



CITY OF MONTCLAIR
PLANNING COMMISSION MINUTES

REGULAR ADJOURNED MEETING
Monday, December 8, 2014

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

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

ROLL CALL

Present: Chair Johnson, Vice Chair Flores, Commissioners Martinez, Sahagun and Vodvarka, Community Development Director Lustro, City Planner Diaz, Associate Planner Gutiérrez, and Deputy City Attorney Holdaway

MINUTES

The minutes of the November 10, 2014 regular meeting were presented for approval. Vice Chair Flores moved, Commissioner Vodvarka seconded, and the minutes were approved 5-0.

ORAL AND WRITTEN COMMUNICATIONS

Mauricio Lopez, 290 Deborah Court, Upland, wanted to give kudos to Ms. Gutiérrez for all her help to his clients, Steve and Cynthia Cox. He appreciated members of City staff being able to help them out and rectify a problem quickly.

AGENDA ITEMS

- a. PUBLIC HEARING - CASE NUMBER 2014-24
Project Address: 5474 Moreno Street
Project Applicant: A-SF, Inc.
Project Planner: Silvia Gutiérrez, Associate Planner
Request: Conditional Use Permit for on-sale beer and wine
in conjunction with a bona fide eating
establishment
CEQA Assessment: Categorically Exempt (Section 15301)

Associate Planner Gutiérrez reviewed the staff report.

Commissioner Martinez commented that he has dined at the restaurant and it is a very nice restaurant with great service and great food. He saw that staff's recommendation is to allow alcohol service to begin at 10:00 a.m. on Sundays but the applicant would like to serve alcohol starting at 10:00 a.m., rather than 11:00 a.m., every day. His question was: what is the standard practice in the area with regard to other restaurants? Associate Planner Gutiérrez responded that other restaurants in the area with a Type 41 beer and wine license are typically allowed to begin alcohol service at 11:00 a.m. Staff understands that Sunday activities may include such things as a brunch; that is why they wanted to give him that additional flexibility on Sundays.

Chair Johnson opened the public hearing.

Victor Orchuela, 5474 Moreno Street, Montclair, the owner of the restaurant, thanked the Commission for considering his request for a Conditional Use Permit. They started their restaurant as a family business and have been serving customers for two years. They have grown into a serious business and their goal is much larger. He asked the Commission to please approve his request, but to allow alcohol service to begin at 10:00 a.m. on Fridays, Saturdays and Sundays.

Commissioner Vodvarka stated he received a copy of the menu in his packet and wondered why the prices were blacked out. Mr. Orchuela stated those are old menus. Commissioner Vodvarka replied he would visit the restaurant and get a current menu. Mr. Orchuela stated the entire menu is served all day from opening to closing and that is why they would like to offer beer and wine beginning at 10:00 a.m. on Fridays, Saturdays and Sundays.

Commissioner Sahagun asked for clarification on the original request. Associate Planner Gutiérrez replied that the applicant initially wanted to begin offering alcohol at 10:00 a.m. every day. When he saw the proposed condition, he contacted staff and asked if the condition could be revised to allow the earlier start time on Fridays, Saturdays and Sundays only. She advised him to come to the meeting and present his request directly to the Commission. Commissioner Sahagun inquired as to the current hours of operation. Associate Planner Gutiérrez replied they are from 7:00 a.m. to 10:00 p.m. Commissioner Sahagun observed that the property has a number of vacant tenant spaces, so there is currently ample parking. Mr. Orchueta stated that four tenant spaces are empty. City Planner Diaz confirmed it has to be over 50% vacant at the moment, which makes parking ample for this particular use. The way staff deals with it is "first come, first served" so if there is to be a parking problem, it will be a future tenant's issue. Commissioner Sahagun added that he noticed the parking lot had been repaved and restriped and looks like the accessible parking had been upgraded.

Hearing no other comments and no one else being present, Chair Johnson closed the public hearing and asked to hear the Commission's thoughts on Condition No. 10 regarding the hours that alcohol is served.

Commissioner Sahagun asked what year staff changed to the "10:00 p.m. rule." Associate Planner Gutiérrez replied that it is not a law or in the code; it is based on prior CUP conditions that have been applied to similar businesses with Type 41 ABC licenses. City Planner Diaz stated that staff has always had the option, administratively and through the Commission, to control the hours of a particular business, especially when it has to do with alcohol service. Staff's concern here had to do with the early starting time and the seven days per week. Staff is willing to split the difference by allowing an earlier start time on the weekends when restaurants traditionally serve brunch. There are two reasons for doing that: (1) our experience as planners in other communities has been that family restaurants with really odd hours have sometimes morphed into difficult enforcement problems; and (2) staff cannot identify another family restaurant in the City that starts serving alcohol as early as 10:00 a.m. Staff is supportive of an earlier start time on Saturday and Sunday.

Vice Chair Flores asked if the weekend meant Friday, Saturday and Sunday or just Saturday and Sunday. City Planner Diaz answered normally Saturday and Sunday, but if the Commission wanted to stretch it to all three days, that is at the Commission's discretion.

Chair Johnson asked if the earlier start time becomes a problem in the future, could the Commission bring it back and revisit this? City Planner Diaz replied if problems occur that seem to be directly attributable to the hours of alcohol service, then staff could bring the CUP back to the Commission for consideration of revising the conditions or revoking the CUP altogether, although he did not feel that would be the issue in this case. Chair Johnson asked if it would be up to the owner to make sure that this is moderated correctly. City Planner Diaz stated to the extent that he is able to do that, yes, he would be the primary person to comply with all the conditions. Associate Planner Gutiérrez added that the Commission should keep in mind that the CUP runs with the land so if the business

ownership is transferred, then the new owner would be made aware of the conditions associated with the CUP and his/her obligation to comply with them. The CUP is not tied specifically to the applicant, but rather to the tenant space on the property.

Commissioner Sahagun asked if the nearby sushi restaurant serves beer and wine. Associate Planner Gutiérrez answered in the affirmative.

Vice Chair Flores said he is supportive of allowing the business the earlier start time on Fridays, Saturdays and Sundays.

Chair Johnson suggested the language of Condition No. 10 be changed to read that beer and wine shall only be served in conjunction with bona fide meals from 11:00 a.m. to 10:00 p.m., Monday through Thursday, and 10:00 a.m. to 10:00 p.m., Friday, Saturday and Sunday.

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

Vice Chair Flores moved to approve Conditional Use Permit under Case No. 2014-24 approving the on-premises sale of beer and wine (ABC Type 41 License) in conjunction with a bona fide eating establishment at 5474 Moreno Street, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 14-1819, amending Condition No. 10 as proposed by Chair Johnson, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 5-0.

- b. PUBLIC HEARING - CASE NUMBER 2014-25
 - Project Address: 11286 Fremont Avenue
 - Project Applicant: Fremont LLC
 - Project Planner: Michael Diaz, City Planner
 - Request: Tentative Tract Map and Precise Plan of Design for a 5-lot residential development
 - CEQA Assessment: Categorically Exempt (Section 15332)

City Planner Diaz reviewed the staff report.

City Planner Diaz stated he communicated with the residents who live to the south of the site. They have reviewed the plans and were not opposed to the project, but would like to see a masonry block wall along the southern boundary of the site to replace an existing chain link fence and provide for better, permanent privacy for both properties. Staff believes it is a good idea. City Planner Diaz admitted missing that when he reviewed the plans and mentioned to the applicant that he would be raising the issue as an item for the

Commission to consider. The only other comment received was from the Ontario-Montclair School District. The District's concern was that it wanted to make sure operations at its local schools, the nearest of which is about ¾ mile from the subject site, would not be disrupted by any street closures or noise. The size of the project does not warrant the use of any heavy earth-moving equipment, so it is unlikely there will be street closures. Even if they have to make trench cuts into the street to connect to the sewer or utilities, those are done easily and quickly. Even if they have to be left open for a while, they cover them with steel plates. Staff's response to the District included these comments. Overall, staff is supportive of the project and thinks it is good for the neighborhood as it will help fill in an underdeveloped property with development similar to what is existing around it. Staff is recommending approval of the proposed subdivision and the subsequent development of the homes on the site by the same developer and has made the three recommendations for the Commission to consider. The applicant and architect were present for questions.

Commissioner Sahagun asked would there be block walls between the properties or just around the outside of the project. City Planner Diaz replied there is no City requirement for masonry walls between the properties, but they are typically provided around the tract boundary. Staff is not opposed to masonry walls between properties. Staff has asked the developer to re-submit a final plan for the fences, walls and gates on the property so we can make sure the setbacks and heights are respected. There is an existing wall to the west and maybe one to the north that may not be required to be removed or lowered. Any walls that are not in compliance with code and any new walls and fences would be required to comply with requirements regarding heights and setbacks.

Chair Johnson asked if the block wall talked about was a revision of Condition No. 12.a. City Planner Diaz stated yes, a sentence could be added to Condition No. 12.a that a six-foot high masonry wall be constructed along the south boundary of the site to replace the existing chain link fence that currently divides the property.

Commissioner Vodvarka asked if there was going to be any kind of security on the property during construction. City Planner Diaz stated usually the developer has a security guard, but normally there is a chain link fence that secures the property while it's under construction. Commissioner Vodvarka stated that he is asking because he recently read in the newspaper that a construction site lost a lot of material due to the fact that they did not have any security on-site. City Planner Diaz deferred to the applicant.

Vice Chair Flores asked if site drains were going to be installed. City Planner Diaz replied it is a Regional Water Quality Control Board requirement; basically a state law that was passed down to regional and local agencies, which have the responsibility of implementing it. Vice Chair Flores asked if that meant anything built from now on in Montclair would be subject to that. City Planner Diaz stated Water Quality Management Plans have been required for several years, but they have recently become even more stringent. Vice Chair Flores stated the reason he questioned it is because in looking at the plans, it appears this particular parcel was not a part of the subdivision to the north and west. He can see implementing the requirements because of the drought but when it comes to smaller, infill

parcels, you would think they would be able to ask for grandfathering, especially where it has been known to drain for years with no problems whatsoever. He could see both sides. He was glad to see the lots with small parcels being built.

Chair Johnson opened the public hearing.

Charlie S. Brake, 11316 Fremont Avenue, Montclair, felt there should be a masonry block wall between his property and the subject property and asked if the finish grade of that property would match his or would it require a retaining wall.

Ted Stelzner, TJS Architects, Inc., 1208 N. Euclid Avenue, Ontario, president of TJS Architects, the project architect. Mr. Stelzner indicated that Kurt and Todd Rothweiler, the property owners and also the contractors for the project, were present and available to answer questions. They hoped the Commission appreciated the design of the project. They feel they have done something that looks really nice and were hoping that the City would be proud of the project. He was personally ecstatic to be able to do a small tract of homes, because there has not been much residential development since the recession. They have discussed the masonry block wall along the south property line and are agreeable to a condition requiring it. With respect to grading, the first 18 inches or so of the masonry wall will be retaining, so the wall will be six feet in height from the high side, and approximately 7½ feet from the lowest adjacent grade. If the property owner would prefer it to be a little bit lower they would be agreeable to that. They want to have a good relationship with the property owners all the way around it and they believe the development will positively impact property values. With respect to the WQMP, they are required to design the site to infiltrate the first three-quarters of an inch of a storm rather than allowing it to sheet flow off the site.

Anthony Gonzalez, 5055 Grand Avenue, Montclair, commented he lives next door to the development and had concerns about intrusion onto his property. Based on the site plans on display, he is unsure if there is enough room for two driveways on the Grand Avenue/Deer Creek Avenue knuckle. City Planner Diaz stated that Mr. Gonzalez is correct that the knuckle is a relatively short length. While it is not expected that there would be any encroachment into Mr. Gonzalez's property, some sidewalk modifications may be necessary to provide accessibility through the new drive approaches, something that was not required when the adjacent tract was built. The idea is to work within the existing right-of-way and make sure there is a smooth transition from the sidewalk in front of his house to the sidewalks on the other side of this property being developed. The applicant will be required to submit street improvement plans for review and approval by Public Works. Mr. Gonzalez added he was concerned about utilities as well and that he just wanted to make sure what was going to be done would retain the character of the neighborhood and not alter it drastically.

City Planner Diaz stated there is an undergrounding requirement and the Public Works Director would be the person they will work with to ensure all the improvements or changes to any utilities, if any, are done in a way that is appropriate for those particular utilities but good for the issues Mr. Gonzalez is talking about in terms of community

cohesion and making sure everything is in the right spot and looks good. Commissioner Sahagun stated Mr. Gonzalez brought up a good point about the width of the houses and asked about the width of the driveways. Mr. Stelzner replied the width of each lot was approximately 32 feet. The proposed driveways are only 20 feet wide. There is a driveway there now that will be demolished. The improvements will not infringe on the adjacent fire hydrant or the existing utility vaults and cabinets. He would also be willing to work with the neighbor to see if he wanted the existing masonry wall stepped down to look nicer. If there are any underground utilities that are in the way of the development they will be relocated as necessary. The knuckle is a tight corner, but there is enough room and a few feet extra to accommodate the driveways and the aprons so that the sidewalk is able to accommodate the disabled.

Mr. Gonzalez stated that at night that area is dark and wondered if they planned to install a streetlight. City Planner Diaz stated that Condition No. 51 stated that streetlights shall be installed on the Fremont Avenue frontage, but there is no requirement for one at Grand and Deer Creek Avenues. City Planner Diaz replied that staff will inquire with the Public Works Director but cannot add it as a condition because it was unknown what the criteria for having one would be. If it is acceptable to the Commission, the Public Works Director will be contacted to discuss it further with Mr. Gonzalez and the developer.

Director Lustro commented that the length of the Grand/Deer Creek knuckle is just short of 65 feet. Even though these houses each have three-car garages, the applicant has designed the driveways to narrow down at the public sidewalk so the driveways and aprons are not the width of the three-car garage at the street. Based on what Mr. Stelzner said, there would be about 40 feet maximum occupied by the driveways at the sidewalk. One of the responsibilities of the developer is to coordinate with the utilities to make sure everything is going to work out. With respect to the question about streetlights, there is a strong possibility that when the Citrus tract was developed adjacent to this parcel in 1997 and 1998, the streetlight pattern may have been laid out to avoid the need for adding a streetlight if and when this property were to be redeveloped. Planning will check with the Public Works Director to confirm that, but staff's guess would be that the streetlight pattern in the neighborhood was laid out to accommodate future development on this site.

Vice Chair Flores asked about the import or export of dirt and wanted to make sure the streets were swept daily. City Planner Diaz replied standard Condition No. 60 addresses Vice Chair Flores' concern.

Jesse Rodriguez, 11270 Deer Creek Avenue, corner of Deer Creek and Grand, stated that at the knuckle there wouldn't be any on-street parking for these homes so that means if they have more than four to five cars that they would be parking in front of other residents' houses. Also, there will be three new homes along Fremont Avenue. The corner of Fremont and Phillips Boulevard is very dangerous because when it rains it gets flooded and now you're going to have probably nine to twelve more cars on that street, coming in and out and that section is dangerous. The traffic on Phillips can't see the cars coming out of Fremont half the time. Are any improvements planned for that intersection? Chair Johnson replied that the corner of Fremont and Phillips does not adjoin the project site so

no improvements can be required of this developer. Mr. Rodriguez asked if it was planned for any future developments. Chair Johnson stated it was unknown right now but she encouraged him to work with staff whenever he thought something was coming up. Director Lustro added that if and when the property at the northwest corner of Phillips and Fremont redevelops, typical street improvements would be required at that time. Part of what causes issues at that intersection is the lack of ultimate street dedication along the north side of Phillips Boulevard. So in conjunction with any development on that site in the future, there would be required street dedication by the Public Works Department.

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

Chair Johnson commented that she wanted to make sure that staff addresses Mr. Brake's concerns about grading and asked if there was a particular condition regarding the grading. City Planner Diaz stated that Condition No. 59 requires a grading plan be prepared for the project for review by the City Engineer. An erosion control plan is required as part of that consideration. Grading plans will be designed according to the City's guidelines.

Commissioner Sahagun understands the County has a new plan for all the building materials that are being used during the construction project and is that a requirement yet in our City for all new construction and 90% to be recycled. Director Lustro stated the City follows the most recently adopted California Building Codes, the 2013 edition. While there is no requirement for the construction materials used on a project to be recycled, Condition No. 24.g requires the applicant to submit a waste recycling plan showing that at least 50% of all construction debris be recycled.

Commissioner Sahagun moved that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). The project qualifies as a Class 32 exemption under State CEQA Guidelines in that the project is consistent with the applicable policies of the General Plan, the City's zoning requirements, is less than five acres in size, has utilities present in the area to serve the development, and is substantially surrounded by similar single-family properties and residential uses. As such, there is no substantial evidence the project will pose a potential significant impact to the environment, seconded by Vice Chair Flores, there being no opposition to the motion, the motion passed 5-0.

Vice Chair Flores moved to approve Tentative Tract Map No. 18986, subdividing a .78-acre site at 11286 Fremont Avenue into five (5) lots ranging in size from 5,437 to 10,237 square feet to accommodate the development of five new single-family residences, finding that the map is consistent with the Montclair Municipal Code and the State Subdivision Map Act, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Commissioner Vodvarka moved to approve a Precise Plan of Design request under Case No. 2014-25 for the site plan, floor plans, elevations, colors, materials, and conceptual

landscape plan associated with the proposed five single-family residences and associated on- and off-site improvements per the submitted plans and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 14-1818, seconded by Vice Chair Flores, amending Condition No. 12.a to require a masonry block wall along the southerly property line, there being no opposition to the motion, the motion passed 5-0.

INFORMATION ITEMS

Director Lustro reminded the Commission to adjourn the meeting to the joint meeting with the City Council on December 11th at 6:00 p.m. in the Council Chamber.

Commissioner Sahagun wished everyone a Merry Christmas and Happy New Year.

Commissioner Vodvarka said the soffit lights at the former Déjà Vu building are pink and he wanted to know if anything can be done about that. Director Lustro stated the owner of the property has 60 days from the date of the Board of Supervisors' approval of the CUP to change out the non-conforming lights. Planning staff has already notified County Land Use Services staff that the lights are still in violation. Staff will continue to monitor that.

Commissioner Martinez wished everyone Happy Holidays and thanked the developer of the five units for their efforts in addressing the concerns of the neighbors. It is much appreciated.

Commissioner Vodvarka wished everyone a happy and glorious Merry Christmas and New Year.

Chair Johnson wished everyone Happy Holidays.

Chair Johnson adjourned the meeting at 8:11 p.m. to the joint meeting with the City Council on December 11th at 6:00 p.m. in the Council Chamber.

Respectfully submitted,

Laura Embree
Recording Secretary