7:00 a.m. to 9:00 p.m. Associate Planner Lai deferred that question to the applicant.

Chairman Flores asked if the 300-foot radius notification got mailed because he knows one of the building owners, just east of the dog kennels, and he never received the notification. Are we covered, is it sent to the people leasing or renting or is it sent to the owner. City Planner Diaz stated that the requirement is the notice be sent to the property owner and ideally when the property owner actually operates a business on the property then the chances are very good that they get the information in a timely manner. Property owners that are distant that either gets their mail late or it goes somewhere else that we do not know about, but we do our best to have a list of the property addresses and owners and based upon the information we get from the TRW website and we do our best to make sure everyone gets notice. Chairman Flores stated that he happened to stumble upon it by accident because he knows the gentleman and asked him about the project and, although he didn't have anything against it, it bothered Chairman Flores that he (*the nearby owner*) did not get a letter. City Planner Diaz replied that we can check our mail.

Chairman Flores asked if any of the other Commissioners drove by the site. Commissioner Vodvarka stated that he drove by but could not see anything because the gates are all blocked off. Chairman Flores stated that he noticed that the curb changes width around State Street by about a seven foot difference from one end just west of Fremont is maybe 22 to 24 feet from center line and as you go westerly, then it changes abruptly to a 30 foot separation and there is no transition, just one curb is coming and it ends and he felt it could be a bad place for an accident. Can we later on ask the gentleman and these other owners or are we held to have it the way it is.

Director Lustro responded that what has happened over time is that you have a street right-of-way that was developed primarily in the County. As you know, this area came to the City back in October of 2006. So, you have varying widths of right-of-way along State Street. You have some areas where you have about a 30 foot half-width and other places where you might have 33-feet and some sections where there is 36 and what the City can do over time is, as the property develops, and that can take a long

period of time, try to achieve a consistent half-width along the south side of State Street. It is really up to the Public Works Department where there are transitions that are unsafe. They can take a look at that to potentially correct that transition so they do not become dangerous. Other than correcting rights-of-way at the time of development, there are not a whole lot of tools available to staff to get that corrected. State Street is probably the extreme example of a street where we have widely divergent rights-of-way. Chairman Flores stated that it might be a good idea for someone from the City to take a look at that. Maybe at least a small barricade and reflector could be placed there because it is a dangerous spot.

Chairman Flores opened the public hearing.

Kelly Flanagan, 16560 Century Street, Moreno Valley, California 92551, the applicant, stated that they have been storing RVs there for about 2 ½ years and have not had any incidents to his knowledge or that have been reported to the police department. They do have keys for all their customers now that are collected as the customers exit and they move on somewhere else. It is not in the report but he would like to put in, when the new fencing and gate is installed, a keypad so everyone has their own individual code and you can track who comes in and out. To answer one of the comments earlier about the customers giving their key to anyone, he changes the locks periodically to prevent that. As far as damage and someone not being there, he is there six days per week, twice per day, usually in the morning and evening, walking the site, checking for things, they do not have vandalism; it is usually flat tires or something of that nature.

Mr. Flanagan thanked staff for their support on this project, everyone has been great, and thanked all the Commissioners for giving him the opportunity to come and speak. He asked that Condition No. 16 be removed or modified because they would like to keep the RVs on-site during as much of the construction process as possible. They feel that having everyone go off-site for the entire process would put a hardship on their customers and felt that keeping them there would not delay finishing the project by any means. In speaking with staff before the meeting, there are several things that need to be done before they get to the paving process and a few things after that he doubted the RVs being there would hinder in any way. Chairman Flores asked for staff to come up with alternative language.

Mr. Flanagan asked about Condition No. 25 d. and 38, which are with regard to the disabled-accessible paths-of-travel. He also requested that those conditions be removed as well. They are not going to have any public buildings or office or any walk-in customer traffic. In meeting with the planning staff they were aware of this and agree and went so far as having him remove the paths-of-travel from the street to the site from the site plan that they approved.

Director Lustro stated that Condition No. 25 d. is a Building Division condition and to address Mr. Flanagan's suggestion, possibly the first sentence of 25 d. could read as it is and at the end of the first sentence, add the words "as may be required by the Building Official." And if the Building Official determines that some or more or all of

those requirements are not applicable to this project, then Mr. Flanagan would not be obligated to provide those.

City Planner Diaz stated that the same language could be employed at the end of Condition No. 38 as well.

Chairman Flores closed the public hearing.

Commissioner Sahagun commented that it was good to see the southerly part of Montclair slowly but surely come together. As it was brought into the City, we are going to be making all these hodge-podge projects.

Commissioner Sahagun also asked for an update on the conditions that were updated.

City Planner Diaz stated that for Condition No. 16, staff recommended that the Commission add to the end of the second sentence the language "or submit a phased plan for review and approval by the Community Development Director." That way if they come up with a workable plan for keeping some vehicles on and shifting them around, staff can work with them. If not, they will have to go to Plan B and remove them all from the site.

Commissioner Sahagun moved 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, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Lenhart moved 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 amended conditions in attached Resolution Number 09-1708, amending Condition Nos. 8, 16, 21, 25 d. and 38, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

6.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

Associate Planner Frazier-Burton reviewed the staff report. She advised the Commission that the applicant was in attendance to answer any questions.

Chairman Flores asked if mostly young people attend the classes. Associate Planner Frazier-Burton responded that they have been in operation for many years and they do have a range of ages of their students.

Commissioner Sahagun asked about those in the audience and whether it was a representation of a class and Associate Planner Frazier-Burton replied yes.

Chairman Flores opened the public hearing.

David, who resides in the city of Rancho Cucamonga, a student of the Dojo and has been a student there for 20 years as has his brother and was speaking on behalf of Dr. Rubin who was not present because he was teaching a class at the Claremont Colleges. He is a professor of Philosophy there. Dr. Susan Perry who was in attendance is his wife and they are the co-founders of the Dojo and have been in Claremont for 20 years. Dr. Rubin and his wife have been teaching Aikido for about 35 years and it is non-competitive martial arts so they have people of all ages because it is not based on winning prizes or winning competitions. It is an interesting and unique martial art that seeks to develop humility, respect, the ability to listen so that fighting is not a part of their life. It is a way to foster community, there are children's classes and they learn to develop pride and confidence and there are students up in their 60s and it is a beautiful community of people that come together. They also have yoga and calligraphy arts there. It is a small but good group of people who train earnestly. You will not that a lot of the classes occur in the evening, when there is not a lot of activity going on in the area and hopefully that will bring a presence in the evening and keep crime and vandalism down because there will be people about.

Commissioner Vodvarka asked what the youngest and oldest students are. David replied that the youngest is 5 year old and the oldest is 67 years old. Commissioner Vodvarka commented that he was pleased that they want to come to Montclair, especially to fill an empty building. He wants to come and visit once they are in action. David thanked Commissioner Vodvarka for his kind words and stated that it is something that everyone can take part in. A wonderful thing to do to keep active. His mother is 85 and he got her started in yoga about four years ago and she has never felt better and it took a little convincing, but it is never too late to take care of yourself and to join a group of people that care about you.

Chairman Flores closed the public hearing.

Commissioner Johnson moved 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, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Lenhert moved 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 Resolution Number 09-1709, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 5-0.

INFORMATION ITEMS

Director Lustro reminded the Commission regarding the first community meeting on the City's Housing Element update. Attendance is not required, but if they would like to hear the presentation by the consultant, they should attend. It is Thursday, November 12th and starts at 7:00 p.m. in the Emergency Operations Center at the Police Department.

Director Lustro stated there was an oversight in the agenda and rather than the meeting being adjourned to the November 23, 2009 meeting, it should be adjourned to the joint study session of the City Council and Planning Commission that is scheduled for Wednesday, November 18th at 7:00 p.m. in the Council Chamber for the purpose of hearing a presentation on the Housing Element update. The Commission's attendance is requested at that meeting.

Commissioner Sahagun commented that he wanted to thank McDonald's on Central Avenue because they had a fundraiser from 5:00 to 8:00 pm and gave 20% of the proceeds to Moreno School and he believed they were doing the same thing for Vernon School. That is what community is all about and some of the other restaurants are doing the same thing.

Commissioner Sahagun commented that in last Saturday's newspaper, on the front page, an article described how our Costco installed solar panels and about going green. Costco is going to save about 30% and will pay for itself in about 7 years. Another good thing, thinking green, thinking about the environment. He was pleased to see that in our city we are starting to do this in all our departments.

Vice Chairman Lenhert stated that the City of Phoenix put solar panels on all of their public buildings and cut their power use by 86%.

Commissioner Vodvarka commented that he was tickled to hear about Costco. He also read something in the newspaper about some drywall imported from China may be hazardous and made copies of the article and felt that we should make sure that the new construction we have in the city should be checked because this could be a serious thing.

Commissioner Vodvarka stated that Wednesday, November 11th, Applebee's is going to be feeding veterans for free.

Commissioner Johnson stated that she will be absent from the meeting on Thursday, November 12th because it is her son's birthday, but will be at the November 18th meeting. She thanked Commissioner Sahagun for letting everyone know about McDonald's because any excuse to go to McDonalds is fine and she will have to sign up for Aikido later.

Chairman Flores adjourned the meeting at 7:45 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary