



CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES

REGULAR ADJOURNED MEETING
Monday, April 22, 2013

COUNCIL CHAMBER
5111 Benito Street, Montclair, California 91763

CALL TO ORDER

Chair Johnson called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Commissioner Johnson asked for a moment of silence for the victims and families of the Boston Marathon tragedy.

Commissioner Vodvarka led those present in the salute to the flag.

ROLL CALL

Present: Chair Johnson, Vice Chair Flores, Commissioners Sahagun and Vodvarka, Community Development Director Lustro, City Planner Diaz, City Attorney Robbins

Excused: Assistant Planner Gutiérrez

MINUTES

The minutes of the February 25, 2013 regular meeting were presented for approval. Commissioner Vodvarka moved, Vice Chair Flores seconded, and the minutes were approved 4-0.

ORAL AND WRITTEN COMMUNICATIONS

None.

AGENDA ITEMS

- a. PUBLIC HEARING – CASE NUMBER 2013-6
Project Address: 4594 San Bernardino Street
Project Applicant: Chino Basin Water Conservation District
Project Planner: Michael Diaz, City Planner
Request: Variance request to allow an electronic message board/identification sign

City Planner Diaz reviewed the staff report.

Chair Johnson asked whether the sign would be on all the time or have certain hours. City Planner Diaz replied that it would be on 24 hours, but would not face directly onto any residences because it is perpendicular to the street. He estimated the closest property to be about 200 feet to the east.

Chair Johnson opened the public hearing.

Commissioner Sahagun commented that for quite some time he has been concerned about the lack of a sidewalk on the Palo Verde Street frontage of the site and would like to see a condition requiring a sidewalk for all the area surrounding the site. Director Lustro replied staff has had this discussion in the past with the District, particularly when the master plan came to the Commission. At this time, there is no plan to construct sidewalk on the south side of Palo Verde Street. Further, with this particular application, there really is no nexus for adding a condition of approval to construct a sidewalk on the north side of the property. However, staff agrees with the issue that Commissioner Sahagun and the Commission have raised in the past regarding the lack of a sidewalk. There is no public sidewalk on the north side of Palo Verde Street west of Helena Avenue, nor is the room to construct one on that side of the street. So, all he could say at this point is that the Commission's position is again noted and staff will attempt to work with the District in the future to see what we can do to get a path of travel constructed along Palo Verde Street. Commissioner Sahagun commented that would make him very happy and, again, it's for the public's safety.

Eunice Ulloa, General Manager of Chino Basin Water Conservation District, 4594 San Bernardino Street, Montclair, stated there is no sidewalk on the east side of the District property either. There is sidewalk on the east side of Helena Avenue, but not on their side. Eventually they are going to landscape the east and north sides of the Basin property to improve its appearance for the residents on the east side of Helena Avenue. When they pursue that project, they will also consider the sidewalk. Commissioner Sahagun thanked Ms. Ulloa and stated he spoke with one of the Council members regarding the federal program, "Safe Routes to School," and was told staff was looking into that as well. Helena Avenue leads right into the main entrance of Montclair High School. Ms. Ulloa stated the residents on the east side of Helena do not cross over to the west side when they walk south. There are homes on the west side of Helena south of the Basin, and there is a sidewalk there. There are very few people that walk on their side of the street, which they like, because they don't want to encourage people to try to

come into the Basin area, knowing how curious some kids are, they may want to jump fences, etc. Commissioner Sahagun commented that he thought most people who walk there are coming from north of I-10. They cross under the freeway on Mills Avenue and then go east on Palo Verde. Some walk south on Ramona, some use Helena.

Ms. Ulloa commented they are very excited to be finished with this project and everyone will be invited to the grand opening, which will probably be in July or August.

Vice Chair Flores commented he was glad to hear the discussion on Commissioner Sahagun's suggestion. On the variances, he felt both were good ideas, one, because you cannot tell the acreage is 1.5 acres short unless you are a surveyor. For the sign variance, compared to what is there, it will be like night and day. Ms. Ulloa stated that their staff is looking forward to it as well because staff currently has to go outside and hand-change the letters. With the new sign, they will be able to do it with a computer.

Commissioner Vodvarka asked if the park is open for visitors at this time. Ms. Ulloa stated the park is open, but you must enter at the west end near the channel because the parking lot is being renovated right now.

Hearing no other comments and no one else being present, Chair Johnson closed the public hearing.

Commissioner Sahagun moved that, based upon evidence submitted, the Planning Commission finds the application for the proposed variance qualifies as a Class 11 exemption under Section 15311 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects that involve the construction or replacement of minor structures accessory (appurtenant to) existing commercial, industrial, or institutional facilities, including, but not limited, to on-premise signs. The requested variances for the installation of the monument sign/electronic message board are consistent with this exemption, seconded by Vice Chair Flores, there being no opposition to the motion, the motion passed 4-0.

Vice Chair Flores recommended the Planning Commission approve the requested Variances under Case No. 2013-6 to allow a 6'-6" high monument sign with an electronic message board component at 4594 San Bernardino Street, as described in the staff report and subject to the findings and conditions in Planning Commission Resolution No. 13-1776, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 4-0.

b. PUBLIC HEARING – CASE NUMBER 2013-8

Project Address: Citywide
Project Applicant: City of Montclair
Project Planner: Steve Lustro, AICP,
Community Development Director
Request: Amendments to Chapters 11.02, 11.42 and
11.78 of the Montclair Municipal Code related
to definitions, off-premises sale of alcoholic
beverages and conditional use permits

Community Development Director Lustro reviewed the staff report.

Commissioner Sahagun stated this application really concerned him. It seems like we are moving toward changing the rules for someone when they are not happy with our rules and regulations and/or the fees. He understands that we want to streamline things. He has been told once or twice by people, particularly a few real estate brokers, that Montclair was really tough on business to get a license and he was shocked because he has mostly heard brokers say good things. He knows that we want to streamline things and help people save money, but this seems like someone does not like the fee or the ordinance so they go to Council and say, "Change it for me," and it really bothered him.

Chair Johnson said that she noticed that there are a number of temporary uses proposed to be included in the Administrative CUP section, but asked if someone wanted to build a huge building or something that would have a huge impact and typically come to the Commission, would this ordinance change that. Director Lustro replied that the list provided in the staff report is an all-inclusive list of the uses that would be covered under the Administrative CUP process. For example, any other uses that would require a CUP or Precise Plans of Design would continue to come to the Commission as they always have. The uses proposed to be reviewed through the Administrative CUP process are the ones staff felt that are less controversial, would not have much of an impact on the community and are less likely to generate concern or opposition from the community. The uses listed are the ones that staff feels it can review adequately at staff level and place sufficient conditions on them to be able to govern their operation.

Chair Johnson commented that one of the things that has always bugged her is when a temporary/celebratory type of event comes to the Commission and she thinks, "I just saw the tent; it's already up. Why are we reviewing this?" Maybe this would eliminate some of that. Director Lustro stated he hoped so. One of the things that staff battles very often is that an activity or a business starts without the people in charge obtaining approvals. He was not sure that any changes we make to the Code will solve that particular problem. When Commissioner Sahagun mentioned earlier the concern raised by real estate brokers that the City was not being business-friendly, that is a little bit worrisome. If we're not doing something we should be doing or can do things better, we certainly want to hear what the concerns are. However, what he felt the Commission

should know is that there are many times that a business owner or, in some cases, commercial leasing agents or real estate brokers, will go through the process of having a business owner sign a lease without anyone doing their homework ahead of time to find whether a certain use is permitted in a certain location. When that does happen, and it happens a lot more often than staff would like to see, staff ends up being the "bad guy" because we have to be the bearer of bad news. When a business owner comes in and wants to obtain a business license and we determine that they have already signed a lease for a space where their business is not permitted, it puts us in a very difficult spot. We cannot waive the rules just because someone didn't do their homework ahead of time. It is a battle that we constantly fight.

Commissioner Vodvarka commented that he did not understand how some businesses think they need an alcoholic beverage license to operate. Why would a real estate agent be involved in that unless he is involved with a business that is eventually going to sell alcoholic beverages? He does not understand why he cannot follow the rules just like everybody else. We have ordinances to correct problems. He felt the report that Director Lustro wrote and just summarized was the best one he ever heard. He commended him for the way it was written because it was easy to understand. Director Lustro clarified that the impetus behind this code amendment did not involve a real estate agent, broker or anyone from the real estate industry; this was initiated strictly by the business owner, who is currently doing business at the subject location.

Vice Chair Flores asked if we compared our ordinance to surrounding cities to see if we are doing it the same. Director Lustro replied that there wasn't any specific survey done of surrounding cities with respect to whether they have an Administrative CUP process or not. We did a statewide survey through the League of California Cities' Planners Listserve. From personal knowledge, most of the cities surrounding Montclair require a CUP for the sale of alcoholic beverages. Most cities recognize that it is in the best interest of the community to place controls on establishments selling alcoholic beverages, whether it is for on- or off-site consumption.

Commissioner Sahagun asked for a recap. This particular business wants us to change the CUP process and reduce the fees. Is there anything else? Director Lustro replied that the concerns of the business owner were two-fold: That the separation requirements for off-sale establishments be relaxed so they would be allowed to sell wine as an incidental use to the established business; and that a more streamlined, less expensive review process be established for the particular use. These concerns were communicated to a member of the City Council and subsequently, the Code Enforcement Committee directed staff to prepare the code amendment that would cover the issues of changing or eliminating the separation standards. Staff feels there needs to be separation standards. So, for the off-premises sale of alcoholic beverages as an incidental use, the recommendation is to reduce the separation requirement to the minimum necessary to accommodate the request of a business owner, which would be from 500 feet, measured property line to property line, to 400 feet, measured front door to front door. The second component was to establish a less onerous and less costly process that would include this particular type of use.

Chair Johnson opened the public hearing.

Hearing no other comments and no one else being present, Chair Johnson closed the public hearing.

City Attorney Robbins clarified that this is a proposed code amendment and, if approved, the proposed changes would apply to any business that makes a request for this type of incidental use. This is not just for one business. Usually things come about because someone has a concern and expresses a change. This is going to apply to anyone in this position and wants to have this incidental use. The reduced fee and the more streamlined process apply to the entire list of identified uses in the staff report. She wanted the Commission to be clear that we are not talking about just one business. Anyone who might make an application for this type of use would be subject to the more streamlined Administrative CUP process.

Vice Chair Flores commented that he could see by the way this was all put together that staff has spent a lot of time going through it. If the Commission sends it to City Council, there is still a chance they could shoot it down. It is just a recommendation on the Commission's part. Director Lusto stated the Commission has a recommendation before it and like any other recommendation, the Commission can take whatever action it desires, but whatever recommendation comes out of this meeting, the Council has the ability, as they always do, to approve, deny or modify any or all components of the proposed code amendment.

Commissioner Sahagun commented that as City Attorney Robbins mentioned, rules, regulations and policies change from time to time. We're continually changing, it's just the way this came about and how it's being done that he does not like. We do need to streamline our process and let staff handle some of the issues, but we do need the Commission to decide on other issues. When he returned from the Commissioners Academy last month, he was all fired up and waiting for a meeting to share information.

Commissioner Vodvarka moved that, based upon evidence submitted, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with the staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; seconded by Chair Johnson, the motion passed 3-1, Commissioner Sahagun dissenting.

Vice Chair Flores recommended the City Council adopt proposed Ordinance No. 13-933, regulating the off-premises sale of alcoholic beverages, establishing an Administrative Conditional Use Permit process, and establishing criteria for Administrative Conditional Use Permits and Conditional Use Permits as set forth in Planning Commission Resolution No. 13-1775, seconded by Commissioner Vodvarka, the motion passed 3-1, Commissioner Sahagun dissenting.

INFORMATION ITEMS

Commissioner Sahagun complimented the company that just finished the utility work along Monte Vista Avenue and Palo Verde Street. He felt they did an excellent job restoring the street back to good condition. He wanted to note that and felt that all utility companies should perform their work in such a workmanlike manner.

Commissioner Sahagun commented that he recently attended the Planning Commissioners Academy and felt it was invigorating and couldn't wait to come back and share ideas. One of the speakers said, "It's your city; you should keep it the way you want." One of the ideas was to conduct public meetings in different locations. Take the bigger issues to the community. We do need to look at our North Montclair Downtown Specific Plan as it starts to develop. He would like to see a community center implemented as part of the plan.

Vice Chair Flores commented about the construction going on south of I-10 on Central Avenue. He suggested that if the contractor is going to be there much longer, why don't we require them to install screening on the chain-link fence so the activity is screened from view? Director Lustro commented the on-site contractor is constructing a water main replacement project for Monte Vista Water District on the east side of the City. The north side of the lot that Vice Chair Flores made reference to is the contractor's staging yard. That is the reason for the equipment and stockpiling. The rubble on the south side of the property is from the demolished dermatology building and Long John Silver's. That rubble will be cleared shortly. Staff believes the site looks better without the two vacant buildings, which had become attractive nuisances. The staging yard is going to be there for a little bit longer. Staff discussed the pros and cons of being able to see the activity behind the fence versus installing a windscreen on the fence so you can't see into the yard. The problem, unfortunately, is that the windscreen becomes a canvas for taggers. Staff agrees that the staging yard is not the most attractive thing to look at, but we feel it is a better alternative than the windscreen being tagged constantly, particularly along Central Avenue where it would become an attractive target, requiring the contractor, property owner, or City staff to check it on a daily basis and try to repaint the windscreen. The color would never match, and we certainly would not expect the contractor to replace the windscreen each time it got tagged. Vice Chair Flores said he can go along with that except that the big project on Monte Vista and Moreno has a windscreen and if they have graffiti in the morning, it is gone when he drives by in the afternoon. Director Lustro stated that is the difference between having a major developer doing a multi-million project versus having a small contractor occupying a lot on a temporary basis.

Vice Chair Flores commented that his grandson was volunteering at the Boston Marathon and was only about 50 yards from the explosion; fortunately, he was not hurt.

Commissioner Vodvarka thanked Code Enforcement for its recent action in his neighborhood. Some homes on Saratoga Avenue remain a problem and he hopes those can be addressed as well.

Chair Johnson thanked staff for making arrangements for three Commissioners to attend the Planning Commissioners Academy. She commented that it was very different than in previous years; there were much fewer options available. In the past she used to go back and forth between workshops and that wasn't an option this time. She was in one room with everyone all day. As always, she appreciates that they have the opportunity to attend and always brings back at least one good item. This year, it came from the speaker from Hollywood that Commissioner Sahagun mentioned earlier. He always felt like he was the only voice of reason on their Commission and people asked him why he was so anal about things, to which he replied, "What I sign is approved and what is approved gets built and what gets built shapes my city."

Chair Johnson adjourned the meeting at 8:05 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary