



MONTCLAIR

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

REGULAR ADJOURNED MEETING
Tuesday, November 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

Chair Tenice Johnson, Vice Chair Luis Flores, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

4. APPROVAL OF MINUTES

The minutes of the October 8, 2012 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 2012-16
 - Project Address: 9746 Central Avenue
 - Project Applicant: Montclair Town Center LLC
 - Project Planner: Silvia Gutiérrez, Assistant Planner
 - Request: Conditional Use Permit for a tattoo studio

- b. PUBLIC HEARING - CASE NUMBER 2012-17
 - Project Address: 5483 Moreno Street
 - Project Applicant: Moreno Street Property, LLC for FlipNit
 - Project Planner: Silvia Gutiérrez, Assistant Planner
 - Request: Conditional Use Permit to operate a consignment store

- c. CASE NUMBER 2011-15
 - Project Address: 5165-5195 Bandera Street
 - Project Applicant: AGS Construction Inc.
 - Project Planner: Michael Diaz, City Planner
 - Request: Precise Plan of Design for a 5-unit condominium development

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

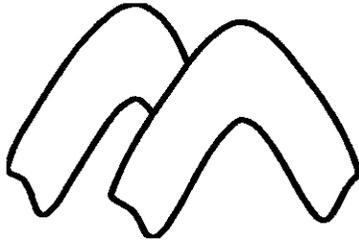
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of November 26, 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 in the window adjacent to the north door of Montclair City Hall on November 8, 2012.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 11/13/12

AGENDA ITEM 6.a

Case No.: 2012-16

Application: Conditional Use Permit (CUP) request to allow a dermagraphics (tattoo) salon with art gallery within a 1,190 square-foot tenant space

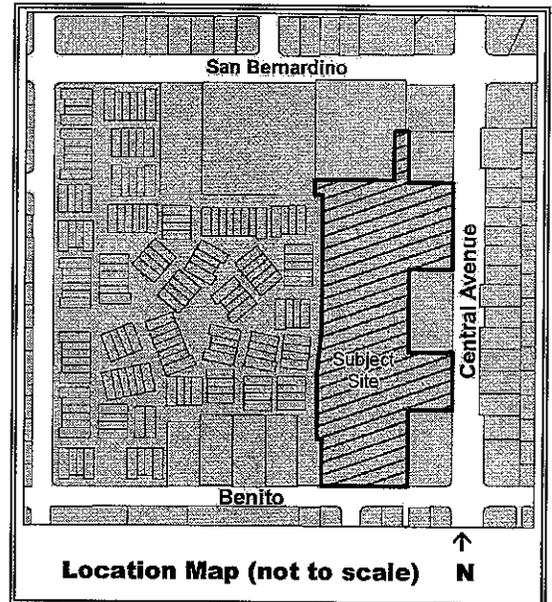
Project Address: 9746 Central Avenue

Applicant: Montclair Town Center, LLC on behalf of Rise Above Tattoo Studio

General Plan: General Commercial

Zoning: "C-3" (General Commercial)

Assessor Parcel No.: 1010-611-23



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 USA Gas Station
East	Neighborhood Commercial	C-2 (Restricted Commercial) and R-1 (Single-Family Residential)	7-Eleven convenience store and single-family residences
South	Low Density Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Single-family residences
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.a

PUBLIC HEARING – CASE NUMBER 2012-16

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Montclair Town Center, LLC for Rise Above Tattoo Studio
LOCATION OF PROPERTY	9746 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	C-3 (General Commercial)
EXISTING LAND USE	Vacant tenant space
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez

Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) to establish a tattoo studio and art gallery in a lease space within the Montclair Town Center on the west side of Central Avenue between San Bernardino and Benito Streets. The proposed business, which would be known as "Rise Above Tattoo Studio," would occupy a lease space of approximately 1,190 square feet in size. The subject lease space is currently vacant. The scope of the proposed business is to provide tattoo services and sell art work.

The front of the tenant space is proposed to be improved with a waiting area, receptionist counter, and an art "gallery space" to display fine art paintings and prints, some of which would be offered for sale. Behind the receptionist counter would be six (6) stations where tattoo services would be performed, a drawing/library room, clean room for sterilization of equipment and instruments, and a restroom. Proposed hours of operation would be Tuesday through Sunday from 11 a.m. to 10 p.m. The studio would be closed on Mondays. The business is proposed to employ three tattoo artists.

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

Background

- The subject site is located in the C-3 (General Commercial) zoning district.
- Section 11.78.030.D.7 of the Montclair Municipal Code requires approval of a Conditional Use Permit for businesses engaging in dermagraphics, including tattooing, body art, body piercing, and the like. By law, these services are only available to adults 18 and over unless parental consent is provided.

- According to California law, Health and Safety Code 119303(a), every person engaged in the business of tattooing, body piercing, or permanent cosmetics is required to register with the Health Department of the county in which they are doing business.
- Tattoo services are regulated by Sections 119300 through 119309 of the State Health and Safety Code, including the requirement that minors under 18 years of age have written parental consent before engaging in such services. Furthermore, the operator and technicians providing these services must be certified and licensed by the San Bernardino County Department of Health Services.

Planning Division Comments

Staff finds the proposed tattoo studio and art gallery to be generally appropriate for the proposed location. The use is very similar to a tattoo studio/art gallery that was approved in the 5600 block of Moreno Street and has operated without known incidents or complaints. By combining a retail art component to the operation, this type of tattoo business is not expected to generate any significant land use problems for the owner of the center or for the City. The existing shopping center is well managed and maintained.

The existing shopping center contains a variety of uses, including a gym, general merchandise discount store, cleaners, Chamber of Commerce, fast food uses, etc., and staff does not foresee that there would be any significant issues or conflicts with other adjacent uses so long as it is well managed and operated. As mentioned in previous reports for tattoo studios, the manner in which the business is operated has everything to do with how it is perceived. As with any business, professional appearance and management always makes a good impression. The owner of the proposed business has indicated his commitment to operating the business in a manner that meets or exceeds all professional standards in terms of staff training and supervision, strict adherence to age guidelines and parental consent, cleanliness, Health Code, and waste disposal policy. Staff is confident that the business owner has a grasp on the operational procedures necessary to operate the establishment in a professional manner. Further, it is in the property owner's best interest that this business does not create a nuisance to the neighboring businesses in the center. On this point, staff is also confident that the owner of the center will ensure that this use poses no adverse impacts whatsoever.

With regard to public health and safety, the tattoo industry is regulated by the State. Each business must be licensed and inspected to ensure that it is legitimate, safe and clean. Reputable businesses are licensed and concerned with the health and safety of its customers. In compliance with California law, tattoo or piercing practitioners must verify that each client is at least 18 years of age with either valid photo identification or a notarized authorization letter from the legal parent or guardian. Violation of this penal code section is a misdemeanor. Although the applicant does not indicate body art and/or piercing as offered services at this point, these services would be included in the general definition of dermagraphics. The applicant would be fully responsible to comply with any further State requirements associated with the aforementioned services prior to the offering of these services under this permit.

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

Conditional Use Permit Findings

Staff finds the request to operate a tattoo (dermagraphics) shop within the existing multi-tenant commercial center is consistent with the Montclair Municipal Code and believes the necessary findings for granting a CUP can be made as follows:

- A. The proposed tattoo studio is essential or desirable to the public convenience and public welfare, in that the use will provide the public with an approved and licensed venue to receive tattoos (including body art and/or piercing services) from a legitimate and properly licensed business. Moreover, the business will offer fine art work to the general public, which is consistent with the underlying commercial zoning designation of the property.
- B. That granting of the permit will not be materially detrimental to the public welfare and to other property in the vicinity, in that the tattoo studio will be generally compatible with the mix of established businesses in the center and along Central Avenue. Further, conditions of approval have been added to address concerns regarding the operation of the business and appearance of the center in which it is located.
- C. The proposed tattoo studio at the subject location conforms to good zoning practice, in that such use is consistent with the C-3 (General Commercial) zoning district and the requirements of Montclair Municipal Code, including, but not limited to, the requirement to obtain an approved CUP. The existing shopping center contains a variety of uses including a gym, general merchandise discount store, cleaners, Chamber of Commerce, fast food uses, etc., and the proposed tattoo studio and art gallery are not expected to create any significant issues or conflicts with other adjacent uses so long as the subject use is well managed and operated.
- D. That such use at such location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan recognizes the need for a variety of commercial uses and specialized personal services that cater to the diverse desires and needs of the community.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on November 2, 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. Courtesy notices were also mailing to surrounding tenants within the retail commercial center. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Assessment

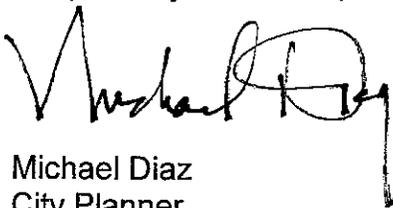
The project qualifies as a Class 1 exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects involving little to no expansion of existing structures or uses. The project does not involve an expansion of the existing structure or a fundamental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

Planning Division Recommendation

Staff finds the proposed development to be consistent with the Montclair Municipal Code and the adopted General Plan; therefore, approval of Case No. 2012-16 is recommended by taking the following actions:

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, because it is on a fully developed site and involves minor exterior and interior improvements and no changes to the site involving grading. As such, a DeMinimis finding of no impact on fish and wildlife will be prepared.
2. Move to approve a Conditional Use Permit under Case No. 2012-16, approving the proposed dermagraphics (tattoo) salon with art gallery and related tenant improvements at 9746 Central Avenue, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution No. 12-1769.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution of Approval for Case No. 2012-16

Z:\COMMDEV\SILVIA\CASES\2012-16\RISEABOVESTUDIOS

RESOLUTION NUMBER 12-1769

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2012-16 TO ALLOW A DERMAGRAPHICS (TATTOO) STUDIO WITH AN ART GALLERY IN THE "C-3" (GENERAL COMMERCIAL) ZONE AT 9746 CENTRAL AVENUE (APN 1010-041-80).

A. Recitals.

WHEREAS, Montclair Town Center, LLC, property owner, filed an application for a Conditional Use Permit (CUP) on behalf of Shawn Phelps, proprietor of Rise Above Tattoo Studio, to allow a dermagraphics (tattoo) studio and art gallery on October 17, 2012; and

WHEREAS, the application applies to a 1,190 square-foot commercial tenant space located at 9746 Central Avenue; and

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

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

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

WHEREAS, the business owner/operator is prohibited from rendering tattoo services to minors under 18 years of age without written parental consent per State Health and Safety Code Sections 119300 through 119309, inclusive; and

WHEREAS, staff has determined that the proposal meets the intent and requirements of the ordinance for such use and the applicable development standards of the "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) pursuant to Section 15301 (Class 1), in that the proposal would not involve an expansion of the existing structure or result in a fundamental change in the type of uses permitted by the underlying zoning code. In addition, there is no substantial evidence that the project will have a significant effect on the environment. The Planning

Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption; and

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 November 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.

A. Resolution.

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on November 13, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

- A. The proposed tattoo studio is essential or desirable to the public convenience and public welfare, in that the use will provide the public with an approved and licensed venue to receive tattoos (including body art and/or piercing services) from a legitimate and properly licensed business. Moreover, the business will offer fine art work to the general public, which is consistent with the underlying commercial zoning designation of the property.
- B. That granting of the permit will not be materially detrimental to the public welfare and to other property in the vicinity, in that the tattoo studio will be generally compatible with the mix of established businesses in the center and along Central Avenue. Further, conditions of approval have been added to address concerns regarding the operation of the business and appearance of the center in which it is located.
- C. The proposed tattoo studio at the subject location conforms to good zoning practice, in that such use is consistent with the C-3 (General Commercial) zoning district and the requirements of Montclair Municipal Code, including, but not limited to, the requirement to obtain an approved

CUP. The existing shopping center contains a variety of uses including a gym, general merchandise discount store, cleaners, Chamber of Commerce, fast food uses, etc., and the proposed tattoo studio and art gallery are not expected to create any significant issues or conflicts with other adjacent uses so long as the subject use is well managed and operated.

- D. That such use at such location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan recognizes the need for a variety of commercial uses and specialized personal services that cater to the diverse desires and needs of the community.
3. Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA). The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures and no fundamental change in the type of uses permitted by the underlying zoning code. In addition, there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption and, based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.
4. Based upon the findings and conclusions set forth in the paragraphs above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. The Conditional Use Permit (CUP) shall be granted to allow the operation of a dermagraphics (tattoo) studio as described in the staff report. The business shall be limited to a 1,190 square-foot lease space at 9746 Central Avenue. Any substantial changes to the operation, increase in floor area, or physical location shall require prior approval from the City of Montclair.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six (6) months from the date of Planning Commission approval. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date. Suspension of the approved use for a period of six months or more voids the CUP for the specified use.
3. Within five (5) days of approval by the Planning Commission, the applicant shall submit 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 \$411.56, 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 permit may be modified or revoked, after the Planning Commission has conducted a public hearing, for failure to abide by any conditions of this CUP or the Montclair Municipal Code, or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
 5. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
 6. The applicant and/or property owner shall ensure that a copy of the Planning Commission Resolution is posted on the premises and available for viewing upon request by Police and/or Code Enforcement personnel.
 7. Approval of this CUP shall not waive the requirement for compliance with any regulations as forth in the California Building Code, City ordinances or by the San Bernardino County Health Department.
 8. All applicable federal, state and local health department requirements and rules (Chapter 7 of Part 15, of Division 104 of the Health and Safety Code, commencing with Section 119300) regulating such tattoo and body piercing operations shall be strictly adhered to, such as, but not limited to, maintaining proper sterilization, sanitation, and safety standards; provision of wash basins, containers for needle disposal, first aid kit, and CPR certification.
 9. The operator of the establishment shall obtain and maintain a current City business license at all times.
 10. Notice of change of ownership of the facility shall be provided in writing to the Director within 30 days of said change. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions which are a part thereof.

11. Hours of operation shall be limited to 11:00 a.m. to 10:00 p.m. Tuesday through Sunday. Any changes in the approved hours shall be subject to the review and approval of the Community Development Director and/or Planning Commission.
12. Persons under 18 years of age shall not be permitted to receive tattoo or body piercing services without written consent of a parent or legal guardian pursuant to the requirements of California law. Posting of such age restriction in English and Spanish shall be conspicuous to the public.
13. No tattooing shall be administered unless the patrons are wearing appropriate clothing and/or towels that fully cover genitals. The breasts of female patrons shall be covered.
14. No window tinting, paint, or other similar devices which obstruct views into the tenant space shall be allowed on the storefront glass of the subject lease space. Operable window coverings may be installed on the interior partition windows of the work areas to provide privacy for clients when services are being performed.
15. No permanent building-mounted, wall-mounted or monument signs are approved as part of this entitlement. Should the applicant desire to install any business identification signs, plans shall be submitted by a duly licensed sign contractor to the Planning and Building Divisions for review and approval prior to installation of said sign(s). The applicant shall comply with the adopted sign program for the subject property and with sign regulations of the City of Montclair. All work shall be professionally installed by a duly licensed sign contractor, to the satisfaction of the City Planner.
16. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to, the following:
 - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
 - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 - c. At no time shall pennants, inflatable signs, "human" signs, other similar advertising devices be utilized on the property or off-site.
17. No portable signs (e.g., A-frames) shall be permitted on the exterior of the building or mounted/attached to vehicles.

18. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City. Paint utilized in covering such graffiti shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
19. Any sign that identifies a business that is no longer in operation, or that identifies an activity or event that has already occurred, or a product that is no longer made, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the property owner shall be responsible for removal of all signs used in conjunction with former businesses.
20. The applicant and/or property owner shall maintain the area surrounding the business in a clean and orderly manner at all times. The property owner and business operator shall be responsible to monitor the area outside the dermagraphics studio.
21. The on-site manager of the dermagraphics studio shall take whatever reasonable steps are deemed necessary to prevent loitering and/or assure the orderly conduct of its employees, patrons, and visitors on the premises. A minimum of one (1) 'No Loitering' sign(s) shall be installed in plain view at the business.
22. No public telephones, vending machines, or other coin-operated machines shall be located on the exterior of the building.
23. To ensure compliance with the conditions of the approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.
24. 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

25. 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.
26. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
 27. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
 28. 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.
 29. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
 30. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number. The applicant shall comply with the latest adopted California Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.
 31. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
 32. 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%).

33. Regional Sewage Supplemental Capital Outlay fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code (MMC) and the Inland Empire Utilities Agency (IEUA). Contact the Building Division for fees, (909) 625-9477.
34. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Building Division electronic images of all plans and records which were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Imaging Policy.
35. A Certificate of Occupancy is required prior to the occupancy of the tenant space. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and final approvals from other departments and/or agencies.

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

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

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Steve Lustro, Secretary

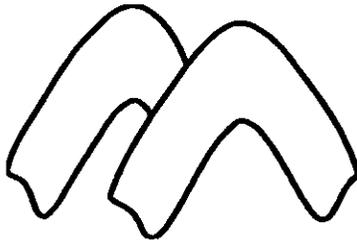
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the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

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SGD\CASES\2012-16\RISEABOVE\TATTOO\Reso No. 1769



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 11/13/12

AGENDA ITEM 6.b

Case No.: 2012-17

Application: Conditional Use Permit (CUP) request to allow a consignment shop specializing in the re-sale of used clothing and furniture within a 10,680 square foot portion of an existing, 28,000 square-foot commercial building

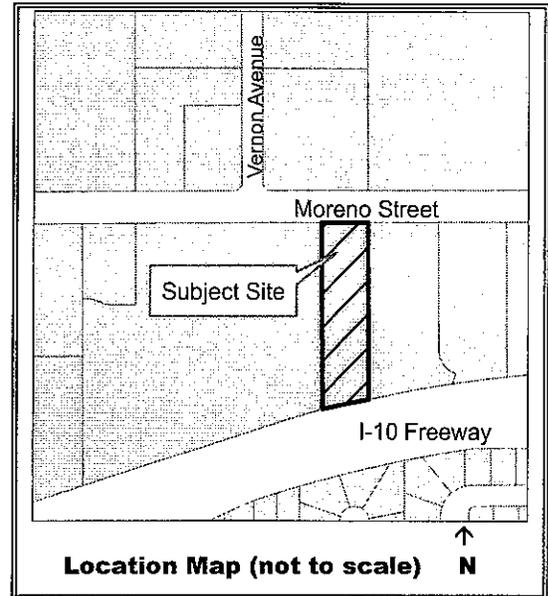
Project Address: 5483 Moreno Street

Applicant: Moreno Street Property, LLC for FlipNIt Consignment Shop

General Plan: Regional Commercial

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

Assessor Parcel No.: 1008-201-01



EXISTING SITE FEATURES/CONDITIONS

Structures: Existing one-story commercial building

Parking: 52 parking stalls, including 4 disabled-accessible spaces

City/Public Utility Easements: None

Trees/Significant Vegetation: No significant or heritage trees

ADJACENT LAND USE DESIGNATIONS AND USES

	General Plan	Zoning	Actual Use of Property
Site	Regional Commercial	C-3 (General Commercial)	Vacant commercial building
North	Regional Commercial	C-3 (General Commercial)	Verizon commercial center
East	Regional Commercial	C-3 (General Commercial)	911 Design auto center
South	Low Density Residential (3-7 du/acre)	R-1 (Single-Family Residential)	Single-family residences
West	Regional Commercial	C-3 (General Commercial)	Montclair East Shopping Center

Report on Item Number 6.b

PUBLIC HEARING – CASE NUMBER 2012-17

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Moreno Street Property, LLC
LOCATION OF PROPERTY	5483 Moreno Street
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	General Commercial (C-3) per the North Montclair Specific Plan
EXISTING LAND USE	Vacant Commercial Building
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez

Applicant's Proposal

The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the establishment and operation of a consignment store within a portion of a vacant building on the south side of Moreno Street between Vernon and Benson Avenues. According to the North Montclair Specific Plan (hereinafter "Specific Plan"), land use activities such as thrift stores, antique shops, and used merchandise are allowed in the "C-3" (General Commercial) land use district, subject to the approval of a CUP. A consignment store is similar to a thrift store use in that it engages in the resale of used (or second hand) merchandise. The principal difference between a consignment store and a thrift store is that a consignment store accepts used merchandise on a consignment basis and helps customers sell their used items by paying the owners of the merchandise a percentage when and if the items are sold.

The name of the proposed consignment store would be "FlipNIt," which would occupy approximately 10,680 square feet within the northerly portion of the existing 28,000 square-foot building. The subject lease space would face Moreno Street, the majority of which would be used for display and retail sales activities, while the balance of the lease space would be reserved for an office, break room and storage area.

According to the applicant, the items proposed to be sold would primarily be clothing, accessories, shoes, kitchen items, books, and small furniture items. Initially, the store would have 6-8 employees. In addition, the applicant indicates that the consignment store would be unique because the items in the store would also be viewable online for even more potential customers to see. If a customer likes what they see they can come into a store rather than a person's home to finalize the sales transaction.

The proposed hours of operation are seven days a week from 10 a.m. to 8 p.m. No unsolicited donations or drop-offs would be accepted at the location.

Background

- The subject site is approximately 1.54 acres in area and is developed with a single-story, 28,000 square-foot building, constructed in 1968.
- The building was originally occupied by Northwest Coach Inc. and Woods Motor Homes. In the early 1970s it was home to Hospital Service and Supply. In 1980, Patton Sales Corporation acquired the building and operated an office furniture business from the location until 2003. Shortly after Patton's closing, Montclair Furniture Outlet occupied the building from 2004 through 2008. The building has had no permanent tenant for the past four years, but has been occupied temporarily for seasonal uses, most recently as a Halloween store.
- The Association of Resale Professionals (NARTS) defines stores dealing with the resale of used (or second hand) merchandise as follows:
 - A **resale shop** is the phrase most often used for stores that buy their merchandise outright from individual owners, like a vintage store. A consignment or thrift shop can also be called a resale shop, but only a store that actually consigns their inventory can be called a consignment store, and only a store run by a Not-For-Profit organization is considered a thrift shop.
 - A **thrift shop** is run by a Not-For-Profit organization to raise money to fund their charitable causes. These range from the large Salvation Army / Goodwill chains to individual school, church or hospital thrift shops. Not-For-Profits can obtain goods through donations or they can operate on a consignment basis—some do both.
 - A **consignment shop** accepts merchandise on a consignment basis, paying the owners of the merchandise a percentage when and if the items are sold. The majority of such shops pay the owners from 40-60% of the selling price, and have a general policy of displaying goods for anywhere from 30 to 90 days. Some consignment shops also purchase a variety of items outright from individual owners and/or wholesalers.
- In 1998, The North Montclair Specific Plan (Specific Plan 97-1) was adopted for the commercial and industrial areas that are generally located north of Interstate 10 to the northern City boundary.
- A Conditional Use Permit (CUP) allows the City to consider special uses which may be essential or desirable to a particular community, but which are not allowed as a matter of right within a zoning district, through a public hearing process.

Planning Division Comments

In reviewing a CUP application, the Commission is asked to assess and determine that the proposed use will be compatible with and be operated in a manner consistent with

all applicable plans and zoning regulations. As such, a CUP request is subject to discretionary action. The applicant believes that the proposed consignment store at the subject site is appropriate in that it would be large enough to conduct and grow its business and that it would provide a safe and central location for the residents of Montclair and surrounding communities to utilize. While staff understands the nature of the proposed business, staff does not concur with his assessment that the subject site is the most appropriate location for it to exist.

As mentioned above, the subject property is located within the boundaries of the North Montclair Specific Plan. The Specific Plan was adopted with the primary and overall goal of promoting the economic development of the North Montclair commercial district, in which Montclair Plaza serves as the primary commercial focus. In addition, the Specific Plan identifies land uses adjacent to the mall, primarily along Central Avenue and Moreno Street, as also being an important regional-serving commercial area. Given the proximity to the Plaza and freeway, it is easily understood why the above goals were established for the identified areas. The properties on the south side of Moreno Street (east of Central Avenue), in particular, enjoy the unique advantage of frontage and visibility to I-10.

Moreover, the Land Use Element of the Montclair General Plan contains the following objectives:

LU-1.1.29 – Recognize the importance of retaining the economic viability of the Montclair Plaza and promote the maintenance and improvement of the Plaza to attract new patronage.

LU-1.1.30 – Consider the establishment of new complementary uses around the Plaza perimeter to maximize its utilization and intensify the area's activity.

Based on the objectives of both the North Montclair Specific Plan and the adopted General Plan, staff does not believe the proposed consignment store at the subject location is consistent with the above goals and the types of uses envisioned for this area. Staff does not find that the proposed consignment store at the subject location helps to significantly improve business activity in the area nor acts as a natural economic complement to the success of the businesses at Montclair Plaza. Consignment or thrift stores are not typically considered to be a regional draw in the same way as an auto dealership, large clothing retailer, or a nationally recognized restaurant use would. The synergy created by larger and complementary uses around the mall would be a benefit to the entire area. Unfortunately, staff does not find the proposed consignment store, or any similar resale business, to be uses that generate the type of economic activity as first quality and regional uses would generate at the subject site.

Staff's understanding of consignment or thrift stores is that most of these kinds of businesses are small in size, geared to local clientele, specialize in a limited range of goods that are offered for sale. Most often these types of stores are located in small

storefront spaces in an established downtown or small scale multi-tenant lease space, not in (all or a part of) a large scale building as with this proposal. While the City has no consignment store within its boundaries there are at least four thrift stores in operation and at least as many in most of the communities surrounding Montclair. The number of thrift stores and consignments in the overall area indicates the essential local nature of their business operations. As such, staff is not convinced that the proposed consignment store would be the regional draw as the applicant believes and not a suitable use for this location. Staff believes there are other lease spaces in the area and other locations in the City where the proposed use would be more suitable.

Another key fact to bear in mind is that the subject site is one of only two properties on the south side of Moreno Street that is developed with a single-user, large building suitable for attracting a large scale retailer with a bona fide regional draw. Since the existing building was not designed for multiple tenants, subdividing into smaller units could make it more difficult, if not impossible, to find a first quality tenant willing to take the remaining 17,000 square feet of the building that has no street frontage. Staff is beginning to see signs of improvement in the local economy, which could improve the prospects for find a new and appropriate use that is consistent with the goals of the Specific Plan. Notable recent arrivals to commercial properties in the vicinity include Chipotle Mexican Grill, Fallas, Paradise Buffet, 911 Design, and the return of Tuesday Morning. A major retailer will begin renovations later this month to the former Borders Books and Music building with the intention of opening in Spring 2013. Staff also received an inquiry last week from a popular regional specialty retailer potentially interested in locating in Montclair.

The distinction between thrift store quality items and the higher quality items collected at the consignment store may be useful for marketing purposes but it is not really a significant factor for staff to consider. The business is dealing with the resale of used (or second hand) merchandise and staff has no way to effectively monitor the quality of the goods collected. Moreover, the Police Department has indicated that it does not make a distinction based on the quality of merchandise collected/sold and considers the use to be a secondhand dealer pursuant to Section 21640 of the Business and Professions (B&P) Code. As such, the business would be required to report to the Police Department all secondhand tangible personal property, which is purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning pursuant to B&P Section 21628. "Tangible personal property" generally includes, but is not limited to, all secondhand tangible personal property which bears a serial number or personalized initials or inscription or which, at the time it is acquired by the secondhand dealer, bears evidence of having had a serial number or personalized initials or inscription (B&P §21627). If approved, the Police Department would require as a condition of approval, compliance with state law, specifically Sections 21625-21647 of the Business and Professions Code, including the requirement for daily reporting of certain transactions as required by statute.

Lastly, staff has concerns about the actual operation of the proposed use, including, but not limited to, receiving and processing of used merchandise, outside storage of discarded materials, appliances, furniture and delivery trucks, and proposed indoor and

outdoor promotional activities. While staff does not have a complete grasp on everything the applicant would like to do, similar activities at other resale businesses in the City have posed major difficulties required significant code enforcement attention.

Public Comment from Adjoining Property Owners

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 of preparation of this report, staff had been contacted by one resident on the north side of Moreno Street who opposes the proposed use because she does not believe that a used merchandise retailer is the highest and best use for the location. She expressed her preference for retailers selling new, high quality merchandise.

Conditional Use Permit Findings

Staff finds that, while being consistent with the general requirements of the Montclair Municipal Code (MMC), the request to establish and operate a consignment store at the subject site is inconsistent with the goals of the General Plan, the North Montclair Specific Plan, which supersedes the prescribed zoning and development standards of the Zoning Code contained in the MMC. Accordingly, staff finds that the necessary findings for granting a CUP cannot be made, based on the following:

- A. That said use is not essential or desirable to the public convenience and public welfare, in that there are a significant number of existing used merchandise retailers in Montclair and surrounding communities, indicating that such uses are more local-serving than regional-serving.
- B. That, while granting the permit will not be materially detrimental to the public welfare, it would have the potential to be detrimental to the expansion of economic activity in the subject area. Staff believes that the proposed consignment store use is inconsistent with the goals of the North Montclair Specific Plan, and more specifically, the focus area east of Central Avenue between Moreno Street and I-10. Staff does not believe that the proposed use would contribute to improved business activity in the area nor act as a natural economic complement to the success of businesses in and around Montclair Plaza. Consignment or thrift stores are not typically considered to be a regional draw in the same way as an auto dealership, large clothing retailer, or a nationally recognized restaurant use would. Finally, staff does not find the proposed use to be similar to, or consistent with, retail businesses that currently exist along Moreno Street.
- C. That while the proposed use is permitted in the C-3 land use district of the North Montclair Specific Plan subject to approval of a CUP, the Specific Plan identifies the focus area east of Central Avenue between Moreno Street and I-10, in which the subject property is located, to be an important regional-serving commercial area. The properties on the south side of Moreno Street (east of Central

Avenue), in particular, enjoy the unique advantage of frontage and visibility to I-10, making them particularly attractive to businesses that are a regional destination rather than a local one.

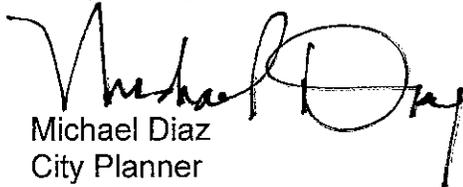
- D. That such use in such location is contrary to objectives LU-1.1.29 and LU-1.1.30 contained in the Land Use Element of the adopted General Plan.

Planning Division Recommendation

Staff finds the proposed use to be inconsistent with the North Montclair Specific Plan and the adopted General Plan; therefore, it is recommended that the Commission deny Case No. 2012-17 by taking action "A" below. Should the Commission determine that the necessary findings can be made to grant the CUP, then it is recommended that only action "B" be taken.

- A. Move to deny a Conditional Use Permit for the proposed consignment store at 5483 Moreno Street, subject to the discussion and findings for denial contained in the staff report and in attached Resolution No. 12-1770; or,
- B. Move to continue the request for a Conditional Use Permit for the proposed consignment store at 5483 Moreno Street to <date> in order to provide time for the Commission to make positive findings for approval and communicate them to staff for preparation of an alternate Resolution.

Respectfully Submitted,



Michael Diaz
City Planner

MD/lb

Attachments: Draft Resolution of Denial for Case No. 2012-17

Z:\COMMDEV\SILVIA\CASES\2012-17\FUP\NIT

RESOLUTION NO. 12-1771

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR DENYING A CONDITIONAL USE PERMIT APPLICATION UNDER CASE NUMBER 2012-17 TO ESTABLISH A CONSIGNMENT SHOP WITHIN AN EXISTING BUILDING IN THE "C-3" (GENERAL COMMERCIAL) LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN AT 5483 MORENO STREET (APN 1008-201-01).

A. Recitals.

WHEREAS, Moreno Street Property, LLC, owner of the subject property, filed an application on October 29, 2012, requesting approval of a Conditional Use Permit under Case No. 2012-17 to establish a consignment store use at the subject location; and,

WHEREAS, Chapter 11.78.030.D of the Montclair Municipal Code requires a CUP for a consignment store upon review of applicable development standards, land use compatibility with surrounding properties, with conditions of approval; and

WHEREAS, the application applies to a 10,680 square-foot portion of an existing, 28,000 square-foot single-story commercial building at 5483 Moreno Street; and

WHEREAS, the City of Montclair desires to protect and preserve the quality of residential, commercial, and industrial uses of the City through effective land use planning; and,

WHEREAS, staff has determined that the aforementioned application does not meet the intent, requirements, goals, and objectives of the Montclair Municipal Code, North Montclair Specific Plan, and/or the adopted General Plan for the proposed use; 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 November 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 November 13, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. That said use is not essential or desirable to the public convenience and public welfare, in that there are a significant number of existing used merchandise retailers in Montclair and surrounding communities, indicating that such uses are more local-serving than regional-serving.
 - b. That, while granting the permit will not be materially detrimental to the public welfare, it would have the potential to be detrimental to the expansion of economic activity in the subject area. Staff believes that the proposed consignment store use is inconsistent with the goals of the North Montclair Specific Plan, and more specifically, the focus area east of Central Avenue between Moreno Street and I-10. Staff does not believe that the proposed use would contribute to improved business activity in the area nor act as a natural economic complement to the success of businesses in and around Montclair Plaza. Consignment or thrift stores are not typically considered to be a regional draw in the same way as an auto dealership, large clothing retailer, or a nationally recognized restaurant use would. Finally, staff does not find the proposed use to be similar to, or consistent with, retail businesses that currently exist along Moreno Street.
 - c. That while the proposed use is permitted in the C-3 land use district of the North Montclair Specific Plan subject to approval of a CUP, the Specific Plan identifies the focus area east of Central Avenue between Moreno Street and I-10, in which the subject property is located, to be an important regional-serving commercial area. The properties on the south side of Moreno Street (east of Central Avenue), in particular, enjoy the unique advantage of frontage and visibility to I-10, making them particularly attractive to businesses that are a regional destination rather than a local one.
 - d. That such use in such location is contrary to objectives LU-1.1.29 and LU-1.1.30 contained in the Land Use Element of the adopted General Plan.

3. Based upon the findings and conclusions set forth in paragraphs 1 and 2 above, this Commission hereby denies the application.

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

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

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Steve Lustro, Secretary

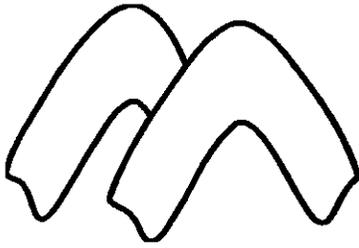
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the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

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SGD\CASES\2012-17\RESO 12-1771



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 11/13/12

AGENDA ITEM 6.c

Case No.: 2011-15

Application: A Precise Plan of Design (PPD) for the site plan and design of a five-unit condominium development

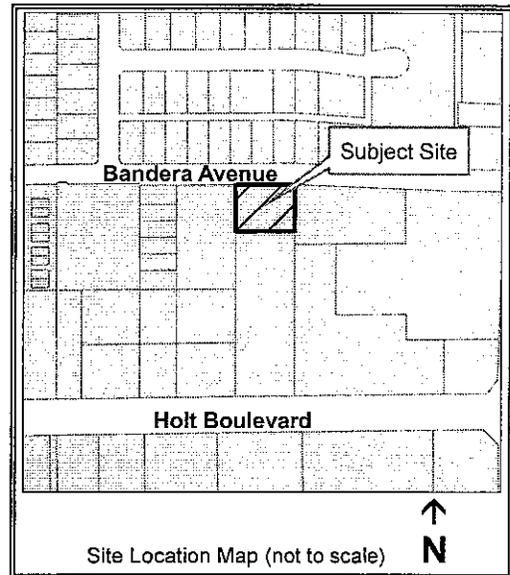
Project Address: 5165-5195 Bandera Street

Property Owner: AGS Construction Inc.

General Plan: General Commercial

Zoning: "Auto Mall" per Holt Boulevard Specific Plan

Assessor Parcel No.: 1010-611-23



ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Actual Use of Property</i>
Site	General Commercial	"R-3" per Holt Blvd. Specific Plan	Vacant
North	Residential – Medium density (8-14 du/ac)	"R-3" (Multi-Family Residential)	Apartments
East	General Commercial	"R-3" per Holt Blvd. Specific Plan	Condominiums
South	General Commercial	"Auto Mall" per Holt Blvd. Specific Plan	Auto body and repair
West	Residential – Medium density (8-14 du/ac)	"R-3" (Multi-Family Residential)	Apartments

Report on Item Number 6.c

CASE NUMBER 2011-15

APPLICATION TYPE(S)	Precise Plan of Design
NAME OF APPLICANT	AGS Construction, Inc.
LOCATION OF PROPERTY	5165-5195 Bandera Street
GENERAL PLAN DESIGNATION	General Commercial
EXISTING ZONE DISTRICT	"Auto Mall" per Holt Boulevard Specific Plan
EXISTING LAND USE	Vacant Land
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15332)
PROJECT COORDINATOR	Michael Diaz

Update on Previous Approval

On February 9, 2009, the Planning Commission approved Tentative Tract Map No. 18728 and a Precise Plan of Design (PPD) to allow the development of five (5) condominium units and associated on-site improvements on the subject ½-acre site. The new units are intended to tie into the recently completed 12-unit condominium complex located directly east of the subject property, also owned in part by the applicant. When this project is completed the entire development will have 17 units total, and will be managed by either a property management company or a properly established homeowners' association (HOA).

Due to the severe downturn in the economy and housing market, construction of the five-unit project was not initiated before the one-year PPD approval timeframe expired on February 9, 2010. Since the applicant did not request a time extension the original PPD approval became null and void. In addition, the approved Tentative Tract Map would have also expired on February 9, 2012 (three years from the date of approval) had not the Governor signed AB 208 (on July 15, 2011), which extended by 24 months the expiration date of any approved tentative map or vesting tentative map that had not expired as of the effective date of this act and that would expire prior to January 1, 2014. As such, the approval of the associated tract map has been extended to February 9, 2014.

As proposed, the applicant would build the project to condominium specifications and record the project as such. Initially, the units would be retained by the developer and used as rentals, to possibly be sold at a later date when market conditions improve.

Project Description

Site Plan

The proposed site plan for the project is largely unchanged from what was previously reviewed and approved by the Commission. Access to the project site would be via a single private driveway from Bandera Street that would turn eastward and align/connect with the existing private drive on the adjacent property. Visitor parking has been increased from two to five spaces (including one disabled-accessible parking space) and a covered trash enclosure is provided. An open space area (mostly turf) of approximately 720 square feet in area is proposed to be located at the southeast corner of the site.

New, six-foot high precision block walls are proposed for the west and south boundaries of the site and a 42-inch high open decorative metal fence (with vehicle and pedestrian gates at the driveway) is proposed for the Bandera Street frontage. The decorative fence would be set back 11'-0" back from the face of curb and includes as part its design the use of decorative concrete columns evenly spaced along the length of the fence.

As before, the project consists of two buildings, one with two units and the other with three units as summarized below:

Building Unit Summary				
Building E – 2 Units				
<i>Unit No.</i>	<i>Bedrooms / Bath</i>	<i>Floor Area*</i>	<i>Garage</i>	<i>Private Patio Area</i>
Unit 1	3 bedrooms / 2½ baths	1,608 SF	2 cars – 410 SF	180 SF
Unit 2	3 bedrooms / 2½ baths	1,608 SF	2 cars – 410 SF	180 SF
Building F – 3 Units				
<i>Unit No.</i>	<i>Bedrooms / Bath</i>	<i>Floor Area*</i>	<i>Garage</i>	<i>Patio Area</i>
Unit 1	3 bedrooms / 2½ baths	1,724 SF	2 cars – 437 SF	180 SF
Unit 2	3 bedrooms / 2½ baths	1,724 SF	2 cars – 437 SF	180 SF
Unit 3	3 bedrooms / 2½ baths	1,628 SF	2 cars – 415 SF	180 SF
* Net Interior Floor Space				

Both buildings are set back a minimum of 25 feet from the front property line as measured to the support posts of the patio covers. The second floor walls are set back an additional 10'-0" from the front property line at 35 feet. Interior side setback for the main wall of Building F is 15 feet, and the rear setback is 10 feet (second floor at 15 feet).

The overall density of the proposed development is the equivalent of 10.2 dwelling units per acre (du/ac), which is slightly less than the 11 du/ac allowed for the underlying land use district. The maximum height of the buildings would be 24'-10" as measured to the ridgeline of the gable roof.

Architecture and Landscaping

The overall styling of the units is a contemporary interpretation of the Spanish architectural style that approximates the look but does not match architectural features of the 12-unit condominium development to the immediate east of this project. The proposed design style features stucco walls, some window and door accent trim, and concrete S-shaped roof tiles. The base of the building is proposed to have a faux stone veneer approximately 3'-0" in height. Proposed colors for the buildings will be presented at the meeting.

Each unit is provided with a wood semi-open patio cover space with access to adjacent outdoor areas for recreational use. Building E units have patio covers and share the front street setback area for open space. Building F units have small private backyards.

The landscaping and irrigation plans were developed by a license landscape architect in accordance with the City's Water-Efficient Landscape and Conservation standards, including the development of a water budget for the project. Plant materials are varied and visually interesting, largely made up with water-saving varieties and well distributed around the building and site. The proposed landscaping concept has also been designed to be consistent with the site plan improvements as required by the approved Water Quality Management Plan (WQMP).

Copies of the site plan, floor plans, and building elevations are included in the Commission packets for reference.

Background

- The subject site is undeveloped and relatively flat. No trees exist on the site.
- On February 9, 2009, the Planning Commission approved Tentative Tract Map No. 18728 and a Precise Plan of Design (PPD) to allow the development of five (5) condominium units and associated on-site improvements on the subject ½-acre vacant site.
- The adjacent property to the east is developed with a 12-unit condominium project (Tract No. 16782) owned and built by La Casa Building Contractors. Although the units were developed as condominiums, they are utilized as rentals.

Planning Division Comments

As before, staff is generally supportive of the project and its overall design. With the construction of these five new units the owner will be able to realize the original desire to complete and tie together both sites. As mentioned above in the project description, the general characteristics of the project are largely unchanged. However, the applicant has worked extensively with staff during the last year to

further refine the plans to eliminate as many design deficiencies/discrepancies as possible. As a result, the project now more properly meets or exceeds the minimum development requirements of the Holt Boulevard Specific Plan with respect to project density, setbacks, height, unit size, building separation, parking, and private and common open space.

As is typical with projects of this type, the owner/developer would be required to construct various public improvements along the Bandera Street frontage of the project site, including asphalt paving, curbs, gutters, sidewalks, streetlights and undergrounding of utilities. These public improvements would upgrade the appearance of the street and correct any deficiencies along the property frontage that currently exist.

Architecturally, staff finds the exterior design of the buildings to be complementary to the existing units but also more refined in regard to details. In addition, the proposed exterior materials and colors are appropriate and durable. With respect to the proposed landscaping for the project, staff finds it to be complementary to the architecture of the building and an improvement over that installed on the adjoining project. The landscaping and irrigation plans are consistent with the guidelines set forth in Chapter 11.60 of the Montclair Municipal Code and also with the approved Water Quality Management Plan (WQMP) for the project.

Finally, the proposed residential development of the subject property would not have a detrimental effect on the businesses and residential uses in the surrounding area in that the project would fit in within the existing land use patterns, development and circulation plans established per the Holt Boulevard Specific Plan and the General Plan. Development of the subject property would eliminate one of the last vacant and neglected parcels of land on this section of Bandera Street and add to the available housing stock in the City.

Workmanship and Property Maintenance

When the neighboring 12 condominium units were being developed, a significant number of issues related to the quality of construction and workmanship plagued the project. The extent of the problems required excessive staff time to help resolve and bring the project up to a minimally acceptable, but not ideal, level. To avoid this situation from reoccurring with this project, staff has developed several conditions of approval intended to ensure a much better outcome. The final result of the project sits squarely with the general contractor's ability to stay on top of things and extract high quality workmanship from his employees and subcontractors. Poor workmanship will not be accepted and require that it be redone to achieve desired results.

A second significant concern is with regard to the proper management and maintenance of the units. As mentioned above, the existing units are being utilized as rentals and the maintenance of the property has been inconsistent since the

project was completed. Staff understands that the housing market may not be conducive to the sale of condominium units, but in the meantime, the property must be properly maintained to uphold property values. Without proper management of the property and tenants, City involvement through code enforcement action becomes necessary and requires a needless use of public resources. To address this concern, staff has included a condition of approval that a professional, institutional quality management company be obtained to manage the property whether the property is used as rentals or in the event the units are sold to individual owners.

The management company would be responsible to establish and enforce community standards and maintenance of the units and surrounding landscaping. When and if the units are sold individually, a homeowners association (HOA) would take over the above responsibilities. Covenants, Conditions and Restrictions (CC&Rs) would be recorded before any units could be sold and would be the governing document that dictates how the HOA operates and what rules the owners - and their tenants and guests - must obey. The document is recorded against each lot and, therefore, the owner of each lot is subject to the terms and conditions set forth in the document.

Further, since all on-site utilities, drainage and circulation patterns for this project would be connected to the adjoining 12-unit development to the east, the applicant will be required to develop a master set of Covenants, Conditions and Restrictions (CC&Rs) for the entire project. Currently, there are no approved CC&Rs for the existing 12-unit project. Conditions of approval addressing this issue are contained in the draft resolution prepared for the project.

General Plan and Specific Plan Amendment Status

At the time of approval of the adjacent 12-unit condominium development, the Planning Commission considered of the following entitlements:

- General Plan Amendment (GPA) to change the land use designation from "General Commercial" to "Medium Density Residential" (8-14 du/acre)
- Holt Boulevard Specific Plan Amendment (SPA) to change the land use designation from "Auto Mall" to "R-3" (Multi-Family Residential)

At its meeting on February 23, 2004, the Commission adopted Resolution Nos. 04-1563 and 04-1564, recommending City Council approval of the requested GPA and SPA, which covered the 1.15-acre site encompassing the proposed 12-unit condominium development and the subject 0.49-acre site currently being reviewed by the Commission for the proposed five-unit development. For reasons that are unclear at this point, the GPA and SPA did not move on to City Council for consideration, even though staff located the respective Council resolutions for each amendment. Accordingly, staff has included a condition of approval requiring the GPA and SPA to be re-submitted to the Planning Commission for a recommendation

and to the City Council for consideration and action prior to issuance of any permits. Because this final step in the process was never originally completed and does not appear to be the fault of the applicant, the applicant will not be responsible for the application fees associated with the required GPA and SPA.

Public Notice

No public notice was required for this project as the review of this item only pertains to the design aspects of the project. As a courtesy, a copy of the report was sent to adjacent property owners. At the time of preparation of this report, no comments had been received from neighboring property owners.

Environmental Assessment

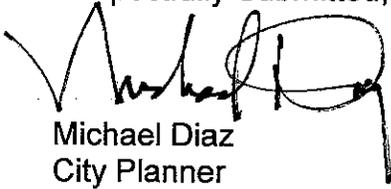
In 2009, the project was determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15332 of the State CEQA Guidelines. The project qualified for the exemption because it involved the construction of five or fewer residential units as an infill development in an urbanized area and that the project will comply with all the requirements of the Zoning Code and be consistent with the General Plan subject to the pending amendments previously described. There have been no significant changes to the project or conditions in the field that would change the circumstances by which the project was deemed to be exempt. As before, there is no substantial evidence the project would pose a potential significant impact to the environment.

Planning Division Recommendation

Staff finds the proposed use to be consistent with the Montclair Municipal Code. The proposed use will be consistent with the Holt Boulevard Specific Plan and the adopted General Plan once amended as described in the staff report. Therefore, staff recommends approval of Case No. 2011-15 by taking 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 32 exemption under State CEQA Guidelines Section 15332.
- B. Move to approve a Precise Plan of Design for the site plan, floor plans, building elevations, landscaping and associated on- and off-site improvements for a five-unit Planned Residential Development at 5165-5195 Bandera Street as described in the staff report, and per the submitted plans, subject to the conditions of approval in attached Resolution 12-1770.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael Diaz', with a large, stylized flourish at the end.

Michael Diaz
City Planner

MD/lb

c: Sandro Sabbatini, 19831 Golden Bough Drive, Covina, CA 91724
La Casa Building Contractors, 155 W. Florence Avenue, Los Angeles, CA 90003

RESOLUTION NUMBER 12-1770

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MONTCLAIR APPROVING A PRECISE
PLAN OF DESIGN UNDER CASE NUMBER 2011-15 FOR
A 5-UNIT RESIDENTIAL CONDOMINIUM PROJECT AT
5165-5195 BANDERA STREET (APN 1010-611-23)**

A. Recitals

WHEREAS, on November 16, 2011, AGS Construction Inc., filed an application for a Precise Plan of Design (PPD) to develop five (5) residential condominium units in two buildings on the subject site; and

WHEREAS, this PPD pertains to the overall site plan, floor plans, elevations, colors, materials, and conceptual landscape plan associated with the five-unit condominium residential development; and

WHEREAS, the subject property is approximately 0.49 acres in area and is currently undeveloped; and

WHEREAS, the subject property has a General Plan land use designation of "General Commercial" and is located within the "Auto Mall" land use district of the Holt Boulevard Specific Plan; and

WHEREAS, at its meeting on February 23, 2004, the Planning Commission adopted Resolution Nos. 04-1563 and 04-1564 under Case No. 2004-1, approving a General Plan Amendment and Specific Plan Amendment changing the land use designation of the subject property to "Medium Density Residential" (8-14 du/acre) and "R-3" (Multiple-Family Residential), respectively; and

WHEREAS, for reasons that are unclear, the General Plan and Specific Plan amendments did not move on to City Council for consideration and action; and

WHEREAS, staff will be responsible for re-processing said entitlements through the Planning Commission and City Council in an expedient manner so as not to cause any undue delay to the applicant; and

WHEREAS, the applicant will not be responsible for bearing the cost of the re-processing of said applications; and

WHEREAS, on February 9, 2009, the Planning Commission approved Tentative Tract Map No. 18728 and a Precise Plan of Design under Case No. 2009-1 to develop five (5) condominium units on the subject site; and

WHEREAS, the proposed five units are intended to tie into the existing 12 condominium units developed under Case No. 2004-1 (Tract No. 16782) on the adjacent property immediately to the east of the subject property and still owned by the applicant; and

WHEREAS, due to the national economic downturn, development of the approved five-unit condominium project was not initiated before the one-year PPD approval timeframe had expired on February 9, 2010, and no request for a time extension was submitted by the applicant; and

WHEREAS, approved Tentative Tract Map No. 18728 associated with this project was originally valid until February 9, 2012 (three years from the date of approval) as allowed by the State Subdivision Map Act; and

WHEREAS, the Governor of the State of California signed Assembly Bill 208 (approved July 15, 2011) to extend by 24 months the expiration date of any approved tentative map or vesting tentative map that had not expired as of the effective date of the act and that would expire prior to January 1, 2014. As such, the new expiration date for Tentative Tract Map No. 18728 is now February 9, 2014; and

WHEREAS, staff found the subject proposal to be in compliance with the general guidelines and development standards of the Holt Boulevard Specific Plan; and

WHEREAS, when the five-unit residential project is completed, it will be combined with the existing 12-unit development adjacent to the east for a total development consisting of 17 multi-family units to be managed by a professional property management company or properly established homeowners' association (HOA); and

WHEREAS, no public notice is required for the PPD review of the exterior design elements of the project; and

WHEREAS, the Planning Division has determined this project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15332 of the State CEQA Guidelines. The project qualifies because it involves the construction of five or fewer residential units as an infill development in an urbanized area and that the project complies with all the requirements of the Zoning Code and is consistent with the General Plan. It is further found that there is no substantial evidence the project will pose a potential significant impact to the environment; and

WHEREAS, on November 13, 2012, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission reviewed the proposed project at which time all persons wishing to testify in connection with said application were heard, and said application was fully studied; and

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 November 13, 2012, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - A. The property is of a size and shape to support the proposed project as designed. At 0.49 acres in area, the site is of sufficient size and shape to accommodate the proposed five condominium units in two buildings with associated on-site parking and other improvements. The site is appropriately connected to existing and fully developed roadways that would allow for ease of access by both pedestrians and vehicles including the future tenants and their guests.
 - B. The proposed project will not have an adverse impact on or substantially depreciate property values in the vicinity, unreasonably interfere with use and enjoyment of property in the vicinity, or endanger the public peace, health, safety, or general welfare. The area in which the project is located is presently zoned for and developed with multi-family residential units. When completed, the existing vacant lot that currently detracts from the appearance of the street will be replaced with new residential units that will contribute to the general physical improvement envisioned by the Holt Boulevard Specific Plan, in which the subject site is located.
 - C. Overall, the project is appropriately designed and promotes orderly development. The site plan is arranged to accommodate the new units and tie into the adjacent development on the east. Moreover, the design of the new buildings has been refined to incorporate proper architectural details and materials for the proposed style of the project and improved durability. The proposed landscaping concept is complementary to the architecture, well distributed

around the site, is designed to conserve water and comply with WQMP requirements.

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

Planning

1. This approval is for a Precise Plan of Design for the site plan, floor plans, elevations, colors and materials, landscaping and irrigation associated with the construction of five (5) single-family attached condominium units in two buildings on the subject 0.49-acre site on the south side of Bandera Street west of Central Avenue. The maximum number of condominiums shall be limited to five (5) units.
2. Precise Plan of Design (PPD) approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval, unless the applicant is diligently pursuing building plan check toward eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
3. No changes to the approved set of plans, including the exterior design and materials/finishes, shall be permitted without prior City review and approval. Any modification, intensification, or expansion of the use and design plan beyond that which is specifically approved with this PPD shall require review and approval by the Planning Commission.
4. Within five (5) days of approval by the Planning Commission, the applicant shall submit 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).
5. All conditions of approval for Tentative Tract Map No. 18728, a single lot subdivision for condominium purposes on the subject site shall apply. Pursuant to AB 208, the expiration date for the above tentative tract map shall be February 9, 2014.

6. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval and owner's signature, 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.
7. The 25-foot deep front yard setback as measured from the north property line adjacent to Bandera Street shall be maintained as landscaped common open space in perpetuity for the life of the project. The required front setback and shall not be:
 - a. Subdivided into private yard areas for exclusive use by any unit; and
 - b. Covered with hardscape elements that would adversely impact the effectiveness of the required WQMP swale unless as part of a landscape plan approved by the City; and
 - c. Utilized for the placement and/or storage of permanent or temporary freestanding accessory structures including patio covers, arbors, storage sheds/containers; and trash/recycling/greenwaste containers; and
 - d. Used to erect children's play apparatus, swing sets, and other similar recreational equipment over six feet (6'-0") in height.
8. Prior to issuance of grading or building permits, the following entitlements shall be approved by the City Council:
 - a. General Plan Amendment changing the land use designation of the subject property from "General Commercial" to "Medium Density Residential" (8-14 du/acre); and
 - b. Holt Boulevard Specific Plan Amendment changing the land use designation from "Auto Mall" to "R-3" (Medium Density Residential).

Applications for the above-said entitlements shall be initiated by staff and the applicant shall bear no responsibility for the cost associated with the applications.
9. Prior to the issuance of any permits for the project, the applicant shall complete the following items:
 - a. Obtain final tract map approval from the City and duly record the approved signed map in the Office of the County Recorder of the County of San Bernardino.

- b. Submit three (3) copies of draft Covenants, Conditions and Restrictions (CC&Rs) prepared for Tentative Tract Map No. 18728 and Tract No. 16782 tying both tracts together, in accordance with all provisions of Section 11.90.390 of the Montclair Municipal Code. The CC&Rs shall be reviewed by the Director of Community Development and City Attorney, at the applicant's expense, and shall, upon approval of the City, be recorded in the Office of the County Recorder of the County of San Bernardino prior to the sale or rental of any new condominium unit approved with this application.

The CC&Rs submitted to the City and recorded against the property shall state that the condominium homeowners association shall be responsible for ongoing maintenance of all buildings and grounds within the Project, including driveways, perimeter fences, retaining walls, drainage facilities, and water and sewer systems, landscaping as described herein, as well as the management of all aspects of condominium project.

Maintenance Obligations

The CC&Rs shall make provision for the following maintenance obligations:

- i. Drive and Street Maintenance. All private drives and streets within the Condominium Development shall be owned by, and the cost of repairing and maintaining them shall be borne by, an established condominium homeowners association. Street maintenance shall be addressed in the CC&Rs and shall not be dedicated to the City for maintenance.
- ii. On-site Easements. The cost of establishing any on-site easements shall be borne by the subdivider or successor(s) and the cost of maintaining any on-site easements shall be borne by an established condominium homeowners association. All on-site easements shall be addressed in the CC&Rs and shall not be dedicated to the City.
- iii. Storm Drain Maintenance. The on-site storm drainage system shall be owned by, and the cost of repairing and maintaining it shall be borne by, an established condominium homeowners association. Maintenance of the storm drain system shall be addressed in the CC&Rs and shall not be dedicated to the City. The CC&Rs shall provide that the City have a right to make necessary repairs to any drainage facilities that are the responsibility of the

condominium homeowners association and create nuisance conditions on property outside of the boundaries of the area owned by or under the control of the condominium homeowners association when the Association has been advised in writing of the need to make repairs and has not done so.

- iv. **Parking Space Use and Maintenance.** All on-site guest parking spaces shall be owned by, and the cost of repairing and maintaining them borne by, an established condominium homeowners association. Parking spaces, restrictions, and enforcement of the restrictions shall be addressed in the CC&Rs and shall not be dedicated to the City for maintenance. The CC&Rs shall include and provide for the expenses associated with the monitoring and towing of illegally parked vehicles owned by any member.
- v. **On-site Parking.** The CC&Rs shall stipulate that no utility trailers, commercial or construction vehicle of any length, watercraft, or recreational vehicles shall be permitted to be parked or stored overnight on any private drive or street, parking areas, and/or fire lane(s) within the complex. "Recreational vehicle" shall be generally defined as a motor home, travel trailer, truck camper, or camping trailer with or without motive power designed for human habitation for recreational or emergency occupancy.
- vi. **Lighting Maintenance.** The condominium homeowners association shall be responsible for maintenance of exterior onsite lighting and shall promptly replace nonfunctioning lights and broken or damaged lighting devices.
- vii. **Garage Use.** The CC&Rs shall stipulate that garages shall, at all times, be available for the parking of vehicles assigned to the applicable condominium unit. Storage within garages shall be allowed only to the extent such storage does not impede access to the parking space(s) within the garage.
- viii. **Common Areas.** In addition to the maintenance of the exterior of buildings and grounds within the Project including roadways, fences/walls, retaining walls, trash enclosure, drainage facilities, and water and sewer systems as described herein, the CC&Rs shall provide for the continuing maintenance by the condominium homeowners association of all additional common areas and facilities including the private streets, auto courts, speed bumps, traffic control

signs and devices, common landscaping and irrigation, including perimeter landscaping adjacent to the public streets, and all perimeter walls. All landscaped areas shall be maintained in accordance with approved plans and the property maintenance standards contained in the Montclair Municipal Code.

Management Obligations

The CC&Rs shall also make provision for the following management obligations:

- ix. Certified Residential Management Company. The HOA shall be required to retain the services of a California Certified Residential Property Management Company. The City shall approve the Management Company selected; however, such approval shall not be unreasonably withheld if the Management Company is certified.
 - x. Management Obligations. The Management Company shall ensure that all rules and regulations are being followed by owners and/or renters and that the use of the property is managed.
 - xi. Compliance with Rules. All owners or renters occupying units within the Project shall be subject to all rules and regulations developed by the HOA and Management Company. The HOA shall establish a warning and fine system for violation of the rules and regulations. If owners or renters of units violate rules and regulations, the owner of the rental unit shall be responsible for payment of such fines for violation of the rules by their tenant(s). The rules established by the Management Company for rental of units to nonowners shall include provisions for eviction of nonowner tenants for violations of the rules and regulations of the project. The rules shall also include provisions for imposing penalties on Owners who fail to evict such tenants.
10. Prior to the final permit approval for any unit approved with this project, the applicant shall obtain the services of a California Certified Residential Property Management Company to manage the property whether the dwelling units are retained by the developer and utilized as rental apartments or are recorded as separate units and then sold to individual owners. In either case, the provisions identified in Condition No. 9 shall be enforced by the Management Company by means of a recorded Property Maintenance Agreement or recorded CC&Rs.

11. The applicant shall contact the City Planner and Building Official when rough grading of the site is completed per the approved grading plan, order to determine the final locations and heights of required or proposed perimeter walls along the south and west property lines of the site.
12. A photometric plan for the parking area and driveways shall be prepared for the project. The photometric plan shall include the location of all exterior light fixtures (area, building, parking lot, etc.) and the overall illumination levels across the site. All proposed exterior lighting shall comply with the following standards:
 - a. Provide a minimum maintained illumination level of one (1) foot-candle across the site. After-hours, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
 - b. Lighting fixtures shall be vandal resistant and of a design that complements the architecture of the building.
 - c. All light fixtures shall incorporate 90-degree cut-off style luminaires and flat lenses so as to direct illumination downward to the surface to be illuminated and away from public rights-of-way or adjacent residential properties/uses.
 - d. Freestanding light fixtures and poles shall not exceed a maximum height of 18'-0" as measured from adjacent grade to top of luminaires.
 - e. The use of wall packs, barn lighters, other similar unshielded luminaires, and/or decorative lighting installed solely for the purpose of illuminating the roof shall be prohibited.
 - f. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Planning Division.
 - g. Above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be finished with a color stucco or "wrapped" with a decorative building material or texture consistent with those used on the main building.
13. No surface-mounted exposed conduit or electrical lines shall be allowed. Electrical switchgear, meters, etc., shall be screened or housed in an enclosure to the extent allowed by the utilities.
14. Residential antennas and satellite dishes are subject to the provisions contained in the Montclair Municipal Code as amended from time to time, including the requirement that such apparatus be screened from public view to the greatest extent possible. Antennas and satellite dishes shall

be for domestic use only with no commercial use permitted. All antennas and satellite dishes shall be maintained in good condition and in accordance with the requirements of applicable city ordinances.

15. All rooftop mechanical equipment, vents, meters, HVAC units, ducts, conduit, etc., shall be fully screened from view in a manner that is compatible with the architectural design of the building to the satisfaction of the City Planner. Wooden lattice or fence-like screens/covers are not considered an appropriate means of screening.
16. All ground-mounted mechanical equipment including, but not limited to, utility meters, air conditioners, condenser units, and repair equipment shall be located within the building or screened in a manner that is compatible with the architectural design of the building to the satisfaction of the City Planner. Electrical and fire suppression service shall rise within the interior of the building(s). Roof ladders shall also be located entirely inside the building.
17. Freestanding electrical transformers and Fire Department double check detector assembly (DCDA) equipment shall be screened with masonry walls compatible with the building architecture and/or landscaping to the satisfaction of the City Planner and Fire Marshal. Efforts shall be made to place these elements in locations that are as unobtrusive as possible.
18. All trees shall be a minimum 24-inch box size and double-staked per City standards.
19. Pursuant to Section 11.60.240 of the Montclair Municipal Code, all landscaping and irrigation systems shall be maintained in accordance with the approved site and/or landscape plan to ensure the growth and health of plant materials and water use efficiency. A regular maintenance schedule shall be submitted to the City with the Certificate of Completion and a copy shall be kept by the property owner for reference.
 - a. Any plant material that does not survive or which was removed or destroyed shall be replaced upon its demise or removal with plant material of like type and size as that which was originally approved and installed.
 - b. Plant material shall not be severely pruned such that the natural growth pattern or characteristic form is significantly altered. Trees shall be pruned to ISA (International Society of Arboriculture) standards and only as necessary to promote healthy growth and for aesthetic purposes (i.e., to enhance the natural form of the tree). Improperly or severely pruned trees, including topping as defined by the Water Conservation Ordinance, which results in the removal of the normal canopy and/or disfigurement of the tree shall be

replaced with trees of similar size and maturity as that which was removed or, as required by the Community Development Director.

- c. Modifications to and/or removal of existing landscaping shall require prior approval by the City Planner.
20. The required trash enclosure shall be constructed pursuant to City Standard #106 and be finished in a manner that is consistent with the primary type and color(s) used on the building.
21. To ensure compliance with the conditions of approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.
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 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. The street address assignment for this project shall be 5185 and 5195 in Building "E" and 5165, 5167 and 5169 in Building "F". The address of each new residence shall be displayed in minimum four-inch (4") tall numerals on a contrasting background and backlit with a low-voltage illumination source. Said identification shall be installed in a consistent location on each residence. Before the subject building receives final inspection, the contractor shall schedule an appointment with the Building Division and the Planning Department to confirm the proper location of the addresses as well as the proper sequencing.
24. All plans shall be marked with the case number (2011-15) The applicant shall comply with the latest adopted California Codes and other applicable codes, ordinances, and regulations in effect at the time of permit application.
25. Prior to acceptance of plans for review, a plan check deposit shall be required at the established rate.

26. Prior to issuance of building permits, the applicant shall prepare, submit and/or comply with the following requirements for the review and approval by the Building and Planning Divisions:
 - a. Five (5) complete sets of plans for the project, including building elevations, colors and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details, plus two sets of soils, structural and Title 24 calculations for review and approval by the Building and Planning Divisions.
 - b. Each dwelling unit shall incorporate sound attenuation measures (i.e. dual-paned glazing, upgraded insulation, etc.) to achieve a maximum interior noise level no greater than 45 dBA.
 - c. 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 handicap accessible regulations as required by Chapter 11 of the 2010 California Building Code.

27. Prior to the issuance of any permits, the applicant shall pay all required fees, including, but not limited to, the following:
 - a. Montclair Fire Department fees.
 - b. Transportation impact fees per the adopted Engineering Division fee schedule at the time building permits are obtained.
 - c. School fees for the Ontario-Montclair School District and the Chaffey Joint Union High School District.
 - d. Sewer reimbursement fees as imposed by a district, if any, or any assessments as required.
 - e. Regional Sewerage Supplemental Capital Outlay fees as required in accordance with Section 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency (IEUA). Contact Nicole Greene, Environmental Manager at 909/625-9446 for fees.
 - f. Pay adopted parkland development fee.

28. All utility services to the building shall be installed underground.

29. Permanent landline phone service shall be brought to and capable of installing phone service to each unit per California State requirements pertaining to apartment units.
30. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint and stucco in all cases shall not be below standard for the use applied. The proper grade of walks, drives, and yards shall be required when installed with the work requiring a building permit. A minimum thickness of 3½ inches for flat concrete work and 2 inches for asphalt paving shall be required. All exterior flat concrete work shall include such breaks for expansion as deemed necessary by the Building Official.
31. Grade of block perimeter walls surrounding the project shall not be constructed so as to cause a climbing condition from adjacent properties.
32. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, utility meters, 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. Air conditioners shall be located on the ground, subject to staff review.
33. Trash enclosure, if required as part of the project, shall be constructed of masonry and faced with a material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City Development Standard #106 and shall include a solid cover roof compatible with the architectural design of the main building and a fire sprinkler system, if required, designed to the satisfaction of the Deputy Fire Marshal.
34. Prior to issuance of the first Certificate of Occupancy, the person or corporation responsible for the preparation of the Water Quality Management Plan shall certify in writing to the Building Official that all conditions and requirements of the Water Quality Management Plan have been implemented or are in compliance with the approved plan. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.

Engineering

35. Construct fully accessible, continuous curb-adjacent sidewalk throughout frontage of property. Install drive approaches in accordance with City standards and to the satisfaction of the City Engineer.
36. No fencing, pilasters, gates, or other non-public improvements shall be constructed within the public right-of-way on Bandera Street unless an encroachment permit has been issued by the City. In addition, if gates are to be installed at driveways, the gates shall be placed a minimum of 20 feet behind sidewalks to allow vehicles to be out of street and not blocking sidewalks while gate is opening. Turn-around areas shall be provided at each driveway for motorists unable to access the gated entrances.
37. Install Cinnamomum camphora (Camphor) street trees, 40 feet on center, along the Bandera Street frontage. Street trees shall be minimum 24-inch box size and double-staked per City standards.
38. Prepare street improvement plans in accordance with City standards showing sidewalks (fully accessible) and drive approaches. Dedicate additional right-of-way for sidewalk purposes as necessary.
39. Install three, concrete standard streetlights at locations to be determined by City Engineer. Applicant shall prepare a streetlight plan at a scale no less than 1"=50' showing existing curb, gutter, sidewalks, and existing streetlight locations within 300 feet east and 300 feet west of property lines. City shall determine appropriate locations, types, and sizes for streetlights.
40. Pay transportation-related development impact fees. Fees shall be assessed at the rate in effect at the time the fees are paid. Occupancy will not be granted under any conditions until fees have been paid.
41. A drainage plan prepared to the satisfaction of the City Engineer is required. It is recommended that runoff drain to Bandera Street. If that is impractical, then developer shall obtain drainage easement from properties to the south to drain across their properties to Holt Boulevard, or applicant shall demonstrate a legal right to drain across those properties already exists, to the satisfaction of the City Engineer. Copies of recorded easement documents shall be submitted to the City prior to the recordation of the tract map.
42. Discharge of wastewater into the sewer collection system shall conform to all requirements of the Montclair Municipal Code.

43. Pay Regional Sewerage Capital Outlay fees at rates specified in the Montclair Municipal Code and by Inland Empire Utilities Agency. Occupancy will not be granted under any conditions until fees have been paid.
44. Pay sewer reimbursement fees as may be applicable to the City.
45. Submitted plans do not indicate how buildings are to be sewered. Additional conditions may apply depending on whether sewers are public or private, including the dedication of additional right-of-way.
46. On-site sewer laterals shall be designed in accordance with City of Montclair Building Division requirements.
47. A Water Quality Management Plan (WQMP) is required for this project. Approval of the WQMP is required prior to the preparation of grading and/or other improvement plans. Requirements for the WQMP may be obtained from the City NPDES Coordinator Joseph Rosales at 909/625-9470. All drainage facilities shall comply with requirements of the approved WQMP. At this time a WQMP has been submitted and approved by the City. As long as the grading plan is consistent with the WQMP, no additional WQMP work is anticipated. However, should new WQMP regulations be imposed upon the City by San Bernardino County or the Regional Water Quality Control Board prior to the grading plan being approved, additional WQMP work may be required.
48. A grading plan shall be prepared subject to the approval of the City Engineer. An erosion control plan shall be included and considered an integral part of the grading plan. Grading plans shall be designed in accordance with City standards and guidelines, and shall be on 24" by 36" sheets.
49. All utility services to this tract shall be placed underground. No overhead wiring within the public right-of-way or within the tract boundaries of any kind will be permitted.
50. No soil may be imported or exported to or from the project site from any adjacent building site or from other sources for construction purposes without first obtaining approval from the City Engineer. A plan acceptable to the City Engineer shall be prepared showing proposed haul routes within the City. The plan shall include provisions for street sweeping and cleanup. Contractor(s) shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements.

51. All off-site and on-site trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
52. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 800/422-4133.
53. Prior to issuance of any building permits, grading permit, or construction permit, the final tract map shall be recorded with the San Bernardino County Recorder's Office. Prior to or concurrent with the approval of the final tract map with the City, developer shall enter into a development agreement with the City covering all work within the public right-of-way.
54. Prior to filing the original signed final map with the City Engineer, the applicant shall conduct a Phase I environmental analysis of the entire site, to be performed by an environmental consulting firm acceptable to the City, to determine whether any contamination is present on the site. Any and all clean-up, as required by the results of said analysis, shall be completed prior to acceptance of the final tract map by the City for recordation. All clean-up activities shall be in compliance and completed in accordance with all applicable local, state and federal regulations. The environmental analysis report shall be approved by the Director of Community Development. The applicant shall be responsible for staff and City Attorney costs associated with this review.

Water Quality Management Plan (10/12)

55. Prior to the issuance of any grading or building permit, the applicant shall obtain an approved WQMP from the City of Montclair per the requirements of Federal, State, and local regulations.
56. Comply with all requirements of the approved Water Quality Management Plan (WQMP) for this project.
57. Prior to issuance of a grading permit or the construction of stormwater runoff treatment structural devices associated with the WQMP (or not), the applicant shall obtain a construction permit for stormwater runoff structural treatment devices and pay fees at the established rate.
58. The applicant/developer/property owner/homeowners association shall be responsible to contract with a qualified firm to inspect and maintain any and all manufactured stormwater treatment devices specified by the approved WQMP, following all manufacturers' recommendations. It shall also be the responsibility of the applicant/developer/property owner/homeowners association to maintain inspection reports and have them readily available for review by City staff upon request. In the event that any stormwater treatment device fails due to lack of, or insufficient

maintenance and/or inspection, or some other unforeseen circumstance, it shall be the responsibility of the applicant/developer/homeowners association to correct the deficiency and restore the stormwater treatment device(s) to its original working condition.

59. Prepare and submit plans for erosion and sediment control. Plans shall include all phases of the construction project, including rough grading, utility and road installation, and vertical construction to the satisfaction of the City Engineer. Contact Joe Rosales, NPDES Coordinator, at 909/625-9470.
60. Prior to issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Engineering Division an electronic copy of the approved WQMP in PDF format.
 - b. Record the WQMP Maintenance Agreement with the County of San Bernardino and provide evidence of said recording to the NPDES Coordinator.
61. Prior to release of occupancy for any of the dwelling units in the subdivision, the person or corporation responsible for the preparation of the WQMP shall certify in writing to the Building Official that all conditions and requirements of the WQMP have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official and the NPDES Coordinator that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the WQMP.
62. The applicant shall ensure that all requirements of the approved WQMP for the project are incorporated and consistent with the approved landscape and irrigation plans for the project. All required Best Management Practices (BMPs) shall be duly noted and shown on the landscape plans per the approved WQMP

Fire Department

63. A 20-foot wide base asphalt or concrete roadway capable of supporting firefighting apparatus within 150 feet of all structures prior to the framing stage of construction. This access is required to be maintained unobstructed throughout construction. Roadway is subject to Fire Department approval prior to construction.
64. The applicant/developer/general contractor is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.

65. 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.
66. All Fire Department access and fire lanes shall be posted as "No Parking, Fire Lane." Signs shall be designed and installed in accordance with Montclair Fire Department standards.
67. The proposed residential structures shall require an approved automatic fire-sprinkler system. The system shall conform to all local and national standards and be designed to provide a signal to a UL-listed monitoring station in the event of a water flow or tampering. Submit three (3) copies of an automatic fire sprinkler system plan directly to the Fire Marshal's office for review and approval prior to installation.
68. Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
69. A fire hydrant system shall be required to provide the necessary water flow to the proposed subdivision. Exact number, location and design of hydrants shall be determined by the Fire Marshal's Office when building plans are received. Hydrants shall be active prior to the framing stage of construction.
70. An approved, emergency keyed access system shall be required to facilitate access 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. Facilities with gate drive approaches shall contact the Fire Marshal's Office for additional key and strobe requirements.
71. Vehicle security gates shall be approved only with the use of hold-open devices to allow for emergency vehicles access. Contact the Fire Marshal's office for specific requirements.
72. All Montclair Fire Department fees are due prior to any permit issuance.
73. Covered trash enclosures shall have fire sprinklers installed should any one of the following conditions exist: the trash enclosure has a combustible roof covering; the trash enclosure contains two or more individual trash containers; or the trash enclosure is under or within five feet (5') of combustible construction.
74. Fire extinguisher location(s) to be determined by the Montclair Fire Department.

75. All Double Check Detector Assemblies (DCDA) shall be painted and maintained by the property owner with the following paint color specifications: Rust-Oleum Satin Interior/Exterior Acrylic Latex Paint – Hunt Club Green No. 7944502 (quart). This condition is subject to Fire Department inspection and approval when work is completed.

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

APPROVED AND ADOPTED THIS 13TH DAY OF NOVEMBER, 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 November, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT: