

## MONTCLAIR PLANNING COMMISSION MEETING – OCTOBER 26, 2020

### NOTICE

**THIS MEETING WILL BE CONDUCTED VIA WEBINAR/TELECONFERENCE.  
THE COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC.**

Pursuant to Sec. 3 of Executive Order N–29–20 issued by Governor Newsom on March 17, 2020, this meeting will be conducted remotely via the ZOOM virtual meeting platform. In compliance with the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID–19 virus, there will be no in-person meeting location at which the public may appear.

**ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.  
THE COMMISSION SECRETARY WILL UNMUTE THOSE WHO WISH TO SPEAK AT THE  
APPROPRIATE TIME. PLEASE KEEP YOURSELF ON MUTE WHEN NOT SPEAKING.**

### LISTEN TO THE MEETING LIVE VIA ZOOM

Members of the public may participate in this meeting by joining the ZOOM conference via PC, Mac, iPad, iPhone, or Android device using the URL: <https://zoom.us/j/95962869974>

If you do not wish for your name to appear on the screen, you may "rename" yourself to be anonymous.

### **VERBAL PARTICIPATION USING ZOOM**

Please use the "Raise Hand" button to request to speak.

If you want to speak and are using a computer or laptop without a microphone or speakers, you will also need to call in for audio using the information below, dialing your Participant ID when prompted.

### LISTEN TO THE MEETING LIVE VIA TELEPHONE

The public may participate via phone by dialing the below numbers:

**Teleconference Number: 1–669–900–6833**

**Meeting ID: 95962869974**

**PLEASE DO NOT PUT YOUR PHONE ON "SPEAKER MODE" DURING THE MEETING**

If you are not going to be requesting to speak and do not want your phone number to appear on the screen, dial \*67 before the Teleconference Number.

### **VERBAL PARTICIPATION OVER THE PHONE**

Please dial \*6 to mute and unmute yourself, and \*9 to "raise your hand" to request to speak.

Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda, and when the Meeting's Chair requests comments from the public.

### **VIRTUAL SPEAKER CARDS**

To provide verbal comments during the meeting, please visit [www.cityofmontclair.org/pc-comment](http://www.cityofmontclair.org/pc-comment) to fill out a Virtual Speaker Card to request to speak in advance. Members of the public on the call who did not fill out the Virtual Speaker Card will be given an opportunity to speak after those who requested to speak in advance. Please do not call into the meeting anonymously (renaming yourself in ZOOM or using \*67) if you submitted a Virtual Speaker Card so the Planning Commission Secretary can identify you on the call and unmute you at the appropriate time.

You may also call the Office of the Planning Commission Secretary at (909) 625–9432 to fill out the Virtual Speaker Card over the phone or e–mail your name, phone number if calling in during the meeting, and subject of comment or agenda item to [pcclerk@cityofmontclair.org](mailto:pcclerk@cityofmontclair.org) with the subject line "[Meeting Date] Virtual Speaker Card".

Written comments may be submitted using the Virtual Speaker Card or via e–mail or mail, and will be read aloud during the meeting by the Planning Commission Secretary at the appropriate time (250 word limit). Please submit all Virtual Speaker Cards or written comments at least one hour prior to the meeting's start time.



CITY OF MONTCLAIR  
PLANNING COMMISSION AGENDA  
REGULAR ADJOURNED MEETING  
OCTOBER 26, 2020  
7:00 p.m.

*As a courtesy, please place yourself on mute while the meeting is in session, unless speaking (Dial \*6 on the phone to toggle mute).*

*Persons wishing to make a public comment or speak on an agenda item, including public hearing and closed session items, are requested to complete a Virtual Speaker Card (VSC) at [pcclerk@cityofmontclair.org](mailto:pcclerk@cityofmontclair.org). The Chair will recognize those who have submitted a VSC at the time of the item's consideration and invite those individuals to provide comments on the item at that time. Those who did not fill out a VSC will have an opportunity to speak after those who did by using the "raise hand" function on the ZOOM meeting platform or over the phone by dialing \*9.*

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Chair Barry Rowley, Vice Chair Manny Martinez, Commissioner Sergio Sahagun, Commissioner Ginger Eaton, and Commissioner Jaso Sanchez

**4. APPROVAL OF MINUTES**

The minutes from the August 10, 2020 Zoom meeting were presented for approval.

The minutes from the August 24, 2020 Zoom meeting were presented for approval.

**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 Virtual Speaker Card as described above.

**6. AGENDA ITEMS**

**a. PUBLIC HEARING – CASE NUMBER 2019-26**

Project Address: 10330 – 10338 Central Avenue

Project Applicant: Ismail Emilie Living Trust

Project Planner: Yvonne Nemeth

Request: Conditional Use Permit to allow a convenience store (no sale of alcohol or cigar/cigarettes/electronic cigarettes), Precise Plan of Design for the exterior lighting, landscaping and parking improvements and sign program, and a Variance to allow a 6-foot setback.

**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**

Reports, backup materials, and additional materials related to this project item can be viewed at <https://www.cityofmontclair.org/agendas> by clicking on the agenda for October 26, 2020.

**9. ADJOURNMENT**

The City of Montclair Planning Commission meeting is adjourned to the regularly scheduled meeting of November 9, 2020 at 7:00 p.m. pursuant to Executive Order N-29-20 members of the public will not be permitted to be physically present during this meeting.

**CERTIFICATION OF AGENDA POSTING**

I, Laura Embree, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda has been posted on the bulletin board adjacent to the south door of Montclair City Hall on October 22, 2020.



# CITY OF MONTCLAIR PLANNING COMMISSION

**MEETING DATE: 10/26/2020**

**AGENDA ITEM 6.a**

## Case No. 2019-26

**Application:** A request for Conditional Use Permit to allow a convenience store “Los Amigos Market” at 10330 Central Avenue, (no sale of alcoholic beverages or cigar/cigarettes/electronic cigarettes). Precise Plan of Design for the exterior paint, exterior lighting, landscaping, parking improvements, and master sign program. The Variance is to allow a six-foot landscape setback instead of the required 15-foot deep continuous front yard planter.

**Project Address:** 10330 – 10338 Central Avenue

**Property Owner:** Ismail Emilie Living Trust

**General Plan:** General Commercial

**Zoning:** C2 Restricted Commercial

**Assessor Parcel No.:** 1010-622-13-0000



### ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	General Commercial	C2 Restricted Commercial	Multi-tenant Commercial Building
North	General Commercial	C2 Restricted Commercial	Drive Thru Restaurant (Ramiro's Mexican Food)
South	General Commercial	C2 Restricted Commercial	Former Drive-Thru Restaurant and Multi-tenant Commercial Building
East	General Commercial	C3 General Commercial	Auto Dealership (STG Auto Group)
West	Medium, 8-14 units/ac	R3 Multi-Family Residential	Multi-Family Residential



## Report on Item Number 6.a

### PUBLIC HEARING – CASE NUMBER 2019-26

APPLICATION TYPE(S)	Conditional Use Permit, Precise Plan of Design, Variance and Master Sign Program
NAME OF APPLICANT(S)	Ismail Emilie Living Trust
LOCATION OF PROPERTY	10330 - 10338 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	C2 Restricted Commercial
EXISTING LAND USE	Multi-Tenant Shopping Center
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301, Class 1)
PROJECT PLANNER	Yvonne Nemeth

#### **Project Description**

The property owner, Ismail Emilie Living Trust, is requesting approval of plans to make significant improvements to the existing 0.29-acre site and 4,160-square foot multi-tenant commercial building, including the following entitlements:

1. A Conditional Use Permit (CUP) to approve a brand new operation of a convenience store at 10330 Central Avenue which formerly had a convenience store use in 1990 that ceased operation in 2015. Since the new proposal for a convenience store would expand within the existing multi-tenant building by 1,120 square feet from 2,000 s.f. to 3,120 s.f., a new CUP approval is required. The previous approval of the former convenience store did not allow for the sale of alcoholic beverages. The new expanded convenience store (“Los Amigos Market”) would continue to be ineligible for obtaining approval of alcoholic beverages or cigarettes (including vape products, cigars, or electronic cigarettes) because the location does not meet separation/distance requirements of the Montclair Municipal Code (MMC).

The new convenience store would sell primarily meat (fish, pork, steak, and chicken), fresh fruits, canned goods, vegetables and limited quantities of dairy products (milk, eggs, and ice cream), and other sundry items. No on-site cooking is proposed. The proposed hours of operation are Monday through Sunday 7:00 a.m. to 9:00 p.m.

2. A Variance request to reduce the required 15-foot landscape setback by nine-feet to allow the installation of a six-foot deep landscape setback along the Central Avenue frontage of the site. The site currently has no landscaping and no landscape planter on Central Avenue.
3. Precise Plan of Design (PPD) – Key site and building improvements include new exterior paint, exterior lighting, landscaping, parking lot improvements, and master sign program, as identified below:
  - Reduced width ingress/egress drive approach from Central Avenue to allow for additional on-site parking spaces. The design of the drive approach and adjoining public sidewalk to be in accordance with Americans with Disabilities Act (ADA) standards;
  - Repaving/restriping of the parking lot with the addition of concrete wheel stops. The project would provide 18 on-site parking spaces, including two spaces at the rear of the building;
  - New trash enclosure attached to the west (rear) side of the building, including one (1) new loading/unloading parking space adjacent to the rear alley; and
  - Clean up of exterior building elevations (removal of exposed wires, pipes, vents, and utility boxes), and new paint scheme - Spiced Mustard and Rusty Gate (Behr Paint).
  - New Landscaping
    - New six-foot deep landscape planter placed along Central Avenue street frontage (see variance description below)
    - New 15-foot wide landscape planter and five-foot wide sidewalk at south side of the existing building. New sidewalk will provide access from the rear to the front of the property.
    - New box planters placed directly against the front of the building with “Spanish Lavender” (*Lavender Stoechas*) shrubs.
    - A combination of drought tolerant trees, shrubs, and groundcovers including Chinese Pistache (*Pistacia Chinensis* “Red Push”), Society Garlic (*Tulbaghia Violacea* “Silver Lace”), Watermelon Crape Myrtle (*Lagerstroemia indica* “Watermelon Red”), and Little John Dwarf Bottlebrush (*Callistemon citrinu* “Little John”).
  - A master sign program with sign criteria for new signs for tenants and the site. The sign program also includes a design for a future monument sign. The center will be renamed “Hanin & Omar Shopping Center.”

## **Background**

- The subject 0.29-acre parcel is zoned “C2” Restricted Commercial and is developed with an existing 4,160-square foot building and surface parking area. There are currently two tenant spaces. Building records indicate the existing building and site improvements were completed and developed in 1965 (pursuant to PPD 100-21 for a commercial building and signs approved on September 22, 1964).
- A subsequent PPD application under Case No. 100-21 “B” approved a new freestanding sign for the site with the condition that landscaping be installed along the Central Avenue frontage. The property owner at that time failed to comply with the conditions of approval to install the required landscape planters, and on December 27, 1976, the Planning Commission revoked Case No. 100-21 “B”, and turned the matter over to the city attorney. Staff did not find records of how the matter was legally resolved.
- In 1990, the City approved Case No. 90-18 a CUP to operate a convenience store in the 10334 Central Avenue lease space (approximately 2,000-square feet) of the existing building. The last business at this location closed in 2015.
- Over time, the existing building was divided into sub-tenants resulting in four addresses: 10330, 10334, 10336, and 10338 Central Avenue. As of this writing, units 10330 and 10334 Central Avenue merged to make it 10330 Central Avenue, leaving only unit 10338 Central Avenue occupied by Good Life Retail.
- The business owner, Radsan Quabar, currently operates a convenience store “El Super Toro Market” in Vista, California. The business owner intends to expand and operate a second location in Montclair.

## **Planning Division Comments**

Staff is in support of the efforts made by the property owner to make improvements to the site and update its lackluster appearance. Given the age of existing improvements on the site, this is a good time to make more permanent and strategic changes to improve its chances for future success.

## **Conditional Use Permit**

The requested CUP to renew the operation of the convenience store is necessary because of the proposed expansion of the lease space beyond that which was approved in 1990. The new CUP approval would also serve as a means to clear up previous approvals and address current requirements regarding the use and the restrictions on the



sale of alcoholic beverages and/or tobacco products (including vaping and e-cigarettes) consistent with the MMC. More specifically, MMC Section 11.42.050.B.1 restricts consideration of a CUP for off-sale of alcoholic beverages if the location is within 400 feet of another establishment selling alcoholic beverages for off-sale consumption. The subject site is less than 200 feet from the Kwick Stop Liquor Store to the north across Kingsley Street.

In regard to the sale of cigarettes (including vape products, cigars, or electronic cigarettes), Section 11.78.030.D.4 of the MMC requires at least 1,000-foot distance (as measured from property line to property line) from any public or private school serving students in grades Pre-K through 12. In this case, the nearest school is located at 10191 Central Avenue (Our Lady of Lourdes Catholic School) which is approximately 811 feet away from the site. As such, the store is not eligible for the sale of tobacco products.

Staff believes the proposed CUP for the said use is appropriate and is consistent with past approvals. The proposed convenience market will provide residents with a local option for purchasing basic food items and sundries between visits to larger retail stores.

#### Variance for Landscape Setback

A request for approval of a CUP typically involves a review of the site to determine if any substandard conditions exist. In this case, the obvious deficiency is the lack of landscaping on the Central Avenue frontage. For unknown reasons, landscaping (though previously required) was not installed. Given the width of the lot and existing land design (i.e., existing building placement), current challenges to install the required 15-foot deep landscape planter within the front setback would cause the loss of seven parking spaces. The loss of parking spaces would result in the creation of a new substandard condition for the property, in that the project would not meet the minimum number of parking spaces required to serve the site. Therefore, the proposed variance to allow a six-foot deep landscape setback is necessary to provide both a measure of landscaping that currently does not exist, and maintains sufficient parking for convenience, efficiency--without compromise to aesthetics, including safe access ways for pedestrian and vehicular circulation

Given the constraints of the site and circumstances that the current property owner inherited, the strict application of the required 15-foot landscape setback would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

#### Precise Plan of Design

Since acquiring the property, the applicant has attempted to make improvements to the exterior of the existing building, such as new paint and minor interior improvements in an effort to attract new tenants and uses. However, since the renewed operation and

expansion of the convenience store requires approval of a CUP, the applicant proposes further improvements to the property. As such, staff has worked closely with the applicant to refine the site plan, landscaping, trash enclosure design, and master sign program.

Given the commercial building's prominent location on Central Avenue and high visibility to the public, the proposed upgrades, though simple, will make a positive aesthetic impact to the property and to the streetscape. As proposed, staff supports the new façade paint scheme, new parking lot design, landscape planter improvements, and a new solid-roofed trash enclosure with a metal screen design to prevent vandalism. The new trash enclosure will be a positive improvement and the new landscaping along the public sidewalk will make a dramatic change to the streetscape. Conditions of approval are provided with the recommendation of approval for the project's entitlements.

As part of the modification to the existing driveway entry, the City's Public Works Department has also added conditions requiring the replacement of all damaged sidewalk, existing lifted or cracked curb gutter, damaged utility pull box lids, etc. within the adjacent public right-of-way.

The proposed master sign program for the project is simple but appropriate for achieving attractive signs for the building and each lessee. The proposed sign program shows detailed graphics and criteria designed to help future tenants understand required sign types, maintenance, and proper sign placement on the building. All new tenants to the center would be required to comply with the new sign program criteria. Criteria for a new monument sign will also be in place when the property owner is ready to propose a new installation. Specifically, the sign program outlines desired styles with specific materials, size, color, font, and texture.

Despite past lack of follow-through and less than ideal maintenance by previous property owners, staff is confident that the current property owner is committed to complete the proposed improvements. The property owner intends for her sons to inherit the property and expressed strong commitment to making the property improvements; thus, renaming the site "Hanin & Omar Shopping Center."

## **Findings**

### **Conditional Use Permit Findings**

Staff believes the required findings for granting a CUP can be made to allow the proposed expansion of the convenience store without alcoholic beverage sales and smoke/vape, cigars, cigarettes, and electronic cigarettes sales within the 10330 Central Avenue tenant space, can be made as follows:

- A. The proposed CUP for the establishment of the convenience store is essential and desirable to the public convenience and public welfare in that the use will provide

the residents in the community an alternative means to purchase fresh meats and produce;

- B. Granting the CUP for the convenience store in its expanded size will not be materially detrimental to the public welfare and to other properties in the vicinity in that the use will be conducted entirely indoors and is consistent with the previous convenience store approvals at the site. With no sale of alcohol or smoking products allowed at the site, the potential for adverse impacts is minimized. Finally, the proposed site improvements will have an immediate and positive impact to the appearance of the site and the surrounding streetscape.
- C. The proposed convenience store use in such location conforms to good zoning practice, in that the proposed use is consistent with the types of uses permitted in the "C-2" zone, subject to CUP approval. Conditions of approval have been included to ensure that the use operates in an appropriate and safe manner at all times.
- D. The proposed convenience store use at the subject site is not contrary to the objectives of any part of the adopted General Plan, in that the adopted General Plan encourages orderly development with respect to adopted land use plans, and the continual improvement of the City as a place for attractive commercial uses while minimizing potential detrimental impacts on surrounding properties.

#### Variance Findings

- A. The granting of the proposed landscape setback variance is necessary because of the existing circumstances associated with the site prevents the application of the required 15-foot landscape setback without creating a new non-conforming situation with respect to on-site parking requirements. With the exception of the landscape setback fronting Central Avenue, the development of the site meets minimum C2 "Restricted Commercial" development requirements. However, given the narrowness of the property and the current development of site, the strict application of the 15-foot landscape setback is not possible without negatively impacting the site by eliminating existing on-site parking. Moreover, the replacement of parking spaces elsewhere on the site is not possible. Therefore, the variance request is appropriate and will serve to partially mitigate the lack of landscaping on the site while preserving the number of on-site parking spaces to meet minimum code requirements for the existing development and proposed uses.
- B. The landscape setback variance would enable the applicant the same right possessed by other property owners in the vicinity and under identical zoning classification to make appropriate improvements to the property in a manner that enhances the ability to preserve its economic viability without adversely affecting the site by the full application of the 15-foot landscape setback requirement as described in Finding A above.

- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the vicinity and zone, in which the subject property is located. Although less than would have been required when the property was originally developed, the addition of landscaping is a positive improvement. Moreover, providing landscaping without losing on-site parking spaces is equally desirable. When on-site improvements associated with this project are completed, the overall appearance of the site and adjacent Central Avenue streetscape will create a positive improvement.
- D. The granting of the landscape variance is not contrary to the objectives of any part of the adopted General Plan that encourages orderly development and the improvement of commercial land uses through improved architecture, landscaping, signage, and parking which are achieved by the proposed project and request for a variance that adds landscaping to the site where currently none exists.

### **Public Notice and Comments from the Public**

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on October 16, 2020, as prescribed by law for the discretionary land use entitlements. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property. To date, no inquiries regarding the project were submitted to staff.

### **Environmental Assessment**

The project is deemed to be exempt from the California Environmental Quality Act, pursuant to Section 15301 of State CEQA Guidelines, in that Class 1 consists of the replacement or reconstruction of existing structures and facilities where operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

### **Recommendation**

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301.

- B. Move to approve the convenience store use and associated site improvements, under Case No. 2019-26 for a Conditional Use Permit, Precise Plan of Design, Variance, and Master Sign Program, for the property located at 10330-10338 Central Avenue, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 20-1944.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Diaz". The signature is fluid and cursive, with a large initial "M" and "D".

Michael Diaz  
Community Development Director

Attachment: Draft Resolution No. 20-1944

c: Emilie Ismail, 9361 Shadowood Drive, Unit A, Montclair CA 91763  
ML Drafting Services, 1430 E. Cooley Drive, #220, Colton, CA 92324

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**RESOLUTION NO. 20-1944**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH A CONVENIENCE STORE USE WITHIN TENANT SPACE 10330 CENTRAL AVENUE, A LANDSCAPE SETBACK VARIANCE, A PRECISE PLAN OF DESIGN, AND MASTER SIGN PROGRAM UNDER CASE NO. 2019-26 FOR THE SITE PLAN, FLOOR PLAN, ELEVATIONS, COLORS, CONCEPTUAL LANDSCAPE PLAN, AND ASSOCIATED IMPROVEMENTS TO THE EXISTING MULTI-TENANT COMMERCIAL CENTER WITHIN THE C2 RESTRICTED COMMERCIAL ZONE AT 10330-10338 CENTRAL AVENUE (APN 1010-622-13-0000)**

**WHEREAS**, on October 10, 2019, Ismail Emilie Living Trust, property owner, filed an application for a Conditional Use Permit (CUP), Precise Plan of Design (PPD), Variance (VAR), and Master Sign Program in conjunction with a request to operate a convenience store at the aforementioned site; and

**WHEREAS**, the subject property is approximately 12,800 square feet in area (0.29 acres), located within the "C-2" Restricted Commercial zoning district, and developed with a 4,160 square foot, single story, multi-tenant building; and

**WHEREAS**, the proposed CUP would apply to a 3,120-square foot lease space addressed as 10330 Central Avenue, located within the existing 4,160 square foot building on the site; and

**WHEREAS**, the proposed convenience store lease space is approximately 1,120 square feet larger than the 2,000 square foot area approved in 1990 under Case No. 90-18 (CUP); and

**WHEREAS**, the convenience store use will not permitted to sell any form of alcoholic beverages or cigarettes (including vape products, cigars, or electronic cigarettes) because the site does not comply with minimum distance requirements outlined in Chapters 11.42.050.B.1 and 11.78.030.D.4, of the Montclair Municipal Code; and

**WHEREAS**, the new convenience store would primarily sell meat (fish, pork, steak, and chicken), fresh fruits, canned goods, vegetables and limited quantities of dairy products (milk, eggs, and ice cream), with no on-site cooking; and

**WHEREAS**, the proposed hours of operation are Monday through Sunday 7:00 a.m. to 9:00 p.m.

**WHEREAS**, the variance request is for the reduction of the required 15-foot landscape setback by nine feet to allow the installation of a six-foot deep landscape setback along the Central Avenue frontage of the site. The site currently has no landscaping and no landscape planter on Central Avenue; and

**WHEREAS**, in 1990, the City approved Case No. 90-18, a CUP to operate a convenience store in the 10334 Central Avenue lease space (approximately 2,000-square feet) of the existing building. The last business at this location closed in 2015; and

**WHEREAS**, in accordance with the Montclair Municipal Code, the use meets the definition of a “convenience market” and has requested an expansion which requires the approval of a new CUP; and

**WHEREAS**, the project includes several improvements to upgrade the condition and appearance of the existing site and building including new exterior paint, exterior lighting, landscaping, parking lot improvements, and master sign program, as identified in the staff report prepared for the project and depicted on approved plans; and

**WHEREAS**, the subject development proposal is in compliance with the applicable development standards of the "C-2" Restricted Commercial zoning district; and

**WHEREAS**, the Planning Commission reviewed the Planning Division's CEQA determination and finds that the proposed establishment of a convenience store within tenant space addressed as 10330 Central Avenue, and related site improvements to the entire site are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines. Section 15301 covers the operation, repair, and use of existing facilities with no significant expansion of uses already on the site. As such, there is no substantial evidence the project will pose a potential significant impact to the environment; and

**WHEREAS**, this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on October 16, 2020. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement; and

**WHEREAS**, in compliance with the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, a remote meeting was conducted at 7:00 p.m. on October 26, 2020, at which time all persons wishing to testify in connection with said application were heard, and said application was fully considered.

**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.**

Staff believes the required findings for granting a CUP can be made to allow the proposed expansion of the convenience store without alcoholic beverage sales and smoke/vape, cigars, cigarettes, and electronic cigarettes sales within the 10330 Central Avenue tenant space, can be made as follows:

- A. The proposed CUP for the establishment of the convenience store is essential and desirable to the public convenience and public welfare in that the use will provide the residents in the community an alternative means to purchase fresh meats and produce.
- B. Granting the CUP for the convenience store in its expanded size will not be materially detrimental to the public welfare and to other properties in the vicinity in that the use will be conducted entirely indoors and is consistent with the previous convenience store approvals at the site. With no sale of alcohol or smoking products allowed at the site, the potential for adverse impacts is minimized. Finally, the proposed site improvements will have an immediate and positive impact to the appearance of the site and the surrounding streetscape.
- C. The proposed convenience store use in such location conforms to good zoning practice, in that the proposed use is consistent with the types of uses permitted in the "C-2" zone, subject to CUP approval. Conditions of approval have been included to ensure that the use operates in an appropriate and safe manner at all times.
- D. The proposed convenience store use at the subject site is not contrary to the objectives of any part of the adopted General Plan, in that the adopted General Plan encourages orderly development with respect to adopted land use plans, and the continual improvement of the City as a place for attractive commercial uses while minimizing potential detrimental impacts on surrounding properties.

## **SECTION 3. FINDINGS FOR VARIANCE.**

Pursuant to Chapter 11.82 of the Montclair Municipal Code, the following findings for the Variance can be made:

- A. The granting of the proposed landscape setback variance is necessary because of the existing circumstances associated with the site prevents the application of the required 15-foot landscape setback without creating a new non-conforming situation with respect to on-site parking requirements. With the exception of the landscape setback fronting Central Avenue, the development of the site meets minimum C2 "Restricted Commercial" development requirements. However, given the narrowness of the property and the current development of site, the strict



application of the 15-foot landscape setback is not possible without negatively impacting the site by eliminating existing on-site parking. Moreover, the replacement of parking spaces elsewhere on the site is not possible. Therefore, the variance request is appropriate and will serve to partially mitigate the lack of landscaping on the site while preserving the number of on-site parking spaces to meet minimum code requirements for the existing development and proposed uses.

- B. The landscape setback variance would enable the applicant the same right possessed by other property owners in the vicinity and under identical zoning classification to make appropriate improvements to the property in a manner that enhances the ability to preserve its economic viability without adversely affecting the site by the full application of the 15-foot landscape setback requirement as described in Finding A above.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the vicinity and zone, in which the subject property is located. Although less than would have been required when the property was originally developed, the addition of landscaping is a positive improvement. Moreover, providing landscaping without losing on-site parking spaces is equally desirable. When on-site improvements associated with this project are completed, the overall appearance of the site and adjacent Central Avenue streetscape will create a positive improvement.
- D. The granting of the landscape variance is not contrary to the objectives of any part of the adopted General Plan that encourages orderly development and the improvement of commercial land uses through improved architecture, landscaping, signage, and parking which are achieved by the proposed project and request for a variance that adds landscaping to the site where currently none exists.

#### **SECTION 4. CONDITIONS OF APPROVAL**

Based upon the findings and conclusions set forth in the paragraphs above, including substantial evidence presented to the Planning Commission during the above-referenced hearing on October 26, 2020, 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 Montclair Municipal Code, good planning principles, and approves the proposed CUP and VAR applications subject to each and every condition set forth below.

##### **Planning**

1. The approved entitlements shall be applicable for the following, and as described in the staff report and depicted on approved plans:
  - a. A Conditional Use Permit (CUP) to operate a convenience store within a

3,120-square foot lease space addressed as 10330 Central Avenue, as depicted on approved plans. The sale of alcoholic beverages or any smoke/vape products (including cigars, cigarettes, and electronic cigarettes) are prohibited, unless applicable City Ordinances pertaining to these specific uses are otherwise amended.

- b. A Variance allowing a six-foot wide landscape setback area instead of the required 15-foot wide landscape area adjacent to Central Avenue per approved plans; and
  - c. Precise Plan of Design for site and building improvements, including landscaping, exterior lighting, new paint scheme, and a master sign program as described in the staff report and depicted on approved plans.
2. The approval of this Conditional Use Permit, Variance, Precise Plan of Design, and Master Sign Program shall supersede any and all other previously approved entitlements governing the use of the subject property.
  3. 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 for the project as required by the California Environmental Quality Act (CEQA).
    - b. A check in the amount **\$807.65.** payable to the "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.
  4. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 15 days of receipt of the Planning Commission Resolution.
  5. No changes to the approved set of plans, including the exterior design and colors/materials/finishes, shall be permitted without prior review and approval by the Community Development Director. Any modification, intensification, or expansion of the use and design plan beyond that which is specifically approved may be referred by the Community Development Director to the Planning Commission for further review and approval.
  6. In establishing and conducting the convenience store on the site, the applicant shall at all times comply with any laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino and the State of California. Approval of this CUP shall not waive compliance with any such requirements.
  7. A copy of the approved Resolution with all conditions of approval relating to this

application shall be kept on file at the subject location and be made available for viewing to any law enforcement officer, fire, building, or code enforcement inspector in the course of conducting an inspection on said premises.

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.

8. This decision, or any aspect of this decision, can 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. CUP and Variance approvals 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.
10. PPD approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant is diligently pursuing building plan check toward eventual construction 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 PPD expiration date.
11. Approved final colors and materials and their respective method of application to structures and buildings shall be subject to the satisfaction of the Community Development Director's review and approval. The use of high quality and durable finishes shall be required.
12. 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.
13. All landscaping and irrigation systems shall be maintained in accordance with the landscape plan approved by the Director of Community Development or his/her designee and found to ensure water use efficiency at all times.
14. Any plant materials that do not survive, are removed, or are destroyed shall be

replaced with plant material of a like type and size as that originally approved and installed at the time of issuance of a certificate of occupancy.

15. All landscaping on the project site shall be regularly maintained in a healthy and vigorous living condition at all times. This shall include proper pruning, weeding, removal of litter, fertilizing, and sufficient irrigation of all plants. Dead vegetation shall be promptly replaced within two weeks with a like type and size as originally approved and installed. The property owner shall also be responsible to keep the landscaped areas free of weeds, trash, and debris.
16. Plant materials shall not be severely pruned such that it stunts or deforms its natural growth pattern or characteristic feature(s). Trees shall be pruned to ISA (International Society of Arboriculture) standards and only as necessary to promote healthy growth and for aesthetic purposes (i.e., to enhance the natural form of the tree). Improperly or severely pruned trees, including topping as defined by the Water Conservation Ordinance, that results in the removal of the normal canopy and/or disfigurement of the tree shall be replaced with a tree of similar size and maturity as that which was removed or, as required by the Director of Community Development
17. Any new or existing mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, ducts, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed, painted and/or screened on all sides from public view in a manner that is to the satisfaction of the Director of Community Development or his/her designee.
18. No additional 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, or unused pipes, vents, utility boxes and wires, shall be removed, screened or housed in an enclosure to the extent allowed by the utilities.
19. Access to the roof of the building shall be from within the structure and not by means of roof access ladders mounted to the exterior of the building.
20. All ground-mounted mechanical equipment, including, but not limited to, utility meters, air conditioners, condenser units, and repair equipment shall be located within the building or on the exterior of the building only when necessary and screened in a manner that is not visible from the public, subject to the satisfaction of the Director of Community Development.
21. The applicant and/or property owner shall be responsible for maintaining the property including building exteriors, parking areas, exterior lighting, signs, landscaping and irrigation system in good condition and/or working order at all times. Any accumulation of trash, weeds, or debris on the property shall be

removed immediately so as not to present a public nuisance.

22. On-site parking spaces shall not be used for storage including inoperable vehicles, pallets, extra trashcans or containers, etc.
23. Prior to the issuance of building permits, the applicant shall submit the following plans for plan check by the Building and Planning Divisions.
  - a. An exterior lighting and photometric plan for the entire site. The plans shall indicate the location of all exterior light fixtures (area, building, parking lot, etc.) and the overall illumination levels across the site. All proposed exterior lighting shall comply with the following standards:
    - i. Provide a minimum maintained illumination level of one (1) foot-candle across the site.
    - ii. All lighting fixtures shall be vandal-resistant and of a design that complements the architecture of the building.
    - iii. All parking lot and other freestanding light fixtures shall incorporate 90-degree cut-off style luminaires and flat lenses so as to direct illumination downward to the surface to be illuminated and away from public rights-of-way and properties adjacent to the subject site. Cut-off or "house-back" shields may be required to ensure illumination does not adversely impact adjacent properties to the greatest extent possible, particularly the residential properties to the south.
    - iv. Freestanding light fixtures and poles shall not exceed a maximum height of 20'-0" as measured from adjacent grade to top of luminaires.
    - v. Above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be clad in a color coordinated stucco finish to complement the main building.
    - vi. Wall-mounted fixtures shall be shielded. The use of unshielded wall packs, barn lighters, other similar unshielded luminaires, and/or decorative lighting installed solely for the purpose of illuminating the roof shall be permitted.
    - vii. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Planning Division.
  - b. Trash enclosure details. Trash enclosure shall be designed with a solid roof

cover and be designed to complement the overall architecture of the main building. In addition the enclosure must be the following:

- i. Enclosure must be designed to accommodate a minimum of two, three (3) cubic yard commercial bins.
    - ii. The applicant shall be required to subscribe for trash and mixed recycling collection services.
    - iii. Storage bins of fats, oils, or grease (FOG) shall be prohibited within exterior trash enclosure.
    - iv. Contact Burrtec Waste Industries to coordinate collection services for convenience store food waste collection service. Any additional containers required shall be placed within the subject lease space or trash enclosure.
  - c. Plan to repair (i.e., straighten and repaint) existing 36-inch high steel poles located on the north property line installed to separate the subject site from the adjacent property. The applicant shall have the option to remove, repair (i.e., straighten and repaint), or replace with new poles or alternate proposal approved by the Community Development Director.
  - d. Floor plan for the convenience market.
    - i. Windows shall not be obstructed with shelving, rear sides of refrigerators, or other display items that restrict visibility into the lease space. Further window tinting or graphics shall be submitted for review and approval or by the Director of Community Development or his/her designee prior to installation.
    - ii. Security glazing/coatings and/or any ultraviolet protective coatings shall not be reflective/mirror or obstruct or diminish the visibility from the outside.
24. All automobile parking spaces shall be clearly delineated with double-line (e.g. "hairpin") striping. Parking stalls shall be a minimum of 9'-0" in width as measured to the center of the "hairpin," and a minimum of 20'-0" in length.
25. A separate sign permit application shall be submitted by the property owner (or licensed sign contractor) for all signs installed on the site in compliance with the Montclair Municipal Code and adopted Master Sign Program. Building permits for installation of all signs is required.
26. All signs shall be maintained at all times in a safe and secure manner. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts

shall be repaired or replaced within 72 hours of occurrence.

27. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code. Temporary banners for the purpose of announcing a grand opening or promotional event shall require a banner permit from the Planning Division prior to installation.
28. The use of portable flags, pennants, spinners, painted-on signs, off-premise signs, and trailer-mounted electronic sign/message boards or other similar types of portable signs shall be prohibited.
29. The property owner shall be responsible for maintaining all buildings, yards, structures, signs, parking areas, and other improvements in sound condition and in such a manner that does not detract from the appearance of the surrounding area.
30. Parking lots shall be maintained in an attractive and suitable fashion with any potholes, significantly cracked or uneven paving. Damaged surfaces shall be repaired in a timely fashion throughout the life of the project.
31. Graffiti or etching of glass areas on any portion of the building or site improvements shall be removed and/or replaced immediately by the property owner with or without notification by the City. Paint utilized in covering such graffiti shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
32. 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.

***Convenience Store Conditions***

33. The new convenience store shall be approved to sell primarily meat (fish, pork, steak, and chicken), fresh fruits, canned goods, vegetables and limited quantities of dairy products (milk, eggs, and ice cream), and various sundry items normally associated with convenience stores.
34. Prior to the commencement of business activities associated with the Convenience Store use, 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. Failure to obtain and/or maintain a valid Business License at all times may be considered a violation of this condition and subject the use to possible revocation proceedings.
35. Approved hours of operation for the convenience store shall be seven (7) days a week from 7:00 a.m. to 9:00 p.m.
36. The sale of alcoholic beverages and/or cigars/cigarettes/electronic cigarettes/smoke shops shall be prohibited. The property owner shall be responsible for notifying all future buyers, transferees or assignees of the convenience store of this condition.
37. In addition to the applicable requirements of Section 25600 et seq. of the Business and Professions (B&P) Code, the following mandatory conditions of approval shall be imposed on the site for current and future owners:
  - a. No on-site cooking shall be permitted, unless approved by the City by means of separate review and approval.
  - b. No adult oriented content or materials as defined by Chapter 11.40 may be sold.
  - c. No inventory, materials, merchandise, supplies, or personal non-business related items shall be stored or displayed outside of the enclosed lease space.
  - d. No exterior security bars and rollup doors applied to windows and pedestrian building entrances shall be allowed.
  - e. Exterior lighting of the parking areas shall provide a minimum intensity of at least one foot-candle of light throughout the parking area at all times in compliance with the Montclair Security Ordinance.
  - f. Window signs or displays shall comply with the following requirements:



- i. Temporary or permanent window signs, posters, banners, or other applied graphics shall not cover more than 25 percent of each window and shall not be placed in windows in a manner that will obstruct the view into the building by emergency personnel.
  - ii. Window sign placement shall not obstruct the view of the sales transaction area from inside and outside the building.
  - iii. Any window tinting shall allow for physical identification of all persons in the sales transaction area from outside the building.
  - iv. Temporary or permanent window signs, interior or exterior banners, or other signs placed within the store that are visible from outside the store and advertising the availability of or offer for purchase alcoholic beverages, smoke/vape products, cigars, cigarettes, and electronic cigarettes; and adult oriented content or materials as defined by Chapter 11.40 are strictly prohibited.
- g. No video or arcade games, pinball machines, pool tables, jukeboxes, or similar devices shall be allowed within the subject lease space with the exception of official State lottery machines.
- h. No exterior public telephones, vending or other coin-operated machines, children's rides, collection boxes, and so forth shall be located on the exterior of the subject lease space or the remainder of the site.
38. The exterior appearance of the permittee's premises shall be designed and maintained in a manner consistent with the exterior appearance of commercial premises and not allowed to cause blight or deterioration or to substantially diminish or impair the conditions of the property or surrounding area.
39. Outdoor noise levels for commercial areas are a maximum of 65 dBA between the hours of 7:00 a.m. and 10:00 p.m.
40. The on-site manager of the use shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises. No loud music, noise, or other sounds by means of radio or other broadcasting apparatus or device, or other nuisance which disturbs the quiet and peace of the premises or the neighborhood shall be permitted.
41. This CUP for the approved convenience store shall be subject to revocation or modification by the Planning Commission or City Council at such time as any one of the following conditions are found to exist:

- a. Conditions of approval have not been fulfilled.
- b. The use has resulted in a substantial adverse impact on the health and/or general welfare of users of adjacent or proximate property.
- c. The use has resulted in a substantial adverse impact on public facilities or services.

### Building Division

42. Prior to issuance of building permits, the applicant shall complete the following Building Division requirements:

1. Submit four complete sets of plans including the following:

- a. Site/Plot Plan;
- b. Floor Plan;
- c. Reflected Ceiling Plan
- d. Electrical Plans including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams; include lighting for the structure for interior and exterior areas.
- e. Plumbing plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
- f. Provide an existing plan of the building including all walls to be demolished.
- g. Waste recycling plan, recycling 65% of all construction debris
- h. Two sets of structural calculation
- i. Two sets of Title 24 energy calculations
- j. Landscaping plans including lighting structures, retaining walls, trash enclosures, other walls and fences.

43. The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans.

44. Clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way from the affected area of new construction or renovation. All required disabled-accessible parking lot signs, sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).
45. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District.
46. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
47. Decorative foam trim shall not be used in areas subject to damage such as entry doors, garage doors, etc. Use of decorative foam shall not be allowed to be used below the second story.
48. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division. Provide sufficient number of details (i.e. line of sight drawing, building cross-section, etc.) to demonstrate all equipment is obscured from public view.
49. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
50. Fire sprinkler risers and roof access ladders shall be located entirely within the enclosed buildings. Double-detector check facility shall be adequately screened by landscaping or an architectural screen wall.
51. All trash enclosures shall be constructed of a material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.
52. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
53. Landscape maintenance shall be subject to immediate and periodic inspections by the City. The property owner shall be required to remedy any defects in grounds maintenance and replace any trees, shrubs, vines, box planters, or

groundcover with a similar species, size, quantity, and materials that are lost due to unauthorized removal, disease, windstorm, mold, deterioration, or other natural disaster as indicated by the City inspector, within two weeks after notification. Inspections shall be based on automatic landscape irrigation schedule, plant maintenance, weed and rubbish control, landscape plan approval, and any other area that is incidental to grounds maintenance.

54. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.
55. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
  - a. The numerical address of the building shall be displayed in a maximum of two locations on the south-facing elevation as follows:
  - b. Numerals shall be in a font acceptable to the Planning Division, minimum 10 inches in height, minimum 1½ inches in depth, and in a color that adequately contrasts with the background to which they are attached.
  - c. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
56. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
57. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact Noel Castillo, City Engineer, at (909) 625-9441 for fees or see the City's website/Engineering Department.
58. Regional Sewerage Supplemental Capital Outlay fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency (IEUA). Contact Noel Castillo, City Engineer, at (909) 625-9441 for fees.
59. An approved, emergency keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Contact Brett Petroff, Fire Inspector at (909) 447-3552.

60. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.

#### Environmental

61. Trash enclosure must be designed in accordance with the provisions of AB 341 Mandatory Commercial Recycling and AB 1826 Mandatory Commercial Organics Recycling as established by California Department of Resources Recycling and Recovery (CalRecycle). For additional information, contact Environmental Compliance Coordinator Marissa Pereyda at (909) 625-9446.
62. Documentation from Burrtec Waste Industries, Inc. (Burrtec) indicating that a service agreement has been set up with Burrtec that meets all Mandatory Commercial Recycling Requirements (AB 341) and Mandatory Organics Recycling Requirements (AB 1826) for waste hauling as established by the State of California and that the appropriate number of refuse/recycling dumpsters has been established is required. Submit documentation to Environmental Compliance Coordinator Marissa Pereyda ([mpereyda@cityofmontclair.org](mailto:mpereyda@cityofmontclair.org)). For additional information, contact Marissa Pereyda at (909) 625-9446.
63. The City of Montclair's Wastewater Discharge Survey (attached) must be completed and submitted to Environmental Compliance Coordinator Marissa Pereyda ([mpereyda@cityofmontclair.org](mailto:mpereyda@cityofmontclair.org)) for review and approval. Contact Marissa Pereyda at (909) 625-9446 for more information.
64. Discharge of wastewater into the City of Montclair sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
65. Regional Sewerage Supplemental Capital Outlay fees are required in accordance with Section. 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency (IEUA).

#### Public Works

66. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code. The applicant shall process any right-of-way dedications, easements or grant deeds required for the development.
67. All streets public and private shall have sidewalks conforming to Americans with Disabilities Act. Replace all existing lifted or cracked curb gutter, damaged utility pull box lids, and sidewalk adjacent to the property. Additionally remove sidewalk that show signs of ponding or is pitting, scaling or spalling.
68. Existing driveway needs to be removed and replaced with ADA compliant

driveways. Right-of-way dedication may be needed in order to provide ADA compliant sidewalk/driveway approach areas.

69. Monument sign shall not be permitted in the line of sight triangles next to driveway locations (see City STD 110).
70. All pavement damaged by excavation will be replaced with permanent pavement per the City Standard for paving and trench repair STD No. 301.
71. The developer shall make payment of Regional Sewerage Capital Outlay fees as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.
72. Discharge of wastewater into the sewer collection system shall conform to all requirements of the Montclair Municipal Code.
73. All off site and on site trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.

#### Police

74. In conjunction with the ongoing operation of the business, the premises shall comply with all applicable local, State, and Federal requirements placed upon them by any regulatory or governing entity.
75. The activity level of the business shall be monitored by the Police Department to establish the level of police services used for the business. Should the level of police services demonstrate that the applicant has not controlled excessive, or unnecessary activity resulting in high use of police services then this Conditional Use Permit shall be reviewed for consideration of further conditions, modifications or revocation.
76. There shall be no special promotional events held on the property, unless a written request for such is received and approved by the Community Development Director and the Police Chief or their designee.
77. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.
78. The premises 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 be positioned 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, and one camera per entrance/exit door. Typical acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920x1080 pixels, otherwise known as 1080p. Cameras shall be capable of no less a resolution than 1920x1080 pixels, otherwise known as 1080p. All cameras shall have IR or low light capability.

79. 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 reduce frame-rate when no motion is detected, however must record at no less than 30 frames per second when motion is detected. 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.
80. Alarm systems are encouraged to compliment the C CVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.

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

APPROVED AND ADOPTED THIS 26<sup>th</sup> DAY OF OCTOBER, 2020.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Barry Rowley, 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 26<sup>th</sup> day of October, 2020, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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