



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

REGULAR ADJOURNED MEETING
Monday, March 22, 2010
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 Sergio Sahagun, Commissioner Tenice Johnson, Commissioner Maynard Lenhert, and Commissioner Don Vodvarka

4. APPROVAL OF MINUTES

The minutes of the February 8, 2010 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 2009-21
(Continued from February 8, 2010 meeting)
Project Address: NEC Monte Vista Avenue & Moreno Street
Project Applicant: Montclair I MGP Partners LLC
Project Planner: Michael Diaz, City Planner
Request: Tentative Tract Map, Precise Plan of Design and Variances

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

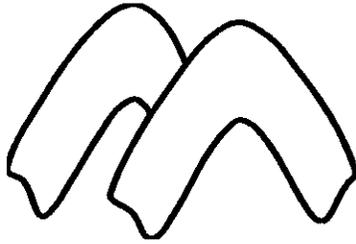
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of April 12, 2010 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 March 18, 2010.



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 03/22/10

AGENDA ITEM 6.a

Case No.: 2009-21

Application: Tentative Tract Map, Precise Plan of Design and Variance

Applicant/Property Owner:

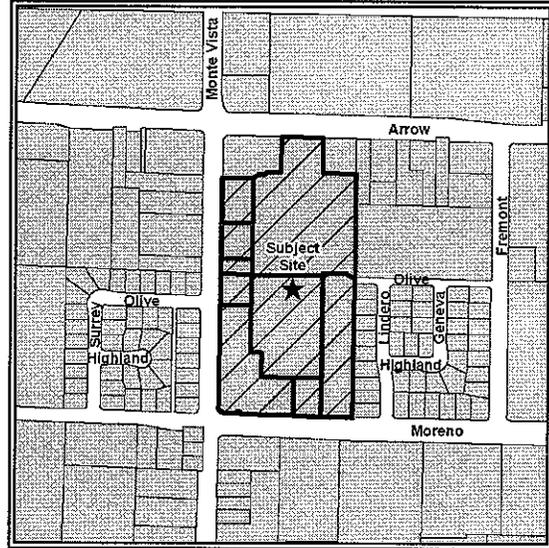
Montclair I MGP Partners LLC

General Plan: Planned Development

Zoning: "Corridor Residential" and "Neighborhood Residential" per North Montclair Downtown Specific Plan (NMDSP)

Project Address:

NEC Monte Vista Avenue & Moreno Street



Location Map

APNs: 1008-011-23 and 27-28; and 1008-161-19, 20 and 24-26

Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	Planned Development	"Corridor Residential" and "Neighborhood Residential" per NMDSP	Vacant site
North	Planned Development	"Corridor Residential" per NMDSP	Montclair Fire Station 1, Monte Vista Water District Reservoir (Plant No. 5), and SCE substation
East	Planned Development	"Neighborhood Residential" per NMDSP	Single-Family Residences
South	Regional Commercial	C-3 (General Commercial)	Montclair Plaza and other retail
West	Low Density Residential	R-1 (Single Family Residential) and M-1 (Limited Manufacturing)	Single-Family Residences

Report on Item Number 6.a

PUBLIC HEARING - CASE NUMBER 2009-21

APPLICATION TYPE(S)	Tentative Tract Map, Precise Plan of Design and Variances for Interior Setbacks and Building Height
NAME OF APPLICANT	Montclair I MGP Partners LLC
LOCATION OF PROPERTY	NEC Monte Vista Avenue and Moreno Street
GENERAL PLAN DESIGNATION	Planned Development
ZONING DESIGNATION	Corridor Residential (CR) and Neighborhood Residential (NR) per North Montclair Downtown Specific Plan
EXISTING LAND USE	Vacant
ENVIRONMENTAL DETERMINATION	Consistent with Adopted EIR for North Montclair Downtown Specific Plan
PROJECT COORDINATOR	Michael Diaz

Progress Report

On February 8, 2010, the Planning Commission conducted a public hearing for the proposed Paseos at Montclair North project. After an extensive presentation by the applicant and considering public comments, the Commission voted to continue the item to its regularly scheduled March 22, 2010 meeting date. The Commission believed that before a recommendation is made on the item, the applicant should meet to discuss issues raised by the public at the meeting, and that the City Council should be given an opportunity to tour similar multi-family projects in Orange County that exemplified certain development characteristics/elements planned for the proposed project. A copy of the minutes from the hearing is on the evening's agenda for Commission review and approval.

A City Council workshop and tour was scheduled for February 27, 2010, but had to be cancelled due to complications from inclement weather. The workshop and tour have been rescheduled for Saturday, May 1, 2010.

The applicant also attempted to meet with the adjacent property owners who spoke at the meeting to clarify aspects of the project on which they commented. Mr. Kapoor (owner of the EZ Lube property) was contacted and wants to maintain as-is the existing easement and entrance from Monte Vista Avenue, and remains opposed to the setback variance along the east side of his property. Attempts to reach Ms. Cheng (owner of the vacant property at the northeast edge of the site) were unsuccessful. As such, staff presumes her position has not changed.

Since the previous Planning Commission meeting, a traffic study (prepared by Gibson Transportation Consulting, Inc.) was completed and approved by the City Engineer. The only significant change recommended by the study is to add a right turn lane for westbound traffic on Olive Street where it would intersect Monte Vista Avenue.

Plan Changes

No major changes have been made to the proposed site plan except in response to the two items noted above. The attached set of plans indicates the site plan change to maintain the existing easement between the project site and the EZ Lube property, and the addition of the "right turn only" lane on westbound Olive Street.

For an overall description of the project, the Commission is requested to refer to the plans and staff report that were distributed for the February 8 meeting. A copy of that staff report and draft resolutions for the project are enclosed in the Commission packets. Color boards of the project will again be available for review at the Commission meeting.

Planning Division Comments

The primary obligation of the Planning Commission in regard to this project is to determine whether the design of the entire project is consistent with the land use and design objectives of the North Montclair Downtown Specific Plan (NMDSP). Staff continues to believe the project is very well designed and is consistent with the highest expectations and provisions of the NMDSP. The initial development of the project as a rental project, with later conversion to a condominium project, is a policy determination to be made by the City Council. Should the Commission wish to opine on that matter it should request that a recital be added to the Resolution expressing its opinion on this issue.

In the meantime, the Planning Commission is requested to make a recommendation to approve or deny the project and forward that recommendation to the City Council for its final determination on the project. If the Planning Commission cannot make the findings to support the project, then the proposal should be denied. If denial of the project is contemplated, the Commission must provide specific reasons to justify the decision to deny the project.

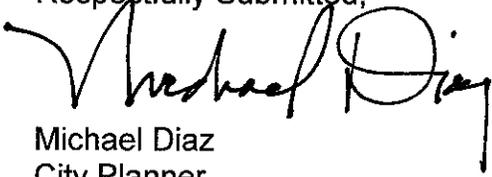
Planning Division Recommendation

Staff recommends that the Planning Commission find the proposal to construct a 385-unit residential community at the northeast corner of Monte Vista Avenue and Moreno Street to be consistent with the General Plan and the goals and development standards of North Montclair Downtown Specific Plan. Accordingly, staff recommends that the Commission take the following actions:

- A. Move that, based upon evidence submitted, the Planning Commission finds and recommends that the current application for the proposed 385-unit Paseos residential community is substantially consistent with the anticipated impacts evaluated in the previously certified EIR for the North Montclair Downtown Specific Plan and its anticipated improvements. The Commission further finds and recommends that the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. As such, none of the conditions listed in Section 15162 of the CEQA Guidelines requiring the preparation off a subsequent or supplemental EIR are present and the project qualifies or the exemption for residential projects described in Section 15182 of the state CEQA Guidelines. Finally, the Commission directs staff to prepare a DeMinimis finding of no impact on fish and wildlife.
- B. Recommend that the City Council approve Tentative Tract Map No. 18213, subdividing a 15.1-acre site at the northeast quadrant of Monte Vista Avenue and Moreno Street into 13 numbered lots and 14 lettered lots for condominium purposes, finding that the map is consistent with the Montclair Municipal Code and the State Subdivision Map Act.
- C. Recommend that the City Council approve a Precise Plan of Design request under Case No. 2009-21 for the site plan, floor plans, elevations, colors, materials, conceptual landscape plan, and public park associated with the proposed 385-unit residential community development at the northeast quadrant of Monte Vista Avenue and Moreno Street, and associated on- and off-site improvements per the submitted plans and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 10-1714.
- D. Recommend that the City Council approve a Variance request under Case No. 2009-21 to allow a 61'-6" building height for Building F rather than the maximum allowed 45-foot building height in conjunction with the proposed 385-unit residential community development at the northeast quadrant of Monte Vista Avenue and Moreno Street, as described in the staff report and subject to the findings and conditions in Planning Commission Resolution No. 10-1715.
- E. Recommend that the City Council approve a Variance request under Case No. 2009-21 to allow setbacks less than the minimum 5'-0" required in the North Montclair Downtown Specific Plan for the one-story, detached garage buildings along the easterly project boundary and a portion of the westerly project boundary (adjacent to EZ Lube) in conjunction with the proposed 385-unit residential community development at the northeast quadrant of Monte Vista

Avenue and Moreno Street, as described in the staff report and subject to the findings and conditions in Planning Commission Resolution No. 10-1716.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution No.10-1714 for Approval of Case No. 2009-21
Draft Resolution No.10-1715 for Height Variance
Draft Resolution No.10-1716 for Setback Variance

c: Jim Atkins, Montclair I MGP Partners LLC
Garth Erdossy, GLJ Partners
Andrew Alper, DesignARC
Stephen Carroll, EPT Design
Brad Buller, Land Matters

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RESOLUTION NUMBER 10-1714

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING APPROVAL OF A PRECISE PLAN OF DESIGN UNDER CASE NUMBER 2009-21 FOR THE SITE PLAN, FLOOR PLANS, ELEVATIONS, COLORS, MATERIALS, CONCEPTUAL LANDSCAPE PLAN, AND PUBLIC PARK FOR THE PROPOSED 385-UNIT RESIDENTIAL COMMUNITY DEVELOPMENT AT THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND MORENO STREET (APNs 1008-011-23 AND 27-28; AND 1008-161-19, 20 AND 24-26)

A. Recitals.

WHEREAS, on October 14, 2009, Montclair I MGP Partners LLC, owner of property at the northeast corner of Monte Vista Avenue and Moreno Street, filed applications for a tract map, Precise Plan of Design (PPD), and building height and setback variances to build a proposed 385-unit residential community development on the subject site; and

WHEREAS, the subject property is 15.1 acres in size and located within the planning area of North Montclair Downtown Specific Plan (NMDSP), adopted in 2006. The objectives of the NMDSP are to introduce urban style residential projects to the area and begin the process of creating a "downtown" environment with walkable neighborhoods, local retail and service businesses, and convenient access to rail transit; and

WHEREAS, the NMDSP designates a portion of the site as being located in the Corridor Residential (CR) zone and the remainder of the site in the Neighborhood Residential (NR) zone; and

WHEREAS, the Tentative Tract Map proposes the creation of 385 condominium units on 15.1 gross acres. After the public streets and park are deducted from the gross acreage, the net site area is 12.85 acres, which results in a density of 30 dwelling units per acre; and

WHEREAS, the Tentative Tract Map would subdivide the existing 15.1-acre project into 13 numbered lots ranging in size from .10 acres to 1.06 acres for condominium purposes and a clubhouse. In addition, 14 lettered lots are also proposed, to allow for public and private streets, and to create a .71-acre public park at the center of the site.

WHEREAS, On August 24, 2009, at the invitation of the applicant, the Planning Commission (Commissioners Flores, Johnson, and Vodvarka attending) toured existing projects in Orange County which exemplified certain development characteristics/elements proposed for the project; and

WHEREAS, staff has determined the proposed project is consistent with the intent and requirements of the General Plan and the NMDSP; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that no subsequent or supplemental environmental document is required pursuant to the California Environmental Quality Act (CEQA) in connection with the review and approval of this application based upon the following findings and determinations:

- a. Pursuant to the California Environmental Quality Act (CEQA), the City certified an Environmental Impact Report (EIR) on August 15, 2006, in connection with the City's approval of the North Montclair Downtown Specific Plan and its anticipated improvements. Pursuant to CEQA Guidelines Sections 15162 and 15182, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (i) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (ii) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; or (iii) new important information shows the project will have new or more severe impacts than previously considered; or (iv) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts.
- b. The Planning Commission finds, in connection with the proposed Paseos project (Case No. 2009-21) that substantial changes to the project or the circumstances surrounding the proposed project have not changed which would create new or more severe impacts than those evaluated in the previously certified EIR. The Paseos project conforms to the requirements of the NMDSP and is consistent with land use designations and density standards for the subject site. Staff further finds that the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant.

- c. The Planning Commission finds there is no substantial evidence the project may have a significant effect on the environment, and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.
- d. Based on these findings and all evidence in the record, the Planning Commission concurs with staff's determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of Case No. 2009-21 for The Paseos residential community development; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on January 29, 2010. Public hearing notices were mailed out to property owners within an expanded radius of approximately 600 feet (300-foot minimum required) from the boundaries of the subject property in accordance with State law for consideration of this discretionary zoning entitlement; and

WHEREAS, on February 8, 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

WHEREAS, on February 8, 2010, upon the conclusion of the public hearing, the Commission continued its review of the item to its regularly scheduled meeting on March 22, 2010; and

WHEREAS, on March 22, 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.

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 hearing on February 8, 2010, including written and oral staff reports, together with public testimony, this Commission hereby finds the proposal to be consistent with the overall objectives of the City of Montclair General Plan, the North Montclair Downtown Specific Plan, and

good planning principles, and recommends approval of the application subject to each and every condition set forth below.

Planning

1. This approval is for the following:
 - a. Tentative Tract Map No. 18213, subdividing an existing 15.1-acre site into 13 numbered lots and 14 lettered lots (streets and public park) for the purpose of developing a condominium project of 385 dwelling units on the northeast corner of Monte Vista Avenue and Moreno Street, and associated on- and off-site public improvements; and
 - b. A Precise Plan of Design (PPD) for the site plan, floor plans, elevations, colors and materials, landscaping, associated with the construction of the 385 dwelling units as described in the staff report and depicted on approved plans on file with the Planning Division.
2. The above entitlements shall be valid only upon final approval by the City Council. Any modification, intensification, or expansion of the use beyond that which is specifically approved with this action shall require review and approval by the City Council.
3. The applicant and/or property owner shall ensure that a copy of this Resolution is reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
4. A single final map for the project shall be filed for recordation, unless the City approves the filing of multiple final maps and a phasing plan in accordance with California Government Code, Section 66456.1.
5. Prior to, or simultaneous with, the recordation of a final map, subdivider shall record a covenant and agreement prohibiting the sale of any individual building within the Project for purposes of rental or lease.
6. Prior to recordation of a final map, the subdivider and applicant shall pay any outstanding fees and charges related to the reimbursement agreement entered into with the City of Montclair.
7. The tentative tract map shall expire three years from the date of the Planning Commission resolution unless extended under Government Code §66452.6. The final parcel map shall be filed with the City Engineer and shall comply with the Subdivision Map Act of the State of California and all applicable ordinances, requirements, and resolutions of the City of Montclair.

8. Improvements to the public park on the project site shall be submitted to the Planning Division during the plan check process for review and approval.
9. Street names for internal streets of the subdivision shall be at the discretion of the developer and subject to the approval of the City Planner.
10. Precise Plan of Design (PPD) approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval, unless the applicant is diligently pursuing building plan check toward eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
11. Within five days of City Council approval, the applicant shall submit a check in the amount of \$50 to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
12. The subdivider and applicant shall agree to the formation of a Community Facilities District ('CFD') pursuant to the terms of Government Code Section 53311, et seq., the territory of which shall include the Project, for the purposes of the payment of maintenance and operation costs associated with the common landscaping, lighting and other improvements located within the Project. The subdivider and applicant shall consent to the formation of the CFD prior to recordation of a final map for the Project. The subdivider and applicant further expressly agree that failure to form such CFD will result in disapproval of any future building permits for the Project.

The subdivider and applicant also agree that additional areas may be annexed into the CFD, provided, however, that after giving effect to such annexation, the owner, subdivider and applicant is subject only to its fair share of the obligations and costs incurred as a result of the annexation. The subdivider and applicant agree to cooperate fully in any such annexation proceedings.

If, for any reason whatsoever, the Property or portion thereof does not become part of a CFD or if any such CFD that is formed does not provide for the maintenance of the entirety of the improvements within the Property, or any portion thereof, then such improvements shall be maintained by a private property owner's association, or an adequate alternative reasonably acceptable to the City, to undertake such work. The homeowner's association conditions, covenants and restrictions (CC&Rs) shall include a requirement that the homeowner's association pay the assessment and

that the assessment provisions contained in the CC&Rs can only be amended with the approval of the City. Failure to provide for the creation of such an owner's association, CC&Rs and/or an adequate alternative reasonably acceptable to the City shall result in the disapproval of subsequent permits with respect to the Property, or any portion thereof.

13. Prior to the first sale of a condominium to the public, a Condominium Homeowner's Association shall be established and made responsible for ongoing maintenance of buildings and grounds related to the project including roadways, retaining walls, drainage facilities, and water and sewer systems. The form and content of the Bylaws and CC&Rs must be approved by the City Planner and the City Attorney prior to the approval of a final map. The CC&Rs shall also be recorded with the deed for each residential unit, shall be binding on all residents of the Condominium Development and shall include, but not be limited to, the following:
 - a. **Street Maintenance.** All private streets within the Condominium Development shall be owned by and the cost of repairing and maintaining them shall be borne by an established Condominium Homeowner's Association. Street maintenance shall be addressed in the CC&Rs and shall not be dedicated to the City for maintenance.
 - b. **On-Site Easements.** The cost of establishing any on-site easements shall be borne by the subdivider and the cost of maintaining any on-site easements shall be borne by an established Condominium Homeowner's Association. All on-site easements shall be addressed in the CC&Rs and shall not be dedicated to the City.
 - c. **Storm Drain Maintenance.** The on-site storm drainage system shall be owned by and the cost of repairing and maintaining it shall be borne by an established Condominium Homeowner's Association. Maintenance of the storm drain system shall be addressed in the CC&Rs and shall not be dedicated to the City. The CC&Rs shall provide that the City have a right to make necessary repairs to any drainage facilities that are the responsibility of the Condominium Homeowner's Association, have an impact on property outside of the boundaries of the area owned by or under the control of the Condominium Homeowner's Association when the Association has been advised in writing of the need to make repairs and has not done so.
 - d. **Parking Space Use and Maintenance.** All on-site guest parking spaces shall be owned by and the cost of repairing and maintaining them borne by an established Condominium Homeowner's Association. Parking spaces, restrictions and enforcement of the restrictions shall be addressed in the CC&Rs and shall not be

dedicated to the City for maintenance. The CC&Rs shall include and provide for the expenses associated with the monitoring and towing of illegally parked vehicles owned by any member. The CC&Rs shall clearly define the permitted use of guest parking spaces and prohibit the parking of resident vehicles in guest spaces.

- e. On-Site Parking. The CC&Rs shall stipulate that no utility trailers, commercial or construction vehicle of any length, watercraft, or recreational vehicles shall be permitted to be stored or parked overnight on any private street and/or parking areas within the complex. "Recreational vehicle" is a motor home, travel trailer, truck camper, or camping trailer with or without motive power designed for human habitation for recreational or emergency occupancy.
 - f. Lighting Maintenance. The Condominium Homeowner's Association shall be responsible for maintenance of exterior, on-site lighting and shall promptly replace nonfunctioning lights and broken or damaged lighting devices.
 - g. Garage Use. The CC&Rs shall stipulate that garages shall at all times be available for the parking of vehicles assigned to the applicable condominium unit. Storage within garages shall be allowed only to the extent such storage does not impede access to the parking space(s) within the garage.
14. Pursuant to the City's adopted inclusionary housing ordinance (Ordinance No. 05-866), the applicant shall provide 15 percent required housing for low-to-moderate income households. The Ordinance applies to new residential development located within redevelopment project area boundaries. Since the subject property lies within City of Montclair Redevelopment Agency Redevelopment Project Area No. III, the project shall be subject to the provisions of Ordinance No. 05-866. The developer shall agree to satisfy the requirements of Ordinance No. 05-866 through a separate and subsequent agreement approved and adopted by the City Council. The developer shall agree that approval by the City of the requested entitlements shall constitute in its entirety the City's compliance with the density bonus provision of Government Code Section 65915.
15. All sound attenuation measures (i.e. dual-paned glazing, upgraded insulation, etc.) as identified by the approved acoustical report prepared for the project shall be incorporated into construction drawings submitted for plan check. Maximum interior noise level of all units shall be no higher than 45dBA.
16. 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.

17. Prior to the installation of any signs, the applicant shall submit an application for a Sign Program for the entire project to the Planning Division for review and approval.
18. No changes to the approved set of plans, including the exterior design and materials/finishes, shall be permitted without prior City review and approval.
19. No outdoor pay telephones or vending machines shall be permitted on the project site, except that vending machines may be allowed in the outdoor recreational area adjacent to the Community Building if installed in an alcove architecturally integrated with a building to the satisfaction of the City Planner.
20. Perimeter walls shall be installed per the approved wall plan. Double wall or fence/wall conditions shall not be permitted. The applicant shall be responsible for coordinating with the adjacent property owners to the north and east regarding the replacement of property line walls, if required. Masonry wall heights, materials, and finishes shall be to the satisfaction of the City Planner.
21. Specify street trees for each public and private street. Required public street trees shall include the following:
 - a. Monte Vista Avenue – *Pinus canariensis* (Canary Island Pine) and a deciduous and/or flowering species in a random, alternating pattern.
 - b. Moreno Street – *Platanus racemosa* (California Sycamore) and an evergreen and/or flowering species in a random, alternating pattern.
 - c. Arrow Highway – *Quercus ilex* (Holly Oak) and a deciduous and/or flowering species in a random, alternating pattern.

Street trees for Olive Street and the public north-south street on either side of the park shall be subject to approval by the City Planner.

22. All street trees shall be minimum 24-inch box size and double-staked per City standards. If planted in turf areas, trees shall be planted within a 4'-0"-diameter circle in which turf does not encroach. The circle shall be left natural or minimally improved with decomposed granite, a thin layer of wood chips or similar moisture-retaining material.
23. Streetlights shall be constructed on all public and private streets. Streetlights within and on the perimeter of the subdivision shall be as follows and as illustrated in "City Nights...City Lights," a publication of Southern California Edison:

- a. Interior streets (public and private) – "Nostalgic Fluted Pole" with single acorn pole top fixture.
- b. Monte Vista Avenue and Moreno Street - "Nostalgic Fluted Pole" with double acorn pole top fixture.
- c. Poles shall be black concrete and approximately 18 feet in height.
- d. Fixtures shall be fitted with up-light shielding and house-side shielding (where necessary).

The spacing of streetlights and minimum lighting level for all streets shall be to the satisfaction of the City Engineer. Streetlights on public streets shall be owned and maintained by Southern California Edison. Streetlights on Olive Street may alternate on either side of the street. Streetlights on public north-south street flanking the park shall be placed on the residential side rather than the park side. Streetlights on private streets may be owned and maintained by developer or Southern California Edison.

24. The proposed locations for neighborhood mailboxes within the subdivision shall be subject to City review and approval prior to installation. The applicant shall also ascertain any requirements for such mailboxes from the United States Postal Service.
25. 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.
26. All mechanical equipment including, but not limited to, utility meters, air conditioners, vents, and repair equipment shall be located within the building or screened in a manner that is compatible with the architectural design of the building to the satisfaction of the City Planner. Wooden lattice or fence-like screens/covers are not appropriate screening materials and shall not be allowed.
27. Surface mounted exposed conduit or electrical lines shall not be allowed. Electrical switchgear, meters, etc. shall be screened or housed in an enclosure, to the extent allowed by the utilities.
28. Freestanding electrical transformers and Fire Department double detector check equipment shall be screened with masonry walls compatible with the building architecture and/or landscaping to the satisfaction of the City Planner and Fire Marshal. Efforts shall be made to place these elements in locations that are as unobtrusive as possible.

29. All landscaping on the project site shall be regularly maintained in a healthy and vigorous living condition at all times. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, and the regular watering of all plants. Dead vegetation shall be promptly replaced with healthy, living plants, in accordance with standard seasonal planting practices. The property owner shall also be responsible to keep the landscaped areas reasonably free of weeds, trash, and debris.
30. All new trees incorporated into the project shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA). Trees shall only be pruned as necessary to promote healthy growth and for aesthetic purposes (i.e., to enhance the natural form of the tree) according to established horticultural standards. Improperly or severely pruned trees, including topping which results in the removal of the normal canopy and/or disfigurement of the tree shall be replaced with trees of similar size and maturity as that which was removed or as required by Director of Community Development.
31. 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.
32. Pursuant to California Government §66474.9, the subdivider and applicant shall agree to defend, indemnify and hold harmless, the City of Montclair, its agents, officers, and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul any approval of the City, whether by its City Council, Planning Commission or other authorized board or officer of this subdivision, which action is brought within the time period provided for in Government Code §66499.37. The City shall promptly notify the subdivider and applicant of any such claim, action or proceeding, and the City shall cooperate fully in the defense.
33. Notice: The conditions of project approval for your project include certain fees, dedication requirements, reservation requirements, inclusionary housing requirements and/or other exactions more specifically described in the conditions of approval. The applicant is hereby notified that the 90-day protest period to challenge such items has begun as of the date of the project approval or the date of the Impact Fee imposition, which is also the date of final project approval. If the applicant fails to file a protest regarding any of the fees, dedications, reservations, inclusionary housing requirements or other exaction requirements as specified in Government Code §66020, the applicant shall be legally barred from later challenges.

Building

34. 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. A plan of all walls to be demolished.
35. Submit two sets of structural calculations, if required, and two sets energy conservation calculations.
36. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
37. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
38. Separate permits are required for fencing and/or walls.
39. All utility services to the project shall be installed underground.
40. 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 Building Code and all 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.
41. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
42. Prior to issuance of building permits for a new residential development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fee, Permit and Plan Check Fees, School Fees, sewer connection fees, and parkland development fees. Pay all

required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District. Applicant shall provide a copy of the school fees receipt to the Building Division prior to permit issuance.

43. Construct trash enclosure(s) per City Standard (available at the Building Division's public counter) or per a plan approved by all applicable City departments.
44. 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%).
45. 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 a numerical address on building elevations visible to a public or private street as determined by the Building Division. Address numerals shall be in Helvetica font, a minimum of ten inches in height, a minimum of 1½ inches in depth, and be in contrasting color which adequately contrast to the background to which they are attached.
 - b. Provide and maintain a minimum illumination level of one (1) foot-candle from dusk until dawn everyday.
 - c. Install an approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
46. A Certificate of Occupancy is required prior to the occupancy of each building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from other departments and/or agencies.
47. Prior to the issuance of a Certificate of Occupancy, the applicant shall:

- a. 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.
- b. Complete all on- and off-site improvements.
- c. Install all disabled-accessible parking stalls and parking lot signage.

Water Quality Management Plan

48. Comply with all requirements of the approved Water Quality Management Plan (WQMP) for this project.
49. The applicant/developer/homeowner's association shall be responsible to contract with a qualified firm to inspect and maintain any and all manufactured stormwater treatment devices specified by the approved WQMP, following all manufacturers' recommendations. It shall also be the responsibility of the applicant/developer/ homeowners' association to maintain inspection reports and have them readily available for review by City staff upon request. In the event that any stormwater treatment device fails due to lack of, or insufficient maintenance and/or inspection, or some other unforeseen circumstance, it shall be the responsibility of the applicant/developer/homeowners' association to correct the deficiency and restore the stormwater treatment device(s) to its original working condition.
50. Prepare and submit plans for erosion and sediment control. Plans shall include all phases of the construction project, including rough grading, utility and road installation, and vertical construction to the satisfaction of the City Engineer. A State General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities shall be obtained prior to construction. Contact Joe Rosales, Environmental Compliance Inspector, at (909) 625-9470.
51. Prior to issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Engineering Division an electronic copy of the approved WQMP in PDF format.
 - b. Have the WQMP Maintenance Agreement recorded at the County of San Bernardino and show proof of recording to the Environmental Compliance Inspector.
52. Prior to release of occupancy for any of the dwelling units in the subdivision, the person or corporation responsible for the preparation of the WQMP shall certify in writing to the Building Official that all conditions and

requirements of the WQMP have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the WQMP.

Engineering

53. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
54. A parkland fee shall be paid to the City. This fee is payable prior to issuance of any Certificate of Occupancy. A public park is intended to be a part of this development. Dedication of land and construction of park improvements may partially or entirely offset the fees to be paid.
55. Payment of transportation development impact fees. Fees shall be assessed at the rate in effect at the time the fees are paid.
56. Public and private streets shall be designed and built in accordance with City standards as outlined in the North Montclair Downtown Specific Plan. No parking shall be permitted in private streets, alleys, or drive aisles.
57. Street improvement plans are required for all public streets. Construction drawings shall be 24"x 36" with City standard title block. Construction drawings for private streets may be included on grading plans, which shall also be 24"x 36".
58. Street names shall be left up to the developer as long as the names do not conflict with other City street names, are otherwise objectionable to the City, and are to the satisfaction of the City Planner. The primary east-west street shown on the tentative map connecting to Olive Street at the east tract boundary shall be called Olive Street and shall be dedicated to the City of Montclair as a public street. The tentative map shows the primary north-south street as Lot B. Prior to recordation the street shall be named. The public street west of the park shall be one-way southbound; the public street east of the park shall be one-way northbound.
59. Sidewalks shall be constructed on both sides of Olive Street and on the residential side of the proposed north-south public street flanking the park. Sidewalks are not required on private streets, provided accessibility from each dwelling unit to a public sidewalk can be provided. Sidewalks, intersections, and curb cuts shall comply with Americans with Disabilities Act of 1990 (ADA) requirements. Sidewalks through drive approaches with cross slopes exceeding 2% shall not be permitted.

60. Sidewalks on Monte Vista Avenue and Moreno Street shall have a minimum width of 6'-6" if curb-adjacent and 5'-0" feet if separated from the curb by a parkway.
61. All 5'-0"-wide sidewalks shall be scored lengthwise and widthwise to create 2½-foot "squares." All 6'-6" sidewalks shall be scored lengthwise and widthwise to create 2'-2" "squares."
62. Parkways on Monte Vista Avenue and Moreno Street separating curbs and sidewalks shall have a minimum width of 6'-0".
63. Dedicate additional street right-of-way for Monte Vista Avenue and Moreno Street as may be necessary to accommodate sidewalk and parkway improvements.
64. Restripe Monte Vista Avenue from Arrow Highway to Moreno Street to provide a continuous center two-way left turn pocket. The City Council will be asked to adopt a new parking resolution to add the east side of Monte Vista Avenue, from Arrow Highway to Moreno Street, to its restricted parking list.
65. Storm drains and catch basins within the public north-south street and discharging into the park/drainage basin shall be owned and maintained by the City. Storm drains, catch basins, and other drainage devices, whether located in private or public streets, shall be maintained by developer. All design and construction shall comply with standards and requirements of the San Bernardino County Flood Control District.
66. All existing overhead utilities within project boundaries and within street frontages adjacent to the project site shall be placed underground, except for Southern California Edison 66KV transmission lines along Arrow Highway. All new guy wires required to anchor end poles shall be located beyond the project limits. No poles or guy wires shall be permitted to remain within any property frontage.
67. All utilities serving the tract shall be underground. This requirement applies to electrical services, transformers and switches, and where technology exists, telephone and cable television facilities as well.
68. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments, shall be required.
69. Sewers serving the development may be publicly maintained if designed and constructed per Public Works Department standards, and provided sewer easements are dedicated for sewers located within private streets. Sewers not constructed per Public Works Department standards shall be privately maintained. Connections to existing sewers in Monte Vista Avenue, Moreno Street, and/or Arrow Highway shall be made at existing or

new manholes. All sewer design shall be subject to the approval of the City Engineer.

70. Sewer improvement plans are required for all sewers, public or private, and shall include both plan and profile views on 24"x 36" construction drawings. Sewers intended to be privately maintained shall not include City standard title block, and shall be labeled "NOT TO BE MAINTAINED BY CITY OF MONTCLAIR."
71. Regional Sewerage Capital Outlay fees are required as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.
72. Discharge of wastewater into the sewer collection system shall conform to all requirements of the Montclair Municipal Code.
73. A grading plan shall be prepared subject to the approval of the City Engineer. An erosion control plan is to be included and considered an integral part of the grading plan. Grading plans shall be designed in accordance with City standards and guidelines, and shall be on 24"x 36" sheets.
74. All drainage facilities shall comply with requirements of the approved WQMP.
75. The tentative map includes cross sections showing existing walls along the north and east property lines are to remain. Boundary walls shall have a minimum height of 6'-0" measured from either side. Walls not meeting this minimum height shall be replaced, or if structurally adequate, have additional matching block or contrasting capstone added to increase the height to 6'-0".
76. No soil may be imported or exported to or from the project site from any 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. The plan shall include provisions for street sweeping and cleanup. Contractor(s) shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements.
77. All on- and off-site trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
78. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 8-1-1.
79. Prior to approval of the final map, a subdivision agreement will be required. The agreement shall contain provisions for performance and payment

bonds for all work within the public rights of way, and a monumentation bond for tract monuments in accordance with the Subdivision Map Act.

80. Prior to commencing framing for houses or delivery of lumber to any site within the tract limits, an all-weather access shall be provided to each lot/building. An all-weather access is defined as base-course A.C. paving with a minimum thickness of 2½" and having a minimum width of 26 feet. This 26-foot width shall be maintained free and clear of all construction equipment, materials, and debris at all times during construction.
81. Bus stops exist on the east side of Monte Vista Avenue and the north side of Moreno Street within the frontage of the property. Bus stop shelters shall be constructed at both locations (or the bus stops may be relocated as may be mutually agreeable to the City, Omnitrans, and developer) to the satisfaction of the City Planner. Shelters shall be designed in a manner that will allow pedestrian passage around the shelter when occupied. Typically this requires a minimum sidewalk width of eight feet (8'-0").
82. At least two weeks prior to the project entitlements being considered by the City Council, the developer shall place signage on the east face of the fence at the west end of Olive Street stating the following:

FUTURE EXTENSION OF OLIVE STREET TO MONTE
VISTA AVENUE AS PART OF TRACT NO. 18213
IMPROVEMENTS

Sign shall measure at least two feet high by four feet wide and shall have black lettering on white background.

Fire

83. 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.
84. 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.
85. Planter areas in the center of drive aisles and adjacent to entrances should be low profile type, not to exceed eight feet in height when mature.
86. 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.

87. 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.
88. The proposed residential structure(s) shall require an approved automatic fire sprinkler system. The system shall conform to all local and national standards. Three (3) complete sets of the sprinkler system plans shall be submitted directly to the Fire Marshal's Office for approval prior to installation.
89. 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.
90. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
91. 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. Facilities with gated drive approaches shall contact the Fire Marshal's Office for additional key and strobe requirements.
92. 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 8TH DAY OF FEBRUARY, 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 8th day of February, 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\MDIAZ\CASES\2009-21\PASEO\PCRESO

RESOLUTION NO. 10-1715

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING APPROVAL OF VARIANCES FOR BUILDING HEIGHT UNDER CASE NUMBER 2009-21 AND ASSOCIATED WITH A PROPOSED 385-UNIT RESIDENTIAL COMMUNITY DEVELOPMENT AT THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND MORENO STREET (APNs 1008-011-23 AND 27-28; AND 1008-161-19, 20 AND 24-26)

A. Recitals.

WHEREAS, on October 14, 2009, Montclair I MGP Partners LLC, owner of property at the northeast corner of Monte Vista Avenue and Moreno Street, filed an application requesting a variance for building height in association with a proposal to build a 385-unit residential community development at the subject site; and

WHEREAS, the subject property is 15.1 acres in size and located within the planning area of North Montclair Downtown Specific Plan (NMDSP), adopted in 2006; and

WHEREAS, the NMDSP designates a portion of the site where this variance request applies as the Corridor Residential (CR) zone; and

WHEREAS, the NMDSP, governs the development on the subject site and sets forth standards for development, including a building height limit of 45 feet; and

WHEREAS, the variance request applies to only one (1) building, Building F, as depicted on the proposed site plan adjacent to Arrow Highway; and

WHEREAS, the applicant has requested approval to exceed the 45-foot building height limit of the underlying district by approximately 16'-6". If approved, the total building height at the south end of the Building F would be 61'-6" as measured from finished grade to the top of the hip roof of said building; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that no subsequent or supplemental environmental document is required pursuant to the California Environmental Quality Act (CEQA) in connection with the review and approval of this application based upon the following findings and determinations:

- a. The Commission finds and recommends that the current application for the proposed 385-unit Paseos residential community is substantially

consistent with the anticipated impacts evaluated in the previously certified EIR for the North Montclair Downtown Specific Plan and its anticipated improvements. The Planning Commission further finds and recommends that the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. As such, none of the conditions listed in Section 15162 of the CEQA Guidelines requiring the preparation of a subsequent or supplemental EIR are present and the project qualifies for the exemption for residential projects described in Section 15182 of the state CEQA Guidelines.

- b. The Commission finds the height variance request is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15305, which applies to minor alterations in land use limitations that do not create a new parcel, change a land use, nor increases the allowable density of the project. The requested height variance applies only to one building on the site in response to an existing significant change in grade which is unique on the property and more severe than on any of the adjoining properties, and does not affect the land use or density of the project.
- c. The Planning Commission finds, in connection with the proposed Paseos project (Case No: 2009-21) that substantial changes to the project or the circumstances surrounding the proposed project have not changed which would create new or more severe impacts than those evaluated in the previously certified EIR. The Paseos project conforms to the requirements of the NMDSP and is consistent with land use designations and density standards for the subject site. Staff further finds the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant.
- d. The Planning Commission finds there is no substantial evidence the project may have a significant effect on the environment, and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.
- e. Based on these findings and all evidence in the record, the Planning Commission concurs with staff's determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of Case No. 2009-21 for The Paseos residential community development; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on January 29, 2010. Public hearing notices were mailed out to property owners within an expanded radius of approximately 600 feet (300-foot minimum required) from the boundaries of the subject property in accordance with State law for consideration of this discretionary zoning entitlement; and

WHEREAS, on February 8, 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

WHEREAS, on February 8, 2010, upon the conclusion of the public hearing, the Commission continued its review of the item to its regularly scheduled meeting on March 22, 2010; and

WHEREAS, on March 22, 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.

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 February 8, 2010, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Variance Findings

- A. Because of special circumstances applicable to the subject property, including its size, shape, topography, location or surroundings, the strict application of the provisions of Title 11 of the Montclair Municipal Code are found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The "notch" shaped portion of the property on which Building F is impacted by a significant change in grade of approximately 15-16 feet from Arrow Highway, which is unique on the property and more severe than on any of the adjoining properties.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zone

classifications. The variance would allow the property owner to develop the property pursuant to the development standards of the NMDSP as they would apply to any property owner with a similar grade and/or slope disparity such as that which exists on the subject portion of the subject site. More specifically, the increased height at the rear of the building would allow the applicant to build the majority of the "tuck under" parking levels into the existing slope, where it will not be visible to Arrow Highway. In addition, the need for extensive excavation work is reduced significantly than would be the case if a pit were required for the proposed tuck-under parking. Moreover, without the variance, the building would have to be stepped and the possibility of providing efficient parking below the building would be compromised.

- C. The granting of such variance will not be materially detrimental to public welfare or injurious to other property or improvements in the vicinity and zone in which the property is located. The increased height would not impair the use, privacy, or views of another parcel. The only properties potentially impacted would be other buildings within the applicant's proposed development, and existing development (water tank and fire station) on either side of the proposed building. Moreover, the nearest existing residential properties/uses are approximately 520 feet to the southeast of the subject building where privacy would not be adversely impacted.
- D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan or the NMDSP. The variance allows the proposed building to accommodate and integrate subterranean parking as encouraged by the North Montclair Downtown Specific Plan. Because the proposal, as noted herein, meets these goals, staff believes that this finding can be made.

3. 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.

- 1. The variance approval shall apply only to Building F of the proposed residential community at the northeast corner of Monte Vista Avenue and Moreno Street. The approved increase in height shall be 16'-6" above the 45-foot height limit for a total building height 61'-6" for the south end of Building F as measured from finished grade on the south side of said building to the top of the hip roof.
- 2. This variance approval shall be valid for six months from the date of Planning Commission action. If no construction drawings have been submitted to the City for plan review within this time frame, then the approval shall automatically expire without further City action.

3. This variance approval shall be implemented in conjunction with entitlements and all conditions of approval granted for Case 2009-21 as contained in Resolution No. 10-1714.

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

APPROVED AND ADOPTED THIS 8TH DAY OF FEBRUARY, 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 8th day of February, 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\MD\CASES\2009-21\VARIANCE HEIGHT RESO

RESOLUTION NO. 10-1716

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING APPROVAL OF A VARIANCE FOR SIDE YARD SETBACKS UNDER CASE NO. 2009-21 AND ASSOCIATED WITH A PROPOSED 385-UNIT RESIDENTIAL COMMUNITY DEVELOPMENT AT THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND MORENO STREET (APNs 1008-011-23 AND 27-28; AND 1008-161-19, 20 AND 24-26)

A. Recitals.

WHEREAS, on October 14, 2009, the Montclair I MGP Partners LLC, owner of property at the northeast corner of Monte Vista Avenue and Moreno Street, filed an application requesting a variance for side yard setbacks at two locations in association with a proposal to build a 385-unit residential community development at the subject site; and

WHEREAS, the subject property is 15.1 acres in size and located within the planning area of North Montclair Downtown Specific Plan (NMDSP), adopted in 2006; and

WHEREAS, the NMDSP designates a portion of the site where this variance request applies as the Corridor Residential (CR) zone, and a portion as the Neighborhood Residential (NR) zone; and

WHEREAS, the NMDSP governs the development on the subject site and sets forth standards for development, including a side yard setback of 5'-0" for both of the aforementioned zoning districts; and

WHEREAS, the first setback variance request applies to three (3), single-story, detached garage buildings proposed along the east property line of the site. The variance would allow a reduction from five feet (5'-0") to an average of two feet (2'-0") between the back of the garage building and the existing masonry walls separating the site from the adjacent single-family properties; and

WHEREAS, the second setback variance request applies to two (2), single-story, detached garage buildings on the property line abutting the EZ Lube property. The variance would allow a reduction from five feet (5'-0") to a zero (0'-0") setback along the property line for the subject buildings; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that no subsequent or supplemental environmental document is required pursuant to the California Environmental Quality

Act (CEQA) in connection with the review and approval of this application based upon the following findings and determinations:

- a. The Commission finds and recommends that the current application for the proposed 385-unit Paseos residential community is substantially consistent with the anticipated impacts evaluated in the previously certified EIR for the North Montclair Downtown Specific Plan and its anticipated improvements. The Planning Commission further finds and recommends that the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. As such, none of the conditions listed in Section 15162 of the CEQA Guidelines requiring the preparation of a subsequent or supplemental EIR are present and the project qualifies for the exemption for residential projects described in Section 15182 of the state CEQA Guidelines.
- b. The Commission finds setback variance requests are exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15303, which applies to minor alterations in land use limitations that do not create a new parcel, change a land use, nor increases the allowable density of the project. The setback variances requested for the subject project are limited in scope and apply only to specified locations, and do not create new parcels, affect land use, or increase density.
- c. The Planning Commission finds, in connection with the proposed Paseos project (Case No: 2009-21) that substantial changes to the project or the circumstances surrounding the proposed project have not changed which would create new or more severe impacts than those evaluated in the previously certified EIR. The Paseos project conforms to the requirements of the NMDSP and is consistent with land use designations and density standards for the subject site. Staff further finds the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant.
- d. The Planning Commission finds there is no substantial evidence the project may have a significant effect on the environment, and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.
- e. Based on these findings and all evidence in the record, the Planning Commission concurs with staff's determination that no additional environmental review is required pursuant to CEQA in connection with the

City's consideration of Case No. 2009-21 for The Paseos residential community development; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on January 29, 2010. Public hearing notices were mailed out to property owners within an expanded radius of approximately 600 feet (300-foot minimum required) from the boundaries of the subject property in accordance with State law for consideration of this discretionary zoning entitlement; and

WHEREAS, on February 8, 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.

WHEREAS, on February 8, 2010, upon the conclusion of the public hearing, the Commission continued its review of this item to its regularly scheduled meeting on March 22, 2010; and

WHEREAS, on March 22, 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.

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 substantial evidence presented to this Commission during the above-referenced public hearing on February 8, 2010, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Variance Findings for Garages at East Boundary

- A. Because of special circumstances applicable to the subject property, including its size, shape, topography, location or surroundings, the strict application of the provisions of Title 11 of the Montclair Municipal Code are found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The property is impacted by the placement of existing boundary walls enclosing the rear yards of the adjacent residential properties on the east boundary which encroach onto the subject site and impact the proposed

development. The proposed setback variance would allow the existing wall to be retained in its present location, avoid disruption to the adjacent residential properties, and limit the impact to the proposed development of the subject site.

- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zone classifications. The project is a high-density residential development in the NMDSP area and most similar to other multi-family developments within the City where detached garages have often been permitted with little to no setback requirements in order to allow better utilization of the site. The variance would allow the proposed garages to be placed on the site in a similar manner as other multi-family developments in the City. More importantly, the proposed variance applies only to three separate locations representing less than 15 percent (approximately 160 feet total) of the total 1,101 foot-long east property line.
- C. The granting of such variance will not be materially detrimental to public welfare or injurious to other property or improvements in the vicinity and zone in which the property is located. The proposed setback variance would eliminate isolated and unusable spaces that would be created behind the proposed garages and existing boundary wall. The probability of dumping, neglect, or other unwanted activities would be substantially reduced. Moreover, the garages are finished on all sides, and designed with a "flat" roof design and parapet which is designed to prevent storm runoff from impacting adjacent properties. Further, no openings in the back or side walls of the garage buildings are proposed so privacy to adjacent properties will not be adversely impacted.
- D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan. The General Plan and NMDSP also place a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the Municipal Code in an appropriate fashion.

Variance Findings for Garages at EZ Lube Boundary

- A. Because of special circumstances applicable to the subject property, including its size, shape, topography, location or surroundings, the strict application of the provisions of Title 11 of the Montclair Municipal Code are found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The development of the subject site is impacted by an existing non-conforming commercial use on a property that cuts into the subject site and presents an adverse impact. Until the present use of the adjacent property is discontinued and replaced with a development that conforms to the

NMDSP, the proposed setback variance for the garages in this location would allow for a permanent separation and protection of the proposed residential development.

- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zone classifications. The project is a high-density residential development in the NMDSP area and most similar to other multi-family developments within the City where detached garages have often been permitted with little to no setback requirements in order to allow better utilization of the site. The variance would allow the proposed garages to be placed on the site in a similar manner as other multi-family developments in the City.
 - C. The granting of such variance will not be materially detrimental to public welfare or injurious to other property or improvements in the vicinity and zone in which the property is located. The variance would eliminate an isolated and unusable space behind the proposed garages where maintenance would be difficult. More importantly, the garage buildings are well designed with property walls or fences that will serve as a permanent and attractive means to separate the uses on both properties. The proposed garages will have no openings or roof overhangs that would adversely impact the adjacent property or its use.
 - D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan. The General Plan and NMDSP also place a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the Municipal Code in an appropriate fashion.
3. 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.
- 1. The variance referenced above shall apply only to the buildings described below and in the staff report and as depicted on the approved site plan. All other buildings or structures shall comply with required setbacks as prescribed in the NMDSP.
 - a. An average two-foot (2'-0") setback for three (3) garage buildings along the east property line; and
 - b. A zero (0'-0") setback for the two (2) garage buildings at the west property line of site that is shared with the adjacent EZ Lube property.

2. This variance approval shall be valid for six months from the date of Planning Commission action. If no construction drawings have been submitted to the City for plan review within this time frame, then the approval shall automatically expire without further City action.
3. This variance approval shall be implemented in conjunction with entitlements and all conditions of approval granted for Case 2009-21 as contained in Resolution No. 10-1714.

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

APPROVED AND ADOPTED THIS 8TH DAY OF FEBRUARY, 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 8th day of February, 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\MD\CASES\2009-21\VARIANCE SETBACK RESO