



**CITY OF MONTCLAIR  
PLANNING COMMISSION MINUTES**

**REGULAR ADJOURNED MEETING  
July 25, 2016**

**COUNCIL CHAMBER  
5111 Benito Street, Montclair, California 91763**

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**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

Chair Johnson led those present in the salute to the flag.

**ROLL CALL**

Present: Chair Johnson, Vice Chair Flores, Commissioners Martinez, Sahagun and Vodvarka, Assistant Director of Housing/Planning Manager Caldwell, City Planner/Planning Manager Diaz, Associate Planner Gutiérrez, and Deputy City Attorney Holdaway

**MINUTES**

The minutes from the June 27, 2016 meeting were presented for approval. Vice Chair Flores moved, Commissioner Sahagun seconded, and the minutes were approved 5-0.

**ORAL AND WRITTEN COMMUNICATIONS**

None.

## AGENDA ITEMS

- a. PUBLIC HEARING – CASE NUMBER 2016-9  
(continued from June 27, 2016 meeting)  
Project Address: Citywide  
Project Applicant: City of Montclair  
Request: Amendment to Chapter 11.72 MMC regarding  
Electronic Message Center signs  
CEQA Assessment: Categorically Exempt (Sections 15305 and 15311)

City Planner/Planning Manager Diaz reviewed the staff report.

Staff requested the item to be continued to the August 8, 2016 meeting because staff needs to make more changes than previously thought.

Chair Johnson opened the public hearing.

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

Commissioner Martinez moved to continue the item to the August 8, 2016 Planning Commission meeting, seconded by Commissioner Sahagun, there being no opposition, the motion passed 5-0.

- b. PUBLIC HEARING – CASE NUMBER 2013-17 'A'  
Project Address: 9377 Autoplex Drive  
Project Applicant: Montclair Dealership Group Prop LLC  
Project Planner: Michael Diaz, City Planner  
Request: Amendment to the existing Conditional Use Permit  
and a Precise Plan of Design for the remodel and  
minor addition to the Metro Acura building  
CEQA Assessment: Categorically Exempt (Section 15301(e)(1))

City Planner/Planning Manager Diaz reviewed the staff report.

Chair Johnson opened the public hearing.

Mr. Hawkins thanked staff for their work on this project and commented that even though it was not the same amount of work as the Metro Honda expansion, the impact from this will be as great as it was when the first part was

done. They have the same architect, Walt Wagner, who was present for any questions, who has been at this for a long time, and they have an approval from Acura and are ready to go. They may have to do some value engineering to the building and they have proposed something quite grandiose, and after they get the City's approval, they will go to the bank and that is what he means when he says the building will be value engineered. The bank might be the one who says that we are paying too much for the result you get here or there. This is a rather ambitious parking project on the back of the building and their architects are telling them there are two or three other things that they could do on the site to mitigate their need to park more cars so they are going to do that, but this is what they would like to do, but everything is subject to the bank saying they will loan the money. It is very hard to get it this far, since there are more laws than there have ever been. They were grateful for the relationship they have with the City because the City has been their partner in these projects for 26 years now, making a difficult process easier.

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

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(e)(1), which exempts projects involving limited site changes to existing facilities not involving grading, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 5-0.

Vice Chair Flores moved to approve the Conditional Use Permit Amendment and Precise Plan of Design request under Case No. 2013-17 'A' for the site plan, elevations, colors and materials associated with the proposed exterior remodel and addition to the existing Metro Acura building at 9377 Autoplex Drive per the submitted plans and as described in the staff report, subject to conditions of approval contained in Planning Commission Resolution No. 16-1867, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

c. PUBLIC HEARING - CASE NUMBER 2016-1

Project Address: 4950 San Bernardino Street  
Project Applicant: Montclair SB Investment LLC  
Project Planner: Silvia Gutiérrez , Associate Planner  
Request: Tentative Tract Map, Conditional Use Permit, Variance, and Precise Plan of Design to convert an existing two-story office building into medical office condominiums  
CEQA Assessment: Categorically Exempt (Section 15301)

Associate Planner Gutiérrez reviewed the staff report.

Commissioner Sahagun asked about the variance for the utilities and how they propose to divide it into 23 units that will not be separately metered and then sold separately. City Planner/Planning Manager Diaz stated the plan now is to do a sub-meter where the meter comes in and it can be sub-metered to each unit and then they would pay their fair share; that is one scenario that staff is looking at and trying to implement at this particular time so they can make sure that this deal about electricity is allocated to the size of the spaces that are created. Commissioner Sahagun asked if it would have gas, electricity and water. City Planner/Planning Manager Diaz replied that it would be all the utilities. From his understanding they do this at the Paseos, they have one main building with a meter and then it is sub-metered to all the apartment units and then prorated for each unit's utility costs.

Commissioner Sahagun commented that it is in need of renovation and will be nice once it is done. Since it is located very close to the hospital, he thought it was a very good idea, but wanted it noted about sub-metering the utilities; he felt the idea was great, but it is a major concern for him.

Deputy City Attorney Holdaway followed up about the requirements of our Code that each of these units be separately metered for all utilities. It is a little bit unusual to apply the standards of a variance to something of this nature because the request does not directly relate to any unusual feature of the size, shape or topography of the parcel or any unusual circumstance other than the fact that this is an existing building. Our Code does apply specifically to conversions which contemplates existing buildings. So, to set aside this requirement is a little bit unusual with the context of a variance. Perhaps, one way to support that action would be to include an additional condition that the applicant provide specific plans to the City setting forth the way in which they will provide an equivalent type of separate metering or a method in which the individual owners will be able to be charged their appropriate share of all utilities and to otherwise address the intent of the Code which is to have each unit independent. Perhaps that could be spelled out in a little more detail and a plan submitted to the City and that would be subject to approval by the City as part of the project. Ultimately on a variance, you are making a recommendation to the City Council and they are the ones who adopt the Code which says that it has to be separately metered. So, if they are comfortable with the plan that is brought forth to satisfy their intent in that regard, then it would be more likely that they would accept the variance.

Chair Johnson asked staff if the Commission should add another condition. Commissioner Sahagun asked if staff will draw up that condition. He felt more comfortable with this being brought out into the open because it was his feeling

that it will be a potential problem in the future or just get outright denied by City Council. The Commission wants the City Council to approve it.

Commissioner Martinez asked if the Commission could approve it in principle and then those subsequent conditions can be drafted and when they are ready to be approved, it could be noted that the additional conditions were met.

Deputy City Attorney Holdaway stated that for the meeting's purpose, the Commission could simply add, as part of the minutes, a condition which says, in effect, that the applicant will submit to the City a plan for utilities providing for separate subpanels or other methods to individually bill the units, as required by the Code in order to meet the intent of the Code. City Planner/Planning Chair Johnson opened the public hearing.

City Planner/Planning Manager Diaz stated that a Condition No. 89 will be added with that language to the Resolution.

Pei Chen Lee, the owner/developer of the property, and her company has been around for 20 years. They have done about eight medical or professional office buildings in this neighborhood and they had numerous meetings with City staff to discuss the metering issue for utilities. Because this is an existing building and they hired a professional electrician to set the possibility of having separate meters, this is what they prefer. However, they realize that because the building and the tenant improvement is already done, to do that, they pretty much have to open up a lot of walls and foundations because the utilities are underneath the building foundation and connected into the electrical room and then fitted to each and every unit. So, in reality, it is not possible to deal with a separate meter. They also realize that about 60% of the electricity bill related to the air conditioning units. So, their plan is they will actually abandon the existing unit which is the central one, only two units, that service the whole building and they are going to give each and every unit an individual air conditioning unit and by doing that they are able to install a sub meter to the air conditioner so every user can pay their air conditioning/electrical bill. As to the lighting and wall plugs, those are minimal and that will be prorated in their association fee, based on their square footage, which is pretty fair and the building does not have gas service. As to the water service, there is only one meter and the same issue, the water line coming to the building underneath the foundation and that will also be prorated by their square footage. Since their company has done many buildings and have set up the HOA properly, they write-up the appropriate CC&Rs and so far, they have no issues whatsoever with this kind of setting and she wanted to make it clear to everyone and was present to answer any questions.

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

Vice Chair Flores asked Ms. Lee if she had approached the Planning Commission and told them what she just said on the record. Ms. Lee answered that they have been working with City Planner/Planning Manager Diaz and Associate Planner Gutierrez, who have been very professional and helpful. They brought this issue up at the first meeting and they were told that this is fine to move down this direction. There is no other way to do this. By the time you open up the wall, you should demolish the whole building and start over. Commissioner Sahagun asked if the meeting was before or after she closed escrow on the property. Ms. Lee believed it was before. Commissioner Sahagun warned that in the future she may want to do her due diligence because he felt other cities would flat out deny this request. Ms. Lee said they have been working with City staff, they have been back and forth on many issues, not just the utilities issue, and they were told the City would support their proposal and their overall actual investment to improve this building is close to 1.3 million and they truly want to bring a good project to the City and would appreciate the Commission's understanding of the actual difficulty in doing this.

Commissioner Sahagun asked about the other eight buildings in the area and were they similar and individually metered. Ms. Lee replied that each building is different, some of the buildings were from the ground up and they are able to meet whatever City requirements there were, one in Diamond Bar that was pretty much the same scenario as this one, they got it approved and 80% of the units have been sold at this point, the other 20% is leased. Most cities see how much they put into the building, trying to bring it up to date, make it nice and professional and there is a lot of work on the developer's side and, hopefully, the City understands how they are working in good faith, trying to do a good project and it is just the nature of the building, it is not possible to meet 100% of the standards, but they did everything they could. They met with City Planner/Planning Manager Diaz and Associate Planner Gutiérrez at the site to go over the Hardie Board panel design. Every detail. They worked in good faith to meet whatever the City wanted them to do.

Commissioner Martinez commented the issue was not a public safety issue regarding electricity, the issue was more of a free market capitalism issue, the electrical company is going to bill somebody and who pays that bill is not for the Commission to decide. Just the fact that it is safe and the tenants all agree that someone is going to pay it and the resolution the buyer provided seems a great solution.

Deputy City Attorney Holdaway added that it should be part of the CC&Rs as well and require that the CC&RS be approved by the City and that the City is a party, for enforcement purposes. That would be another way to address the intent of our Code, along with the written plan that they will submit and have approved by staff.

Commissioner Sahagun asked if there were any comments from the Fire Department regarding the project. City Planner/Planning Manager Diaz replied the Fire Department conditions were included in the back of Resolution No. 1865. Commissioner Sahagun asked if the applicant was okay with the Fire Department conditions. Commissioner Sahagun commented the building is badly in need of renovations and the Commission was happy the developer was here, and he felt the Commission helped further how the sub-metering and CC&Rs would be addressed.

Chair Johnson has always been impressed by the work that our Planning Department does to help people who are trying to make our City better and help to get it done.

Chair Johnson moved that, based upon evidence submitted, the Planning Commission finds and recommends that the current application for the proposed 23-unit medical office Condominium Conversion is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301(k) (Class 1 – Existing Facilities) of the State CEQA Guidelines. The project qualifies because the proposed project is on a developed site, involves no expansion of the existing building, and the division of the existing commercial building into common-interest ownership (condominiums). Other minor exterior and interior tenant improvements, parking lot, and landscaping enhancements are also covered by Section 15301(a), seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 5-0.

Commissioner Sahagun moved to recommend City Council approval of Tentative Tract Map No. 19713, for condominium purposes, finding that the map is consistent with the Montclair Municipal Code and the State Subdivision Map Act and approve a Precise Plan of Design request under Case No. 2016-1 for the site plan, floor plans, elevations, colors, materials, conceptual landscape plan, associated with the proposed 23-unit medical office condominium conversion for the existing two-story office building located at 4950 San Bernardino, per the submitted plans and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 16-1864, including the added Condition No. 89, seconded by Commissioner Martinez, there being no opposition, the motion passed 5-0; and,

Vice Chair Flores moved to recommend the City Council approval of a Conditional Use Permit request under Case No. 2016-1 to allow the proposed 23-unit condominium conversion for the existing office building located at the 4950 San Bernardino Avenue, as described in the staff report and subject to the findings and conditions in Planning Commission Resolution No. 16-1865, seconded by Commissioner Martinez, there being no opposition to the motion, the motion passed 5-0; and,

Commissioner Vodvarka moved to recommend City Council approval of a Variance request under Case No. 2016-1 subject to the conditions of approval in Planning Commission Resolution No. 16-1866, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

d. PUBLIC HEARING - CASE NUMBER 2016-12

Project Address: 5515 Holt Boulevard  
Project Applicant: Spirit SPE Portfolio CA C-Stores, LLC  
Project Planner: Silvia Gutiérrez , Associate Planner  
Request: Conditional Use Permit and Precise Plan of Design to allow Circle K to re-establish a drive thru car wash, convenience store, and Mobil gas station and oil change facility  
CEQA Assessment: Categorically Exempt (Section 15301)

Associate Planner Gutiérrez reviewed the staff report.

Commissioner Sahagun asked how many gas stations are in the City. City Planner/Planning Manager Diaz replied five. Commissioner Sahagun commented this will be a badly needed addition to our stock. City Planner/Planning Manager Diaz stated this location was a functioning gas station until several years ago when it closed and degraded into its current condition. It has been a long time coming to get a new operator to come in and staff is happy to see a good credit tenant and a really good project to finally take this from its current condition to something. This will be an asset to the community and provide gas for the east end of town and those who need a car wash as well. This will be a convenience store that does sell alcohol and with a license like this, it is not 100% pure alcohol, it is limited to floor area and what they sell there. It will be like the 7-Eleven that was approved near Central and Holt by a credit tenant that has the ability to operate and maintain the use of a higher level that we expect.

Vice Chair Flores felt it was a good idea to re-open it because it used to be a very busy place on the weekends.

Commissioner Vodvarka commented he would like to see some type of security, especially when alcohol is going to be sold there. City Planner/Planning Manager Diaz stated that Conditions 109 and 110 were provided by the Police Department for that exact purpose. They will have a closed surveillance system installed.

Ullyses Araujo, Senior Project Manager for this project stated he and the owners and general contractor were present and available to answer any questions. He thanked Associate Planner Gutiérrez and City Planner/Planning Manager Diaz for their assistance. The owners are very successful at all their

other properties. They are removing all the old pine trees so people cannot hide behind them and the trees are not drought tolerant and you will see a big transformation of that corner. It will be a full gas service station with fuel, car wash, get an oil change and grab a beer.

Commissioner Sahagun asked who would be the service provider for the lube and oil. Mr. Araujo replied it will be under the brand Mobil/Circle K. Commissioner Sahagun commented he felt it was a very well thought out and badly needed renovation of that address.

Chair Johnson opened the public hearing.

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

Commissioner Martinez commented how grateful the Commission is that staff and the applicant put together such a good project. That was a very, very busy location. The landscaping and architecture is a nice complement to the Holt Boulevard corridor.

Commissioner Vodvarka moved that, based upon evidence submitted, the project is deemed categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes will not involving grading, seconded by Commissioner Sahagun, there being no opposition, the motion passed 5-0.

Commissioner Sahagun moved to approve the Conditional Use Permit and Precise Plan of Design request for the site plan, floor plan, elevations, colors, materials, conceptual landscape plan, and per conditions of approval contained in Resolution No. 16-1868, seconded by Vice Chair Flores, there being no opposition to the motion, the motion passed 5-0.

## **INFORMATION ITEMS**

Commissioner Sahagun attended a Colton Planning Commissioner meeting about one month ago and just for the record, they have seven commissioners and it was interesting to see how different other cities conduct their business but he really likes our way better!

Commissioner Sahagun noticed eight large storage containers in the parking lot at the hospital and wondered what that was about; with ramps on some of the containers as if they were permanent. City Planner/Planning Manager Diaz replied that most of them are related to storing construction related items for the remodel on the inside of the building and some exterior work that is related to the new emergency room, etc. It is an ongoing project, it has been going on for a while and this project did not come through the City because all the

interior work runs through the State Architect and their reviewing bodies and we do not have any say; we have a little say about the exterior and the grounds and we have been trying to work with them to speed along their project; we do not know when their project will be done so we will likely see containers there for a little bit longer. The one container that is at the front of the site, which looks like it is partially screened is actually mandated by the state for the unfortunate storage of bodies in the event of a natural disaster or a temporary morgue, but it is something they are mandated to have and they put it in years ago. Hopefully, landscaping will kind of screen that and hopefully we will never have to use it.

Commissioner Sahagun commented that as you pass by the Metro Nissan on the freeway, going eastbound, they have always had canopies out there for the sun and workers and he understands, but canopies are not allowed at your residence any longer than a certain amount of time, why can Metro Nissan have them. City Planner/Planning Manager Diaz replied that we know the canopies are there, we have tried to work with them over the last several years to come up with a permanent solution so whoever is detailing a vehicle can be shielded under a proper, permitted cover and it is our hope that in the future, a permanent solution maybe like what the Honda and Acura dealerships are doing will happen.

Commissioner Sahagun spoke with Council Member Dutrey and walked over the Central bridge on Saturday. He understands it is slated for an upgrade and he encouraged Council Member Dutrey to walk it to see how dilapidated and how awful that bridge is and he walked on the very narrow sidewalk, encountered two homeless people going up the bridge on the north side. That bridge is dangerous and he felt people should physically look at it and put some ideas on it and encouraged staff to actually walk it instead of just letting consultants take care of it. City Planner/Planning Manager Diaz stated it is in the works through the City Engineer's office for a seismic upgrade and there are a number of deficiencies like the sidewalks and fences and felt it was a good suggestion for staff to walk it.

Chair Johnson recalled that she spoke to the City Engineer about the Central bridge and told him how alarming it was to walk it, and then he reminded her that you are only supposed to walk on one side of the bridge, but there are no signs advising this.

Chair Johnson reminded the Commission about the upcoming Law Center International Conference, which was included in her packet. It will be held on September 16<sup>th</sup> in Santa Monica.

Chair Johnson asked about a previously approved Fatburger project. The building she thought it was going to be in appears to be "for sale." City Planner/Planning Manager Diaz stated it is the building that is closest to the railroad tracks and if there is a sign there, it is probably a carryover sign. Associate Planner Gutiérrez stated the property owner is actually a vice president of Lee & Associates brokerage. She drove by this weekend and noticed they did have "hiring soon" signs, but the wooden sign that Chair Johnson was referring to is a Lee & Associates sign and he just has not taken it down. City Planner/Planning Manager Diaz commented the property owner is also getting his plans ready for plan check and hopefully it will come soon.

Chair Johnson adjourned the meeting at 8:10 p.m.

Respectfully submitted,



Laura Embree  
Planning Commission Secretary