CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES

REGULAR ADJOURNED MEETING
Monday, September 26, 2011

COUNCIL CHAMBER
5111 Benito Street, Montclair, California 91763

CALL TO ORDER

Chairman Sahagun called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Present: Chairman Sahagun, Vice Chairman Flores, Commissioners Johnson, Lenhert, and Vodvarka, Community Development Director Lustro, City Planner Diaz, Assistant Planner Gutiérrez, and City Attorney Robbins.

MINUTES

The minutes of the September 12, 2011 regular meeting were presented for approval. Vice Chairman Flores moved, Commissioner Vodvarka seconded, and the minutes were approved 5-0.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

6.a PUBLIC HEARING - CASE NUMBER 2011-9
(continued from September 12, 2011)

Project Address:	4770 Mission Boulevard
Project Applicant:	Martha Hernandez
Project Planner:	Silvia Gutiérrez, Assistant Planner
Request:	Conditional Use Permit request to allow and re-establish a restaurant with on-sale beer and wine

Assistant Planner Silvia Gutiérrez reviewed the staff report. The applicant, subsequent to the September 12 meeting, provided a letter indicating the reason for the later hours on Fridays and Saturdays was to provide meals for people returning from late night activities and also to allow the applicant to serve alcohol up to the ABC's current allowance, which is 11:00 p.m. Staff verified with ABC that is the case. The applicant indicated in their letter (attached as an exhibit) that only food and soft drinks would be served between 11:00 p.m. and 2:00 a.m. Friday and Saturday evenings. Staff contacted the Police Department, which provided staff with a list of calls for service for the subject property, 4770 Mission Boulevard, and also for the entire 4700 block of Mission Boulevard from April 2008 through September 2011, also attached as an exhibit. Staff provided a summary of the calls for service and given the span of time, staff did not identify an excessive or significant number of calls for service within the three-year report period. However, staff wanted to point out there were eight calls for disturbing the peace, which would include problems of excessive noise from the general area and also noise complaints consistent with a comment made during the public hearing on September 12, 2011 by an adjacent resident. In assessing those calls for service as well as assessing the applicant's reasoning for the extended hours of operation, staff feels that the extension of hours to 2:00 a.m. could be a draw. For the patrons and in discussion with the Police Department, there is an assertion that there could potentially be an aspect for a correlation between the patrons that are leaving A Mi Hacienda during its "last call" (for alcohol) and heading over to the open restaurant if the hours are extended until 2:00 a.m. Staff believes it is fair and rational to extend the hours until 11:00 p.m. because that is what they were originally granted by ABC, but staff feels that extending the hours to 2:00 a.m. would be excessive. Staff applauds the applicants' proposal to remodel the restaurant and as can be seen from the elevations, they have done an extensive job and a nice presentation in terms of renderings for the site. They have collaborated with staff to make sure that all concerns in terms of site improvements have been addressed and, prior to the meeting, staff contacted the applicant's representative and he indicated they are in agreement with staff's recommendations. The applicants were present at the meeting and available for any questions. Assistant Planner Gutiérrez also wanted to point out that Captain Michael deMoet from the Police Department was present and available for any further questions. She wanted to emphasize there were conditions that have been changed to incorporate the modified operating hours.

Vice Chairman Flores asked which condition was modified for the extended hours. Chairman Sahagun responded that it was condition number 9. Assistant Planner Gutiérrez stated the condition has been modified to read 7:00 a.m., to allow for the service of breakfast, until 11:00 p.m. daily.

Commissioner Johnson commented she noticed as part of the report that the public notice happened in preparation of the meeting two weeks ago and because the item was continued to a date certain, it did not need to be re-noticed. She asked if staff has heard any comments from any other residents. Assistant Planner Gutiérrez replied there have been no other comments.

Commissioner Johnson noticed that 28 of the calls over the last three years went to "4700 Mission" and she wondered if that was east or west of the site. Assistant Planner Gutiérrez replied that in speaking with the Police Department, when it says 4700 block, the calls go into dispatch and the anonymous caller that reports those incidents don't know the exact address and that is why they log it in as 4700 block so she could not specifically tell her what location.

Commissioner Johnson commented that since there has been so much discussion about disturbing the peace, has the applicant discussed security provided by the applicant or does it depend completely on the Police Department? Assistant Planner Gutiérrez replied that, at this time, security issues were not brought up by the applicant and were not suggested or recommended by the Police Department, with the exception of closing at 11:00 p.m.

Director Lustro elaborated on the first question by Commissioner Johnson regarding the service calls in the 4700 block of Mission Boulevard. For reference, the 4700 block of Mission Boulevard includes the A Mi Hacienda nightclub and one single-family home on the south side of the street. On the north side of the street, it extends from the business park west of Lloyd's Equipment Rental easterly to the Kessler property at 4790 Mission Boulevard, which is the multi-tenant rental yard west of Monte Vista Avenue. It includes the mobile home park, the subject property, and the office park that was formerly the Golden Peacock Motel at 4780 Mission.

Commissioner Vodvarka asked if there was going to be any allowance for live music and/or dancing when they re-open. Assistant Planner Gutiérrez replied there is a condition that is modeled after a standard condition that we provide for such restaurants. Entertainment permit requests would be granted through the Police Department through a subsequent application apart from this meeting. Commissioner Vodvarka said if they do, he wanted to see some kind of security if they ever have a live band and dancing. Director Lustro added that he believed condition numbers 8, 10.e, which refers to exterior sound systems, and condition number 12 addressed Commissioner Vodvarka's comment. Commissioner Vodvarka stated what about the times they have open windows and doors the music can be heard outside the building? Windows and doors can project loud music elsewhere.

Chairman Sahagun opened the public hearing.

Joe Ramos, 2075 N. 1st Avenue, Upland, the architect on the project and representing the applicant. In reference to Commissioner Vodvarka's comments regarding the sound, it is a pretty minimally-built building. The remodel will result in fully insulated walls and new storefront and glazing, which will insulate it from any interior sounds that are there, but as the conditions stipulate, he did not think any entertainment or loud music situation would be allowed. Also, by opening up the storefront, it gives the Police a better view into the interior of the restaurant, which is very small and allows little room, if any, for any type of entertainment or dancing. That was one of the issues with the building from before, the building is pretty limited in space. They concur with all the conditions and the recommendations, the hours of operation, the Police reports, and were open to any questions or suggestions. They felt the conditions, as written, should mitigate the concerns the neighbors had and, again, with the new building construction, it should also help with that regard. Their intent is to rebuild the restaurant and open it for breakfast, lunch and dinner.

Louise Cheng, 4788 Rawhide Street, Montclair, stated that at the first hearing, which was held on September 12, 2011, she addressed the issue about the restaurant creating excessive noise during evening hours until midnight as well as cars parked on the street during those hours also add to the problem. Police reports have been filed. She believed many would think it was a case of just her complaining. However, she spoke with her neighbors and all of them were having the same experience. She had a petition with signatures from the neighbors, ten families, across from the restaurant. A lot of them had prior obligations and were not able to attend the hearing, but she was there to represent them. They all believe the beer and wine selling permit and the re-establishing of the restaurant will create the same problems as before. In summary, the problems are people getting drunk around the restaurant area that will leave and create unnecessary danger and also endanger their safety. Parking along the street also created the issue of loud noise from the cars, not necessarily from the inside of the restaurant, but from the cars outside in the street. It is also uncertain if someone from the restaurant will be able to manage the traffic and if they extend the business hours if it will worsen. From what she understood, the residents chose this place to live because they all have the same common belief that Montclair is a quiet, peaceful place to live. They have jobs and need to rest at night and all the issues they are concerned with seriously damage their daily routine and regular lifestyle. They understand a restaurant of this size has been there since the 1950s or '60s; however, the neighborhood has changed since that time. This is no longer a place for business, but a place for people to live. Most importantly, the restaurant is way too close to the residential area. They sincerely ask the City to please consider those who live close to the restaurant. From the last agenda, she reviewed it and found some misleading statements. It says the proposed on-site beer and wine and use is essential or desirable to the public convenience and welfare. According to her research, there are eight Mexican restaurants and five out of eight have a liquor license so it is really not essential. It is not the only place that needs to get alcohol. It also says the restaurant was well established in a community that does not have late closing hours. According to many of the neighbors she spoke to, it was open until midnight and sometimes after

midnight and it generated so much noise. Lastly, she really appreciated the City offering the second hearing for the community and a lot of her neighbors already had other obligations and could not attend. This hearing does not mean problems do not exist so she is representing her neighbors. She thanked the Commission.

Commissioner Johnson commented that as she looked through the three-year call log, 17 of the calls were from this year. She was thinking of her own neighborhood and if there were 17 calls, she would be alarmed so she asked Captain deMoet how frequent are street patrols, is there a routine patrol and is there any plan to have more patrols because of the complaints and the history of so many calls? Captain deMoet replied the officers basically work beats and one officer would be assigned to that particular area so there is not one officer that is going to spend all of his time in the southwest area of the City. He did not notice any specific trend and asked if Commissioner Johnson was referring to the report run for the 4700 block of Mission Boulevard. He would have to see the report before he could comment on it to spot any trend in the calls for service.

Commissioner Vodvarka asked when the fire occurred at the restaurant. City Planner Diaz replied January 8, 2011. Commissioner Vodvarka commented that some of the calls on the call log were after the date the restaurant closed down due to the fire. Captain deMoet reviewed Exhibit D-2 and commented the report encompassed all reports at that location, not only calls for service, but self-initiated activity. If you look at the call log, the first five calls are traffic stops, which indicate self-initiated activity. It's possible they received a complaint regarding traffic violations in the area and we sent officers there to do traffic enforcement, but if you look at the actual calls for service, there is no specific information that would lead him to believe there is any trend or increase in calls at that location. Commissioner Johnson asked Captain deMoet to look at Exhibit D-1 and asked about the four calls to that site when they were closed. Captain deMoet noted that on Exhibit D-1, the fifth call down starts August 1, 2009. Commissioner Johnson stated she was speaking about the first four calls on April 18, April 20, July 1 and July 8, 2011. Captain deMoet stated those were calls after the business had closed for repairs. Commissioner Johnson commented that they (the restaurant owners) were not operating during that time. Captain deMoet replied that because there is still a building, there can be calls to the location. One was a vandalism call and another was a burglary from the location. He was not sure if it was from an actual building at the location or a vehicle, but it is possible to still have calls at that address even though they are not open. Commissioner Johnson asked what is a business check 104. Captain deMoet replied it was most likely a call for service. The 104 is actually 10-4, which means the check was OK. Someone may have called about suspicious activity at the location, although that is unlikely because it would have come out with suspicious circumstances. An officer may have been out to this location on his own having seen activity.

Captain deMoet commented that looking at the calls for service and the history of the specific address, it appears as though these people are responsible business owners. Now keep in mind that is only looking at the business on paper. He heard Ms. Cheng's comments regarding noise problems and complaints. There is no indication that it is a

widespread problem and it appears as though most of those complaints are likely coming from Ms. Cheng. Again, that is not to say that there aren't other residents in the area that are affected as evidenced by the petition she submitted. His main reason for attending was to speak out in regard to the business staying open until 2:00 a.m. They believe the late hour would draw intoxicated persons from across the street and increase the propensity for violence at that location if they were open late. Their recommendation is that they be allowed to sell alcohol and remain open until 11:00 p.m. on Friday and Saturday nights, as opposed to staying open until 2:00 a.m.

Chairman Sahagun clarified that prior to this, the business was "grandfathered in" without a conditional use permit. Now, if we have an excessive amount of calls or if there is any live music, the Commission can revoke the conditional use permit. City Planner Diaz clarified that a number of the conditions of approval that staff has recommended for this project, including condition numbers 9 and 10, would be instrumental in helping to address Ms. Cheng's concerns. The other benefit of having these enumerated conditions is that the applicants now know what is expected of them in terms of being able to operate their restaurant and this would hopefully preclude any problems in the future. Staff feels it has covered most of the issues that could potentially arise from this restaurant or any other business anywhere in town. Staff is confident that these conditions are complete and appropriate for this particular business.

Vice Chairman Flores asked Captain deMoet to have a conversation with Ms. Cheng and explain that now that the business is in the City, we have more authority to take care of her problems and ask her if she would relay the information to her concerned neighbors and we will keep an eye on it. Captain deMoet stated he had planned on speaking with Ms. Cheng but he was trying to figure out how a restaurant located across the street is generating enough noise to affect residents on the opposite side of Mission. Hopefully, the business will act responsibly and keep their music down. If the Police Department responds to loud music or noise complaints, he hopes they will comply with them immediately. Regarding live music or dancing at the location, they would actually have to complete an application for dance or live entertainment and that is something he personally reviews. If they want to do that on a limited time basis, obviously they would evaluate their request based on time, location and the amount of people that would be present and they would likely require licensed and bonded security personnel as well. Those issues would be addressed during the approval process.

Commissioner Lenhert asked if we received any complaints from the people who live in the adjacent mobile home park. Captain deMoet replied no.

Hearing no other comments and no one else being present, Chairman Sahagun closed the public hearing.

Director Lustro stated that City Attorney Robbins asked him to bring to the Commission's attention condition number 20, which reiterates what City Planner Diaz stated about the ability for the City to revoke the CUP if it is determined the business violates one or more of the conditions of approval. As was previously discussed, we did

not have that ability before because the restaurant was operating under permission granted by the County of San Bernardino, which did not include a conditional use permit. So, we have that additional tool at our disposal now. He wanted to add that staff agrees with Ms. Cheng's comments about how this neighborhood has changed over the last seven to eight years. As the Commission is aware, going back to the early 2000s, the south side of Mission Boulevard was mostly vacant lots and commercial businesses. In the intervening time, most of the south side of Mission Boulevard is now single-family residential development, with the exception of A Mi Hacienda and small neighborhood commercial developments at the southwest corner of Mission and Monte Vista and the southeast corner of Mission and Ramona. Staff took this into consideration during the analysis of this application and during the process of developing conditions of approval because staff knows the character of this neighborhood has changed considerably over the last several years and certainly since this restaurant originally opened. Staff is hoping is that the operators of the restaurant also recognize that the neighborhood has changed and will work to respect their neighbors, be good business operators, and be a good neighbor to the folks who now live there.

Commissioner Johnson commented she appreciated all the work that has been done by staff and felt they were on the right track, but she had a question about parking. As she was driving through that area, she noticed and remembered that it was reported at the last meeting by staff that there is a small area directly in front of the restaurant that allows parking, but parking is not allowed on most of the rest of the block. She asked for clarification regarding the signs; she knew they were 2-hour parking signs, but is there a cutoff time? Director Lustro replied that it is strictly a 2-hour maximum limitation without any hours delineating the limits of that. Commissioner Johnson asked if it would be difficult to say no parking after 11:00 p.m., because the restaurant would be closed. Director Lustro replied that would require going to City Council to amend the parking ordinance.

Commissioner Johnson moved that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

Commissioner Lenhert moved to approve Conditional Use Permit and Precise Plan of Design under Case No. 2011-9 approving the on-premises sale of beer and wine (ABC Type 41 License) in conjunction with a bona fide eating establishment and related site and tenant improvements at 4770 Mission Boulevard, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution No. 11-1746, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

6.b PUBLIC HEARING – CASE NUMBER 2011-11

Project Address:	4650 Arrow Highway, Suites B-8 & B-9
Project Applicant:	MNW Essex Montclair LLC
Project Planner:	Silvia Gutiérrez, Assistant Planner
Request:	Conditional Use Permit request to allow a church

Assistant Planner Gutierrez reviewed the staff report. She added that the applicant was present with members of the congregation.

Vice Chairman Flores asked about the path of travel requirements. He stated he did a drive-by and he knew they were not required to do accessible parking. He did not stop and walk the site, but wanted to know if there were any accessible ramps there already. Assistant Planner Gutiérrez replied no.

Commissioner Johnson commented that she noticed several OPARC vans parked directly in front of the tenant space. She knows from experience that church women wear heels and do not want to walk far. Are the vans always going to be there? Is OPARC going to continue to park their vans there or can they be moved closer to their own tenant space, which is in the back? Assistant Planner Gutiérrez stated she did not know. City Planner Diaz commented he believed the reason they park them in front was for security of the vans. If they leave them at the back of the site, they might be more susceptible to break-ins. They park them in the front so they are safer in the evening hours. If possible, maybe they can move them during worship or meeting time.

Commissioner Johnson asked where the church was presently located within the City. Assistant Planner Gutiérrez replied they are leasing a space from an elementary school in the City and deferred to the applicant for more detailed information.

Commissioner Vodvarka commented that he has previously asked how many churches does Montclair have and he has never received an answer. Another thing that bothered him is that we have quite a few churches going into commercial buildings that don't even resemble a church to him. He was not against God but liked to see a church looking like a church.

Chairman Sahagun opened the public hearing.

Doris Hampton, 11012 Shetland Avenue, Montclair, stated she and her family are 31-year residents of Montclair. She and her husband are the pastors of Brighter Day Ministries. They have been in Montclair as a church since 1995 so they are not newcomers to the City. They were most recently on Kingsley Street, sharing a facility with Trinity Lutheran for 12½ years. They are presently at Montera Elementary School because their lease at Trinity expired and they chose to look for a new location.

Chairman Sahagun asked if they were just relocating from one site to another within the City. Mrs. Hampton replied that they actually started out at Bethany Baptist Church at Monte Vista and Benito.

Hearing no other comments and no one else being present, Chairman Sahagun closed the public hearing.

Commissioner Johnson wanted to respond to Commissioner Vodvarka's comments and she thought she shared the same information several months ago about her personal experiences being invited to a church that was in an industrial park. She knows what a church looks like: a steeple, big doors, stained-glass windows. The place she was invited to did not look anything like a church and she almost turned away, but the person who invited her would not leave her alone until she went. So she went. That was 12 years ago and at that time there were about 500 members and since then they have moved and there are now 12,000 of them so it is very possible to have a church that does not look like a church.

Commissioner Johnson moved that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

Commissioner Lenhert moved to approve a Conditional Use Permit under Case No. 2011-11, subject to making the required findings, and subject to the conditions as described in attached Resolution Number 11-1748, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 5-0.

6.c CASE NUMBER 2011-10

Project Address:	10575 Central Avenue
Project Applicant:	Monte Vista Water District
Project Planner:	Michael Diaz, City Planner
Request:	Precise Plan of Design for minor building remodel and site improvements

Commissioner Lenhert recused himself from the item and stepped own from the dais.

City Planner Diaz reviewed the staff report.

Chairman Sahagun commented that if you are driving northbound on Central and turn in to the loop road to get to the site, there is a double yellow line in the road and he wondered if it was illegal to turn left into the site from the loop road. Director Lustro replied that it is legal to turn left over a single double yellow line.

Vice Chairman Flores moved that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption per Section 15301 of the State CEQA Guidelines, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 4-0, with Commissioner Lenhert abstaining.

Commissioner Johnson moved to approve a Precise Plan of Design under Case No. 2011-10 to allow a new building addition to accommodate an elevator and expanded lobby area and new site work to improve access and parking for disabled individuals at the existing two-story administration building of the Monte Vista Water District (MVWD) at 10575 Central Avenue, per the submitted plans, as described in the staff report, and subject to the conditions of approval contained in Resolution No. 11-1747, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 4-0, with Commissioner Lenhert abstaining.

INFORMATION ITEMS

Director Lustro stated at its meeting last Monday night, the City Council approved the 2006-2014 Housing Element update and a General Plan amendment related to the Housing Element. The Housing Element has been forwarded to the State of California Housing and Community Development Department for certification.

Commissioner Lenhert reminded everyone to look around their properties for standing water because the West Nile Virus is back and affecting more people. Commissioner Johnson asked if we should expect to see more dead crows. Commissioner Lenhert said that yes, it takes a bit of time but the crows are getting it, also mockingbirds, blue jays and doves.

Commissioner Johnson asked about the Monte Vista and Moreno site and when the project would break ground. Director Lustro stated that plan check was completed several weeks ago. However, the project is now for sale by the current owner. They have met with staff and have their reasons for selling it right now. They do have it advertised and staff has received some phone calls from prospective buyers at this point. Their plan check entitlement is good for six months from the time plan check was completed. If six months elapse and no building permits have been obtained, the plan check expires. In the case of this particular project, that is important because based on when the plan check began, it was being reviewed under the 2007 edition of the California Building Code. Since that time, we have adopted the 2010 version of the Building Code. If the plan check expires, then whoever pursues this project, while not necessarily having to start the plan check all over again, will likely have to do some significant revisions to the plans. Our understanding is that the owner of the property is also marketing that aspect of it too. He was sure they were using the phrase "shovel ready" to try to draw in prospective suitors.

Vice Chairman Flores commented that he may not be able to make the October 10 meeting, as he and his wife will be celebrating their 50th wedding anniversary and will not be returning from a trip until the morning of the 10th.

Commissioner Vodvarka complimented the Code Enforcement staff for cleaning up the property on his block and the neighborhood looks nice once again. Director Lustro commented that kudos actually go to a large contingent of volunteers from Iglesia Ni

Cristo at Holt Boulevard and Silicon Avenue. Two weekends ago, in coordination with Code Enforcement, the church brought forward a group of about 200 enthusiastic volunteers that not only were responsible for cleaning up the property on Columbine but also five vacant lots throughout the City, the largest of which was 3 acres on Mission Boulevard. It was a very successful cleanup and the folks who participated were very excited and said they had a lot of fun. They enjoyed what they did, felt they made a huge contribution to the community and would like to do it again some time.

Chairman Sahagun congratulated Vice Chairman Flores on his 50th wedding anniversary.

Commissioner Sahagun asked if there have been any inquiries about locating any new gas station facilities within the City. Director Lustro replied the only thing he could offer is that when staff was at ICSC in San Diego they did have a conversation with a representative from ARCO regarding the current service stations in the City and their locations. Through the use of an aerial map, staff identified where all of the existing service stations are but it was more for point of information and not really an inquiry about locating new service stations. Staff has not received any inquiries in recent memory for locating a new gas station. The last gas station built in the City was the ARCO station built about 10 years ago at the corner of Mission and Central.

Commissioner Vodvarka asked if any fast food restaurants inquired about Montclair at the Las Vegas ICSC show. Director Lustro responded that our Economic Development Coordinator pays visits to a multitude of booths at these conferences. Many are fast food companies, and staff inquires as to whether they're interested in opening in Montclair generally or possibly in a specific center or location. Most recently, we've publicized the availability of the vacant Kentucky Fried Chicken on Central Avenue but there has not been any interest as far as we can tell. Generally, what we're seeing is, along with other restaurants and retailers, most companies are continuing to be cautious because of the economy. Most companies are not jumping into deals as quickly as they did six or eight years ago. A lot more caution is being thrown to the wind and a lot more homework is being done before deals are inked.

City Planner Diaz announced that Dairy Queen/Orange Julius opens tomorrow, September 27th at Mission and Ramona.

Chairman Sahagun adjourned the meeting at 8:11 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary