



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

REGULAR ADJOURNED MEETING
Monday, February 13, 2012
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 Tenice Johnson, Vice Chairman Luis Flores, Commissioner Maynard Lenhert, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

4. APPROVAL OF MINUTES

The minutes of the December 12, 2011 Planning Commission meeting 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 2002-49 'A'
Project Address: 9185 Monte Vista Avenue
Project Applicant: Monte Vista Unitarian Universalist
Congregation on behalf of AT&T Mobility
Project Planner: Silvia Gutiérrez, Assistant Planner
Request: Conditional Use Permit amendment

- b. PUBLIC HEARING - CASE NUMBER 2011-17
Project Address: 9860 Central Avenue
Project Applicant: Montclair Town Center, LLC on behalf of
Dollargen, LLC
Project Planner: Silvia Gutiérrez, Assistant Planner
Request: Conditional Use Permit

- c. PUBLIC HEARING - CASE NUMBER 2012-1
Project Address: 4110 Holt Boulevard
Project Applicant: John Cataldo
Project Planner: Silvia Gutiérrez, Assistant Planner
Request: Conditional Use Permit

- d. PUBLIC HEARING - CASE NUMBER 2011-16
Project Address: 5445 Olive Street
Project Applicant: Whitt Family Trust
Project Planner: Michael Diaz, City Planner
Request: Variance

- e. PUBLIC HEARING - CASE NUMBER 2012-2
Project Address: 5445 Olive Street
Project Applicant: Whitt Family Trust
Project Planner: Michael Diaz, City Planner
Request: Conditional Use Permit

7. INFORMATION ITEMS

Although the Planning Commission is prohibited from taking action on or discussing items not on the posted agenda, a member of the Planning Commission may ask for information, request a report back or to place a matter of business on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly report

on his or her own activities, provided the foregoing are related to, or within the jurisdiction of, the Planning Commission.

8. PUBLIC INSPECTION OF MATERIALS

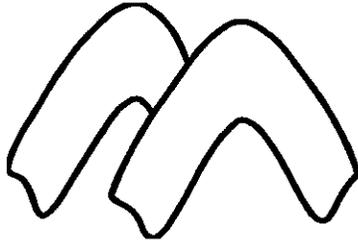
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of February 27, 2012 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 February 9, 2012.



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 02/13/12

AGENDA ITEM 6.a

Case No.: 2002-49 'A'

Application: CUP Amendment to expand an existing wireless telecommunications facility

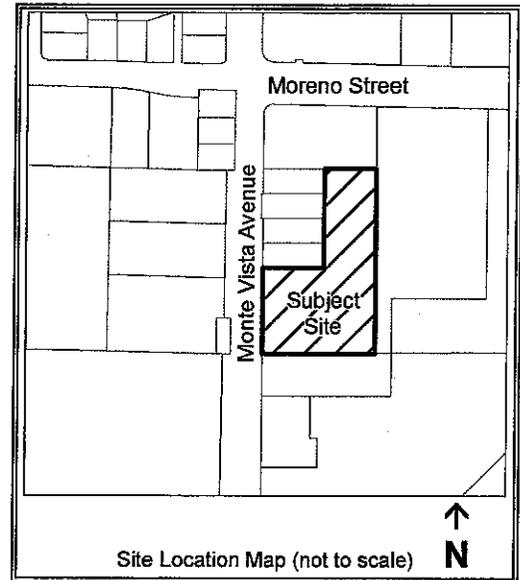
Applicant/Property Owner: Monte Vista Unitarian Universalist Congregation

General Plan: Regional Commercial

Zoning: C-3 (General Commercial)

Project Address: 9185 Monte Vista Avenue

APN: 1008-171-01



EXISTING SITE FEATURES/CONDITIONS

Structures: One-story church building, classrooms & accessory structures

Parking: Paved parking lot on the west side of church building

City/Public Utility Easements: Typical easements

Trees/Significant Vegetation: Typical street trees, numerous mature trees and shrubs, and parking lot landscaping

ADJACENT LAND USE DESIGNATIONS AND LAND USES

	General Plan	Zoning	Use of Property
Site	Regional Commercial	C-3 (General Commercial)	One-story church building
North	Regional Commercial	C-3 (General Commercial)	Multi-tenant retail
East	Regional Commercial	C-3 (General Commercial)	Montclair Plaza
South	Regional Commercial	C-3 (General Commercial)	Restaurant
West	Senior Housing & Public/Quasi-Public	R-1 (Single-Family Residential)	Senior Housing

Report on Item Number 6.a

PUBLIC HEARING - CASE NUMBER 2002-49 'A'

APPLICATION TYPE(S)	Conditional Use Permit Amendment
LOCATION OF PROPERTY	9185 Monte Vista Avenue
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	C-3 (General Commercial) per North Montclair Specific Plan
EXISTING LAND USE	Church
ENVIRONMENTAL DETERMINATION	Categorical Exemption - Section 15301 (Existing Facilities)
PROJECT PLANNER	Silvia Gutiérrez

Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) Amendment to upgrade the antennas for an existing wireless carrier (AT&T) at the existing wireless telecommunications facility at the Unitarian Universalist Church property on the east side of Monte Vista Avenue between Moreno Street and South Plaza Lane. The existing wireless telecommunications facility consists of a 70-foot high faux "monopine" antenna structure with two sets of antenna arrays and enclosed ground-mounted equipment cabinets. The existing facility currently supports two wireless communications carriers, AT&T and Sprint PCS. The existing monopine structure is located at the rear (north side) of the property behind the existing church building.

The proposed amendment would allow AT&T to replace its existing six antennas with 12 new antennas capable of handling its new 4G LTE (Long Term Evolution) wireless phone service. No increase in the height of the monopine antenna support structure, or increase in the size of the existing ground lease area is proposed with this amendment. Copies of the site plan, equipment layout, and "tree" elevations are included in the Commission's packet for reference.

Background

- The existing wireless telecommunications facility is located within a ground lease area of the property, approximately 600 square feet in size, behind and north of the church sanctuary. The area north of the monopine structure is currently undeveloped.
- The original fellowship hall and classrooms were built in 1963, followed by an expansion of the facility in 1971 under Precise Plan of Design (PPD) No. 100-197.

- In 1991, a PPD was approved for a monument sign under Case No. 91-36.
- In 1993, a CUP was approved for a child day care center at the site under Case No. 97-13.
- In 2000, a CUP, PPD, and Variance were approved for expansion of the existing day care center and the construction of a classroom building addition with reduced setbacks under Case No. 2000-3.
- In 2002, the existing wireless telecommunications facility (monopine and support equipment) was approved under Case No. 2002-49.
- The Montclair Municipal Code permits wireless telecommunications facilities, subject to the approval of a Conditional Use Permit (CUP). Ordinance No. 02-829, adding Chapter 11.73 (Wireless Telecommunications Facilities) to the Montclair Municipal Code, became effective in February 2003. The wireless ordinance provides policies and direction, clarifies existing codes, and sets forth reasonable criteria, development standards and standardized conditions of approval upon which staff is using to evaluate this application.

Planning Division Comments

Overall, staff supports AT&T's proposed upgrade of its existing antenna array to add LTE technology for its wireless network service. The proposal meets the intent and requirements of the City's wireless ordinance regarding wireless telecommunications facilities within the City. The proposed amendment does not increase the height of the monopine or require any significant site changes, including removal of any existing landscaping. All additional and/or new ground-mounted equipment will be contained within the existing equipment enclosure.

The added antennas do not adversely impact the shape and appearance of the existing monopine nor require any increase in the existing ground lease area. The existing monopine is in generally good condition at this point, but staff has added conditions to the project that are intended to ensure that the new antenna panels are properly screened and/or camouflaged, and that the monopine is maintained in good condition at all times.

Conditional Use Permit Findings

Staff finds the request to amend the existing CUP for the existing wireless telecommunications facility to be consistent with the Montclair Municipal Code and believes the necessary findings for granting a CUP Amendment can be made as follows:

- A. The proposed upgrade modification of the existing wireless telecommunications facility is essential or desirable to the public convenience and public welfare in

that the proposed antenna upgrades will significantly improve communications services for residents, businesses, visitors, and commuters.

- B. That granting of this amendment will not be materially detrimental to the public welfare and to other property in the vicinity. The existing facility is located in a commercial area of the City, is set back approximately 220 feet from Monte Vista Avenue, and has operated without significant issue since it was constructed. The proposed amendment does not alter the existing facility in any significant manner.
- C. The proposed amendment to the existing wireless telecommunications facility does not alter the basic operation of the facility nor requires any changes to the site that are in conflict with applicable zoning principles, standards, or practices. The proposal is consistent with the City policies, which highly encourage the co-location of multiple telecommunication carriers at single wireless telecommunications facilities. The location, height, operation, and appearance of the existing facility will remain virtually unchanged by the proposed amendment.
- D. The proposed amendment for the existing wireless telecommunications facility is not contrary to the objectives of any part of the adopted General Plan. The existing facility will be enhanced with new technology to increase emergency preparedness, and advance public convenience and communication.

Wireless Telecommunications Facility Findings

Staff further finds the proposed wireless telecommunications facility to be consistent with Chapter 11.73 of the Montclair Municipal Code, and believes the necessary findings for allowing the establishment of such a facility can be made as follows:

- A. There is adequate space on the property for the wireless telecommunications facility. The proposed upgrade in the number and type of antennas at the existing facility does not conflict with existing buildings or other improvements on the property or reduce required parking or landscaping or otherwise compromise applicable development standards from what was previously approved.
- B. The proposed upgrade in the number and type of antennas will not affect the design and placement of the existing wireless telecommunications facility or adversely impact the use of the property, buildings and structures located on the property or the surrounding area or neighborhood. The existing facility is designed for multiple carriers and to accommodate the requested number of antennas.
- C. The proposed upgrade for one of the existing wireless carriers is consistent with the provisions of Chapter 11.73 and complies with all other applicable requirements of Title 11 of the Montclair Municipal Code. The proposed updated antennas will be screened/camouflaged in a manner which ties them into the overall design of the existing monopine.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on February 3, 2012. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding the proposal.

Environmental Assessment

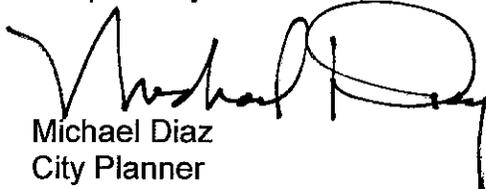
The project qualifies as a Class 1 exemption under Section 15301 of the State CEQA Guidelines, which exempts projects involving little to no expansion of existing structures or uses. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which covers infill projects in significantly developed areas.
- B. Move to approve a Conditional Use Permit Amendment under Case No. 2002-49 'A,' subject to making the required findings and the conditions as described in attached Resolution Number 12-1753.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2002-49 'A'

RESOLUTION NUMBER 12-1753

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MONTCLAIR APPROVING A
CONDITIONAL USE PERMIT AMENDMENT UNDER
CASE NO. 2002-49 'A' TO ALLOW AN ANTENNA
UPGRADE AT AN EXISTING WIRELESS
TELECOMMUNICATIONS FACILITY LOCATED IN
THE C-3 (GENERAL COMMERCIAL) ZONING
DISTRICT 9185 MONTE VISTA AVENUE
(APN 1008-171-12)**

A. Recitals.

WHEREAS, on December 20, 2011, the Monte Vista Unitarian Congregation, LLC, initiated an application for a Conditional Use Permit (CUP) Amendment to allow the upgrade of antennas related to one of the existing wireless carriers utilizing the existing wireless telecommunications facility at 9185 Monte Vista Avenue; and

WHEREAS, Chapter 11.73 of the Montclair Municipal Code, governs the development of wireless telecommunications facilities within the City and provides policies and sets forth criteria, development standards and standardized conditions of approval upon which to evaluate this application; and

WHEREAS, the existing wireless telecommunications facility on the subject site was approved in 2002 under Case No. 2002-49; and

WHEREAS, the existing wireless telecommunications facility consists of one (1), 70-foot high "monopine" antenna support structure and a 600 square-foot ground lease equipment area; and

WHEREAS, AT&T is one of two existing wireless carriers on the subject monopine, and is desiring to upgrade its antennas and support equipment; and

WHEREAS, the proposed improvements by AT&T are intended to enhance services to its local customers by increasing signal strength and minimizing dropped calls; and

WHEREAS, staff has determined that the proposal meets the intent and requirements of the ordinance for co-location by multiple carriers and the applicable development standards of the C-3 (General Commercial) zoning district; and

WHEREAS, Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301 (Existing Facilities) because the proposed

amendment is for equipment on an approved wireless telecommunications facility. In addition, there is no substantial evidence that the project may have a significant effect on the environment; and

WHEREAS, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; and

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

WHEREAS, on February 13, 2012, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP Amendment were heard, and said CUP Amendment 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 13, 2012, including written and oral staff reports, together with public testimony, the Commission hereby finds as follows:

Conditional Use Permit Findings

- A. The proposed upgrade modification of the existing wireless telecommunications facility is essential or desirable to the public convenience and public welfare in that the proposed antenna upgrades will significantly improve communications services for residents, businesses, visitors, and commuters.
- B. That granting of this amendment will not be materially detrimental to the public welfare and to other property in the vicinity. The existing facility is located in a commercial area of the City, is set back approximately 220 feet from Monte Vista Avenue, and has operated without significant issue since it was constructed. The proposed amendment does not alter the existing facility in any significant manner.
- C. The proposed amendment to the existing wireless telecommunications facility does not alter the basic operation of the facility nor requires any

changes to the site that are in conflict with applicable zoning principles, standards, or practices. The proposal is consistent with the City policies which highly encourage the co-location of multiple telecommunications carriers at single wireless telecommunications facilities. The location, height, operation, and appearance of the existing facility will remain virtually unchanged by the proposed amendment.

- D. The proposed amendment for the existing wireless telecommunications facility is not contrary to the objectives of any part of the adopted General Plan. The existing facility will be enhanced with new technology to increase emergency preparedness, and advance public convenience and communication.

Wireless Telecommunications Facility Findings

- A. There is adequate space on the property for the wireless telecommunications facility. The proposed upgrade in the number and type of antennas at the existing facility does not conflict with existing buildings or other improvements on the property, or reduce required parking or landscaping, or otherwise compromise applicable development standards from what was previously approved.
 - B. The proposed upgrade in the number and type of antennas will not affect the design and placement of the existing wireless telecommunications facility, or adversely impact the use of the property, buildings and structures located on the property or the surrounding area or neighborhood. The existing facility is designed for multiple carriers and to accommodate the requested number of antennas.
 - C. The proposed upgrade for one of the existing wireless carriers is consistent with the provisions of Chapter 11.73 and complies with all other applicable requirements of Title 11 of the Montclair Municipal Code. The proposed updated antennas will be screened/camouflaged in a manner which ties them into the overall design of the existing monopine.
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.

Planning

- 1. This approval is for a Conditional Use Permit (CUP) Amendment to upgrade the antennas for an existing wireless carrier at the existing wireless telecommunications facility at the Unitarian Universalist Church property at 9185 Monte Vista Avenue. The approved amendment allows AT&T to replace its existing six antennas with 12 new antennas capable of handling its new 4G LTE (Long Term Evolution) wireless phone service.

No increase in the height of the monopine antenna support structure, or increase in the size of the existing ground lease area is approved with this amendment.

2. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$411.00, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
3. All applicable conditions of approval for the existing wireless telecommunications facility under Case No. 2002-49, except as specifically amended by this approval, shall remain valid and in force.
4. This Conditional Use Permit (CUP) Amendment 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 or a time extension for such CUP Amendment granted, then the approval shall automatically expire without further City action.
5. All new or replacement ground-mounted equipment associated with this amendment request shall be located within the existing equipment enclosure approved for the existing wireless telecommunications facility.
6. AT&T Wireless is considered the primary lessee with a ground lease of a certain portion of the property and certain rights for access to the facility for the purpose of constructing and performing regular and emergency maintenance of the wireless facilities. However, the landlord shall be held responsible for the overall upkeep and appearance of the monopine, all support facilities, fences, trees and other landscaping on the property.
7. All future changes and modifications to the approved facility, such as the addition of carriers, new panels, whip, microwave dish, omnidirectional antenna, GPS or test antennas, shall require prior review and approval by the City.

8. Prior to issuance of a building permit, the applicant shall submit the following:
 - a. Detailed shop drawings and/or plans for the new antennas to replace existing antennas on the existing monopine for final design review and approval by the City Planner. Drawings/plans shall incorporate or address the following elements:
 - i. All antennas shall be covered with "antenna socks" that match the approved foliage color.
 - ii. All stand-off-mounts and support pipe mounts shall be concealed behind antennas and painted a darker shade of green with a "flat" paint finish to reduce reflection and visibility of the mounting.
 - b. A complete set of plans to the Montclair Police Department to determine the compatibility of the proposal with the City's public safety radio frequencies and services. Building permits shall not be issued unless it is determined that the proposal will not impact the City's radio communications systems.
 - c. A copy of the lease with the property owner and/or the primary lessee. If the lease is extended or terminated, notice and evidence thereof shall be provided to the Director. Upon termination or expiration of the lease, this CUP amendment for the AT&T facility shall become null and void and the facility shall be completely removed within 90 days.
9. The applicant shall submit to the City certification of continued use of the approved facility on an annual basis at the time of business license renewal for as long as the facility remains in operation. The certification shall indicate that the facility is operating as approved and that the facility complies with the most current FCC safety standards. Facilities that are no longer in operation shall be completely removed within 90 days after the date of cessation of operation.
10. If no annual certification is provided, the CUP for the facility may be revoked by the Director of Community Development. Prior to revoking a permit, the Director shall provide the owners of record written notice of their failure to provide the annual certification and an opportunity for a hearing.
11. The applicant and/or property owner shall be responsible for ensuring that the existing wireless telecommunication facility, including the monopine antenna support structure, individual antennas, artificial foliage and branches, building, ground equipment, fencing, lighting, landscaping, and all improvements are maintained in good working order and appearance

at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on any screen walls, or adjacent buildings or structures shall be removed immediately by the applicant/property owner upon notification by the City.

12. No advertising, signs or lighting shall be incorporated or attached to the antenna array or support facilities, except as required by the City's Building Division or federal regulations.
13. All electrical and utility connections serving the facility shall be placed underground in accordance with the requirements of the Montclair Municipal Code.
14. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the equipment shelter, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the City Planner.
15. Notice of change of ownership of the wireless communications facility shall be provided in writing to the Director within 30 days of said change.
16. Within 90 days of commencement of operations, applicant shall provide a preliminary report and field report prepared by a qualified engineer that shows the operation of the facility to be in conformance with the standards established by ANSI and IEEE for safe human exposure to electromagnetic fields (EMF) and radio frequency radiation (RFR).
17. If, as a result of the operation of the subject facility, existing or future residential, commercial or industrial properties near the site experience interference difficulties with electronic equipment (such as radios, televisions, telephones, home computers, etc.) or if public safety personnel experience interference with communications systems, the applicant shall be solely and fully responsible to correct any and all problems upon proof of such interference. It is recommended the Montclair Police and Fire Departments be contacted prior to the operation of this wireless facility to ensure that no such interference exists.
18. The permit may be modified or revoked for failure to abide by the conditions contained herein, or in the event the use is determined to be a nuisance to surrounding properties, businesses, or community at-large.
19. To ensure compliance with the conditions of approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspection.

20. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or, in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.
21. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval, be 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.

Building

22. Prior to the issuance of building permits, the applicant shall submit four complete sets of plans for the project, including building elevations, colors and materials, electrical, mechanical, and structural drawings for review and approval by the Building and Planning Divisions.
23. Any landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
24. Prior to a final inspection, the applicant shall submit to the Building Division electronic images of all plans and records, which are submitted for the purpose of obtaining a building permit, to the Building Division. Electronic images shall meet the City's Electronic Archiving Policy.

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

APPROVED AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

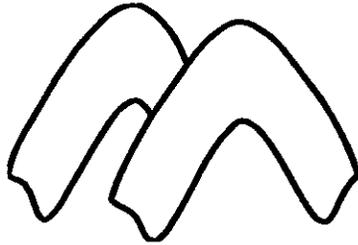
ATTEST: _____
Steve Lustro, Secretary

I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution No. 12-1753 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 13th day of February, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 02/13/12

AGENDA ITEM 6.b

Case No.: 2011-17

Application: Conditional Use Permit

Property Owner/Applicant: Montclair Town Center LLC

General Plan: General Commercial

Zoning: C-3 (General Commercial)

Project Address: 9860 Central Avenue

APN: 1010-041-80

EXISTING SITE FEATURES/CONDITIONS

Structures: Existing multi-tenant commercial center

Parking: 684 parking stalls, including 21 disabled-accessible spaces

City/Public Utility Easements: None

Trees/Significant Vegetation: No significant or heritage trees

ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Actual Use of Property</i>
Site	General Commercial	C-3 (General Commercial)	Multi-tenant commercial center
North	General Commercial	C-2 (Restricted Commercial)	Multi-tenant commercial center Thrifty Gas Station
East	Neighborhood Commercial	C-2 (Restricted Commercial) and R-1 (Single-Family Residential)	7-11 Convenience Store and single-family residences
South	Low Density Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Montclair Town Center
West	Medium Density Residential (8-14 du/ac) and Senior Housing	R-3 (Multiple-Family Residential)	Montclair Towncenter townhomes and Heritage Park Senior Housing



Report on Item Number 6.b

PUBLIC HEARING - CASE NUMBER 2011-17

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Montclair Town Center LLC on behalf of Dolgen California LLC
LOCATION OF PROPERTY	9860 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
EXISTING ZONE DISTRICT	C-3 (General Commercial)
EXISTING LAND USE	Multi-tenant commercial center (vacant tenant space)
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT COORDINATOR	Silvia Gutiérrez

Project Description

The applicants are requesting approval of a Conditional Use Permit (CUP) to allow the off-premises sale of beer and wine in conjunction with a new Dollar General retail store located at the above address in the Montclair Town Center. If approved, the store would be able to obtain a Type 20 off-sale license from the State of California Department of Alcoholic Beverage Control (ABC) to sell pre-packaged beer and wine products. The store is slated to open in late March 2012. The proposed store hours are 6:00 a.m. to 11:00 p.m., seven days per week.

The proposed display area for beer and wine products would be limited to the northeast corner of the store's sales floor area and nine feet away from the nearest checkout stand as shown on the submitted floor plan. The display area would consist of shelving against the north and east walls and the easternmost four (4) upright beverage coolers located against the north wall.

Background

- Dollar General Corporation is the nation's largest "small-box" discount retailer with nearly 10,000 locations in 38 states. Dollar General's store model is to provide selected quality brands of general merchandise at lower prices to its customers in neighborhood-sized stores. Dollar General plans to open 50 stores and a distribution center in California. The first store will open in Montclair with other new stores to follow in Victorville, Colton and Palmdale.
- The existing lease space to be occupied by Dollar General is approximately 16,092 square feet, which includes a sales floor area of approximately 12,100 square feet. The demised tenant space also includes storage and a receiving area at the rear. At the time of preparation of this agenda report, tenant improvements were nearly complete.

- The subject site is located in the C-3 (General Commercial) zoning district.
- Chapter 11.42.050.B of the Montclair Municipal Code requires a CUP for a business requesting the sale of alcoholic beverages for off-site consumption.
- ABC Type 20 License - "OFF SALE GENERAL" - authorizes the sale of beer for consumption off the premises. Minors are allowed on the premises.

Planning Division Comments

Staff finds the proposed request to allow the sale of pre-packaged beer and wine products for off-premise consumption at the new Dollar General store to be appropriate, as the sale of such products would represent a small and incidental part of the overall general merchandise – including food, beverage, and other sundry items offered by the store. The sale of beer and wine at Dollar General is not intended to be a major portion of the store's business, but does make the store more attractive as a convenient one-stop place of business where customers may obtain a wider variety of goods.

As proposed, the display area devoted to beer and wine products would constitute less than five percent of the total sales floor area. Given the above limitation, the proposed ABC license would not alter the fundamental nature of the store, or adversely impact the center or surrounding community. Moreover, the ability to offer beer and wine products to its customers allows the store to be competitive with other retailers in the area that offer similar products. Staff is recommending the inclusion of the typical conditions of approval associated with requests for off-sale licenses.

The proposed sale of beer and wine products at the store does not require any site changes to the already developed shopping center in which the store is located. There is ample parking in the center, and several accessibility improvements (parking and ramps) were recently completed. The center is also well maintained and is home to a mix of uses, none of which would be in obvious conflict with the proposed sale of pre-packaged beer and wine products as part of a larger retail store. Historically, a grocery store has been a primary tenant in the center.

According to the Montclair Police Department (MPD) there are no reported problems with the existing center and they do not anticipate any negative impacts as a result of the addition of the new retail store or its proposed ABC license. However, the Police Department has recommended a condition of approval for a video surveillance system to provide coverage of the counter/cashier area, the entry/exit doors, and the area where alcoholic beverages are stored. In addition, MPD recommends that the storefront windows and doors remain free of banners, posters, signs or other objects that would obscure the view in or out of the business. Staff concurs with MPD's recommendations and has included appropriate conditions of approval.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP request to sell pre-packaged beer and wine products for off-site consumption can be made, as follows:

- A. The proposed sale of pre-packaged beer and wine products at the subject site is essential or desirable to the public convenience and public welfare, in that it offers customers of the store a safe and convenient location to purchase packaged alcoholic beverages in conjunction with other food, soft drinks/beverages, and household products.
- B. The granting of the CUP to allow the off-premises sale of beer and wine (ABC (Type 20 license) will not be materially detrimental to the public welfare and to other property in the vicinity. The sale of beer and wine products would only represent a minor portion of the store's business and floor area for display of products. Moreover, the center in which the retail store is located is well maintained and is home to a mix of uses, none of which would be in obvious conflict with the proposed limited sale of pre-packaged beer and wine products within a larger retail store.
- C. That such use in such location conforms to good zoning practice, in that the Montclair Municipal Code permits the off-premises sale of alcoholic beverages (beer, wine, and distilled spirits) in the C-3 (General Commercial) zoning district, subject to approval of a CUP. The subject retail center is well-maintained with ample on-site parking.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages the establishment of a wide variety of retail and service uses that provide and support the needs and desires of residents within the community. The proposal allows the store to provide a convenient location for residents to obtain essential goods and products, including beer and wine for off-site consumption.

Department of Alcoholic Beverage Control (ABC) Finding

Staff finds the proposed Type 20 ABC license at the subject site is desirable to the public convenience and necessity. The project site is located within Census Tract Number 0002.02, which allows up to four (4) ABC licenses, three (3) which have been issued. The proposed Type 20 off-premises license for Dollar General allows for the sale of beer and wine products within a limited area of the store that does not significantly alter the fundamental character of the medium-sized general merchandise retailer. As such, residents are provided another convenient location to obtain beer and wine, if they so desire, while shopping for other goods and services at the same store.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on February 3, 2012. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, staff received one (1) comment via telephone from a nearby property owner who felt that there were already plenty of sites in the area to buy beer and wine and that another location was unnecessary.

Environmental Assessment

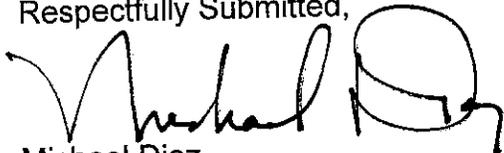
The Planning Division has determined this project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because the proposed CUP will have a negligible impact on the primary use of the property. Moreover, there is no substantial evidence the project will pose a potential significant impact to the environment.

Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301.
- B. Move to approve a Conditional Use Permit under Case No. 2011-17 to allow the applicant to obtain a Type 20 off-sale license from the State of California Department of Alcoholic Beverage Control (ABC) in order to sell pre-packaged beer and wine products at the Dollar General retail store located at 9860 Central Avenue, within the C-3 (General Commercial) zoning district, as described in the staff report and per the submitted plans, subject to the conditions of approval in attached Resolution 12-1756.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

- c: Brad Umansky, Progressive Real Estate Partners, 3296 Guasti Road #110, Ontario, CA 91761
Steve Rawlings, Rawlings Company, P.O. Box 96, Murrieta, CA 92564

Z:\COMMDEVISG\CASES\2011-17 PC REPORT

RESOLUTION NO. 12-1756

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2011-17 TO ALLOW THE OFF-PREMISES SALE OF BEER AND WINE IN THE C-3 (GENERAL COMMERCIAL) ZONE AT 9860 CENTRAL AVENUE AND AUTHORIZE THE APPLICANT TO OBTAIN A TYPE 20 ABC LICENSE (OFF-SALE BEER AND WINE) (APN 1010-041-80)

A. Recitals.

WHEREAS, on December 21, 2011 an application was submitted by Montclair Town Center LLC (property owner) on behalf of Dolgen California LLC requesting approval of a Conditional Use Permit (CUP) to allow an ABC Type 20 license (Off-Sale Beer and Wine) in conjunction with a proposed general merchandise store at 9860 Central Avenue; and

WHEREAS, the subject property is located in the C-3 (General Commercial) zoning district; and

WHEREAS, Chapter 11.42.050.B of the Montclair Municipal Code requires a CUP for a business enterprise to engage in sale of alcoholic beverages for off-premise consumption; and

WHEREAS, staff has determined the proposed off-premises sale of beer and wine to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1). The project qualifies for the exemption because the CUP will have a negligible impact on the primary use of the subject tenant space as a retail store or the multi-tenant commercial center as a whole, and requires no physical expansion of the existing building beyond that which currently exists. Moreover, there is no substantial evidence the project will pose a potential significant impact to the environment; and

WHEREAS, a Notice of Public Hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on February 13, 2012, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP were heard, and said CUP was fully studied.

B. Resolution.

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

1. This Commission hereby specifically finds that all the facts set forth in Part A ("Recitals") of this Resolution are true and correct.
2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced public hearing on February 13, 2012, including written and oral staff reports, together with public testimony, the Commission hereby finds as follows:
 - a. The proposed sale of pre-packaged beer and wine products at the subject site is essential or desirable to the public convenience and public welfare, in that it offers customers of the store a safe and convenient location to purchase packaged alcoholic beverages in conjunction with other food, soft drinks/beverages, and household products.
 - b. The granting of the CUP to allow the off-premises sale of beer and wine (ABC (Type 20 license) will not be materially detrimental to the public welfare and to other property in the vicinity. The sale of beer and wine products would only represent a minor portion of the store's business and floor area for display of products. Moreover, the center in which the retail store is located is well maintained and is home to a mix of uses, none of which would be in obvious conflict with the proposed limited sale of pre-packaged beer and wine products within a larger retail store.
 - c. That such use in such location conforms to good zoning practice, in that the Montclair Municipal Code permits the off-premises sale of alcoholic beverages (beer, wine, and distilled spirits) in the C-3 (General Commercial) zoning district, subject to approval of a CUP. The subject retail center is well-maintained with ample on-site parking.
 - d. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages the establishment of a wide variety of retail and service uses that provide and support the needs and desires of residents within the community. The proposal allows the store to provide a convenient location for residents to obtain essential goods and products, including beer and wine for off-site consumption.

Department of Alcoholic Beverage Control (ABC) Finding

- e. The proposed Type 20 ABC license at the subject site is desirable to the public convenience and necessity. The project site is located within Census Tract Number 0002.02, which allows up to four (4) ABC licenses, three (3) of which have been issued. The proposed Type 20 off-premises license for Dollar General allows for the sale of beer and wine products within a limited area of the store that does not significantly alter fundamental character of the medium-sized general merchandise retailer. As such, residents are provided another convenient location to obtain beer and wine, if they so desire, while shopping for other goods and services at the same store.
3. Planning Division staff has determined the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because the proposed CUP will have a negligible impact on the primary use of the property. Moreover, there is no substantial evidence the project will pose a potential significant impact to the environment.
4. Based upon the findings and conclusions set forth in paragraphs 1, 2, and 3, above, the Commission hereby approves the application subject to the following conditions set forth below:

Planning

1. Approval of this Conditional Use Permit (CUP) is for the off-premises sale of beer and wine at 9860 Central Avenue, as described in the staff report and depicted on approved plans on file with the Montclair Planning Division. Granting of the CUP shall authorize the applicant to obtain a Type 20 off-sale license from the California State Department of Alcoholic Beverage Control (ABC) for said location.
2. The approved Type 20 off-sale license shall allow the incidental sale of packaged beer and wine during regular store hours, 6:00 a.m. to 11:00 p.m., 7 days per week, as limited to the display area described in the staff report and depicted on approved plans.
3. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a

Notice of Exemption as required by the California Environmental Quality Act (CEQA).

- b. A check in the amount of \$360.60, payable to "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
4. Any substantial changes to the approved use, including an increase in the floor area dedicated to the display of alcoholic beverages, shall require prior City review and approval.
5. Approval of this CUP shall not waive compliance with any regulations as set forth in the California Building Code, City Ordinances, San Bernardino County Health Department, and/or California State Department of Alcoholic Beverage Control (ABC).
6. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation 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 CUP expiration date.
7. This decision or any aspect of this decision may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
8. The applicant/property owner shall submit to the Planning Division a signed copy of the approval letter in which he/she acknowledges acceptance of the conditions of approval within 15 days from the date of approval by the Planning Commission. Failure to submit said acknowledgment shall result in delay of a final inspection and issuance of a Certificate of Occupancy.
9. A copy of the CUP approval letter and resolution with all conditions of approval related to the application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy, and shall be made available to law enforcement officers, and/or fire, building, and code enforcement inspectors in the course of conducting inspections of said premises.
10. The applicant and/or property owner shall ensure that a copy of the Planning Commission resolution or approval letter, including all conditions

of approval, be 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.

11. No outdoor display areas for merchandise are authorized as part of this approval. Any temporary promotional outdoor displays shall be subject to a separate Promotional Outdoor Sale Permit pursuant to Chapter 11.68 of the Montclair Municipal Code.
12. If the applicant intends to utilize shopping carts in conjunction with its operation of the retail store, the following plans, as applicable, shall be submitted to the Planning and Building Divisions and approved to the satisfaction of the Director of Community Development prior to issuance of a Certificate of Occupancy:
 - a. Plans for an electronic cart containment system in the parking lot, including a detailed site plan illustrating the location of embedded loop sensors.
 - b. Design and location for on-site cart corrals.
 - c. Plans for the placement of bollards or similar devices at the front of the demised tenant space to prohibit shopping carts from being taken into the parking lot.
13. Shopping carts shall not be stored or stacked on the exterior of the building during regular business hours. Further, shopping carts shall be stored within the demised tenant space during non-business hours.
14. The applicant shall comply with the following operational requirements related to the approval of this CUP:
 - a. Any changes to the physical layout, expansion, or relocation of the primary display areas to those depicted in the site plan shall require prior City review and approval.
 - b. No display of alcoholic beverages shall be made from an ice tub.
 - c. The sale of single containers of beer or malt beverages shall be prohibited. No beer or malt beverages shall be sold in less than manufacturer-prepackaged four-pack quantities. Wine may be sold in manufacturer-prepackaged, multi-unit quantities. Wine coolers and beer coolers shall not be sold in less than four-pack quantities. No miniatures of any type shall be sold individually.
 - d. The on-premises consumption of alcohol beverages is expressly prohibited, whether inside the store or in the parking lot. Applicant

shall post notification of this limitation within plain view of employees and customers.

- e. No signs (temporary or permanent) or banners, advertising the availability of alcoholic beverages, "specials," or any other similar promotion shall be displayed or allowed on exterior walls or storefront windows/doors of the store.
 - f. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase at the site.
15. No merchandise displays facing the interior or exterior of the store, boxes, racks, gondolas, shelving, cabinets, shopping baskets and carts, or the like shall be placed directly in front of the storefront windows and main entry/exit doors.
 16. The premises shall have no coin operated amusements, such as jukeboxes, video games, small carousel rides or similar riding machines, with the exception of official State lottery machines.
 17. No exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be allowed.
 18. No public telephones, vending machines, propane tank cages, children's rides, or other coin- or card-operated machines shall be located on the exterior of the building.
 19. The applicant shall install and maintain signs stating "No Loitering or Consumption of Alcoholic Beverages on the Premises" on the exterior of the building and within all parking areas.
 20. The following mandatory conditions are hereby imposed as part of the CUP approval for the off-premises sale of beer and wine:
 - a. The premises shall be maintained at all times in a neat and orderly manner.
 - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.
 - c. No beer, wine, or distilled spirits shall be sold, dispensed or offered for consumption outside of the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission. Applicant shall post notification of this limitation in English and Spanish within plain view of employees and customers.

- d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as to not cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
- e. The permittee shall comply with all California Department of Alcoholic Beverage Control (ABC) statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
- f. The permittee shall acknowledge and agree the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e), above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:
 - i. The specific land use requested by the permittee and authorized by the City;
 - ii. The compatibility of permittee's authorized land use with adjacent land uses;
 - iii. The welfare and safety of the general public within the City.

In view of such deleterious secondary effects, permittee shall acknowledge the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a State statute, rule or regulation concerning the sale to or consumption of beer and wine by a minor.

- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
21. This permit may be modified or revoked for failure to abide by these conditions or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.

22. The applicant shall agree to defend, at its sole expense, any action brought against the city, its agents, officers, or employees because of the issuance of this approval; or, in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of his obligations under this condition.

Building

23. Provide a floor plan of the affected display area shelving depicting adequate aisle width for egress as well as accessibility.
24. Provide two sets of structural calculations for any shelving exceeding 8'-0" in height.

Police

25. Install a video surveillance system capable of storing the most recent 72 hours of video footage of the counter/cashier area, the entry/exit doors, and the area where alcoholic beverages are stored. Plans for the installation of said video surveillance system shall be inspected, reviewed, and approved by the Montclair Police Department when said system is completed and operational.
26. The applicant shall maintain visibility of the store's interior by limiting the placement of banners, posters, signs or other objects on storefront windows and doors so as not to exceed 25% coverage pursuant to Section 11.72.340 of the Montclair Municipal Code. Further, no tinting or other opaque material that would obscure or prohibit clear visibility into the premises from the outside shall be placed upon storefront windows/doors.

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

APPROVED AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Steve Lustro, Secretary

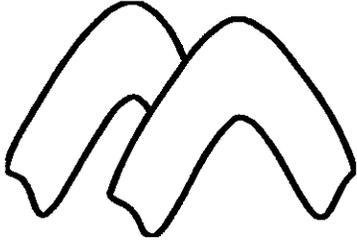
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 13th day of February, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\2011-17\PCRESO



**CITY OF MONTCLAIR
PLANNING COMMISSION**

MEETING DATE: 02/13/12

AGENDA ITEM 6.c

Case No.: 2012-1

Application: Conditional Use Permit

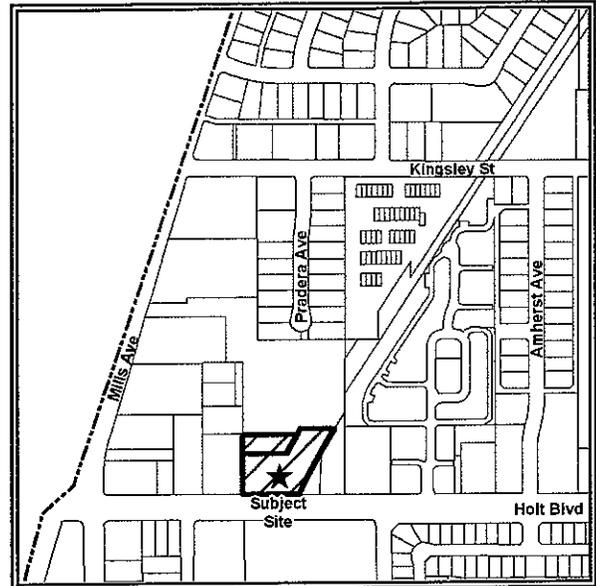
Property Owner/Applicant: Holt-Montclair
Capital Investors

General Plan: Business Park

Zoning: "Business Park" per Holt Boulevard
Specific Plan

Project Address: 4110 Holt Boulevard

APN: 1009-521-52 & 1009-521-58



EXISTING SITE FEATURES/CONDITIONS

Structures: Existing commercial building (recently remodeled)

Parking: 38 parking spaces (including two disabled-accessible spaces)

City/Public Utility Easements: None

Trees/Significant Vegetation: No significant or heritage trees

ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	Business Park	"Business Park" Holt Boulevard Specific Plan	Small Commercial Center
North	Planned Development	"R-3 (11-du/ac)" Holt Boulevard Specific Plan	Multiple Family Residential
East	Planned Development	"R-3 (11-du/ac)" Holt Boulevard Specific Plan	Tire shop
South	Business Park	"Business Park" Holt Boulevard Specific Plan	Church
West	Business Park	"Business Park" Holt Boulevard Specific Plan	Cardenas Market and vacant property

Report on Item Number 6.c

PUBLIC HEARING – CASE NUMBER 2012-1

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Holt-Montclair Capital Investors
LOCATION OF PROPERTY	4110 Holt Boulevard
GENERAL PLAN DESIGNATION	Business Park
ZONING DESIGNATION	"Business Park" per Holt Boulevard Specific Plan
EXISTING LAND USE	Commercial Building
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Michael Diaz

Project Proposal

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a personal training gym at the above-referenced location. The name of the gym would be "Punch It Up Fitness" and would be the second location operated by the business owner. The proposed gym would occupy the entire building, which is approximately 12,300 square feet in overall area. Public entry into the facility would be from the rear (north) side of the building nearest the parking lot, through a new storefront door. A receptionist area at the entry is proposed.

The building, most recently split into two lease spaces, would be modified to create a single tenant space, the majority of which would be used for gym activities, including weight machines/equipment, a free weight lifting area, treadmills, a boxing ring, and open workout areas. The balance of the lease space consists of offices (along the east side of the building), men and women's restrooms, new showers/lockers, and storage rooms at the rear (north), as depicted on the plans submitted with the application and provided in the Commission packets.

The proposed hours of operation are 6:00 a.m. to 9:00 p.m. daily. Certified staff trainers would be on duty to assist members with their personal workout regimens. Members are charged a monthly fee and are most likely to be from the local area. The gym would be open to both males and females 12 years and up. The use of the boxing ring is intended for cardio workouts and some self-defense training. No tournaments or competitions will occur at the site.

Background

- The existing building was constructed in 1960, but extensively renovated in 2008-09 pursuant to Case No. 2008-25.

- The subject property is located on the north side of Holt Boulevard immediately west of and abutting the San Antonio Wash. The triangular-shaped lot is developed with a single-story, 12,300 square-foot building and parking.
- On April 13, 2009, the Planning Commission approved a Conditional Use Permit (Case No. 2009-5) to allow a thrift store business at the subject property. The name of the business is Shop Mart Thrift, and based on the store owner's original proposal and request, the business was limited to the sale of clothing items and related accessories.
- Pursuant to the Holt Boulevard Specific Plan, gym uses are allowed within the Business Park zoning district of the Plan, subject to the approval of a Conditional Use Permit (CUP).

Planning Division Comments

Staff believes the proposed use is appropriate for the site as it is consistent with the uses allowed, subject to an approved CUP within the General Plan and Holt Boulevard Specific Plan land use designations. The use, as proposed, is relatively low key and all activities will occur indoors. The number of persons coming to the gym will vary throughout the day although there may be some peak times such as early morning or after work (e.g., 6:00 p.m.) However, the number of members utilizing the gym tends to work itself out in time as most members with flexibility in their schedules adjust their workout times to use the gym when it is less crowded. The proposed hours of operation gives members an adequate time frame to train at the gym.

Since the use does not share the property with another use, there will be no impacts to other businesses. The property is adequately separated from other uses in the area by the San Antonio Wash on the east, vacant property on the west, and a block wall between it and the adjacent multifamily development to the north. Because the existing parking lot will be for the sole use of the gym and no tournaments or competitions will be held on-site, the chance of any disruption to surrounding uses is low.

The property is in good condition overall to accommodate the proposed use. In 2008-09, the property was significantly improved, including the remodel of the existing building and an upgraded parking area. The new use will require minimal changes to the exterior of the building except for the new storefront entry at the rear of the building where a roll-up garage door currently exists. As for the site, conditions of approval have been added to require that the parking lot be restriped (so that lines are visible), and that landscape planters be weeded and renewed where plants have failed.

With respect to parking, the existing parking area provides 38 parking spaces, including two (2) disabled-accessible parking spaces. The lot is fully developed and includes freestanding exterior lights and a covered trash enclosure. The parking lot is behind the building and is secured by an existing wall and fence. Moreover, since the main entry into the facility will be from the rear of the building, there will be regular activity in the lot that can be more easily monitored by the staff. In the evening when the gym is not

open the lot can be fully secured by means of the existing rolling gate across the driveway. A condition of approval requiring the lot be fully secured every evening is included.

Staff visited the applicant's existing gym in Pomona, located in a multi-tenant commercial center, to assess the operation. The time was mid-afternoon and activity at the gym was low, quiet, and had no apparent conflicts with adjacent businesses. The gym staff member was courteous and helpful. Staff believes the proposed gym at the subject site will operate in similar fashion with no significant issues. Finally, staff believes the proposed use would be good for the area overall in that positive activity occurring on the site everyday will discourage or eliminate the potential for illegitimate activities that would otherwise be possible with businesses observing regular daytime hours.

Conditional Use Permit Findings

Staff finds the request to operate a personal training gym to be appropriate and believes the necessary findings for granting a CUP can be made as follows:

- A. The proposed personal training gym is a desirable land use that offers greater opportunities to the public for personal health and fitness within a structured and safe environment.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, as all activities associated with the gym use would be conducted entirely within an enclosed building and the proposed use will have sufficient on-site parking for its clientele and staff members. Moreover, the subject property and use will be adequately separated from other uses in the area by the San Antonio Wash on the east, vacant property on the west, and a block wall between it and the adjacent multifamily development to the north. Because the existing parking lot would be for the sole use of the gym and that no tournaments or competitions will be held on-site, the chance of any disruption to surrounding uses is considered to be low.
- C. That such use in such location conforms to good zoning practice, in that indoor recreational uses are permitted in the "Business Park" land use district of the Holt Boulevard Specific Plan, subject to approval of a CUP. The property is adequately developed with an updated building and improved site that will accommodate the use with minimal impact to adjacent properties.
- D. That such use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the proposed use is consistent with the land use designation of the site by the General Plan. Moreover, the General Plan recognizes the need for a variety of land uses to serve the citizens, including recreational use and services offered by the proposed business.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on February 3, 2012. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Assessment

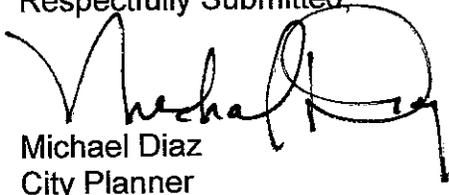
The project qualifies as a Class 1 exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects involving little to no expansion of existing structures or uses. The project does not involve an expansion of the existing structure or a fundamental change in the type of uses permitted by the underlying zoning code. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.

Planning Division Recommendation

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

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301.
2. Move to approve the proposed Conditional Use Permit under Case No. 2012-1, subject to making the required findings and subject to the conditions in attached Resolution Number 12-1755.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2012-1

RESOLUTION NO. 12-1755

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NUMBER 2012-1 TO ALLOW A PERSONAL TRAINING GYM IN THE "BUSINESS PARK" LAND USE DISTRICT OF THE HOLT BOULEVARD SPECIFIC PLAN AT 4110 HOLT BOULEVARD (APN 1009-521-52 & 1009-521-58)

A. Recitals.

WHEREAS, Holt-Montclair Capital Investors, owner of the subject property, filed an application on January 17, 2012 requesting a Conditional Use Permit (CUP) under Case No. 2012-1 to allow a personal training gym use at the subject location; and

WHEREAS, Section IV.B.1.aa. of the Holt Boulevard Specific Plan requires the approval of a CUP for a gym within the "Business Park" land use district of the Plan; and

WHEREAS, this CUP application applies to property located at 4110 Holt Boulevard, an existing 12,300 square-foot, single-story building with an on-site parking area; and

WHEREAS, staff has determined that the application meets the intent and requirements of the Municipal Code for the proposed use and the applicable development standards of the "Business Park" land use district of the Holt Boulevard Specific Plan; and

WHEREAS, The existing building was constructed in 1960, but was extensively renovated in 2008-09 pursuant to Case No. 2008-25; and

WHEREAS, a Notice of Public Hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on February 13, 2012, 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 13, 2012, including written and oral staff reports, together with public testimony, the Commission hereby finds as follows:
 - a. The proposed personal training gym is a desirable land use that offers greater opportunities to the public for personal health and fitness within a structured and safe environment.
 - b. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity; as all activities associated with the gym use would be conducted entirely within an enclosed building and the proposed use will have sufficient on-site parking for its clientele and staff members. Moreover, the subject property and use will be adequately separated from other uses in the area by the San Antonio Wash on the east, vacant property on the west, and a block wall between it and the adjacent multifamily development to the north. Because the existing parking lot will be for the sole use of the gym and that no tournaments or competitions will be held on-site, the chance of any disruption to surrounding uses is considered to be low.
 - c. That such use in such location conforms to good zoning practice, in that indoor recreational uses are permitted in the "Business Park" land use district of the Holt Boulevard Specific Plan, subject to approval of a CUP. The property is adequately developed with an updated building and improved site that will accommodate the use with minimal impact to adjacent properties.
 - d. That such use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the proposed use is consistent with the land use designation of the site by the General Plan. Moreover, the General Plan recognizes the need for a variety of land uses to serve the citizens, including recreational use and services offered by the proposed business.
3. Planning Division staff has determined the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies as a Class 1 exemption under Section 15301 of the State CEQA Guidelines, which exempts projects involving little to no expansion of existing structures or uses. The project does not involve an expansion of the existing structure or a use that is not consistent with those permitted by the applicable

zoning regulations. In addition, there is no substantial evidence that the project may have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs in the staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; and

- C. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3 above, the Commission hereby approves the application, subject to each and every condition set forth below.

Planning

1. This CUP approval is for the operation of a personal training gym and related administrative activities for the business at 4110 Holt Boulevard, as described above in the staff report and depicted on approved plans. Approval of this CUP shall supersede previous conditional use permit approvals for the subject site.
2. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$357.80, payable to the City of Montclair, to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
3. Within 90 days of approval by the Planning Commission, the applicant shall initiate and complete a lot merger to merge the two existing lots comprising the subject site. Contact the Engineering Division at 909/625-9478 for application requirements and fees.
4. This CUP approval shall be valid for six months (180 calendar days) from the date of Planning Commission action. Failure to initiate the approved use and/or improvements prior to the end of the six-month period shall result in the termination of and automatically void the CUP approval. No further notice from the City will be given regarding the project's CUP expiration date.
5. A copy of the signed resolution containing all conditions of approval relating to this application shall be kept within the premises at all times

and shall be made immediately available for viewing to any law enforcement officer, fire, building, or code enforcement inspector in the course of conducting an inspection on said premises.

6. The applicant and/or property owner shall ensure that a copy of the Planning Commission resolution, including all conditions of approval, be reproduced on the first page of the construction drawings submitted for plan check and those distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
7. The activities of the approved gym shall occur indoors and be limited to those uses generally described in the staff report prepared for this project. The floor plan of the gym shall also substantially conform to the proposed floor plan submitted for this application at all times. Any modification, intensification, new or expanded uses, including an increase in the floor area beyond that which is specifically approved with this Conditional Use Permit shall require review and approval by the Planning Commission.
8. Approved hours of operation shall be 6:00 a.m. to 9:00 p.m., seven days per week. A facility manager, 21 years of age or older, shall be on duty at all times when the gym is open for use. The facility manager shall be responsible for ensuring rules of the facility and applicable conditions of approval are enforced.
9. The applicant shall comply with all applicable requirements of the City, County, State, and other responsible agencies.
10. The following activities shall not be approved with the subject use or allowed on the premises:
 - a. Tournaments or competitions;
 - b. Temporary or permanent living quarters;
 - c. Outdoor seating or product display areas for food and/or merchandise;
 - d. Exterior sound systems for music or paging;
 - e. Public telephones, vending machines, collection boxes, children's rides or other coin-operated machines located on the exterior of the site or building;
 - f. Indoor coin-operated amusements or video games, pool tables, darts, or other similar devices at any time.

- g. No outside storage of items of any type, including but not limited to, containers, boxes, and shelving, vehicles, exercise equipment, basketball backboards, etc.
 - h. Cooking equipment and/or a kitchen area intended for the preparation and sale of food items.
11. No loitering at the site shall be permitted. The property owner shall post "No Loitering" signs within the parking area pursuant to the Montclair Municipal Code.
 12. The gate for the parking area at the rear of the building shall be closed and locked at all times the approved use is not in operation.
 13. The interior layout of the gym shall not place exercise equipment, storage racks/cabinets, window signs/displays, etc., on or against windows that would obscure visibility into the premises from exterior windows by emergency personnel, subject to the satisfaction of the City Planner.
 14. Window signs or displays shall not cover more than 25 percent of each window and shall not be placed in windows in a manner that will obstruct the view of the interior of the building by emergency personnel.
 15. All mechanical equipment, devices and their component parts (e.g., wiring, conduit, meters, etc.) for such items as air conditioners, evaporative coolers, exhaust fans, vents, transformers, utility meters, or similar equipment, whether located on the ground, building walls, or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building to the satisfaction of the City Planner.
 16. 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.
 17. Prior to the installation of any signs on the property, the applicant shall submit plans prepared by a licensed sign contractor for review and approval by the Planning and Building Divisions. Signs shall conform to an approved sign program for the center. Cabinet signs with translucent backgrounds and vinyl graphics shall not be permitted. Exposed raceways for building-mounted signs shall also be prohibited.
 18. The applicant and/or property owner shall be responsible for maintaining the condition of the property, including building/structures, parking areas and drive aisles, signs, exterior lighting, landscaping, and all

improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.

19. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to, the following:
 - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
 - b. Portable signs, including A-frames, inflatable, animated, human signs, air puppets, etc., shall not be permitted on the property.
 - c. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 - d. Portable flags, pennants, spinners, painted-on signs or the like shall be prohibited.
 - e. No trailer-mounted electronic sign/message boards or other similar types of portable signs shall be permitted on the property at any time.
20. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
21. The City shall have the right of entry to inspect the premises to verify compliance with the Conditions of Approval and the Montclair Municipal Code.
22. This CUP shall be subject to revocation or modification by the Planning Commission or City Council at such time as any of the following conditions are found to exist:
 - a. Conditions of Approval have not been fulfilled;
 - b. The use has resulted in a substantial adverse impact on the health and/or general welfare of users of adjacent or proximate property.
 - c. The use has resulted in a substantial adverse impact on public facilities or services.

23. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

Building

23. Submit four complete sets of plans including the following:
- a. Site/Plot Plan.
 - b. Floor Plan.
 - c. Reflected Ceiling Plan.
 - d. Electrical Plans, including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams.
 - e. Plumbing plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
 - f. Provide an existing plan of the building, including all walls to be demolished.
 - g. Waste recycling plan, recycling 50% of all construction debris.
24. Submit two sets of structural calculations, if required and two sets of energy conservation calculations.
25. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
26. The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the case number (Case No. 2012-1).

27. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
28. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
29. Provide and 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%).
30. 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 the south building elevation. Address numerals shall be in Helvetica font, a minimum of ten inches in height, a minimum of 1½ inches in depth, and contrasting in color 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.
31. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon Fire Department inspection and final approvals from other departments and/or agencies.
32. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records which were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Archiving Policy.
33. Pay all additional sewerage fees for additional sewer fixtures to the City of Montclair.

Engineering

34. Prior to occupancy, remove and replace portions of the existing drive approach to closer align with the driveway and not conflict with the existing landscaping and private sidewalk.
35. Prior to occupancy, install new P.C.C. sidewalk around the portion of the existing drive approach that will remain.
36. Prior to occupancy, install a concrete standard streetlight along the Holt Boulevard frontage of the property at a location satisfactory to the City Engineer.
37. Plans indicate that additional plumbing fixtures will be installed. Additional sewer fees shall be paid prior to issuance of building permits.

Fire

38. Prior to issuance of building permits, the applicant shall submit plans to the Fire Department to verify the overall gross square footage of the building and determine whether fire sprinklers are required. Plans shall be prepared by a licensed architect or registered civil engineer and stamped and signed.
39. If the Fire Marshal determines that fire sprinklers are required, the applicant shall submit plans for an approved automatic fire sprinkler system. The system shall conform to all local and national standards. Three complete sets of the sprinkler system plans shall be submitted directly to the Fire Marshal's Office for approval prior to installation of the system. The system shall be so equipped as to provide a signal to a UL-listed monitoring station in the event of water flow or tampering.
40. All Montclair Fire Department fees are due prior to any permit issuance.

Police

41. Pursuant to Montclair Municipal Code Section 4.52.040, live entertainment is not included as part of this approval and requires separate review and approval from the Police Chief or his designee.

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

APPROVED AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

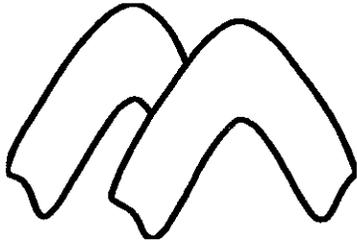
ATTEST: _____
Steve Lustro, Secretary

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 13th day of February, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:



**CITY OF MONTCLAIR
PLANNING COMMISSION**

MEETING DATE: 02/13/12

AGENDA ITEM 6.d

Case No.: 2011-16

Application: Variance request for a reduced street side yard setback to allow a tubular steel perimeter fence

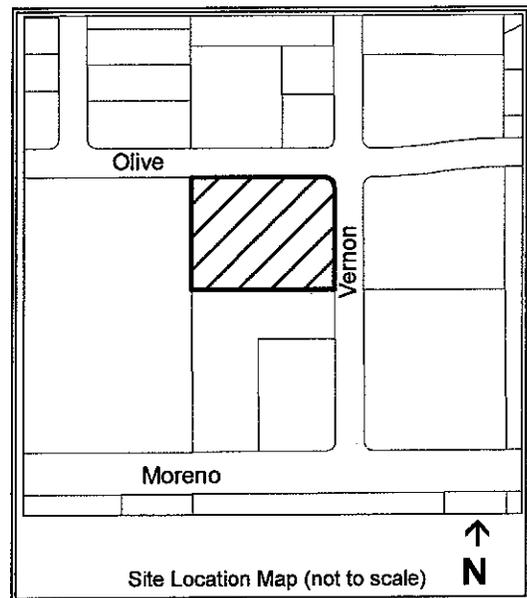
Project Address: 5445 Olive Street

Property Owner: Whitt Family Trust

General Plan: Regional Commercial

Zoning: General Commercial (C-3)
per North Montclair Specific Plan

Assessor Parcel No.: 1008-043-01



ADJACENT LAND USE DESIGNATIONS AND USES

	General Plan	Zoning	Use of Property
Site	Regional Commercial	C-3 (General Commercial)	Self-Storage Facility
North	Business Park	MIP (Manufacturing Industrial Park)	Industrial Building
East	Industrial Park	MIP (Manufacturing Industrial Park)	OPARC
South	Regional Commercial	C-3 (General Commercial)	Multi-tenant retail
West	Regional Commercial	C-3 (General Commercial)	Multi-tenant retail

Report on Item Number 6.d

PUBLIC HEARING - CASE NUMBER 2011-16

APPLICATION TYPE(S)	Variance
NAME OF APPLICANT	Whitt Family Trust
LOCATION OF PROPERTY	5445 Olive Street
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	C-3 (General Commercial) per North Montclair Specific Plan
EXISTING LAND USE	Self Storage Facility
ENVIRONMENTAL DETERMINATION	Categorically Exempt, Section 15305 of CEQA Guidelines
PROJECT PLANNER	Michael Diaz

Project Proposal

The applicant is requesting a setback variance to allow the installation of a six-foot-high tubular steel fence within the required 75-foot street setback along the Olive Street frontage of the subject property. Fences and walls are considered structures and are subject to the required setback within the underlying zoning district. If approved, the variance would allow the applicant to retain the existing decorative metal fence that was recently installed without benefit of City review or building permits. The installation of the fence was intended to secure the property from unauthorized access, restrict 24-hour access, and prevent illegal activity from occurring, primarily at the rear of the site. Before the fence was installed, the self-storage facility had unrestricted access from the adjacent public streets.

The proposed variance would allow a 10-foot setback (a reduction of 65 feet) from the north property line of the site to accommodate the fence around the existing parking/loading area on the north side of the property. (The north property line is located at the inside edge of the public sidewalk on Olive Street). The fence would then turn south and terminate at the front corner of Building 300, as depicted on the submitted plans and as is evident on the site.

The existing six-foot-high tubular steel fence is black in color and consists of 2½-inch square metal posts and ¾-inch square pickets. A rolling gate is provided at the west end of the property to allow access to the site from Olive Street via an existing drive approach. A pedestrian gate is located at the east end of the fence facing Vernon Avenue. A site plan and drawing detail of the fence are included in the Commission packets for reference.

Background

- The subject property is located within the C-3 (General Commercial) zone established by the North Montclair Specific Plan (NMSP), adopted in 1998. The minimum setback for the C-3 zone is 35 feet for buildings (with no parking between property line and the building); otherwise, a 75-foot setback applies.
- The project site is approximately 1.6 acres in area and was developed with the existing self-storage facility in 1973. The existing facility consists of four (4) narrow buildings, drive aisles, and surface parking areas.
- In 2006, the Planning Commission approved Case No. 2006-56 to allow the construction of a new 105,020 square-foot self-storage facility on the site. The project included a variance approval for a 15-foot street setback for new buildings along Olive Street and Vernon Avenue. The project was never built and the entitlements for it are now expired.
- In 2011, the Whitt Family Trust purchased the property and made several significant improvements, including new paint colors, signs, landscaping, and a general clean-up of the property. The new owners also cleaned out abandoned storage units and evicted a few tenants who had been living in units.

Planning Division Comments

Overall, staff finds the proposed variance request to be appropriate for the subject property. As mentioned above, fences and walls are considered structures and would be subject to the required 75-foot setback. However, the 75-foot setback requirement is not practical for small lots or feasible to implement on the subject site as proposed. The 75-foot setback standard was most likely intended for larger scale commercial development on large lots within the same district (e.g., regional mall, community shopping centers, etc.) where the requirement would be more easily accommodated with minimal adverse impact. However, to apply this same standard to smaller lots within the same district (particularly corner lots) would severely restrict site development options. In this case, the property is a relatively small corner lot and the application of the required setback standards from both streets would prevent securing the property as desired by the new property owner. Staff finds that, given the existing development of the property, the proposed 10-foot setback and placement of the fence behind the existing Olive Street landscape planter is appropriate.

Staff surveyed surrounding properties in the same district and noted that the self-storage facility is the only one of its type. The majority of the properties are developed as commercial retail properties where access to the parking areas and around the site is intended and needed for business. By comparison, a self-storage facility must control access to the site in order to appropriately secure the site and protect stored items within its storage units. Prior to the installation of the fence, 24-hour access could not be adequately monitored or controlled. Anyone could walk or drive into the property at

any hour of the day with or without authorization, which compromised security for the facility. Apparently, in 1973, when the facility was first constructed, there was not as much concern about illicit activities occurring on the site as there is today. If this land use were proposed today, the site would be designed differently with buildings forming the bulk of the facility's secured perimeter.

The North Montclair Specific Plan encourages the implementation of the concept of Crime Prevention through Environmental Design (CPTED). CPTED guidelines include using plants and/or fencing to restrict where people should enter, restricting the number of entry points into a development, securing areas behind buildings by use of limited fences that allow views into the development while restricting access. The placement of the proposed fence at its current location is driven by how the property was developed in the past. Given the existing development of the property, the fence is in the best possible location for the site. The new fence would secure the rear side of the facility that is not within view of the business office located on the Vernon Avenue side of the facility. If the north side of the facility is enclosed by a fence, 24-hour unrestricted access is eliminated and all customer traffic is directed to the Vernon Avenue side of the property where access is through the main gate and can be better monitored by the facility office. To move the fence further into the interior of the site would compromise on-site circulation, impair Fire Department access, and/or continue to leave the north facing units of Building 300 exposed to the street. As such, the reduced setback for the proposed fence at its current location would be consistent with CPTED principles, would not pose a significant impact to the operation of the facility, and would not detract from the appearance of the property.

However, staff's support and recommendation of approval is based on the understanding that the fence does not imply or allow for the use of the enclosed area for more on-site vehicle storage. The facility already has a vehicle storage area along its southern boundary, which is, for the most part, out of view and tolerable. With the exception of a minor modification to remove an added parking space, this area has sufficient width to allow parking and emergency access. This is not the case for the north parking area in question. The paved area north of and adjacent to Building 300 is used for on-site circulation and direct access to the north-facing storage units. The Fire Department conducted an on-site inspection and noted that all newly added diagonal parking in the north lot must be eliminated and all stored cars removed so that adequate emergency access is restored and maintained. Moreover, the prohibition of storing/parking vehicles of any kind in the north lot helps to maintain the open feeling of the property at the corner.

One of the positive characteristics of the property before the fence was installed was that the site retained an open appearance and did not clutter the streetscape. Well-maintained landscaping and trees are present along the Olive Street frontage, which softens the presence of the fence. Staff finds the design, color, and feel of the installed fence appropriate and complementary to the modest design of the existing facility. As designed and located, the openness of the site and streetscape is maintained. Open views into the interior of the lot will enable Police and Code Enforcement in the

administration of their respective duties in crime prevention and proper property maintenance. With conditions, the open view provided by the existing fence could be maintained and not compromised by intentional or unintentional changes such as the attachment of privacy panels, barbed or concertina wire, signs, or by overgrown/large plant materials, etc. At this point, the fence design, color, and placement are considered by staff to be a positive improvement to the streetscape, which must be maintained as a condition of a variance approval.

Lastly, it should be noted that the variance in question pertains only to the placement and height of the fence as installed. This approval is not intended to allow further development of the property with structures in required setbacks.

Public Comment from Adjoining Property Owners

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on February 3, 2012. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Assessment

The project qualifies as a Class 5 exemption under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects that involve 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 variance requested is limited in scope and does not create new parcels, affect land use, or increase density.

Variance Findings for Building Setbacks

Staff believes the necessary findings for the proposed variance from the required street side yard setback standard can be made as follows:

- A. That because of special circumstances applicable to the subject property, including its size, depth, location and surroundings, the strict application of the provisions of the Montclair Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The 75-foot setback requirement is not a practical standard for small lots or feasible to implement on the subject site as proposed. The 75-foot setback standard was most likely intended for larger scale commercial development on large lots within the same district (e.g., regional mall, community shopping centers, etc.) where the requirement would be more easily accommodated with minimal adverse impact. The application of the 75-foot setback standard to the subject corner property from both streets would adversely impact the site and prevent the ability to secure the property as proposed by the new property owner. Given the development of the property,

the proposed 10-foot setback and placement of the fence behind the existing landscape planter is appropriate.

- B. That such 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 zoning classifications. The self storage facility is the only one of its type in the surrounding C-3 zoning district. The majority of the properties are developed as commercial retail properties where access to the parking areas is intended and needed for business. By comparison, a self-storage facility must control access to the site in order to appropriately secure the site and protect stored items within its storage units. Approval of the proposed setback variance for the new fence would secure the side and rear of the facility that is not within view of the business office located on the Vernon Avenue side of the facility.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located. The placement, design, color, and feel of the installed fence is appropriate and complementary to the modest design of the existing facility. As designed and located, the openness of the site and streetscape is maintained to enable Police and Code Enforcement in the administration of their respective duties in crime prevention and proper property maintenance. With conditions, the open view provided by the existing fence would be maintained and not compromised by intentional or unintentional changes such as the attachment of privacy panels, barbed or concertina wire, signs, or by overgrown/large plant materials, etc. As such, the reduced setback for the proposed fence at its current location would be consistent with CPTED principles, would not pose a significant impact to the operation of the facility, or detract from the appearance of the property.
- 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 North Montclair Specific Plan place a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the Municipal Code in an appropriate fashion.

Planning Division Recommendation

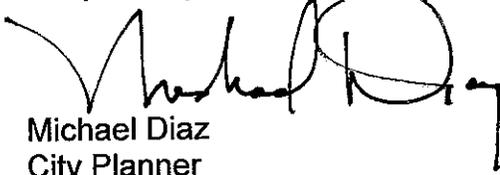
Staff recommends that the Planning Commission find the proposed street side yard setback variance along the Olive Street frontage at the subject site to be appropriate and to take the following actions:

- A. Move that, based upon evidence submitted, the Planning Commission finds the current application for the proposed variance qualifies as a Class 5 exemption under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects that involve 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 variance requested is limited in scope and does not create new parcels, affect land use, or increase density.

- B. Recommend the Planning Commission approve a Variance request under Case No. 2011-16 to allow a 10-foot front street setback along the Olive Street frontage of the property located at 5445 Olive Street, as described in the staff report and subject to the findings and conditions in Planning Commission Resolution No. 12-1752.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2011-16

c: Whitt Family Trust, Montclair I MGP Partners LLC
Cheri Wallace, Pacific Coast Commercial
Chuck Marvick, Architect

Z:\COMMDEV\MD\CASES\2011-16\2011-16 PC RPT

RESOLUTION NO. 12-1752

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MONTCLAIR RECOMMENDING
APPROVAL OF A VARIANCE FOR A REDUCED
STREET SIDE YARD SETBACK UNDER CASE
NO. 2011-16 FOR A TUBULAR STEEL FENCE ALONG
THE NORTH FRONTAGE OF 5445 OLIVE STREET
(APN 1008-043-01)**

A. Recitals.

WHEREAS, on December 21, 2011, the Whitt Family Trust, property owner of the subject site, filed an application requesting a variance from the required 75-foot street side yard setback to allow a six-foot high tubular steel fence along the Olive Street frontage of the subject property; and

WHEREAS, the subject property is a corner lot situated at the southwest corner of Olive Street and Vernon Avenue; and

WHEREAS, the subject site is approximately 1.6 acres in size and located within the planning area of the North Montclair Specific Plan (NMSP), adopted in 1998; and

WHEREAS, the NMSP designates the zoning of the subject site to be C-3 (General Commercial); and

WHEREAS, the minimum setback for the C-3 zone is 35 feet for buildings (with no parking between property line and the building); otherwise, a 75-foot setback applies; and

WHEREAS, the subject property was developed in 1973 and continues to operate as a self-storage facility consisting of four (4) buildings and associated drive aisles and surface parking areas; and

WHEREAS, the proposed setback variance request applies only to the placement of a six-foot-high, open decorative steel fence along the north frontage of the corner lot, set back a distance of 10 feet from the inside edge of the existing public sidewalk, and then turning south to meet the northeast corner of Building 300 as depicted on the submitted plans; 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 the proposed setback variance request is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15305 of the CEQA Guidelines, 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 variance requested for the subject property is limited in scope and does not create new parcels, affect land use, or increase density.

WHEREAS, on February 3, 2012, this variance request was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal; and

WHEREAS, on February 13, 2012, 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 13, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. That because of special circumstances applicable to the subject property, including its size, depth, location and surroundings, the strict application of the provisions of the Montclair Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The 75-foot setback requirement is not a practical standard for small lots in the district or feasible to implement on the subject site as proposed. The 75-foot setback standard is more appropriate for larger scale commercial development on large lots, such as a regional mall or community shopping center, where the requirement could be more easily accommodated with minimal adverse impact. The application of the 75-foot setback standard to the subject corner property would adversely impact the site and prevent the ability to secure the property as proposed by the new property owner. Given the development of the property, the proposed 10-foot setback and placement of the fence behind the existing landscape planter is appropriate.

- b. That such 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 zoning classifications. The self storage facility is the only one of its type in the surrounding C-3 zoning district. The majority of the properties are developed as commercial retail properties where access to the parking areas is intended and needed for business. By comparison, a self-storage facility must control access to the site in order to appropriately secure the site and protect stored items within its storage units. Approval of the proposed setback variance for the new fence would secure the side and rear of the facility that is not within view of the business office located on the Vernon Avenue side of the facility.
- c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located. The placement, design, color, and feel of the installed fence is appropriate and complementary to the modest design of the existing facility. As designed and located, the openness of the site and streetscape is maintained to enable Police and Code Enforcement in the administration of their respective duties in crime prevention and proper property maintenance. With conditions, the open view provided by the existing fence would be maintained and not compromised by intentional or unintentional changes such as the attachment of privacy panels, barbed or concertina wire, signs, or by overgrown/large plant materials, etc. As such, the reduced setback for the proposed fence at its current location would be consistent with CPTED principles, would not pose a significant impact to the operation of the facility, or detract from the appearance of the property.
- 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 North Montclair Specific Plan place a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the Municipal Code in an appropriate fashion.

C. Conditions of Approval.

Based upon the findings and conclusions set forth in the paragraphs above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. The variance shall be for 10-foot setback from the north property line along Olive Street, and apply only to the placement of a decorative tubular steel fence to secure the north parking and access area as described in the staff report and as depicted on the approved site plan. Maximum height of the fence shall not exceed six feet in height as measured from the adjacent grade on which it is placed. All other buildings or structures shall comply with required setbacks as prescribed in the North Montclair Specific Plan.
2. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$369.00, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
3. 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, and no subsequent building permits are issued, then the approval shall automatically expire without further City action.
4. The approved fence shall remain open to allow views into the property by Police and Code Enforcement personnel. No panels (wood, metal, mesh, etc.) or barbed/concertina wire shall be attached to the fence at any point. Landscape material adjacent to the fence shall be maintained so that it does not exceed two-thirds the height of the fence, or four feet in height.
5. Parking/storage of any vehicles or objects within the parking area directly behind the approved fence shall not be permitted so as to ensure unobstructed access to Fire Department personnel. The temporary parking of vehicles may be allowed when directly related to the delivery or removal of stored items within storage units.
6. The applicant and/or property owner shall be responsible for maintaining the property in good condition at all times, including the decorative metal fence authorized by this approval.

Building

7. A building permit shall be required for the constructed fence.
 - a. Submit two complete sets of plans for the project, including materials and accessibility details, for review and approval by the Building and Planning Divisions. Contact the Building Division at 909/625-9477 for an appointment to submit plans.
 - b. 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%).
8. Security gates to the site shall be equipped with Medeco locks or other acceptable devices to allow access by emergency personnel and utility providers at all times.

Fire

9. Maintain a minimum 20-foot wide clear access in all drive aisles, parking lot areas, between buildings, and between Building 100 and the vehicles parked along the south fence line.
10. Eliminate parking space 15a in the southwest portion of the property to maintain turning radius for fire suppression equipment.
11. Maintain the required turning radii on all building corners to allow emergency vehicle access.
12. 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.

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

APPROVED AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Steve Lustro, Secretary

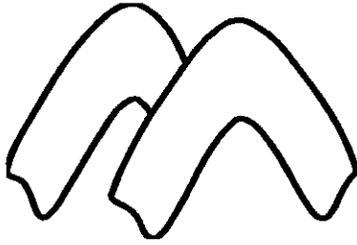
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 13th day of February, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\MD\CASES\2011-16\VARIANCE SETBACK RESO



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 02/13/12

AGENDA ITEM 6.e

Case No.: 2012-2

Application: Conditional Use Permit (CUP) to allow a caretaker's residential unit at an existing self-storage facility

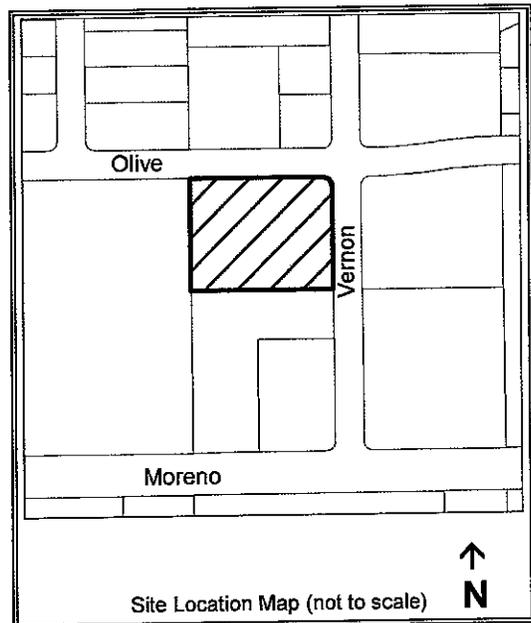
Project Address: 5445 Olive Street

Property Owner: Whitt Family Trust

General Plan: Regional Commercial

Zoning: C-3 (General Commercial)
per North Montclair Specific Plan

Assessor Parcel No.: 1008-043-01



ADJACENT LAND USE DESIGNATIONS AND USES

	General Plan	Zoning	Use of Property
Site	Regional Commercial	C-3 (General Commercial)	Self-Storage Facility
North	Business Park	MIP (Manufacturing Industrial Park)	Industrial Building
East	Industrial Park	MIP (Manufacturing Industrial Park)	OPARC
South	Regional Commercial	C-3 (General Commercial)	Multi-tenant retail
West	Regional Commercial	C-3 (General Commercial)	Multi-tenant retail

Report on Item Number 6.e

PUBLIC HEARING - CASE NUMBER 2012-2

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Whitt Family Trust
LOCATION OF PROPERTY	5445 Olive Street
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	C-3 (General Commercial) per North Montclair Specific Plan
EXISTING LAND USE	Self Storage Facility
ENVIRONMENTAL DETERMINATION	Categorically Exempt, Section 15303 of CEQA Guidelines
PROJECT PLANNER	Michael Diaz

Project Proposal

The applicant recently acquired the existing self-storage facility at the above-referenced address and has made several improvements to clean up and update its appearance. One of the items inherited from the previous owners is an existing caretaker's unit on the property which has never been legally established and allowed. This request is for the approval of a Conditional Use Permit to allow the existing caretaker's unit to provide after-hours security for the facility.

The existing living unit is located at the east end of Building 300 and would be updated to meet minimum building code requirements. The size of the living unit will be approximately 600 square feet in area and consists of a family/living room, a kitchen, one bedroom, and bathroom. No significant alteration to the exterior of the building is being proposed for this project. Parking for the caretaker's living unit will be within the front (east) parking lot facing Vernon Avenue. No outside patio or open area is proposed for the unit. A site plan, floor plan and related information are included in the Commission packets for reference.

Background

- Pursuant to Section 11.78.030.E of the Montclair Municipal Code, approval of a Conditional Use Permit by the Planning Commission is required to establish or expand self-storage facilities.
- The subject property is located within the planning area of North Montclair Specific Plan (NMSP), adopted in 1998.

- The project site is approximately 1.6 acres in area and was developed with the existing self-storage facility in 1973. The existing facility consists of four (4) narrow buildings, drive aisles, and surface parking areas.
- In 2006, the Planning Commission approved Case No. 2006-56 to allow the construction of a new 105,020 square-foot self-storage facility on the site. The project was never built and the entitlements for it are now expired.
- In 2011, the Whitt Family Trust purchased the property and made several significant improvements, including new paint colors, signs, landscaping, and a general clean-up of the property. The new owners also cleaned out abandoned storage units and evicted a few tenants who had been living in units.

Planning Division Comments

Staff is generally supportive of the proposed on-site caretaker's residence given the use of the property and its unique security needs. Without proper security and management, self-storage facilities can become a tempting target for thieves especially during the hours when the facility is closed. If approved, the caretaker's unit will allow a person to be on-site at all times so that the facility can be better monitored.

According to the applicant, the property was purchased with what was assumed to be an approved caretaker's unit. While no official approval of a caretaker's unit is on file, there is some evidence that at some point in the past, living quarters were established on the property. Although a caretaker's unit is assumed to have been on-site, the job of securing the site has been made more difficult by the openness of the property to the street and unrestricted hours of access. As a result, there were issues with dumping, living within units, quarters, and unauthorized overnight parking of vehicles. A separate variance request to keep a recently installed metal fence on the north side of the facility to secure the rear side of the site is being considered separately by the Commission.

The property is of sufficient size and shape to accommodate the proposed caretaker's unit. No site or significant exterior building changes are necessary and the current appearance of the facility would be maintained. At approximately 600 square feet in floor area, the proposed living unit is reasonably sized and well situated at the corner of the property where visibility of the site is best facilitated. A secondary benefit of having the caretaker's unit at its proposed location would be the ability to unofficially monitor what happens on the adjacent streets and the immediate area.

City records indicate that four of the five largest self-storage facilities in the City have on-site manager units with no significant problems. With proper conditions of approval, staff anticipates no problem with a caretaker's unit at this site as well. So long as the main purpose for the caretaker's unit is to provide security for the facility, staff does not oppose the proposal. A condition of approval regarding the use of the caretaker's unit and activities allowed on-site is included.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on February 3, 2012. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Assessment

The project qualifies as a Class 3 exemption under Section 15303 of the State CEQA Guidelines, which exempts projects involving limited construction of new facilities or conversion of small structures. The proposed caretaker's unit would involve the conversion of a small portion of an existing single-story building into living quarters to provide on-site security and after-hours management of the existing self-storage facility.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the Conditional Use Permit for an on-site caretaker's residence in conjunction with a self-storage facility, can be made as follows:

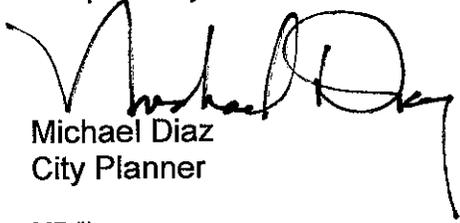
- A. The proposed on-site caretaker's residence would be an essential and desirable use, in that the caretaker's unit would provide better surveillance and ability to monitor activities at the storage facility, particularly during evening hours after the facility has closed.
- B. The proposed on-site caretaker's residence would not be materially detrimental to the public welfare and to other property in the vicinity, in that the living unit would be integrated into the overall function and development of the existing facility. Moreover, the existing facility is of adequate size and shape to accommodate the proposed use without major site or building alterations or any significant adverse impact to the operation of the facility or other uses in the immediate area.
- C. The proposed on-site caretaker's residence at the subject site conforms to good zoning practice, in that the Montclair Municipal Code allows certain land uses to have an on-site living unit. The proposed living unit is limited in size, does not change the character of the district in which it will be located, and its presence is essential to efficient and secure operation of the facility which it serves.
- D. The proposed on-site caretaker's residence at the subject location is not contrary to the adopted General Plan which encourages orderly development and the overall maintenance of property within the City. The purpose of the on-site caretaker's unit is intended to advance these objectives.

Planning Division Recommendation

Staff recommends the Planning Commission take the following actions:

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 3 exemption under State CEQA Guidelines Section 15303.
- B. Move to approve a Conditional Use Permit (Case No. 2012-2) to allow an approximately 600 square-foot caretaker's unit at the existing self-storage facility located at 5445 Olive Street, within the C-3 zoning district of the North Montclair Specific Plan, as described in the staff report and per the submitted plans, subject to the conditions of approval in attached Resolution No. 12-1754.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2012-2

c: Whitt Family Trust, Montclair I MGP Partners LLC
Cheri Wallace, Pacific Coast Commercial
Chuck Marvick, Architect

Z:\COMMDEV\MD\CASES\2012-2\2012-2 PC RPT

RESOLUTION NUMBER 12-1754

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2012-2 TO ALLOW AN ON-SITE CARETAKER'S RESIDENCE IN CONJUNCTION WITH AN EXISTING SELF-STORAGE FACILITY AT 5445 OLIVE STREET (APN 1008-043-01).

A. Recitals

WHEREAS, on January 19, 2012, the Whitt Family Trust, property owner, filed an application for a Conditional Use Permit (CUP) requesting approval to allow an on-site caretaker's residence at the self-storage facility at 5445 Olive Street; and

WHEREAS, the subject site is approximately 1.6 acres in size and located within the planning area of the North Montclair Specific Plan (NMSP), adopted in 1998; and

WHEREAS, the NMSP designates the zoning for the subject site as General Commercial (C-3); and

WHEREAS, the subject property was developed in 1973 and continues to operate as a self-storage facility consisting of four (4) buildings and associated drive aisles and surface parking areas; and

WHEREAS, at the time of original approval, the project did not include an on-site caretaker's residence. Since that time, a past owner of the property added a caretaker's residential unit to the complex without benefit of City review or approval; and

WHEREAS, upon notification by the City, the new property owner is now requesting official approval for the caretaker's residential unit at the subject site; and

WHEREAS, staff has determined that the proposal meets the intent and requirements of the ordinance for such use and the applicable development standards of the C-3 (General Commercial) zoning district of the Montclair Municipal Code; and

WHEREAS, staff has determined the proposed on-site caretaker's residence would not have a significant effect on the environment and has prepared a Categorical Exemption pursuant to Section 15303 of the California Environmental Quality Act (CEQA); and

WHEREAS, a Notice of Public Hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on February 13, 2012, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at

which time all persons wishing to testify in connection with said CUP request were heard, and said CUP was fully studied.

B. Resolution

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on February 13, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - A. The proposed on-site caretaker's residence would be an essential and desirable use, in that the caretaker's unit would provide better surveillance and ability to monitor activities at the storage facility, particularly during evening hours after the facility has closed.
 - B. The proposed on-site caretaker's residence would not be materially detrimental to the public welfare and to other property in the vicinity, in that the living unit will be integrated into the overall function and development of the existing facility. Moreover, the existing facility is of adequate size and shape to accommodate the proposed use without major site or building alterations or any significant adverse impact to the operation of the facility or other uses in the immediate area.
 - C. The proposed on-site caretaker's residence at the subject site conforms to good zoning practice, in that the Montclair Municipal Code allows certain land uses to have an on-site living unit. The proposed living unit is limited in size, does not change the character of the district in which will be located, and its presence is essential to efficient and secure operation of the facility which it serves.
 - D. The proposed on-site caretaker's residence at the subject location is not contrary to the adopted General Plan which encourages orderly development and the overall maintenance of property within the City. The purpose of the on-site caretaker's unit is intended to advance these objectives.
3. Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 3 exemption under State CEQA Guidelines Section 15303, which exempts projects involving limited construction of new facilities or the

conversion of small structures. The proposed caretaker's unit converts a small portion of an existing single-story building into living quarters to provide on-site security and after-hours management of the existing self-storage facility. In addition, there is no substantial evidence the project will have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption and, based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption.

4. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3, above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This Conditional Use Permit (CUP) approval shall allow the inclusion of an approximately 600 square-foot on-site caretaker's residence at the above location per the submitted plans and as described in this report. The caretaker shall be allowed principally for the purposes of care and protection of the facility, its buildings and structures.
2. Any substantial changes to the intended use of the approved caretaker's unit, including any increase in floor area of the unit or change of location, shall require prior City review and approval.
3. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$371.80, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
4. This CUP approval shall be valid for a period of six months (180 days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing a building permit to implement the conversion as per the approved plans. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.

5. This decision, or any aspect of this decision, may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
6. Approval of the caretaker's unit shall be subject to the following requirements:
 - a. Only one (1) caretaker's unit shall be allowed for the facility to be located within Building 300, as depicted on approved plans and shall not be separately rented, sublet, or leased to another party other than the caretaker discharging his/her duties to care for the site.
 - b. The applicant shall record a deed restriction as a condition of project approval, stating that the caretaker's unit shall not be rented to persons other than a caretaker.
 - c. No more than two (2) off-street parking spaces shall be provided for the caretaker's unit in a location that does not conflict with Fire Department access requirements. Caretaker vehicles shall be duly registered and in operable condition at all times.
 - d. No outdoor storage of personal or other items (including motor vehicles) which are not directly related to the primary function of the caretaker's responsibility shall be allowed.
 - e. Should the property cease to function as a self-storage facility, the caretaker's residence shall be vacated and immediately removed or modified to be in conformance with the zoning ordinance requirements.
7. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
8. 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.
9. Prior to issuance of a Certificate of Occupancy, the applicant shall replace or modify all unshielded building-mounted wall pack lighting directly visible to Olive Street and Vernon Avenue (north side of Building 300; east side of Buildings 100, 200, and 300; and south side of Building 100 as necessary) to the satisfaction of the City Planner. Existing fixtures may be replaced with

90-degree fully-cutoff style luminaires or "hooded" to achieve the same effect as a 90-degree fully-cutoff fixture.

10. Any violations of the conditions of approval may result in the revocation or modification of this permit, including the imposition of fines in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
11. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

Building

12. Prior to issuance of building permits, the applicant shall:
 - a. Submit five complete sets of plans for the project, including building elevations, electrical, plumbing, mechanical, lighting, and accessibility details, structural and Title 24 calculations for review and approval by the Building and Planning Divisions. Contact the Building Division at 909/625-9477 for an appointment to submit plans.
 - b. 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%).
 - c. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District.
13. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
14. The proposed electrical service panel location is not allowed by the provisions of the California Electrical Code. Modifications to plans submitted will be required to meet all requirements of the California Building Code.

15. The caretaker's unit shall have individual and independent one-hour separation walls enveloping each assigned airspace or unit and independent utility meters, sewer and water connections and fire protection systems, subject to the review and approval of the Public Works, Community Development and Fire Departments.
16. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. The numerical address of the building shall be displayed on the north-facing elevation of Building 300 at the east end of the building. Numerals shall be Helvetica font, minimum 10 inches in height, minimum 1½ inches in depth, and in a color that adequately contrasts with the background to which they are attached.
 - b. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
17. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
18. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact the Environmental Manager at 909/625-9446 for fees.
19. Regional Sewerage Supplemental Capital Outlay fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency (IEUA). Contact the Environmental Manager at 909/625-9446 for fees.
20. A Certificate of Occupancy is required for the caretaker's unit. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
21. Prior to issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records, which are submitted for the purpose of obtaining a building permit, to the Building Division. Electronic images shall meet the City's Electronic Archiving Policy.

Fire

22. 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.

23. 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.
24. The proposed residential structure(s) shall require an approved automatic fire sprinkler system. The system shall conform to all local and national standards. Three complete sets of the sprinkler system plans shall be submitted directly to the Fire Marshal's Office for approval prior to installation.
25. 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 Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
26. Vehicle security gates shall be approved only with the use of hold-open devices to allow for emergency vehicles access. Contact Fire Marshal's office for specific requirements.
27. 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 13TH DAY OF FEBRUARY, 2012
PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, 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 13th day of February, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT: