



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

REGULAR ADJOURNED MEETING
Monday, August 8, 2016
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 July 25, 2016 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 2016-9
(continued from the June 27, 2016 and July 25, 2016 meetings)
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)
- b. PUBLIC HEARING - CASE NUMBER 2016-10
Project Address: 5404 Moreno Street, Unit L
Project Applicant: JRMP II, LLC
Project Planner: Silvia Gutiérrez , Associate Planner
Request: Conditional Use Permit to allow the
continued operation of an existing
massage therapy business
CEQA Assessment: Categorically Exempt (Section 15301,
Class 1)
- c. PUBLIC HEARING - CASE NUMBER 2016-11
Project Address: 4480 Holt Boulevard, 100C
Project Applicant: Holt Investors LLC, Holt Blvd Montclair
LLC, KZMB LLC
Project Planner: Silvia Gutiérrez , Associate Planner
Request: Conditional Use Permit Amendment to add
an outdoor patio seating area
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 August 22, 2016 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 and the bulletin board adjacent to the south door of Montclair City Hall on August 4, 2016.

PUBLIC HEARING - CASE NUMBER 2016-9

APPLICATION TYPE(S)	Amendment to Chapter 11.72 MMC re: Electronic Message Center signs
NAME OF APPLICANT	City of Montclair
LOCATION OF PROPERTY	Citywide
ENVIRONMENTAL DETERMINATION	Exempt pursuant to Sections 15305 and 15311 of the California Environmental Quality Act (CEQA) Guidelines
PROJECT PLANNER	Michael Diaz

Update

On May 9, 2016, the Planning Commission reviewed and recommended approval of proposed Ordinance No. 16-957, an ordinance designed to allow the use of Electronic Message Centers (EMCs) for more uses/businesses in the City provided they could meet new minimum development standards and regulations.

Due to a recent Supreme Court decision, Reed v. Town of Gilbert (2015), which invalidated content-based regulations of noncommercial signs, cities throughout the country have been forced to reevaluate sign codes to ensure consistency with the high court's ruling. According to the City Attorney, portions of the Ordinance previously reviewed by the Planning Commission regarding EMCs needed further refinement to ensure that the provisions therein would be in compliance with the decision. Staff reworked the proposed ordinance to remove content-based distinctions as recommended by the City Attorney, and further refine the organization of the ordinance.

Project Proposal

In late 2014, the City was approached by an automobile dealership on Holt Boulevard about its desire to install an electronic message center (EMC) sign on its property. As a result of LED (Light Emitting Diode) technology, clearer displays, and lower manufacturing costs, EMCs have become more economical and energy efficient and, thereby, more attractive to potential users.

The City's current sign ordinance prohibits EMCs except for new auto and recreational vehicles uses along the I-10 freeway corridor. In order for the City to establish new standards for where other EMCs could be utilized, the current Code would need to be amended. The proposed Ordinance would allow, subject to approval of a Conditional Use Permit (CUP), EMCs for more uses/businesses in the City provided they meet new minimum development standards and regulations contained in the proposed Ordinance (Exhibit "A").

Current Ordinance

The City's zoning code currently restricts the use of EMCs, limiting their use to new auto uses along the I-10 Freeway corridor or to other uses which meet the following criteria provided below:

Section 11.72.370 - Electronic Message Board Sign

- A. Electronic Message Board Signs may be permitted only by CUP and shall be subject to the following limitations:
1. Only uses or businesses which are regional in nature and consist of a minimum 20 acres in land area shall qualify;
 2. It shall be located a minimum 1200 feet from another existing or planned electronic message board sign, unless the Planning Commission makes a finding that a lesser distance would not create visual cluttering, traffic hazards or unsafe conditions to the public;
 3. For signs designed primarily for freeway exposure, all applicable laws and regulations of federal, State and local agencies shall be complied with;
 4. Signs shall meet the size and height limitations of the zones in which they are located, unless a higher and larger sign structure is approved by the Planning Commission through variance procedures.
- B. Time and temperature signs incorporated into the building wall signage or monument signs may be permitted for certain commercial or institutional uses, subject to Precise Plan of Design (PPD) review and approval and subject to all provisions of this Chapter.

Summary of Revised Ordinance No. 16-957

As mentioned above, staff reworked the proposed Ordinance to refine its organization and remove any content based language. The revised Ordinance is provided in the Commission packets and is summarized below:

- Replace the existing term and definition of Electronic Message Board with the new term of Electronic Message Center (EMC) at Section 11.02.010 (Signs: No. 16), which is defined as:

"Electronic Message Centers (EMCs) are programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other electronic means of changing copy."

- Require the approval of a Conditional Use Permit for the installation and use of all EMCs; and
- Limits the number of EMCs to a maximum of one (1) per parcel or business meeting minimum qualifying site criteria; and
- Establish new minimum qualifying site criteria for properties/uses seeking approval for an EMC on their respective sites. Also, prescribe a minimum separation requirement between EMCs located on separate properties; and
- Require the design and proportion/scale of EMCs be complementary to the design and scale of the main building located on the subject site for which the sign is proposed; and
- Allow only static message displays, typically 4-8 seconds in duration. Scrolling or flashing messages would be prohibited; and
- Mandate brightness controls and a light-sensing device that will automatically adjust the brightness as ambient light conditions change; and

Background

- On July 20, 2015, the City Council approved Agreement No. 15-57 allowing staff to retain the services of a sign consultant to provide staff the technical expertise and assistance needed to develop the proposed Ordinance.
- Young Electric Sign Company (YESCO) was selected as the consultant for the project because of its expertise and experience in providing specific sign assistance to public agencies. YESCO was founded in 1920 and is a leader in designing and developing LED signs both nationally and globally.
- Existing electronic message signs in Montclair are located along the I-10 Freeway corridor for the Metro Honda/Acura, Metro Nissan/Infiniti of Montclair, and Giant RV businesses.
- In 2013, the Chino Basin Water Conservation District (CBWCD) was granted approval for a new monument identification sign/electronic message board at its 4594 San Bernardino Street campus. A variance from the 20-acre requirement was also approved (CBWCD combined acreage is 18.44 acres). The approval of the EMC recognized the key role CBWCD plays in promoting water conservation and efficiency for the region that includes the cities of Chino, Chino Hills, Montclair, Ontario, Rancho Cucamonga, and Upland, and the unincorporated areas of San Bernardino County.

Analysis

Staff recognizes that more uses and/or businesses desire to utilize advancements in technology that permit signs to change copy electronically (e.g., utilizing an LED type of sign). However, the current City zoning code provisions that regulate the use of EMCs are fairly limited in scope and reflect a somewhat dated approach to their placement and usage. In Montclair, as with most cities, electronic changeable copy signs were initially prohibited or restricted due to concerns with undesirable secondary effects such as intense brightness, distracting images and movements, and visual clutter/overconcentration.

The potential adverse effects mentioned above remain as valid concerns, but the intent of the proposed Ordinance is to allow for some flexibility in potential locations and the operation of, EMCs within the community, while adding additional standards to minimize (or eliminate) adverse secondary effects that current code does not address.

Minimum Site Criteria & CUP Review Requirement

The new ordinance proposes specific site criteria to ensure that EMCs are appropriately located and do not proliferate throughout the community. The site criteria requirements include minimum lot sizes, separation distances between similar signs on adjacent properties, minimum setbacks, and height and screen size limits. If a property qualifies, the request would be subject to the approval of a CUP.

The CUP review process was determined to be the proper manner to analyze future requests for an EMC and was retained from the current zoning regulations. The CUP review process allows the City to consider proposed applications on a case-by-case basis and determine if a proposed site is suitable for the installation and operation of an EMC. In addition to reviewing the specific characteristics of the proposed EMC, other site conditions that may need attention could also be factored into the decision to approve or deny a CUP request.

As such, the approval of a CUP request is discretionary and not guaranteed. If a CUP is approved, conditions of approval (general and specific) would apply to ensure that the EMC would be operated in a manner that is compatible with surrounding uses. The CUP process would also give the City the ability to modify conditions or revoke a CUP approval if the applicant fails to dependably operate in accordance with the approved conditions of approval. Staff believes the total number of potential EMCs within the City will remain relatively low, given the moderate number of qualifying sites and the cost for such signs.

Illumination/Graphic Displays

The main concern related to the display of electronic information on an EMC sign is the brightness and movement of sign copy on the screen. EMCs that are too bright can be offensive and ineffective. The goal for using an EMC is for the sharing of clear and

readable information. Most new electronic displays are designed to produce sufficient brightness to ensure clear legibility during daylight hours without excessive glare.

However, daytime brightness is not appropriate for nighttime viewing. Research conducted by the International Sign Association (ISA), in consultation with Dr. Ian Lewin of Lighting Sciences, Inc., found the target brightness level for an on-premise EMC should be no more than 0.3 foot-candles above ambient light conditions surrounding the sign. To address this issue, the Ordinance requires that approved EMCs have appropriate technology built into their units to automatically and continuously adjust illumination to the 0.3 foot-candle level as ambient lighting levels change throughout the day. Since the advent of LED technology and advanced software, the above concern is easier to address and regulate.

The other main operational concern associated with an EMC is the potential for distracting images and special effects (e.g., pulsating, flash, scrolling or flashing movements, etc.) being displayed on the electronic screens. Not only would this cause visual blight, it would have adverse impacts on adjacent uses. The primary purpose for utilizing an electronic message is to provide relevant information without causing undue distractions.

To address this concern, the Ordinance would prohibit such special effects, as noted above, and limit displayed sign copy/images to a static display lasting a minimum of 4 seconds in duration before it changes to new copy or new image. The EMC would also be designed to freeze the device in one position or turn off the entire sign if a malfunction occurs. In this way, surrounding properties and uses will have a higher degree of protection from signage that has the potential to be too bright or malfunction. Prior to issuing any necessary permits for an EMC sign, the applicant shall be required to submit to the City written verification from the manufacturer that the EMC is so designed and equipped.

Conclusion

Allowing a limited expansion in the use of electronic message centers (EMCs) could benefit the community by helping direct customers to their destination and may even mitigate visual clutter by eliminating the need for temporary signage promoting on-site businesses and/or events. The revised Ordinance also includes new development standards and operational measures which are aimed at controlling the more undesirable effects of EMCs that are not fully addressed by the current zoning code. Having these new regulations in place would help protect adjacent properties and drivers. As such, the standards contained within the revised Ordinance would not be detrimental to the public, interest, health, safety, convenience, or welfare of the City.

Public Notice

A notice of public review was advertised in the Inland Valley Daily Bulletin newspaper on April 29, 2016, inviting public comment. At the time this report was prepared, no comments or inquiries had been received by staff regarding this proposal.

A subsequent public notice for the revised ordinance proposal was published in the Inland Valley Daily Bulletin newspaper on June 17, 2016. At the Planning Commission's June 27, 2016 meeting the item was continued at staff's request to the July 25, 2016 public hearing date. At the July 25th meeting, the item was continued to the August 8, 2016 hearing date.

Environmental Determination

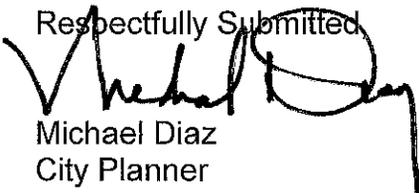
This proposed Ordinance is exempt from CEQA pursuant to CEQA Guidelines, Sections 15305 and 15311. Under CEQA Section 15305, minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density and Section 15311(s) which exempts from environmental review the construction of minor structures on commercial, industrial, and institutional facilities, including the installation of on-premise signs.

Recommendation

The City's Office of Economic Development recommends that the Planning Commission:

- A. Move that, based upon evidence submitted, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption; and,
- B. Move adoption of Resolution No. 16-1869, recommending City Council approval of revised Ordinance No. 16-957, amending Sections 11.02.010 (Signs: 16) and 11.72.370 of the Montclair Municipal Code addressing the use of Electronic Message Centers (EMCs) within the City limits.

Respectfully Submitted,



Michael Diaz
City Planner

Attachments: Exhibit "A" – Revised Draft Ordinance No. 16-957
PC Revised Resolution No. 16-1869

c: David Jones, YESCO Electric Sign Company, 19325 Bellegrave Avenue, Jurupa Valley, CA 91752

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RESOLUTION NUMBER 16-1869

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL ADOPTION OF REVISED ORDINANCE NO. 16-957 UNDER CASE NO. 2016-9, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA AMENDING SECTION 11.02.010 DEFINITIONS AT SIGNS: NO. 16 AND AMENDING SECTION 11.72.370 OF CHAPTER 11.72 OF THE MONTCLAIR MUNICIPAL CODE, RELATED TO ELECTRONIC MESSAGE CENTER (EMC) WITHIN CITY LIMITS.

A. Recitals.

WHEREAS, in July 20, 2015, City staff initiated a review of the City Sign Code to determine the feasibility of allowing additional institutional uses to install Electronic Message Boards; and

WHEREAS, Young Electric Sign Company (YESCO) was selected as the consultant for the project because the company's expertise and experience in providing specific sign assistance to public agencies. YESCO was founded in 1920 and is a leader in designing and developing Light Emitting Diode (LED) signs both nationally and globally; and

WHEREAS, the City's zoning code currently restricts the use of Electronic Message Center (EMCs), limiting their use to new car auto uses along the I-10 Freeway corridor or to other uses which meet the criteria set forth in Section 11.72.370 of the Montclair Municipal Code; and

WHEREAS, based upon the input provided by the sign consultant retained for the project, staff prepared an amendment to the Montclair Municipal Code pertaining to Electronic Message Boards in the City; and

WHEREAS, the proposed Ordinance includes new development standards and operational measures, which are aimed at controlling the undesirable effects of EMCs that are not fully addressed by the current zoning code; and

WHEREAS, the proposed Ordinance contains language requiring the approval of a Conditional Use Permit (CUP) prior to the installation of any Electronic Message

Center Board within the City. The Conditional Use Permit process and conditions of approval will insure compatibility with surrounding uses in those zones; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, City Staff has determined that adoption of Ordinance 16-957 is exempt from CEQA pursuant to Sections 15305 and 15311 of the State CEQA Guidelines; and

WHEREAS, on April 29, 2016, A notice of public review was advertised in the Inland Valley Daily Bulletin newspaper in the manner and for the time frame prescribed by law; and

WHEREAS, on May 9, 2016, the Planning Commission of the City of Montclair conducted a duly noticed public hearing on proposed Ordinance 16-957. At the hearing, all interested persons were given an opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence, and testimony presented in connection with this project; and

WHEREAS, on May 9, 2016, the Planning Commission reviewed and unanimously recommended approval of proposed Ordinance No. 16-957, and

WHEREAS, due to the recent Supreme Court decision, Reed v. Town of Gilbert (2015), which invalidated content-based regulations of noncommercial signs, cities throughout the country have been forced to reevaluate sign codes to ensure consistency with the high court's ruling. According to the City Attorney, portions of the proposed Ordinance regarding EMCs needed further refinement to ensure that the provisions therein would be in compliance with the decision.

WHEREAS, staff reworked the proposed ordinance to remove content-based distinctions as recommended by the City Attorney, and further refine the organization of the ordinance; and

WHEREAS, a second notice for the revised ordinance proposal was published in the Inland Valley Daily Bulletin newspaper on June 17, 2016 to consider a revised ordinance proposal.

WHEREAS, at the Planning Commission's June 27, 2016 meeting the item was continued at staff's request to the July 25, 2016 public hearing date.

WHEREAS, at the Planning Commission's July 25, 2016 meeting the item was continued at staff's request to the August 8, 2016 public hearing date.

WHEREAS, the Planning Commission has reviewed the proposed EMC Ordinance and, based upon the whole record before it, in the exercise of its independent judgment and analysis, concurs that City Staff has correctly concluded that

it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment, and independently, that adoption of the Ordinance meets the qualifications of a Class 5 and Class 11 categorical exemptions; and

WHEREAS, the proposed amendment to the Municipal Code is consistent with the City's General Plan and each element thereof, which seek to guide and direct the orderly development of the City; and

WHEREAS, Ordinance No.16-957 will not adversely affect the public health, safety, or welfare in that it will provide for orderly and consistent development in the City; 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 August 8, 2016, 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 code amendment were heard, and said code 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. Adoption of revised Ordinance No. 16-957 will not have a significant effect on the environment.
3. This Commission recommends that the City Council adopt the finding that proposed Ordinance No. 16-957 is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15311 of the State CEQA Guidelines.
4. Based upon the findings and conclusions set forth above, the Planning Commission hereby recommends approval of revised Ordinance No.16-957 to the City Council as set forth in "Exhibit A" attached hereto and incorporated herein by this reference

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

APPROVED AND ADOPTED THIS 8TH DAY OF AUGUST, 2016

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, 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 8th day of August, 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

z:\COMMDEV\MD\2016-9 EMC ORDINANCE PC RESO FOR AUGUST 8, 2016

ORDINANCE NO. 16-957

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA AMENDING SECTION 11.02.010 DEFINITIONS AT SIGNS: NO. 16 AND AMENDING SECTION 11.72.370 OF CHAPTER 11.72 OF THE MONTCLAIR MUNICIPAL CODE, RELATED TO ELECTRONIC MESSAGE CENTER SIGNS

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, Section 11.72.370 of Chapter 11.72 of the Montclair Municipal Code (MMC) sets forth regulations for the use of "electronic message board signs" in the City; and

WHEREAS, the City's zoning code currently restricts the use of Electronic Message Board Signs to uses or businesses occupying a minimum 20 acres in land area and other criteria set forth in Section 11.72.370 of the Montclair Municipal Code; and

WHEREAS, it is determined to be in the best interest of the City and its residents to amend Section 11.72.370 of Chapter 11.72 of the Montclair Municipal Code to allow the use of electronic message board signs in other locations; and

WHEREAS, the proposed code amendment adds the new term "Electronic Message Centers (EMCs)" and defines them as "programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other electronic means of changing copy;" and

WHEREAS, the proposed code amendment also includes new locational criteria, design standards, and operational measures, which are aimed at controlling the undesirable effects of EMCs; and

WHEREAS, the proposed code amendment requires the approval of a Conditional Use Permit (CUP) prior to the installation of any Electronic Message Center within the City. The Conditional Use Permit process and conditions of approval will ensure compatibility with surrounding uses in the same zoning district; and

WHEREAS, on August 8, 2016, 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 code amendment were heard, and said code amendment was fully studied; and

WHEREAS, on August 8, 2016, the Planning Commission unanimously recommended that the City Council approve the proposed code amendment; and

WHEREAS, the proposed amendment to the Municipal Code is consistent with the City's General Plan and each element thereof, which seek to guide and direct the orderly development of the City; and

WHEREAS, the proposed amendment will not adversely affect the public health, safety, or welfare in that it will provide for orderly and consistent development in the City; and

WHEREAS, the City Council finds that the proposed Ordinance is consistent with the General Plan's goals and policies to protect and enhance community character and appearance; and

WHEREAS, the City Council finds that this Ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15311 of the State CEQA Guidelines. The proposed code amendment does not approve any construction activities but, instead, establishes standards, permit requirements, and other measures that regulate the locations and number of EMCs within the community; and

WHEREAS, the Director of Community Development is directed to file a Notice of Exemption in accordance with CEQA and the State CEQA Guidelines.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 11.02.010. (Definitions) of Title 11 ("Zoning and Development") of the Montclair Municipal Code, Signs Definition No. 16 ("Electronic Message Display") is hereby repealed and replaced with the following new term and definition:

"Electronic Message Centers (EMCs) are programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other electronic means of changing copy."

SECTION II. Chapter 11.72.370 ("Electronic Message Board Sign") of Title 11 ("Zoning and Development") of the Montclair Municipal Code is hereby repealed and replaced in its entirety as follows:

Chapter 11.72.370

ELECTRONIC MESSAGE CENTER SIGNS

11.72.370 Electronic Message Center Displays.

Electronic Message Centers (EMCs) are programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other means of changing copy. EMCs shall be allowed in specific locations and subject to the criteria set forth in this Section, subject to approval of a Conditional Use Permit (CUP) by the Planning Commission. The criteria in this Section shall be for freestanding EMCs. Building- and wall-mounted EMCs are prohibited.

A. Locational Criteria

EMCs shall be permitted on developed parcels within the City with a legally established land use and/or business, subject to the following locational criteria:

1. Non-Freeway-Oriented Signs. Non-Freeway-Oriented EMCs are subject to the following restrictions:

a. Shall be located on parcels having a minimum of 200 feet of lineal frontage on any of the following public arterial streets: Holt Boulevard, Mission Boulevard, Central Avenue, and Monte Vista Avenue; and

b. Shall be located on a parcel or adjoining parcels under common use and/or ownership cumulatively totaling a minimum of three (3) acres. If a parcel, or adjoining parcels, is being leased, the lease must have a minimum of five (5) or more years remaining on the term of the lease, calculated from the date a complete application is received by the City, and as evidenced by a copy of an executed lease agreement; and

c. Shall not be located within 200 lineal feet of any other permitted EMC, or within 50 lineal feet of any existing freestanding identification (monument) sign located on a separate parcel which is not associated with the subject site.

2. Freeway-Oriented Signs. Freeway-Oriented EMCs are subject to the following restrictions:

a. Shall be located on parcels, commercial businesses, regional centers, auto centers, or contiguous shopping centers occupying a minimum of seven (7) acres with a minimum of 700 lineal feet of continuous frontage along the Interstate 10 right-of-way; and

b. Shall be located on a parcel or adjoining parcels under common use and/or ownership cumulatively totaling a minimum of three (3) acres. If a parcel, or adjoining parcels, is being leased, the lease must have a minimum of five (5) or more years remaining on the term of the lease, calculated from the date a complete application is received by the City, and as evidenced by a copy of an executed lease agreement; and

c. Shall not be located within 1,200 lineal feet of any other permitted EMC ; and

d. Shall be located within 50 feet of the freeway right-of-way line of Interstate 10.

3. EMCs On City-Owned Property.

The City may construct and maintain civic signs for community entrance, identification, direction, and information, which are located on City-owned property or off premises in the public right-of-way, including but not limited to electronic, digital, programmable, and/or illuminated signs.

B. EMC Structure Height and Display Size Limits.

1. Non-Freeway-Oriented EMCs shall be subject to the following maximum dimensions/limits:

a. Maximum height: 14'-0" above adjacent finished grade or adjacent sidewalk elevation.

b. Maximum area of EMC display: 60 square feet.

2. Freeway-Oriented EMCs shall be subject to the following maximum dimensions/limits:

a. Maximum height: 65'-0" above adjacent finished grade for the structure to which an EMC is attached. In addition, the top of the EMC display screen shall be a maximum of 50'-0" above adjacent finished grade to ensure safe readability to motorists on Interstate 10.

b. Maximum area of EMC display: 260 square feet.

The height and EMC display size limits are summarized in the following table:

EMC Structure Height and Display Size Limits			
<i>Location/Type</i>	<i>Number of EMCs</i>	<i>EMC Display</i>	<i>Structure Height*</i>
<u>Non-Freeway-Oriented</u>	1	60 s.f. max.	14'-0" max
<u>Freeway-Oriented</u>	1	260 s.f. max.	65'-0" max

*Measured from adjacent finished grade or adjacent finished sidewalk or roadway.

C. Illumination and Display Requirements

1. **Maximum Illumination.** No EMC sign display shall exceed a maximum illumination level of 0.3 foot-candles (fc) above ambient light level when measured at the recommended distance, based on the EMC size. All signs shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness to continually comply with this requirement. If brightness levels exceed the above standard, an adjustment shall be made within one (1) business day upon Notice of Non-Compliance from the City, or the sign shall be immediately turned off until the adjustment is completed.

a. **Pixel Pitch (resolution).** All EMC display components shall be full color with a minimum pitch resolution of 20 millimeter spacing or better.

b. **Pixel Calibration.** Pixel-to-pixel, module-to-module pixel calibration.

2. **Measurement Criteria.** The illuminance of an EMC shall be measured with an illuminance meter set to measure foot-candles accurate to at least two (2) decimals. Illuminance shall be measured with the EMC off, and again with the EMC displaying a white image. Measurements shall be taken after sunset with the site fully illuminated by installed site lighting. All measurements shall be taken perpendicular to the face of the EMC at the distance determined by the total area of the EMC display as set forth in the table below:

<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>	<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>	<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>
10	32	65	81	140	118
15	39	70	84	150	122
20	45	75	87	160	126
25	50	80	89	170	130
30	55	85	92	180	134
35	59	90	95	190	138
40	63	95	97	200	141
45	67	100	100	220	148
50	71	110	105	240	155
55	74	120	110	260	161
60	77	130	114	---	---

a. **Illumination Limits.** The difference between the "off" and "solid white" image measurements using the EMC measurement criteria shall not exceed 0.3 foot-candles on either side of the sign. If the measurement of illumination levels on each side of the sign is different, the side of the sign facing residentially-zoned properties shall take precedent.

b. **Dimming Capabilities.** All EMC displays shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim the EMC display according to ambient light conditions, or that can be continuously adjusted to comply with the 0.3 foot-candle measurements.

c. **Initial Certification.** At least one week prior to initial operation of the EMC, the applicant shall submit written documentation from the manufacturer of the sign to certify to the City that the EMC is properly equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness to continually comply with the brightness levels specified in this ordinance.

D. Architectural and Siting Standards.

All EMCs shall be subject to the following standards:

1. Design. The EMC shall be designed to complement the design of the primary building on the property, including colors and materials. The design of the EMC shall include the following elements:

a. A full/solid base structure (with no exposed poles or supports) extending the full width of the EMC; and

b. A display screen framed by no less than six (6) inches on all sides; and

c. A minimum clearance of four feet (4'-0") between the bottom edge of the display screen and adjacent finished grade.

d. Except for the name of the center or the primary business, no other individual sign faces of other businesses or entities shall be attached to the EMC structure.

2. City Identification Required. Freeway-Oriented EMCs shall incorporate and identify the "City of Montclair" as a permanent element in the overall design of the structure supporting the EMC display.

3. Street Address Required. Non-Freeway-Oriented EMCs shall display the numerical street address of the property/business in a location on the support structure. Numerical characters shall be individual, internally or halo-illuminated characters attached to, or routed into, the base and no less than eight inches (8") in height. Numerals shall be permanently affixed to or displayed on the support structure a minimum of 24 inches above finished grade.

4. Setbacks. EMCs located on private property shall observe the following setback requirements:

a. A minimum of five feet (5'-0") from the adjacent public right-of-way or private street sidewalk. Where no sidewalk exists, no portion of the EMC display or associated support structure shall be closer than ten feet (10'-0") from the adjacent curb face; and

b. A minimum of ten (10'-0") from side property line of adjacent property; and

c. A minimum of 25 lineal feet away from any vehicular driveway; and

d. A minimum of 10 lineal feet away from any pedestrian path-of-travel from the public sidewalk to any building on the subject property or adjacent property.

5. Line of Sight. All EMCs shall be sited on the subject parcel in a location offering optimal visibility to motorists and shall not be located in such a manner to obstruct the sight lines of motorists or pedestrians entering or leaving the subject property or adjacent properties. Further, EMCs located at an intersection shall be sited outside of the required corner cut-off area as set forth in Chapter 11.38 of this Title.

6. EMC Display Orientation. EMCs may be single-faced or double-faced. Double-faced EMCs shall be oriented perpendicular to Interstate 10 or the street to which they are adjacent, or, if located at an intersection of two streets, shall be oriented diagonally (perpendicular to the adjacent radius of the intersection) so as to be easily visible to motorists on the street segments adjacent to the property. Single-faced EMCs may only be installed at an intersection of two streets or at the end of a cul-de-sac. Single-faced EMCs at an intersection shall be oriented diagonally (generally parallel with the adjacent radius of the intersection) so as to be easily visible to motorists on the street segments distant from the property and so that the back side of the sign is not directly visible to a public right-of-way.

7. Landscaping. EMCs shall be placed within a landscaped area to provide sufficient protection from unintentional damage by vehicles on the property. Landscape material shall not obstruct the EMC display, business identification sign, and/or numerical address at the time of landscape installation or at maturity. It is further recommended that non-living landscape materials, such as decomposed granite, gravel, mulch, or the like, be used in lieu of live plant materials for a distance extending 24 inches around the base of the monument structure.

8. Durability. All EMC displays shall be silicone-sealed for adequate weather protection, shall have integral protective louvers (injection molded or aluminum) to ensure optimal daytime visibility and minimize vandalism, and carry a minimum five-year warranty from the manufacturer. Detailed plans demonstrating compliance with said construction standards and evidence of said warranty shall be submitted at the time of plan check prior to issuance of building permits.

9. Maximum Number. No more than one EMC shall be permitted per qualifying parcel, including parcels with multiple street frontages. Parcels with an EMC shall not be entitled to a monument sign on the same street frontage to identify the name(s) of the business(es) on the property. Any existing pylon or monument sign on a qualified site and on the same street frontage as a proposed EMC, which would be in conflict with the requirement of this Section, shall be required to be permanently removed as a condition of approval.

10. Compliance with Regulations. All EMCs shall comply with all regulations related to electronic displays imposed by federal and state agencies.

E. EMC Operational Standards.

1. Digital images shall contain static messages only. Scrolling or flashing messages are prohibited.

2. EMCs shall display each static message for a minimum of four (4) seconds.

3. The only permissible transitions between static messages shall be a "cut" (an instant change from one image to the next) or a "dissolve" or "crossfade" (gradual fade from one image to the next).

4. EMCs shall display a single message at any one time. Split screens shall not be permitted.

5. Hours of Operation. No restrictions on the hours of operation for approved Freeway oriented EMC displays. For Non-Freeway-Oriented signs, hours of operation shall be determined by the Planning Commission on a case by case basis depending on the size of the EMC, the proposed location, and proximity of the EMC to residential properties or other sensitive land uses.

6. Representatives of the Community Development Department shall have the right to inspect the EMC on a periodic basis to ensure that it is operating in compliance with this Section.

F. EMC Maintenance Standards.

1. Paint and other finishes on the EMC display and support structure shall be maintained in good condition. Damaged or substandard finishes shall be repaired within 14 days of notification by the City.

2. Mineral deposits and stains shall be removed on a regular basis. Vandalism, graffiti, or damaged surfaces shall be repaired immediately. All repairs shall demonstrate high quality workmanship (e.g., straight, level, plumb, square, etc., as the situation requires) and restore the exterior materials and finishes of the EMC or EMC structure to its original appearance, subject to approval of the Community Development Director.

3. The owner of the EMC shall maintain an ongoing written maintenance agreement with a qualified licensed sign maintenance contractor. The Community Development Department shall be provided documentation of such an agreement upon request.

G. Malfunction.

EMC signs shall be designed and equipped to immediately discontinue the display of images or text if sign malfunctions. If, at any time more than 25 percent of the digital display lights malfunction or are no longer working, the owner of an EMC shall turn off the display until repairs are made. The owner of an EMC sign shall provide to the City of Montclair, the name and number of a contact person that is on call at all times and who is able to turn off the digital sign promptly if a malfunction occurs.

H. Enforcement/Penalties.

Noncompliance with any of the provisions of this section or the conditions of approval of an EMC shall be grounds for revocation of any issued Conditional Use Permit as provided in Section 11.78.100A. Prior to initiating revocation proceedings, the City shall provide written notice of such violation(s) to the owner of the EMC and a reasonable timeframe, not to exceed 30 days from the date of written notice, to cure the noncompliant conditions.

Any person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of a violation pursuant to Chapter 1.12 of this Code.

SECTION III. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

SECTION IV. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after passage.

SECTION V. Posting. The Deputy City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this XX day of XX, 2016.

Mayor

ATTEST:

Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 15-955 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2015, and finally passed not less than five (5) days thereafter on the XX day of XX, 2016, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Phillips
Deputy City Clerk

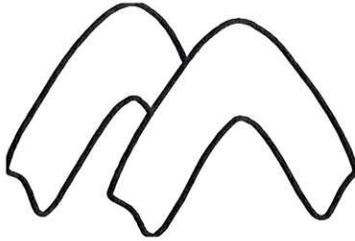
MEMORANDUM

To: Montclair Planning Commission
From: Michael Diaz, City Planner 
Date: August 8, 2016
Subject: Request for continuation for Agenda Item No 6.b regarding Case No. 2016-10, CUP for Relax Spa at 5404 Moreno Street, Unit L

Staff is requesting that Agenda Item 6.b. be continued to a future Planning Commission meeting date due to recent changes in the application for the proposed Conditional Use Permit. The changes require further evaluation and verification before the request can move forward. The additional time will allow staff to review the new information.

Recommendation

Staff recommends the Planning Commission continue Case No. 2016-10 to the regularly scheduled commission hearing date of September 12, 2016.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 08/08/16

AGENDA ITEM 6.c

Case No. 2016-11

Application: A request for a Conditional Use Permit Amendment (Case 2014-32) to add a 430-square-foot outdoor patio seating area for a Starbucks Coffee store. The Starbucks Coffee shop is part of the Orchard Plaza retail commercial development at the northwest corner of Holt Boulevard and Ramona Avenue.

Project Address: 4490 Holt Boulevard, Unit A (Building C of the Orchard Plaza development).

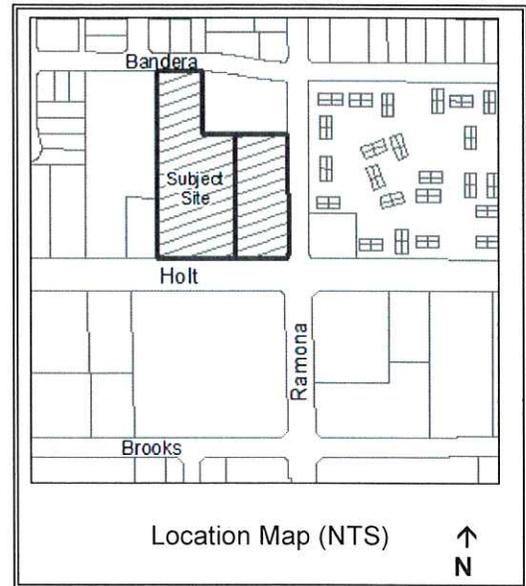
Assessor Parcel No.s: 1009-493-06

Property Owners: KZMB LLC & Holt Investors LLC & 4480 Holt Blvd Montclair LLC

General Plan: General Commercial

Zoning: Commercial - Holt Boulevard Specific Plan

City/Public Utility Easements: None



Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	Commercial	"Commercial" Holt Boulevard Specific Plan (HBSP)	Orchard Plaza –Building C Multi-Building/Tenant Commercial Shopping Center
North	Commercial	"Commercial" - HBSP	Multi-Tenant Commercial w/ Laundromat/Market/Fast Food
East	Commercial Medium 8-14 units/ac	"Commercial" - HBSP R-3 Multiple Family Residential	7-11 Store Townhomes
South	Commercial	"Business Park" – HBSP	Multi-tenant Industrial Park
West	Medium 8-14 Units/acre	"Commercial" - HBSP "Mobile Home Park" HBSP	Scuba Rental Business Mobile Home Park

Report on Item Number 6.c

PUBLIC HEARING – CASE NUMBER 2016-11

APPLICATION TYPE(S)	Conditional Use Permit – Amendment
NAME OF APPLICANTS	Holt Investors LLC Holt Blvd Montclair LLC KZMB LLC
LOCATION OF PROPERTY	4490 Holt Boulevard, Unit A (at Building C of Orchard Plaza)
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	"Commercial" per Holt Boulevard Specific Plan
EXISTING LAND USE	Orchard Plaza - Multi-Building/Tenant Retail Center
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez

Project Description

The applicants are requesting approval of an amendment to a Conditional Use Permit (CUP) approved under Case No. 2014-32 to allow the addition of a 430-square-foot outdoor patio seating area on the north side of Building "C" within the Orchard Plaza commercial retail development at the above address. To add the proposed outdoor patio seating area, an amendment to the existing CUP is required.

The outdoor patio area is proposed for a new Starbucks Coffee shop that will be located at the east end of Building C (Suite 100). The proposed outdoor patio would be located in front (north side) of the coffee shop lease space with seating for up to 22 persons. Approximately ten (10) tables (two (2) with umbrellas) are proposed for the patio (a permanent overhead structure is not proposed with this request). To accommodate the outdoor patio, a planter and adjacent parking space were eliminated from the front of the building. The concrete surface of the patio area will be six inches above the surface of the parking lot.

Plans for the project are included in the Commission packets for reference.

Background

- On February 23, 2015, the Planning Commission approved Case 2014-32 granting Precise Plan of Design (PPD) and Conditional Use Permit (CUP) approval for the

multi-building and tenant commercial project at the northwest corner of Holt Boulevard and Ramona Avenue. The project consists of three (3) buildings, one of which would have a drive-thru lane for an anticipated quick-serve or fast casual restaurant (Building "C"), and associated site improvements.

- The property is located in the Commercial zoning district of the Holt Boulevard Specific Plan.

Planning Division Comments

Staff supports the request to add the proposed outdoor patio area for the Starbucks restaurant. Patio areas are popular improvements and allow customers to enjoy being outdoors during good weather. The area where the patio will be is of sufficient size and configured in a way to accommodate the project with little to no adverse impact to parking or the center overall. The loss of one (1) parking space at the front of the building is not considered to be significant, since there remains ample on-site parking in the general vicinity of the subject building and for other uses in the remainder of the center.

Overall, the center has a modest surplus of approximately 35 parking spaces, so the loss of two spaces to accommodate the proposed outdoor seating area can be absorbed. Surplus spaces are to be allocated to uses on a first-come, first-served basis. Staff believes the site plan balances the applicant's desire to have a satisfactory amount of customer space with staff's interest in a project that would be an asset to the City without creating negative traffic, noise or other environmental impacts to the adjacent neighborhood.

The number of seats and tables appears to be appropriate but may need to be scaled back to a maximum of 18-20 seats to ensure that required ADA access and path of travel standards are observed and maintained. The applicant will have to work closely with the Building Official during the plan check phase of the project to ensure that this aspect of the project is addressed. Staff would also recommend that a low (e.g., 36-inch high) decorative rail be installed on the east side of the patio to better separate the drive-thru lane from the seats and tables. A condition of approval has been added to the draft resolution.

Lastly, staff has a concern with Starbucks' plan to operate this store location 24 hours a day, seven (7) days a week. Staff is not opposed to the drive-thru order lane being used as proposed, but does not believe that an always-open store and outdoor patio area is appropriate. There are no similar businesses in the City with 24-hour drive-thru lanes, open dining rooms, or patio areas. Moreover, traffic in the surrounding area (Holt Boulevard and Ramona Avenue) is relatively low during the late hours of the night/early morning and the Police Department is concerned that an open coffee shop and patio area will only encourage loitering. As such, staff has added a condition of approval requiring that the store and outdoor patio area have limited operating hours during the late evening and early morning hours. This approval shall allow Starbucks Coffee and the outdoor dining area at this location to remain open 4:30 a.m. to 11:00 p.m., seven

(7) days per week. The drive-thru lane may remain open for business 24 hours, if desired by the store operator.

Public Comment from Adjoining Property Owners

On July 28, 2016, public hearing notices were mailed to property owners within a 300-foot radius of the exterior boundaries of the project site and notices were also published in the Daily Bulletin in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments had been received regarding the project.

Conditional Use Permit Amendment Findings for Outdoor Patio Seating Area

Staff believes the required findings for granting a Conditional Use Permit Amendment to allow an outdoor seating area at Building "C" can be made as follows:

- A. The proposed 430-square-foot outdoor seating dining patio use associated with the coffee shop use is an essential and desirable feature made available as a public convenience for future patrons. The outdoor patio area provides a central and dedicated space for individuals of the coffee shop to use.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located on a property that is appropriately developed to support such uses. The patio area will be of sufficient size and configured in a way to accommodate the project with little to no adverse impact to adjacent parking or to the center overall.
- C. That such use in such location conforms to good zoning practice, in that the proposed outdoor dining area is consistent with the type of uses allowed in the Commercial zone of the Holt Boulevard Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the outdoor dining area in association with the coffee shop. Patio areas are popular improvements and allow customers to enjoy being outdoors during good weather and generally add to the ambience of the center and the surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the commercially zoned properties, including restaurant uses with outdoor dining areas.

Environmental Assessment

Pursuant to the California Environmental Quality Act ("CEQA") Guidelines, the proposed outdoor dining and minor exterior building and site modifications is 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 not involving grading.

Planning Division Recommendation

Staff recommends the Planning Commission find the proposal to add a 430-square-foot outdoor patio seating area for the Starbucks Coffee shop 4490 Holt Boulevard, Unit A, (Building "C") at Orchard Plaza at the northwest corner of Holt Boulevard and Ramona Avenue. Accordingly, staff recommends approval of Case No. 2016-11 by taking the following actions:

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 exemption, of the State CEQA Guidelines. The project is a minor exterior change to a fully developed site and involves very limited site changes.
- B. Approve a Conditional Use Permit Amendment request under Case No. 2016-11 to allow a 430-square-foot outdoor patio seating at 4490 Holt Boulevard, Unit A (Building "C") by adopting Resolution No. 16-1870.

Respectfully Submitted,

Michael Diaz
City Planner

MD/le

Attachments: Draft Resolution of Approval for Case No. 2016-11

- c: Holt Investors LLC, 606 S. Olive Street, Suite 600, Los Angeles, CA 90014
- Holt Blvd Montclair LLC, 606 S. Olive Street, Suite 600, Los Angeles, CA 90014
- KZMB LLC, 606 S. Olive Street, Suite 600, Los Angeles, CA 90014
- Robin Hanasab, Robhana Group, 606 S. Olive St., Suite 600, Los Angeles, CA 90014
- Jim, Forgey, 1444 N. Orange Street, Orange, CA 92866

Z:\COMMDEV\ISG\CASES\2016-11\ STARBUCKS OUTDOOR SEATING AREA \2016-11 PC RPT

RESOLUTION NUMBER 16-1870

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MONTCLAIR APPROVING A
CONDITIONAL USE PERMIT AMENDMENT UNDER
CASE NO. 2016-11 TO ALLOW A 430-SQUARE-
FOOT OUTDOOR SEATING AREA AT 4490 HOLT
BOULEVARD, UNIT A, IN THE "COMERCIAL"
ZONING DISTRICT OF THE HOLT BOULEVARD
SPECIFIC PLAN (APN 1011-493-06).**

A. Recitals.

WHEREAS, on June 28, 2016 Holt Investors LLC, Holt Blvd Montclair LLC, and KZMB LLC, joint property owners, property owners, filed an application for a Conditional Use Permit Amendment requesting approval to allow an outdoor patio area at the subject site within the Orchard Plaza commercial retail development; and

WHEREAS, said request specifically applies to an outdoor area approximately 430-square-feet in area and located immediately outside (north side) of a lease space identified as Unit A in Building C that is addressed as 4490 Holt Boulevard; and

WHEREAS, in 2014, the Planning Commission approved a multi-building and tenant commercial center under Case No. 2014-32, known as Orchard Plaza; and

WHEREAS, the overall size of the Orchard Plaza development is approximately 4.28 acres in size and has frontage along, and access from Holt Boulevard, Ramona Avenue, and Bandera Street; and

WHEREAS, the Orchard Plaza property is located in the "Commercial" zoning district of the Holt Boulevard Specific Plan (HBSP); and

WHEREAS, the Holt Boulevard Specific Plan requires approval of a Conditional Use Permit for outdoor dining areas; and

WHEREAS, staff has determined the proposed outdoor patio and seating area meets the intent and requirements of the ordinance for such use and the applicable development standards of the "Commercial" zoning district of the Holt Boulevard Specific Plan; and

WHEREAS, the Planning Commission has reviewed the Planning Division's determination the proposed outdoor dining patio area use and related exterior site improvements is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines and based on its own independent judgment, concurs with staff's determination of said exemption and finding of no significant effect on the environment.

The project qualifies because it is on a fully developed site and involves only minor exterior improvements and limited site changes not involving grading; 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 August 8, 2016, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the Planning Commission conducted a meeting at which time all persons wishing to testify in connection with said project were heard and said proposal 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 August 8, 2016, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

SECTION 1. RECITALS. The Planning Commission hereby finds that the foregoing recitals are true and correct and incorporated herein as substantive findings of this Resolution.

SECTION 2. FINDINGS FOR CONDITIONAL USE PERMIT.

- A. The proposed 430-square-foot outdoor seating dining patio use associated with the coffee shop use is an essential and desirable feature made available as a public convenience for future patrons. The outdoor patio area provides a central and dedicated space for individuals of the coffee shop to use.
- B. That granting the permit will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located on a property that is appropriately developed to support such uses. The patio area will be of sufficient size and configured in a way to accommodate the project with little to no adverse impact to adjacent parking or to the center overall.
- C. That such use in such location conforms to good zoning practice, in that the proposed outdoor dining area is consistent with the type of uses allowed in the Commercial zone of the Holt Boulevard Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the outdoor dining area in association with the coffee shop. Patio

areas are popular improvements and allow customers to enjoy being outdoors during good weather and generally add to the ambience of the center and the surrounding area.

- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the commercially zoned properties, including restaurant uses with outdoor dining areas.

SECTION 3. ADOPTION OF THE PROJECT. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing on August 8, 2016, including written and oral staff reports together with public testimony, the Planning Commission hereby finds the proposal to be consistent with the overall objectives of the City of Montclair General Plan, the Holt Boulevard Specific Plan, the Montclair Municipal Code, and good planning principles, and approves the application subject to each and every condition set forth below.

Planning

1. This Conditional Use Permit approval shall permit an uncovered outdoor patio/seating area for the exclusive use of the tenant in the lease space identified as Unit A, located in Building C of the Orchard Plaza development, and addressed as 4490 Holt Boulevard.
2. The approved outdoor patio/seating area shall be located immediately outside of lease space, Unit A, and shall be limited to a site area approximately 430-square-feet in size, as depicted on approved plans and as described in the staff report.
3. The maximum number of chairs and tables allowed for the patio area shall be 22 seats in whatever number of sizes that supports the total number of seats allowed and meets accessibility requirements.
4. Hours for the use of the outdoor patio area and indoor dining room shall be limited to hours of 4:30 a.m. to 11:00 p.m. daily. The drive-thru ordering lane may remain open 24 hours a day, seven (7) days a week if desired.
5. The sale or service of alcoholic beverages at this location (indoors or in the patio) is not part of this approval and shall be prohibited unless specifically allowed as part of a new, approved conditional use permit.
6. During all hours of business operation, the tenant of lease space Unit A shall have an on-site manager present at the establishment and on duty. The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises, including the outdoor patio.

7. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
8. This decision or any aspect of this decision may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
9. 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 fee for filing a Notice of Exemption (NOE) for the project as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of **\$460.84**, made payable to "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
10. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
11. 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.
12. Prior to the commencement of business activities, the business owner shall apply for and obtain a City of Montclair Business License, and shall maintain a valid City business license at all times. Should such licensing be denied, expire or lapse at any time in the future, this permit shall become considered a violation of this condition and the use shall be subject to revocation proceedings.

13. Approval of this CUP shall not waive compliance with any applicable regulations as set forth by the California Building Code and/or City Ordinances, the San Bernardino County Health Department, the State of California, or United States Government.
14. Upon transfer, sale or re-assignment of the eating establishment to another individual or entity, the applicant shall make full disclosure of the CUP requirements and restrictions to future buyers, transferees or assignees.
15. The applicant (property owners) and Unit A tenant shall continually comply with the following operational standards for the outdoor patio area:
 - a. Daily clean-up and maintenance of the outdoor dining area, including the condition and finishes of any approved patio furniture, light fixtures, fences, floor surfaces, etc.
 - b. No storage of merchandise and/or personal items in the outdoor patio area.
 - c. No outdoor pay telephones, loudspeakers, or vending machines shall be installed or used in the outdoor patio area.
 - d. No portable flags, pennants, spinners, A-frames or other similar types of portable signs shall be allowed.
 - e. No live entertainment activities are included with this approval. It shall be the responsibility of the business owner to submit an application for an Entertainment Permit pursuant to the Montclair Municipal Code. Entertainment Permits shall be reviewed and approved by the Montclair Police Department.
 - f. Vandalism, graffiti, and/or etching of glass areas on the building or on other site improvements shall be removed/replaced immediately by the applicant/property owner upon notification by the City.
16. Prior to the issuance of building permits for the project, the property owner or applicant shall address the following items and add to plans submitted for Building Division Plan Check, subject to the satisfaction of the City Planner:
 - a. A revised site plan indicating the addition of 3-foot high decorative fence along the east side of the patio area as a means for delineating and visually separating the patio area from the adjacent drive-thru lane. The placement and design of the decorative metal fence shall be simple and complementary to overall appearance of

the new building and constructed of durable and easily maintained materials. No gate shall be required across the existing and required path of travel running through the patio area; and

- b. A revised seating and table plan for the outdoor area, demonstrating full compliance with all applicable ADA requirements; and
 - c. Catalog cuts for any exterior lighting fixtures within the patio area. All light fixtures shall be shielded and complementary to the design of adjacent buildings.
 - d. Catalog cuts of exterior tables and chairs, umbrellas, trash receptacles, etc., for City Planner review and approval. All patio furniture and umbrellas shall be made of high quality, durable materials. No plastic furniture shall be allowed.
17. No exterior surface-mounted exposed ducts, conduit or electrical lines shall be allowed on walls, awnings, or other exterior faces of the building. In addition, all electrical switchgear, meters, etc., shall be screened or housed in an enclosure to the extent allowed by the utilities.
18. 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.
19. 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 a banner permit from the Planning Division prior to installation.
 - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 - c. At no time shall pennants, inflatable signs, "human" signs, or other similar advertising devices be utilized on the property or off-site.
20. A copy of the CUP approval letter and resolution with all conditions of approval related to the application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy and shall be made available to law enforcement officers, Code Enforcement officers, and/or fire and building inspectors in the course of conducting inspections of said premises.

21. To ensure compliance with the conditions of the approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.
22. Any violations to the conditions of approval may result in the revocation or modification of this permit, including the imposition of fines, in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
23. 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.

Building Division

24. Submit two site plans showing the location of fence, and ADA required path of travel.
25. Separate permits shall be required for fencing and/or walls.
26. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature.

Paint and stucco in all cases shall not be below standard for the use applied.

Environmental/Engineering

27. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.

Police

28. The applicant shall prepare an after-business hours security plan for the outdoor dining area to deter or prevent unauthorized access/activity or vandalism. Contact the City Planner and Montclair Police Department for guidance on preparing the plan, including, but not limited to, the installation of video surveillance cameras.
29. The applicant shall install and maintain a closed circuit video surveillance (CCVS) system. The system shall, at minimum, be capable of monitoring all entrances/exits to the premises, and the proposed 430-square-foot outdoor dining area. Such system shall be positioned so as to allow for identification of patron facial features and physical characteristics. A minimum of one camera shall be placed in a position to monitor the parking lot of the premises, positioned in a manner which allows for the widest view from the entrance, without significant lens distortion. Typical acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920 by 1080 pixels, otherwise known as 1080p. IR (night vision) is preferred; however, cameras shall at minimum be capable of low-light operation.

Audio recording is desirable, but not a requirement. Camera footage shall be retained for a period no less than 90 days. To conserve storage space, cameras may be motion activated. When active, cameras shall record no less than 30 frames per second. Motion sensors shall be configured to activate properly in all areas covered, including the parking area. Motion sensors may be configured to prevent incidental activation from hanging or moving displays. Depending on the nature of the premises, additional cameras may be required, but not limited to, areas such as cash registers, or access to restroom areas.

30. Alarm systems are encouraged to complement the CCVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.
31. In the event security problems occur at the approved subject use and at the request of the Police Department, the business owner at his or her own expense, shall provide a California licensed, uniform security

guard(s) on the subject premises, during such hours and in such number as requested by the Police Department.

Fire

32. Scope of work. Provide an accurate description of the scope of work for the project.
33. Dimensions. Show all exterior and interior building dimensions on the plans.

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

APPROVED AND ADOPTED THIS 8TH DAY OF AUGUST, 2016.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, 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 8th day of August, 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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