



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

REGULAR ADJOURNED MEETING
Monday, June 22, 2015
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 Manny Martinez, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

4. APPROVAL OF MINUTES

The minutes of the May 26, 2015 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 2015-8
Project Address: 5303 Orchard Street
Project Applicant: Diocese of San Bernardino
Project Planner: Silvia Gutiérrez, Associate Planner
Request: Variance to allow a six-foot high perimeter fence and gates within the front yard setback
CEQA Assessment: Categorically Exempt (Section 15305)
- b. PUBLIC HEARING - CASE NUMBER 2009-22 'A'
Project Address: 4650 Arrow Highway, Units D-5 and D-6
Project Applicant: Holualoa Montclair Business Center, LLC
Project Planner: Silvia Gutiérrez, Associate Planner
Request: Conditional Use Permit amendment to allow the addition of a sports massage use
CEQA Assessment: Categorically Exempt (Section 15301)

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

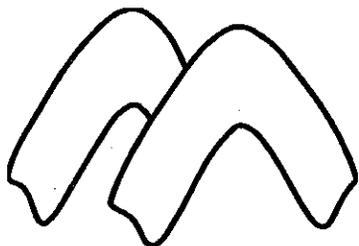
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of July 13, 2015 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California.

CERTIFICATION OF AGENDA POSTING

I, Laura Embree, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the north door of Montclair City Hall on June 18, 2015.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 06/22/15

AGENDA ITEM 6.a

Case No.: 2015-8

Application: Variance request for height and location of a tubular steel security fence within a required setback area

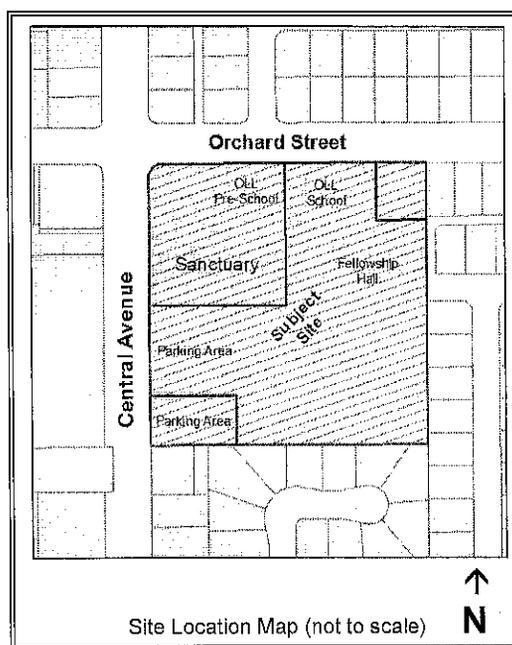
Project Address: 5303 Orchard Street

Property Owner: Diocese of San Bernardino

General Plan: Public/Quasi-Public

Zoning: R-1 (Single-Family Residential)

Assessor Parcel Nos.: 1010-371-(38-41)



ADJACENT LAND USE DESIGNATIONS/USES

	General Plan	Zoning	Use of Property
Site	Public/Quasi-Public	R-1 (Single-Family Residential)	Our Lady of Lourdes Catholic Church / Our Lady of Lourdes School
North	Low Density Residential (3-7 dwelling units/acre)	R-1 (Single-Family Residential)	Single-family residences
East	Low Density Residential (3-7 dwelling units/acre)	R-1 (Single-Family Residential)	Single-family residences
South	Low Density Residential (3-7 dwelling units/acre)	R-1 (Single-Family Residential)	Single-family residences
West	General Commercial	C-2 (Restricted Commercial)	Gas station, convenience store, multiple-tenant commercial building

Report on Item Number 6.a

PUBLIC HEARING - CASE NUMBER 2015-8

APPLICATION TYPE(S)	Variance (setback and height)
NAME OF APPLICANT	Diocese of San Bernardino
LOCATION OF PROPERTY	5303 Orchard Street
GENERAL PLAN DESIGNATION	Public/Quasi-Public
ZONING DESIGNATION	R-1 (Single-Family Residential)
EXISTING LAND USE	Private School and Religious Sanctuary
ENVIRONMENTAL DETERMINATION	Categorically Exempt, Section 15305 of CEQA Guidelines
PROJECT PLANNER	Silvia Gutiérrez

Project Proposal

The applicant is requesting a variance to allow a six-foot high tubular steel perimeter fence and gates within the required 25-foot setback area along Orchard Street to secure the outdoor area immediately adjacent to the existing classroom building of the parochial school operated by Our Lady of Lourdes Catholic Church. The six-foot high fence is intended primarily to secure the north side of the existing school building/facility that faces onto Orchard Street. The fence would also help to limit unauthorized access around the school grounds and remainder of the church campus from the north. A substantial portion of the fence had already been installed without benefit of City review when the Church was notified to stop construction and seek approval for a variance in order to complete the project.

The subject six-foot high fence is approximately 350 feet in length and is constructed along the north property line, which is located at the inside edge of the Orchard Street sidewalk. The location of the fence is roughly at the center of the site's 610-foot long street frontage. At each end of the fence run, the fence would make a 90-degree return into the site and terminate at the face of the adjacent buildings. The fence includes an automatic vehicle gate at the existing main driveway from Orchard Street and four (4) self-closing pedestrian gates in line with the door to each classroom.

The subject six-foot high fence is black in color and consists of evenly spaced metal posts and 3/4-inch square pickets squared off with a smooth top railing. A site plan, drawing detail, and photo of the existing fence are included in the Commission packets for reference.

Background

- Our Lady of Lourdes School was established in 1959 to provide Catholic education for the children of the newly-formed Our Lady of Lourdes parish, completed in 1958. The site is developed with a church sanctuary, priest living quarters, preschool building, K-8 grade classroom building, fellowship hall, and convent living quarters.
- The subject property is located within the R-1 (Single-Family Residential) zone. The minimum front setback for the R-1 zone is 25 feet for buildings and structures.
- The church property is comprised of four (4) separate abutting properties that together form the square-shaped campus of approximately 8.54 acres. Primary access to the church site is from Central Avenue, with secondary access from Orchard Street.

Planning Division Comments

The zoning for the subject site and the majority of the surrounding area (north and east) is R-1 (single-family residential). Public or private school facilities (usually associated with existing churches) are commonly situated within residential neighborhoods as complementary uses. However, as educational uses they have unique physical characteristics (e.g., larger properties) and operational needs that distinguish them from residential uses. One specific operational need is to provide adequate campus safety, which in most cases is effectively achieved by means of a perimeter fence or wall. Fences are usually preferred due to their relatively low cost and because they continue to allow for visibility into to the site.

The subject property has been developed for use as a church and parochial school since the late 1950s. The parochial school is situated in the northeast quadrant of the overall site which is unfenced along its Central Avenue and Orchard Street frontages. As such, the site and school are open to unrestricted access, usually by persons taking a shortcut between Central Avenue and Orchard Street. Currently, there are only low block walls (three feet in height or less) along the Central Avenue frontage to partially screen the parking lot and a short length along the Orchard Street frontage outside the pre-school building. Prior to construction of the subject fence, there were no fences or walls between the main parochial school building and Orchard Street.

Fence Height

The purpose for the proposed six-foot high fence is to secure the street side of the existing main building of the parochial school. The existing building is setback 20 feet from the north property line at Orchard Street with an east-west orientation and designed with a central hallway and classrooms and offices on each side. The rooms on the north side of the building have doors that exit directly to the existing setback area and the street. With this orientation, access to the classrooms is unrestricted when

doors are open, presenting a security concern for the school and parents. Staff contacted the Montclair Police Department, which concurred with the need for a fence to better secure the site and provide a safer learning environment for the students. Fortunately, no serious issues related to child safety have occurred, but the fence would help to deter occasional issues with theft or break-ins.

The subject six-foot fence would allow classroom doors to be opened when desired because unauthorized access to the outside area and classrooms would be restricted. Moreover, the fence would direct visitors toward the main entry of the building located at the west end where the principal's office is located for improved observation and monitoring. Although the church and school are located in a residential area, staff believes the six-foot fence height in the front setback area as constructed is appropriate and not out of character with the institutional use it serves, and given the overall area of the property in comparison with surrounding properties in the immediate area.

The addition of the fence at the Our Lady of Lourdes School would accomplish the goal of providing security in the most logical and orderly means possible given the existing site conditions. Staff finds the simple open design of the fence to visually be the least offensive in that it is complementary to the look of the school building and still allows general visibility into the site. In addition, the color (black) of the fence is appropriate as this color tends to visually recede into the streetscape over time. Conditions of approval regarding the maintenance of the fence and area behind it are proposed in the draft Resolution.

Fence Placement

Fences and walls, like buildings, are considered structures and are subject to the applicable setback standards of the underlying zoning district, which in this case is 25 feet from Orchard Street. However, all the buildings on the subject site along the Orchard Street frontage have an actual setback of 20 feet, which is considered to be a legal nonconforming condition. If the proposed six-foot high fence were to be placed at the required 25-foot setback line it would be behind the building face. Even if the proposed fence were to be allowed in line with the face of the building the north doors of the classrooms would remain outside of the fence and the current security concerns would remain unchanged. As such, no fence over four feet (4'-0") in height could be placed within the existing setback area between the building and the sidewalk without an approved variance. Given the existing conditions, staff believes the strict application of the required 25-foot setback for a six-foot high fence would hinder the ability to effectively secure the site and maintain a functional or visually suitable space between the building and street.

The constructed fence is located on the north property line of the site, 12 feet back of curb face, enclosing the entire setback area in front of the building and across the driveway for a relatively short distance. Overall, the fence is located roughly in the middle of the 610-foot long Orchard Street frontage and does not directly encroach or touch an abutting non-church residential property or use. The fence begins

approximately 170 feet east of the Central Avenue intersection and terminates approximately 85 feet short of the first residential property east of the school.

Since the existing public sidewalk is uncharacteristically large for a typical residential zone, the fence placement does not crowd or restrict the use of the public sidewalk. Existing mature sized street trees in the immediate area of the fence will also work to soften its presence. Moreover, Orchard Street is 64 feet in width, which is approximately 20 feet wider than a typical residential street. The additional width of the street helps to further mitigate concerns that the fence crowds or otherwise detracts from streetscape.

General Plan Consistency

According to the Montclair General Plan, the site is designated as Public/Quasi-Public, which allows for private schools, religious institutions, and other similar uses. As developed, the existing uses of the site (church and private school) are consistent. Moreover, the General Plan promotes crime prevention via techniques in the physical planning process (Safety Element) and the facilitation of the maintenance of compatible land uses and coordinating the physical elements in an attractive and functional relationship in order to preserve, protect, and enhance the City's setting and identity (Community Design). In addition, the Safety Element encourages design consideration to prevent or discourage criminal activity by providing security and surveillance. Given the conditions described above, staff believes the variance for the subject fence is consistent with and successfully accomplishes the intent of the above General Plan policies.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on June 12, 2015. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

Environmental Assessment

The project qualifies as a Class 5 exemption under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects that involve minor alterations in land use limitations that do not create a new parcel, change a land use, nor increases the allowable density of the project. The setback variance requested is limited in scope and does not create new parcels, affect land use, or increase density.

Variance Findings

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

- A. That because of special circumstances applicable to the subject property, including its size, depth, location and surroundings, the strict application of the provisions of the Montclair Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The strict application of the 25-foot setback requirement for the portion of the fence is not a practical solution given the placement and orientation of the existing buildings on the site, which have been in place for over 55 years. The application of the 25-foot setback requirement would result in a fence of limited effectiveness, as the fence could only be placed between the buildings, leaving the fronts of the buildings exposed to the street. Given the fixed development and site conditions on the property, the proposed setback and placement of the fence on the north property line (zero setback) behind the existing sidewalk is found to be appropriate.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zoning classifications. Although the zoning for the subject site is R-1, public or private school facilities (usually associated with existing churches) are commonly situated within residential neighborhoods as complementary uses. However, as educational uses, they have unique physical characteristics (e.g., larger properties) and operational needs that distinguish them from common residential uses. One specific operational need is to provide adequate campus safety, which in most cases is effectively achieved by means of a perimeter fence or wall. Fences are usually preferred due to their relatively low cost and because they continue to allow for visibility into to the site.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located. The placement, design, and color of the proposed fence, including the portions of the fence affected by this variance request, are appropriate and complementary to the modest design of the existing facility. Since the existing public sidewalk is uncharacteristically wide for a typical residential zone, the fence placement will not crowd or restrict the use of the public sidewalk. Existing mature-sized street trees in the immediate area of the fence will also soften its presence.
- D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan. The General Plan designates the property as Public/Quasi-Public and the property is developed accordingly. In addition, the Safety Element encourages design consideration to prevent or discourage criminal activity by providing security and surveillance. The proposed variance would allow the owners of the property to take measures to adequately secure the property for its students and staff in an orderly and efficient manner.

Planning Division Recommendation

Staff recommends that the Planning Commission find the proposed front yard setback variance to allow a six-foot high tubular steel fence along the Orchard Street frontage of the subject site to be appropriate and to take the following actions:

- A. Move that, based upon evidence submitted, the Planning Commission finds the current application for the proposed variance qualifies as a Class 5 exemption under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects that involve minor alterations in land use limitations that do not create a new parcel, change a land use, nor increases the allowable density of the project. The setback variance requested is limited in scope and does not create new parcels, affect land use, or increase density.
- B. Recommend approval of the Variance request under Case No. 2015-8 to allow a six-foot high tubular steel fence, approximately 350 feet in length, along the north property line at 5303 Orchard Street to secure the north side of Our Lady of Lourdes School, as described in the staff report and depicted in the approved plans subject to the findings and conditions in Planning Commission Resolution No. 15-1834.

Respectfully submitted,



Michael Diaz
City Planner

MD/le

Attachments: Draft Resolution of Approval for Case No. 2015-8

c: Beverly Diaz de Leon, OLL School, 5303 Orchard Street, Montclair, CA 91763
Gerald Richard Barnes, Bishop of San Bernardino

Z:\COMMDEV\SG\CASES\2015- 8\OUR LADY OF LOURDES CHURCH VARIANCE\2015-8 PC RPT FINAL

RESOLUTION NO. 15-1834

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR FOR A VARIANCE UNDER CASE NO. 2015-8 TO ALLOW A SIX-FOOT HIGH TUBULAR STEEL FENCE WITHIN THE REQUIRED 25-FOOT FRONT YARD SETBACK AT 5303 ORCHARD STREET (APNs 1010-371-38, 39, 40, 41)

A. Recitals.

WHEREAS, on May 7, 2015, Diocese of San Bernardino, property owner of the subject site, filed an application requesting a variance from the required 25-foot front yard setback and maximum four-foot height limit to allow the installation of a six-foot high tubular steel fence and gates along a portion of the property's Orchard Street frontage; and

WHEREAS, the proposed variance applies to the area of the existing Our Lady of Lourdes Catholic Church property occupied by Our Lady Of Lourdes School; and

WHEREAS, the proposed length of the fence in question is approximately 330 feet in length along Orchard Street, beginning approximately 150 feet east of the Central Avenue; and

WHEREAS, the overall church property on which the parochial school is located consists of four (4) separate abutting properties that together form the square-shaped campus of approximately 8.54 acres; and

WHEREAS, primary access to the church site is from Central Avenue, with secondary access from Orchard Street; and

WHEREAS, the subject property is located within the R-1 (Single-Family Residential) zone and the minimum required front setback for buildings and structures is 25 feet; and

WHEREAS, the maximum height for fences and walls within a required front yard setback is 48 inches; and

WHEREAS, the General Plan land use designation for the subject site is Public/Quasi-Public; and

WHEREAS, Our Lady of Lourdes School was established in 1959 to provide Catholic education for the children of the newly-formed Our Lady of Lourdes parish, completed in 1958. The site is developed with a church sanctuary, priest living quarters, preschool building, K-8 grade classroom building, fellowship hall, and convent living quarters; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds the proposed setback variance request is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15305 of the CEQA Guidelines, which applies to minor alterations in land use limitations that do not create a new parcel, change a land use, nor increases the allowable density of the project. The setback variance requested for the subject property is limited in scope and does not create new parcels, affect land use, or increase density; and

WHEREAS, on June 12, 2015, the variance request was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper. Public hearing notices were mailed out to property owners within a 300-foot radius of the subject property in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal; and

WHEREAS, on June 22, 2015, 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 Variance application was fully studied.

B. Resolution.

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon substantial evidence presented to this Commission during the above-referenced public hearing on June 22, 2015, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. That because of special circumstances applicable to the subject property, including its size, depth, location and surroundings, the strict application of the provisions of the Montclair Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The strict application of the 25-foot setback requirement for the portion of the fence is not a practical solution given the placement and orientation of the existing buildings on the site, which have been in place for over 55 years. The application of the 25-foot setback requirement would result in a fence of limited effectiveness, as the

fence could only be placed between the buildings, leaving the fronts of the buildings exposed to the street. Given the fixed development and site conditions on the property, the proposed setback and placement of the fence on the north property line (zero setback) behind the existing sidewalk is found to be appropriate.

- b. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zoning classifications. Although the zoning for the subject site is R-1, public or private school facilities (usually associated with existing churches) are commonly situated within residential neighborhoods as complementary uses. However, as educational uses, they have unique physical characteristics (e.g., larger properties) and operational needs that distinguish them from common residential uses. One specific operational need is to provide adequate campus safety, which in most cases is effectively achieved by means of a perimeter fence or wall. Fences are usually preferred due to their relatively low cost and because they continue to allow for visibility into to the site.
- c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located. The placement, design, and color of the proposed fence, including the portions of the fence affected by this variance request, are appropriate and complementary to the modest design of the existing facility. Since the existing public sidewalk is uncharacteristically wide for a typical residential zone, the fence placement will not crowd or restrict the use of the public sidewalk. Existing mature-sized street trees in the immediate area of the fence will also soften its presence.
- d. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan. The General Plan designates the property as Public/Quasi-Public and the property is developed accordingly. In addition, the Safety Element encourages design consideration to prevent or discourage criminal activity by providing security and surveillance. The proposed variance would allow the owners of the property to take measures to adequately secure the property for its students and staff in an orderly and efficient manner.

C. Conditions of Approval.

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

Planning

1. The approved variance shall allow the placement of a six-foot high fence on the north property line abutting the Orchard Street frontage of the site, approximately 350 feet in length, in order to enclose and secure the Our Lady of Lourdes School, as described in the report and depicted on approved plans on file with the Planning Division.
2. The maximum height of the fence shall not exceed six feet (6'-0") in height as measured from the adjacent public sidewalk.
3. This variance shall only apply to the height and location of the proposed fence as described in the report and depicted on approved plans on file with the Planning Division.
4. 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 **\$50.00**, 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 **\$503.96**, 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. Checks shall be made payable to the "City of Montclair."
5. This variance approval shall be valid for six months from the date of Planning Commission action. If no construction drawings have been submitted to the City for plan review within this time frame, and no subsequent building permits are issued, then the approval shall automatically expire without further City action.
6. The approved fence shall remain open to allow views into the property by Police and Code Enforcement personnel. No panels (wood, metal, mesh, plastic, etc.) or barbed/concertina wire shall be attached to the fence at any time. Landscape material adjacent to the fence shall be maintained in a neat and orderly manner and not allowed to exceed half the height of the fence, or three feet (3'-0") in height.

7. The applicant and/or property owner shall be responsible for maintaining the property in good condition at all times, including the condition of the fence authorized by this approval.

Building

8. Submit three (3) sets of Site/Plot Plans to the Building Division for review.
9. A building permit shall be required for the construction of the fence.
10. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project address 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.
11. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
12. 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 finishes of all types shall not be below standard for the use applied.
13. Provide and clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible parking lot signs. Sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).
14. Prior to final inspection, the applicant shall submit to the Building Division electronic images of all plans and records that were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Archiving Policy.

Fire

15. An approved emergency keyed access system shall be required to facilitate access to buildings or gates by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system. Facilities with gated drive approaches shall contact Fire Marshal's Office for additional key and strobe requirement.

16. Vehicle security gates shall be approved only with the use of hold-open devices to allow for emergency vehicle access. Contact the Fire Marshal's office for specific requirements.
17. Minimum driveway width shall be 27 feet.
18. All Fire Department access and fire lanes shall be posted as "No Parking, Fire Lane." Signs shall be designed and mounted in accordance with Montclair Fire Department standards.

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

APPROVED AND ADOPTED THIS 22ND DAY OF JUNE, 2015.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Steve Lustro, Secretary

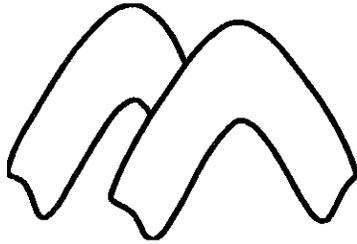
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 22nd day of June, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\sg\CASES\2015-8\OLLIVARIANCE SETBACK AND HEIGHT RESO



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 06/22/15

AGENDA ITEM 6.b

Case No. 2009-22 'A'

Application: CUP Amendment to allow sports massage in conjunction with an existing martial arts studio

Project Address: 4650 Arrow Highway, Suites D-5 & D-6

Property Owner: Holualoa Montclair Business Center, LLC

General Plan: Business Park

Zoning: Manufacturing Industrial Park (MIP) per North Montclair Specific Plan

Assessor Parcel No: 1007-733-20

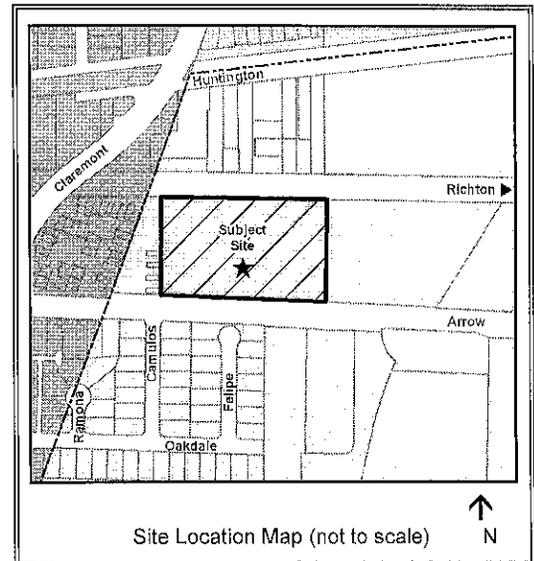
EXISTING SITE FEATURES/CONDITIONS

Structures: Six (6), single-story industrial buildings

Parking: Paved parking areas with required parking spaces

City/Public Utility Easements: None

Trees/Significant Vegetation: No significant or heritage trees



Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	Business Park	"MIP" per North Montclair Specific Plan	Business Park
North	Planned Development	"Corridor Residential" per North Montclair Downtown Specific Plan	Single Family Residential
East	Business Park	"MIP" per North Montclair Specific Plan	Omnitrans
South	Low Density Residential / Industrial Park	"R-1" (Single-Family Residential) "R-2" (Two-Family Residential) "MIP" per North Montclair Specific Plan	Single-Family Residential Two-Family Residential Laird Business Park
West	Business Park	"MIP" per North Montclair Specific Plan	Business Park

Report on Item Number 6.b

PUBLIC HEARING - CASE NUMBER 2009-22 'A'

APPLICATION TYPE (S)	Conditional Use Permit Amendment
NAME OF APPLICANT	Holualoa Montclair Business Center, LLC
LOCATION OF PROPERTY	4650 Arrow Highway, Suites D-5 & D-6
GENERAL PLAN DESIGNATION	Business Park
ZONE DESIGNATION	Manufacturing Industrial Park (MIP) per North Montclair Specific Plan
EXISTING LAND USE	Business Park
ENVIRONMENTAL DETERMINATION	Categorically Exempt – Section 15301 (Existing Facilities)
PROJECT PLANNER	Silvia Gutiérrez

Project Description

The applicant is requesting to amend the Conditional Use Permit approved for the existing martial arts studio under Case No. 2009-22 to allow the addition of a sports massage use in conjunction with the existing use. The martial arts studio was previously approved as Musubi Dojo (Aikido) but was recently acquired by a new operator known Team 3 Check Mat, a business focused on training of mixed martial arts and Brazilian jiu jitsu. The proposed sports massage use, known as Sport Somatix, would be a complementary use and occupy a 325 square-foot office within the existing martial arts studio lease space. The reason for the amendment request is because the proposed massage business constitutes a change or an enhancement to an existing use that was conditionally approved previously.

Sport Somatix proposes to provide massage services to athletes at the studio and to members of the community at-large. The types of massage offered include Acupressure, Deep Tissue Massage, Sports Massage, Stretch Therapy, and other methods used to help increase the range of motion, improve mobility and flexibility as well as assist in the overall performance in sports activities. Swedish Massage and Compression Massage are methods used to help in exercise recovery, relieve everyday stress, as well as help maintain a healthy lifestyle. All services are to be performed by California Massage Therapy Council (CAMTC) certified massage therapists. At this point, the business operator anticipates two employees (including the owner). Proposed hours of operation would be from 9 a.m. – 9 p.m., six days a week.

Background

- Section 11.78.030 of the Montclair Municipal Code requires approval of a Conditional Use Permit for “indoor commercial recreational” uses.

- The existing business park was constructed in 1979 and consists of six buildings and required parking. Some of the major tenants in the center include OPARC, a pet store with pet grooming, graphic design studio, and various other small businesses.
- In September 2008, the Governor signed into law Senate Bill 731 (Oropeza), which instituted relaxed requirements for the establishment and operation of massage businesses and removed what little land use authority local jurisdictions were previously able to exercise over the establishment of such businesses. In Montclair's case, the requirement for massage businesses to obtain approval of a Conditional Use Permit was eliminated. SB 731 required cities to treat massage businesses no different than other businesses providing "personal services," such as barber shops, beauty salons or nail salons, all of which are allowed by-right in the City's Commercial zoning districts.
- Assembly Bill 1147 (Bonilla), signed into law in September 2014, seeks to restore a significant amount of oversight to local jurisdictions with respect to the establishment and operation of massage businesses. The City Attorney has crafted a draft Ordinance, replacing Chapter 4.56 and amending Chapter 11.78 of the Montclair Municipal Code, to be consistent with the provisions of AB 1147. The Ordinance would restore the requirement for a Conditional Use Permit and proposes to set forth numerous detailed operational standards for massage establishments. The Ordinance was adopted by the City Council on first reading at its regular meeting on June 15, 2015. The Ordinance is scheduled for second reading on July 6 and if adopted, would become effective on August 5, 2015. Planning staff has included listed operational standards as conditions of approval in the proposed Resolution.

Planning Division Comments

Staff believes the requested CUP Amendment to allow sports massage in conjunction with the existing martial arts use at the subject location is appropriate. The proposed use is primarily for sports massage, which would be a complementary use to the main activity of the existing martial arts studio. Given the intensity of workouts conducted at the studio, practitioners can take advantage of the sports massage services available at the site. Given the small size of the lease space to be used by the sports massage business and its association with the martial arts studio, staff finds the amendment request to be reasonable.

Based on the limited size of the lease space to be used by the massage business, no significant impact on parking spaces is expected. According to a parking analysis provided by the Montclair Business Center, there is an excess of 28 parking spaces on the site. Staff visits to the center confirmed availability of parking spaces in front of and in close proximity to the lease space most hours of the day and ample during evening hours when the studio is likely to be the busiest.

Conditional Use Permit Findings

Staff finds that the request to allow sports massage in conjunction with the operation of a martial arts studio to be appropriate and believes the necessary findings for granting a CUP Amendment can be made as follows:

- A. The proposed sports massage services offered in conjunction with the existing martial arts studio is a desirable land use, in that the skillful practice of massage can provide many health benefits including relief of pain from disease and injury, and that massage can be a valuable component of a wellness program in a structured and safe environment.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, as all activities associated with the business will be conducted entirely within an enclosed building and the proposed use will not have a significant affect on the existing tenants in the business park.
- C. That such use in such location conforms to good zoning practice, in that indoor recreational uses are permitted in the Manufacturing Industrial (MIP) land use district of the North Montclair Specific Plan, subject to approval of a CUP with the added operational standards and requirements would serve to reduce the risk of illegal activity and would thereby benefit the public health. Further, pending Ordinance No. 15-951, replacing Chapter 4.56 and amending Chapter 11.78 of the Montclair Municipal Code, would allow massage within the MIP land use district of the North Montclair Specific Plan, subject to approval of a CUP.
- D. That such use in 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 recreational uses and services.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on June 12, 2015. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding the proposal.

Environmental Assessment

The project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures or uses.

Planning Division Recommendation

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

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, which covers infill projects in significantly developed areas.
2. Move to approve the Conditional Use Permit Amendment under Case No. 2009-22 'A', subject to making the required findings and subject to the conditions as described in attached Resolution Number 15-1835.

Respectfully Submitted,


Michael Diaz
City Planner

Attachments: Draft Resolution of Approval for Case 2009-22 'A'

RESOLUTION NUMBER 15-1835

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AMENDMENT UNDER CASE NO. 2009-22 'A' TO ALLOW THE OPERATION OF A SPORTS MASSAGE BUSINESS IN CONJUNCTION WITH AN EXISTING MARTIAL ARTS STUDIO IN THE "MANUFACTURING INDUSTRIAL PARK" (MIP) LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN AT 4650 ARROW HIGHWAY, UNITS D-5 & D-6 (APN 1007-733-20)

A. Recitals.

WHEREAS, on June 2, 2015, Joe Gonzales, with the consent of the property owner, Holualoa Business Center, LLC, filed an application for an amendment to an existing Conditional Use Permit (CUP) to operate a sports massage business in conjunction with an approved martial arts studio; and

WHEREAS, the existing martial arts studio was approved on November 9, 2009, under Case No. 2009-22 within Units D-5 and D-6 of the abovementioned location; and

WHEREAS, an amendment of the existing CUP is required because the proposed massage business constitutes a change or an expansion to the existing use that was conditionally approved pursuant to Planning Commission Resolution No. 09-1709.

WHEREAS, the existing martial arts studio is approximately 4,790 square feet in floor area; and

WHEREAS, the proposed sports massage use will be conducted in an existing office space, approximately 325 square feet in area and located within the approved martial arts studio lease space; and

WHEREAS, Chapter 11.78.030 of the Montclair Municipal Code requires a CUP for such use upon review of development standards and land use compatibility with surrounding properties; and

WHEREAS, staff has determined that the proposal meets the intent and requirements for such use and the applicable development standards of the "Manufacturing Industrial Park" land use district of the North Montclair Specific Plan; and

WHEREAS, staff has determined that the proposed addition of a sports massage business alongside an existing martial arts studio could not have a significant effect on the environment and has prepared a Categorical Exemption pursuant to Section 15301 of the CEQA Guidelines; 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 June 22, 2015, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP Amendment were heard, and said CUP Amendment was fully studied.

B. Resolution

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on June 22, 2015, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

Staff finds that the request to amend Case No. 2009-22 to allow a sports massage business in conjunction with the existing martial arts studio in the Manufacturing Industrial Park land use district is consistent with the Montclair Municipal Code, North Montclair Specific Plan, and adopted General Plan, and believes the necessary findings for granting a CUP Amendment can be made as follows:

- A. The proposed sports massage services offered in conjunction with the existing martial arts studio is a desirable land use, in that the skillful practice of massage can provide many health benefits including relief of pain from disease and injury, and that massage can be a valuable component of a wellness program in a structured and safe environment.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, as all activities associated with the business will be conducted entirely within an enclosed building and the proposed use will not have a significant effect on the existing tenants in the business park.
- C. That such use in such location conforms to good zoning practice, in that indoor recreational uses are permitted in the Manufacturing Industrial (MIP) land use district of the North Montclair Specific Plan, subject to approval of a CUP with the added operational standards and requirements would serve to reduce the risk of illegal activity and would thereby benefit the public health. Further, pending Ordinance No. 15-951, replacing Chapter 4.56 and amending Chapter 11.78 of the Montclair Municipal Code, would allow

massage within the MIP land use district of the North Montclair Specific Plan, subject to approval of a CUP.

- D. That such use in 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 recreational uses and services.
3. Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15301, which exempts projects involving little to no expansion of existing structures. 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
 4. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3, above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This CUP Amendment approval is for the operation of a sports massage business in conjunction with the existing martial arts studio. The proposed sports massage component of the business shall be allowed to occupy a 325 square-foot office space within an existing 4,790 square-foot lease space at 4650 Arrow Highway, Units D-5 and D-6.
2. All other conditions of approval for Case No. 2009-22 shall remain in effect except as modified by this approval (Planning Commission Resolution No. 09-1709).
3. The applicant and/or property owner shall ensure that a copy of the Planning Commission resolution, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
4. 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 **\$50.00**, 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 payable to the "City of Montclair," in the amount of **\$485.48** 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.
5. A copy of the signed Resolution of Approval with all conditions of approval relating to this application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy, and shall be made available for viewing to any law enforcement officer, fire, building, or code enforcement inspector in the course of conducting an inspection on said premises.
6. This CUP Amendment approval shall be valid for six months (180 calendar days) from the date of Planning Commission action. Failure to initiate the approved use and/or improvements prior to the end of the six-month period shall result in the termination of and automatically void the CUP Amendment approval.
7. Any modification, intensification, or expansion of the use, including an increase in the floor area beyond that specifically approved via the original Conditional Use Permit (Case No. 2009-22) or this CUP Amendment shall require review and approval by the Planning Commission.
8. The applicant shall adhere to the standard operating hours of 9:00 a.m. to 9:00 p.m., six days per week.
9. The applicant shall comply with pending Ordinance No. 15-951, which is expected to become effective August 5, 2015.
10. This CUP amendment shall be subject to revocation or modification by the Planning Commission or City Council at such time as any of the following conditions are found to exist:
 - a. Conditions of Approval have not been fulfilled;
 - b. The use has resulted in a substantial adverse impact on the health and/or general welfare of users of adjacent or proximate property.
 - c. The use has resulted in a substantial adverse impact on public facilities or services.
11. No pay telephones or vending machines shall be located on the exterior of the building or on the subject property.
12. Portable fire extinguishers and first aid kit shall be required on-site at all times when the business is open to the public. Type, number, and location shall be determined by the Montclair Fire Department.

13. Prior to the installation of any signs on the property, the applicant shall submit plans prepared by a licensed sign contractor for review and approval by the Planning and Building Divisions. Signs shall conform to an approved sign program for the center, if applicable.
14. Portable signs shall not be permitted on the property.
15. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.
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. Portable flags, pennants, spinners, painted-on signs or the like shall be prohibited.
 - d. No trailer-mounted electronic sign/message boards or other similar types of portable signs shall be permitted on the property at any time.
17. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
18. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative, or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void or annul, the any action of, or permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities, thereof

(including actions approved by the voters of City), for or concerning the project, whether such Actions, are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any action brought and City shall cooperate with the applicant in the defense of the Action.

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

APPROVED AND ADOPTED THIS 22ND DAY OF JUNE, 2015.

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 22nd day of June, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT: