



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

REGULAR ADJOURNED MEETING  
Monday, January 25, 2010  
7:00 p.m.

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

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**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

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

**4. APPROVAL OF MINUTES**

The minutes of the December 14, 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 2009-25  
Project Address: 5587 Holt Boulevard  
Project Applicant: Storage Properties LP/TR  
Project Planner: Jim S. Lai, Associate Planner  
Request: Conditional Use Permit Amendment
- b. PUBLIC HEARING - CASE NUMBER 2009-26  
Project Address: 4651 Holt Boulevard, Unit F  
Project Applicant: 1668 Investment & Associates  
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.

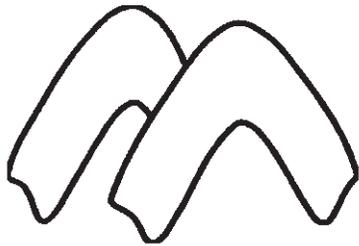
## 9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of February 8, 2010 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California

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### 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 January 21, 2010.



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 01/25/10**

**AGENDA ITEM 6.a**

**Case No.: 2009-25**

**Application:** Conditional Use Permit Amendment

**Property Owner/Applicant:**  
 Storage Properties LP/TR

**General Plan:** General Commercial

**Zoning:** "Business Park" per Holt Boulevard SP

**Project Address:** 5587 Holt Boulevard

**APN:** 1011-081-09

**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** Existing 2-story, ±64,820 square-foot self-storage facility with office/retail spaces

**Parking:** 45 on-site parking stalls

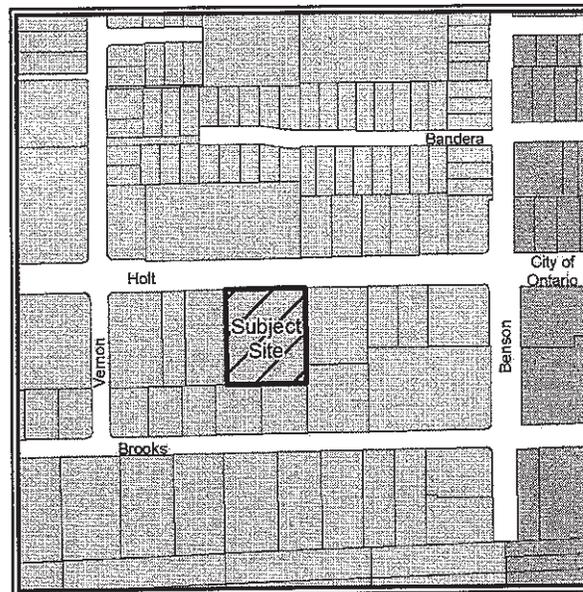
**City/Public Utility Easements:** Right-of-way and utility easements on Holt Boulevard frontage

**Trees/Significant Vegetation:** Typical landscaping

**ADJACENT LAND USE DESIGNATIONS AND USES**

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
<b>Site</b>	General Commercial	BP (Business Park)*	Self-storage facility with offices
<b>North</b>	General Commercial	AM (Auto Mall)*	Used car dealership / body shop
<b>East</b>	General Commercial	BP (Business Park)*	Commercial – banquet hall
<b>South</b>	Business Park	M-1 (Limited Manufacturing)	Industrial building
<b>West</b>	General Commercial	BP (Business Park)*	Auto service center

\*per Holt Boulevard Specific Plan



Location Map

## Report on Item Number 6.a

### PUBLIC HEARING – CASE NUMBER 2009-25

APPLICATION TYPE(S)	Conditional Use Permit Amendment
NAME OF APPLICANTS	Storage Properties LP/TR
LOCATION OF PROPERTY	5587 Holt Boulevard
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	"Business Park" per Holt Boulevard SP
EXISTING LAND USE	Self-storage facility / office and retail spaces
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Jim S. Lai

#### **Applicant's Proposal**

The applicant is requesting approval of a Conditional Use Permit (CUP) Amendment to convert approximately 6,860 square feet of office suites into self-storage units of various sizes and incorporate them as part of the existing storage facility, leaving approximately 3,060 square feet of office and retail lease spaces intact.

The proposed office area conversion will not alter the appearance of the building or property improvements in any shape or form as all the work will occur inside the two-story building. The proposed tenant improvement would involve the demolition of most of the non-bearing walls in the mid-section of the executive office suites, which would be replaced with pre-fabricated storage units of various sizes with locked doors. The fire sprinkler system will not be significantly altered. The existing 45 parking stalls, including two disabled-accessible spaces, will remain available for customer use and will not be rented out for vehicle storage.

To justify the office area conversion, the applicant has provided staff with a detailed analysis of the leasing history and trends of the two-story office executive suites for the past three years. With more than 60 percent current vacancy rate of the office suites, the report essentially reveals that Holt Boulevard has a relatively weak draw for office tenants.

The conversion will provide the building owner an opportunity to expand the self-storage aspect of the business and help turn the vacant office units into income-producing lease spaces.

#### **Background**

- Section 11.78.030.E2 of the Montclair Municipal Code requires approval of a CUP for expansion of a storage facility.

- The subject property was granted CUP and PPD approvals under Case No. 98-24 for a two-story self-storage facility with the northerly end reserved for office and retail uses. Sufficient parking was provided per code requirements.
- Condition No. 3 of said Case No. 98-24 specifies that the front portion of the building shall be utilized for retail and/or office uses only.

### **Planning Division Comments**

Staff is satisfied with the rationale given for the proposed self-storage unit conversion as evidenced that demand for professional offices is weak on Holt Boulevard. The proposed CUP amendment, if approved, will effectively remove a restriction imposed on the present facility that limits the front portion of the building to office and/or retail use only. This CUP amendment would, however, also grant the applicant the ability to revert the new self-storage units back to office use should demand for professional offices improve in the future.

The existing facility is well-maintained. The only issue that needs to be addressed is that of several non-conforming wall-mounted light fixtures along the east and west sides of the building that were installed without permits in late 2006. Staff has included a condition as part of this approval to correct this violation.

### **Conditional Use Permit Findings**

- A. The proposed office area conversion of an existing storage facility in the "Business Park" land use district of the Holt Boulevard Specific Plan 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 personal items and business inventories in a properly improved and safe facility.
- B. Granting of the CUP for the proposed storage facility conversion 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 a commercial area of adequate size with more than sufficient parking, will not involve any significant exterior building alteration and will comply with all required development standards. Lastly, the proposed use will not negatively impact any land uses in the surrounding area.
- C. The proposed storage facility conversion at the subject site conforms to good zoning practice, in that the Montclair Municipal Code and Holt Boulevard Specific Plan allow the storage facility in the "Business Park" land use district, subject to approval of the CUP Amendment. The CUP allows the City to place reasonable conditions to govern the overall operation of the use 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 January 15, 2010. 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. 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) as it qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301 as it involves no or little expansion of an existing facility.
2. Move to approve a Conditional Use Permit amendment under Case No. 2009-25 to allow conversion of up to 6,860 square feet of office suites into a self-storage facility, per the submitted plans, as described in the staff report, and required findings subject to the conditions in attached Resolution Number 09-1712.

Respectfully Submitted,

Michael Diaz  
City Planner

Attachment: Draft Resolution No. 09-1712 of Approval for Case No. 2009-25

## RESOLUTION NUMBER 09-1712

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AMENDMENT UNDER CASE NO. 2009-25 TO ALLOW THE CONVERSION OF APPROXIMATELY 6,860 SQUARE FEET OF THE EXISTING OFFICE AREAS INTO SELF-STORAGE UNITS IN AN EXISTING STORAGE FACILITY IN THE "BUSINESS PARK" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN AT 5587 HOLT BOULEVARD (APN 1011-081-09)**

### A. Recitals

**WHEREAS**, on December 22, 2009, Storage Properties LP/TR, acting as property owner and operator of Public Storage, filed an application for an amendment to a Conditional Use Permit (CUP) previously granted under Case Number 98-24, to allow the conversion of approximately 6,860 square feet of existing office suites in Building "A" into self-storage units to function as part of the two-story storage facility, and

**WHEREAS**, Section 11.78.030(E) of the Montclair Municipal Code requires a CUP Amendment 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 zoning ordinance for such use and the applicable development standards of the "Business Park" land use district of the Holt Boulevard Specific Plan; and

**WHEREAS**, staff has determined that the proposed conversion of a portion of the office areas into self-storage units within an existing storage facility would not have a significant effect on the environment and has prepared a Categorical Exemption pursuant to Section 15301 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 January 25, 2010, 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 amendment 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 January 25, 2010, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - a. The proposed office area conversion of an existing storage facility in the "Business Park" land use district of the Holt Boulevard Specific Plan 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 personal items and business inventories in a properly improved and safe facility.
  - b. Granting of the CUP amendment for the proposed storage facility conversion 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 a commercial area of adequate size and with more than sufficient parking, will not involve any significant exterior building alteration and will comply with all required development standards, building and fire codes. Lastly, the proposed use will not negatively impact any land uses in the surrounding area.
  - c. The proposed storage facility conversion at the subject site conforms to good zoning practice, in that the Montclair Municipal Code and Holt Boulevard Specific Plan allow the storage facility in the "Business Park" land use district, subject to approval of the CUP Amendment. The CUP allows the City to place reasonable conditions to govern the overall operation of the use 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 15301, which exempts projects involving little to no expansion of existing structures as all conversion of office areas is considered a tenant improvement with no modification to the building exteriors. 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 under Case No. 2009-25, subject to each and every condition set forth below.

Planning

1. This Amendment to a Conditional Use Permit (CUP) approved under Case Number 98-24 shall allow the conversion of approximately 6,860 square feet of the existing office suites on the northerly portion of the two-story building into self-storage units, leaving the minimum balance of 3,060 square feet to remain as office and retail areas, as depicted on the approved site and floor plans.
2. Condition No. 5 of Case No. 98-24 of the previously-approved CUP shall be amended to read as follows:  
  
"A portion of the front building "A" must be reserved for office and/or retail use. This building may not be utilized for self-storage use, except for sales office may be converted into self-storage units totaling no more than 6,860 square feet, leaving a minimum balance of 3,060 square feet for office and/or retail use. Said conversion within Building "A" may revert back to office and/or retail use at any time with written approval and appropriate permits from the City Planner and Building Official."
3. All conditions of approval under Case No. 98-24, with the noted amendment to Condition No. 5, as specified in this approval, shall remain in effect for the property.
4. 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 on the premises.
5. No part of the building architecture, parking lot and landscaping, with the exception of property and building signage and colors, shall be modified as part of this CUP Amendment. Minor modifications to the structure to satisfy building and safety requirements may be permitted after receiving prior review and approval from the City Planner and Building Official.
6. Modifications to the existing signage shall be limited to the monument sign adjacent to the easterly drive approach and the building signs. The masonry structure adjacent to the westerly drive approach shall not be used as a base

for an advertising sign. The monument sign shall not exceed 8 feet in overall height and 50 square feet in sign area per sign face and shall not identify more than two tenants. The address of the property shall be incorporated as part of the sign. Routed-out letters on a textured, aluminum sign face shall be required. Details of the sign program amendment shall be submitted to the City Planner for review and approval prior to installation.

7. This CUP Amendment 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 Amendment 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 (March 25, 2010) in order to avoid any continuing delays on implementing this project.
8. All existing non-conforming, wall-mounted exterior lighting shall be removed, replaced or modified to meet City standards as specified in Condition No. 13 of the original CUP and PPD approval.
  - a. 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.
  - b. 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.
9. All electrical and utility connections serving the facility shall be placed underground in accordance with the requirements of the Montclair Municipal Code.
10. 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.
11. 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.

12. 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.
13. 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 on said premises.
14. 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.
15. Within five days of approval, the applicant shall submit a check in the amount of \$50 to the Community Development Department secretary 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.
16. 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.
17. 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

18. Prior to issuance of building permits, the applicant shall submit four complete sets of plans to the Building Division including the following:
  - a. Site/Plot Plan;
  - b. Floor Plan;

- c. Reflected Ceiling Plan
  - d. Electrical Plans including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
  - e. Plumbing plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
  - f. Provide an existing plan of the building including all walls to be demolished.
19. Submit two sets of structural calculations, if required, and two sets energy conservation calculations.
  20. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
  21. 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. These applicable codes shall be indicated on the first page of submitted plans.
  22. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
  23. 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. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).
  24. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number. The applicant shall comply with the latest adopted California Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.
  25. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
  26. Submit detailed plans for all walls and fencing associated with the project, if applicable.
  27. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.

28. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
29. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357.
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.

Fire

32. Submit three sets of plans and specifications detailing any revisions or modifications to the facility's fire sprinkler and alarm systems and fire exit plans directly to the Montclair Fire Department for the proposed storage unit conversion for review and approval prior to issuance of demolition or building permits.
33. 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.
34. Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
35. 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 25TH DAY OF JANUARY, 2010.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Luis Flores, Chair

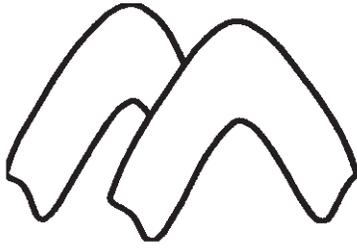
ATTEST: \_\_\_\_\_  
Steve Lustro, Secretary

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 25<sup>th</sup> day of January, 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT:



CITY OF MONTCLAIR  
**PLANNING COMMISSION**

**MEETING DATE: 01/25/10**

**AGENDA ITEM 6.b**

**Case No.: 2009-26**

**Application:** Conditional Use Permit (CUP) request to operate a tattoo and body piercing studio.

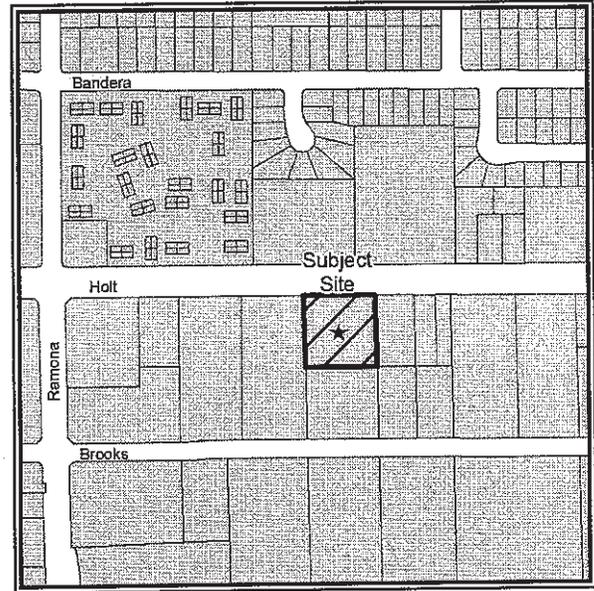
**Applicant/Property Owner:**  
 1668 Investment & Associates for  
 Ink Blue Tattoo

**General Plan:** General Commercial

**Zoning:** "Commercial" per Holt Boulevard Specific Plan

**Project Address:** 4651 Holt Boulevard, Unit F

**APN:** 1012-081-04



**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** Existing multi-tenant building

**Parking:** Site is paved with 64 parking spaces

**City/Public Utility Easements:** None

**Trees/Significant Vegetation:** Existing setbacks and landscaping, no heritage trees.

**ADJACENT LAND USE DESIGNATIONS AND LAND USES**

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
<b>Site</b>	Commercial	"Commercial" per Holt Boulevard Specific Plan	Multi-tenant retail commercial building
<b>North</b>	Commercial	"Commercial" per Holt Boulevard Specific Plan	Commercial buildings/uses
<b>East</b>	Commercial	"Commercial" per Holt Boulevard Specific Plan	Commercial building/uses
<b>South</b>	Business Park	"Industrial" per Holt Boulevard Specific Plan	Industrial Park (Pomona Valley Workshop)
<b>West</b>	Commercial	"Commercial" per Holt Boulevard Specific Plan	Commercial buildings/uses ReStore and furniture store

## Report on Item Number 6.b

### PUBLIC HEARING – CASE NUMBER 2009-26

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	1668 Investment & Associates
LOCATION OF PROPERTY	4651 Holt Boulevard, Unit F
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	"Commercial" per Holt Boulevard Specific Plan
EXISTING LAND USE	Vacant tenant space in a multi-tenant commercial center
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Carol Frazier-Burton

#### **Project Description**

The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the establishment of a tattoo and body piercing studio within an existing 1,020 square-foot commercial space located in an existing commercial center ("Holt Boulevard Center") on the south side of Holt Boulevard between Ramona and Monte Vista Avenues. The business would be known as "Ink Blue Tattoo." The operators of Ink Blue Tattoo previously operated a clothing, jewelry and tattoo business (under a different name) in the same center about eight years ago, and now desire to reopen solely as a tattoo and body piercing studio.

The proposed floor plan indicates that a waiting area would be provided adjacent to the tenant space entrance, with a corridor providing access to three work rooms where services would be performed. A restroom and an area for storage and sterilization of equipment and instruments are proposed at the rear of the tenant space. Proposed hours of operation would be 12:00 p.m. to 9:00 p.m. Monday thru Saturday and Sunday by appointment only.

A site plan of the subject property and a copy of the proposed floor plan of the tenant space are enclosed in the Commission packets for reference.

#### **Background**

- Section 11.78.030.D.7 of the Montclair Municipal Code requires approval of a Conditional Use Permit for businesses engaging in dermagraphics, including tattooing, body art, body piercing, and the like. By law, these services are only available to adults 18 and over unless parental consent is provided.
- In 2001, a CUP was approved (Case No. 2001-18) for a clothing, jewelry and tattoo studio, known as Montclair Designs, which operated out of Unit B of the same

center. The tattoo portion of the business was limited to 20 percent of the business operation. Not long after opening the business closed.

- According to California law, Health and Safety Code 119303(a), every person engaged in the business of tattooing, body piercing, or permanent cosmetics is required to register with the health department of the county in which they are doing business.
- Tattoo and body piercing services are regulated by Sections 119300 through 119309 of the State Health and Safety Code, including the requirement that minors under 18 years of age have written parental consent before engaging in such services. Furthermore, the operator and technicians providing these services must be certified and licensed by the San Bernardino County Department of Health Services.
- The subject property is located within an existing multi-tenant commercial center on the south side of Holt Boulevard east of Ramona Avenue. The center was constructed in 1983-84 and has approximately 65 parking spaces on the property.

### **Planning Division Comments**

#### **Proposed Business**

Staff recognizes that tattooing and body piercing is common and popular. During the last ten years, tattooing as a category of business has grown significantly. However, the tattoo industry is often associated with criminals and uses typically located in less desirable parts of town. The business owners indicate that a wide spectrum of the public are potential clients, including professionals, public safety employees, and individuals serving in the military. While not everyone will be convinced of the legitimacy of tattoo shops, the manner in which a studio appears and is operated will do more to combat negative connotations and ensure success and acceptance. A professional appearance and management always makes a good impression for any business.

The owners have indicated their commitment to operating the business in a manner that meets or exceeds all professional standards in terms of staff training and supervision, strict adherence to age guidelines and parental consent, cleanliness, health code, and waste disposal policy. Staff is confident that the business owners have a grasp on the operational procedures necessary to operate the establishment in a professional manner. Further, it is in the property owner's best interest that the business does not create a nuisance to the neighboring businesses in the center.

Overall, staff finds the tattoo studio to be generally consistent with the character of the Holt Boulevard corridor, which consists of an eclectic mix of thrift shops, home improvement businesses, small restaurants, nightclubs, auto services, and other neighborhood level services. The tattoo and body piercing studio offers a specialized service that caters to the diverse needs of the community and should have no detrimental impact to the area. Adjacent uses include vacant lease spaces, a

restaurant, small home improvement businesses, and a salon. The property to the west houses a new and used building materials surplus store operated by Habitat for Humanity.

With regard to public health and safety, the tattoo and body piercing industry is regulated by the State. Each business must be licensed and inspected to ensure that it is legitimate, safe and clean. Reputable businesses are licensed and concerned with the health and safety of their clients. To comply with California law regarding tattooing or piercing, practitioners must verify that a client is at least 18 years of age with either valid photo identification or a parent's notarized note. Violation of this penal code is a misdemeanor.

Staff is not aware of any significant problems with tattoo studios, including the existing tattoo studio at 4380 Holt Boulevard, and does not anticipate any issues with the proposed studio. According to the Police Department, there is nothing to indicate increased crime activity or other negative effects associated with this type of use in the City. However, one potential concern is with regard to loitering, or "hanging out" around the business. Staff believes that since the business has limited hours and has no other uses such as juice bar, coffee shop, or other retail activities, loitering will not be a significant issue. It is the City's expectation that the business owner and property owner make every effort to discourage clients or would-be clients from loitering on or about the property. A condition of approval regarding loitering has been included to address this issue.

Finally, staff believes that if operated properly per the conditions of approval, the proposed tattoo studio will be appropriate and not detrimental to the surrounding area. Conditions of approval have been added to specifically address the concerns mentioned above to ensure that the business is operated appropriately and the site is properly maintained.

### Property Maintenance

As is typical when a land use entitlement is requested, staff has included conditions of approval to address substandard conditions to bring the property up to the City's minimum expectations with regard to appearance and maintenance. During two visits to the property by staff, a number of property maintenance items in need of attention were observed. The deficient items observed which are in need of repair or replacement include the following:

- Remove graffiti on monument sign, leasing sign, and light post base;
- Repair or replace damaged monument sign;
- Remove all abandoned business signs on building, walkway posts, and windows (Units B and I);
- Add doors to trash enclosure at rear (west) side of the property;
- Completely remove illegal pay phone at front of property near Holt Boulevard and adjacent to Unit A, including pedestal and associated conduit.
- Add mulch or groundcover to planters in front of the building;

- Remove all holiday lighting in front of units;
- Repair spalling stucco on west facing elevation of building at side alley;
- Paint posts of parking light fixtures (existing posts are rusted and missing cover plates);
- Touch up paint around building;
- Remove all portable newspaper and flyer display racks from the exterior of the units.
- Comply with disabled-accessible parking requirements as determined by the Building Official.

A review of the staff report and conditions of approval prepared in 2001 for the previous CUP request for a similar business indicates that many of these items were previously identified but not addressed. In the meantime, the property has been sold to a new property owner. Staff believes that since the property owner is requesting an entitlement to allow a new business that these items should be fully addressed. The majority of the items listed can and should be immediately addressed before a business license is issued for the proposed business. Items such as the trash enclosure doors and disabled-accessible parking improvements can be given more time for compliance, subject to approval by the Building Official.

### **Conditional Use Permit Findings**

Staff finds that the request to operate a dermagraphics and body piercing business within an existing multi-tenant commercial center is consistent with the Montclair Municipal Code 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 an approved and licensed venue to receive dermagraphics, body art and body piercing services from a legitimate and properly licensed business.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, in that the use is compatible with an eclectic mix of established businesses along Holt Boulevard. Further, conditions of approval have been added to address concerns regarding appearance and operation of the business.
- C. That such use in such location conforms to good zoning practice, in that such use is consistent with the uses allowed in the "Commercial" land use district of the Holt Boulevard Specific Plan, 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 commercial uses and specialized services that cater to the diverse needs of the community.

## **Public Notice**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on January 15, 2010. 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 or uses. The project does not involve an expansion of the existing structure or a fundamental change in the type of uses permitted by the underlying zoning code. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

## **Planning Division Recommendation**

Staff finds the proposed development to be consistent with the Montclair Municipal Code, the Holt Boulevard Specific Plan, and the adopted General Plan; therefore, approval of Case No. 2009-26 is recommended by taking the following actions:

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.
2. Move to grant a CUP for the proposed tattoo (dermagraphics) and body piercing studio, by making the four required findings and subject to the conditions of approval contained in attached Resolution No. 09-1713.

Respectfully Submitted,

Michael Diaz  
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2009-26

**RESOLUTION NUMBER 09-1713**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2009-26 TO ALLOW A DERMAGRAPHS (TATTOO) AND BODY PIERCING ESTABLISHMENT IN THE "COMMERCIAL" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN AT 4651 HOLT BOULEVARD, UNIT F (APN: 1012-081-04).**

A. Recitals.

**WHEREAS**, 1668 Investment & Associates, property owner, filed an application for a Conditional Use Permit (CUP) on behalf of Gerald and Marion Ramirez, proprietors of Ink Blue Tattoo, to allow a dermagraphics (tattoo) and body piercing establishment on December 14, 2009; and

**WHEREAS**, the application applies to a 1,020 square-foot commercial space located at 4651 Holt Boulevard, Unit F; and

**WHEREAS**, Section 11.78.030.D.7 of the Montclair Municipal Code requires approval of a Conditional Use Permit for businesses engaging in dermagraphics, including tattooing, body art, body piercing, and the like; and

**WHEREAS**, the tattoo/body piercing business operator and technicians providing said services must be certified and licensed by the San Bernardino County Department of Health Services; and

**WHEREAS**, The business owners/operator have indicated their commitment to operating the business in a manner that meets or exceeds all professional standards in terms of staff training and supervision, strict adherence to age guidelines and parental consent, cleanliness, health code, and waste disposal policy; and

**WHEREAS**, the business owner/operator is prohibited to render tattoo and body piercing services to minors under 18 years of age without written parental consent per State Health and Safety Code Sections 119300 through 119309, inclusive; 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 "Commercial" land use district of the Holt Boulevard Specific Plan; and

**WHEREAS**, Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1), in that the proposal would not involve an expansion of the existing structure or result in a fundamental change in the type of uses permitted by the underlying zoning code. 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

**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 January 25, 2010, 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 application were heard, and said application was fully studied.

A. 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 January 25, 2010, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

- A. That said use is essential or desirable to the public convenience and public welfare, in that the use will provide the public with an approved and licensed venue to receive dermagraphics, body art and body piercing services from a legitimate and properly licensed business.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, in that the use is compatible with an eclectic mix of established businesses along Holt Boulevard. Further, conditions of approval have been added to address concerns regarding appearance and operation of the business.
- C. That such use in such location conforms to good zoning practice, in that such use is consistent with the uses allowed in the "Commercial" land use district of the Holt Boulevard Specific Plan, 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 commercial uses and specialized services that cater to the diverse needs of the community.

3. Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA). 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 and no fundamental change in the type of uses permitted by the underlying zoning code. 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.
4. Based upon the findings and conclusions set forth in the paragraphs above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. The Conditional Use Permit (CUP) shall be granted to allow the operation of a dermagraphics (tattoo) and body piercing business as described in the staff report. The business shall be limited to a 1,020 square-foot lease space at 4651 Holt Boulevard, Unit F. Any substantial changes to the operation, increase in floor area, or physical location shall require prior approval from the City of Montclair.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six (6) months from the date of Planning Commission approval. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date. Suspension of the approved use for a period of six months or more voids the CUP for the specified use.
3. 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's 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.
4. This permit may be modified or revoked, after the Planning Commission has conducted a public hearing, for failure to abide by any conditions of this CUP or the Montclair Municipal Code, or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.

5. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
6. The applicant and/or property owner shall ensure that a copy of the Planning Commission Resolution is posted on the premises and available for viewing upon request by Police and/or Code Enforcement personnel.
7. Approval of this CUP shall not waive the requirement for compliance with any regulations as forth in the California Building Code, City ordinances or by the San Bernardino County Health Department.
8. All applicable federal, state and local health department requirements and rules (Chapter 7 of Part 15, of Division 104 of the Health and Safety Code, commencing with Section 119300) regulating such tattoo and body piercing operations shall be strictly adhered to, such as, but not limited to, maintaining proper sterilization, sanitation, and safety standards; provision of wash basins, containers for needle disposal, first aid kit, and CPR certification.
9. The operator of the tattoo studio shall obtain and maintain a current City business license at all times.
10. Notice of change of ownership of the facility shall be provided in writing to the Director within 30 days of said change. 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.
11. Hours of operation shall be limited to 12:00 p.m. to 9:00 p.m. daily. Any changes in the approved hours shall be subject to the review and approval of the Community Development Director and/or Planning Commission.
12. Persons under 18 years of age shall not be permitted to receive tattoo or body piercing services without written consent of a parent or legal guardian. Posting of such age restriction in English and Spanish shall be conspicuous to the public.
13. No window tinting, paint, or other similar devices which obstruct views into the tenant space shall be allowed on the storefront glass of the subject lease space. Operable window coverings may be installed on the interior partition windows of the work areas to provide privacy for clients when services are being performed.

14. No permanent building-mounted, wall-mounted or monument signs are approved as part of this entitlement. Should the applicant desire to install any business identification signs, plans shall be submitted by a duly licensed sign contractor to the Planning and Building Divisions for review and approval prior to installation of said sign(s). The applicant shall comply with the adopted sign program for the subject property and with sign regulations of the City of Montclair. All work shall be professionally installed by a duly licensed sign contractor, to the satisfaction of the City Planner.
15. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to, the following:
  - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
  - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
  - c. At no time shall pennants, inflatable signs, "human" signs, other similar advertising devices be utilized on the property or off-site.
16. No portable signs (e.g., A-frames) shall be permitted on the exterior of the building or mounted to vehicles.
17. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City. Paint utilized in covering such graffiti shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
18. Any sign that identifies a business that is no longer in operation, or that identifies an activity or event that has already occurred, or a product that is no longer made, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the property owner shall be responsible for removal of all signs used in conjunction with former businesses.
19. The applicant and/or property owner shall maintain the area surrounding the business in a clean and orderly manner at all times. The property owner and business operator shall be responsible to monitor the area outside the tattoo shop.
20. The on-site manager of the tattoo shop shall take whatever reasonable steps are deemed necessary to prevent loitering and/or assure the orderly conduct of its employees, patrons, and visitors on the premises. A

minimum of one (1) 'No Loitering' sign(s) shall be installed in plain view at the business.

21. No public telephones, vending machines, or other coin-operated machines shall be located on the exterior of the building.
22. Prior to issuance of a business license, the applicant shall:
  - a. Remove graffiti on monument sign, leasing sign, and light post base.
  - b. Repair or replace damaged monument sign.
  - c. Remove all abandoned business signs on building, walkway posts, and windows (Units B and I).
  - d. Completely remove illegal pay phone at front of property near Holt Boulevard and adjacent to Unit A, including pedestal and associated conduit.
  - e. Add mulch or groundcover to planters in front of the building.
  - f. Remove all holiday lighting from property.
  - g. Repair spalding stucco on west facing elevation of building at side alley.
  - h. Paint posts of parking light fixtures (existing posts are rusted and missing cover plates).
  - i. Touch up paint around building.
  - j. Remove all portable newspaper and flyer display racks from the exterior of the units.
23. Within 90 days of Planning Commission action on this CUP request (by April 25, 2010), the applicant shall:
  - a. Add doors to the existing trash enclosure at the southwest corner of the property, pursuant to City standards. Said improvement shall require approval of plans and issuance of a building permit.
  - b. Comply with disabled-accessible parking requirements as determined by the Building Official.
24. To ensure compliance with the conditions of the 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.

25. 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

26. Submit four complete sets of plans including the following:
  - a. Site/Plot Plan.
  - b. Floor Plan.
  - c. Reflected Ceiling Plan.
  - d. Electrical Plans including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams.
  - e. Plumbing plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
  - f. Provide an existing plan of the building including all walls to be demolished.
27. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
28. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
29. 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. These applicable codes shall be indicated on the first page of submitted plans.
30. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.

31. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number. The applicant shall comply with the latest adopted California Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.
32. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
33. 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. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).
34. Construction drawings submitted to the building division for plan review shall comply with the Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
  - a. Install the numerical address in two locations on the north-facing building elevation as follows:

On the exposed portion of the parapet wall of Unit J (above the mansard roof); and

At the northeast corner of the building, six inches (6") below the top of the parapet wall.

Address numerals shall be in Helvetica font, a minimum of ten inches in height, a minimum of 1½ inches in depth, and be in a color that adequately contrasts with the background to which they are attached.
  - b. Install the alpha designation of each unit ("A" through "J") at the top of each entry door on the front of the building as necessary. Letters shall be white vinyl, four inches (4") in height.
  - c. Install the alpha designation of each unit above each rear door on the south side of the building. Letters shall be in Helvetica font, a minimum of four inches in height and be in a color that adequately contrasts to the background to which they are attached.
  - d. Provide and maintain a minimum illumination level of one (1) foot-candle from dusk until dawn everyday.
35. A Certificate of Occupancy is required prior to the occupancy of the tenant space. Issuance of the Certificate of Occupancy shall be contingent upon

the Fire Department inspection and final approvals from other departments and/or agencies.

36. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records which were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Imaging Policy.

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

APPROVED AND ADOPTED THIS 25TH DAY OF JANUARY, 2010.

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 25<sup>th</sup> day of January, 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\CB\2009\2009-26RESO