



MONTCLAIR
REGULAR MEETING OF THE
MONTCLAIR PLANNING COMMISSION

to be held in the Council Chambers
5111 Benito Street, Montclair, California

Monday, September 23, 2024
7:00 P.M.

If you want to provide comments on an agenda item, including public hearing and closed session items, please complete a Speaker Card located in the Council Chambers. The Chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate times during the meeting. Written comments (200-word limit per agenda item, and 200-word limit for all non-agenda items combined) can also be emailed to pcclerk@cityofmontclair.org at least one hour before the meeting begins.

Watch meetings live via Zoom using the following information: **Zoom Link:** <https://zoom.us/j/95858571900> / **Dial Number:** 1 (669) 900-6833 / **Meeting ID:** 95858571900

AGENDA

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF MINUTES**

September 9, 2024

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 an online public comment form as described above.

6. **AGENDA ITEMS**

A. CASE NUMBER	2024-34
Location of Property	9752 Central Avenue
Project Applicant	Skolem Group, LLC
Project Planner	Silvia Gutiérrez

Request:

A Conditional Use Permit (CUP) request to establish and operate Dutch Bros Coffee with a drive-thru. The request also includes a Precise Plan of Design to construct a 950 SF coffee shop building. A Variance is also requested to reduce the building setback from 75 feet to 37 feet.

CEQA Determination:

The Planning Division has determined this project to be Categorical Exempt from the California Environmental Quality Act (CEQA) under Section 15303, New Construction of new small facilities or structures less than 2,500 SF in size.

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 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. ADJOURNMENT

The next regular meeting of the Planning Commission will be held on October 14, 2024, at 7:00 P.M.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Planning Commission after the publication of the agenda packet are available for public inspection on the City's website at www.cityofmontclair.org/agendas or at Montclair City Hall in the Community Development Department located at 5111 Benito Street, Montclair, from 7:00 A.M. to 6:00 P.M., Monday through Thursday.

If you need special assistance to participate in this meeting, please call (909) 625-9477 or email pcclerk@cityofmontclair.org. Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

CERTIFICATION OF AGENDA POSTING

I, Michael Diaz, Secretary of the Montclair Planning Commission, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the north door of Montclair City Hall on September 19, 2024.



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 09/23/2024

AGENDA ITEM 6.a

Case No.: 2024-34

Application:

A request for a Conditional Use Permit (CUP), Variance, and Precise Plan of Design to allow the development of a Drive-thru coffee store. The project includes a new 950 SF building with double drive-thru lanes. The project site is on a 0.44-acre portion of the existing parking field adjacent to Central Avenue. The variance request is to reduce the front building setback from 75 to 37 feet.

Applicant/Property Owner:

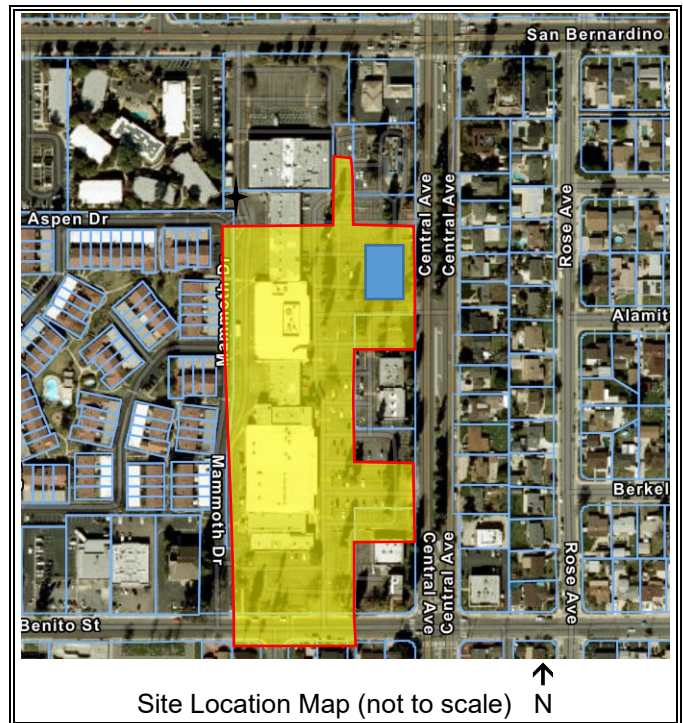
Skolem Group, LLC

Project Address: 9752 Central Avenue

APNs: 1010-041-80-0000

General Plan: General Commercial

Zoning: C-3 General Commercial



Site Location Map (not to scale) ↑ N

ADJACENT LAND USE DESIGNATIONS AND LAND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of the Property</i>
Site	General Commercial	C-3 General Commercial	Multi-tenant Shopping Center
North	General Commercial	C-2 Restricted Commercial	Kailissa Temple Chevron Gas Station
East	Low Density Residential	R-1 Single Family Residential	Single Family Residential
South	Low Density Residential	R-1 Single Family Residential	Single Family Residential
West	Medium Density Residential	R-3 Multi-Family Residential	Condominiums

Report on Item Number 6.a

PUBLIC HEARING – CASE NUMBER 2024-34

APPLICATION TYPE(S)	Conditional Use Permit Variance Precise Plan of Design
NAME OF APPLICANT	Skolem Group, LLC
LOCATION OF PROPERTY	9752 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	C-3 (General Commercial)
EXISTING LAND USE	Shopping Center Parking Field
ENVIRONMENTAL DETERMINATION	Categorically Exempt 15303
PROJECT PLANNER	Silvia Gutiérrez, Senior Planner

Project Description

The applicant requests approval to construct and operate a 950 SF Dutch Bros Coffee store at the Montclair Town Center. The proposed new building with double drive-thru lanes would be situated in an area of the existing parking lot, approximately 0.44 acres in size. The site is situated between the two northernmost driveway entries leading into the shopping center off Central Avenue.

The project requires approval of a Conditional Use Permit (CUP) for the proposed drive-thru service and outdoor seating areas, a Variance (VAR) for a reduced front building setback, and Precise Plan of Design (PPD) approval for the proposed site plan, building design, colors, landscape plans, and signage.

Conditional Use Permit

The CUP request is to allow the following:

1. Construction of a 950 SF Dutch Bros Coffee building with two drive-thru lanes.
2. A 336 SF covered patio with limited outdoor seating will be located on the west side of the building. The patio structure will cover the walk-up order window, two tables, and eight seats for waiting walk-up customers.
3. The applicant proposes operating 24 hours a day, seven days a week. The proposed building will not be open for customers but will have windows for walk-up customer orders. Limited outdoor seating will be provided for waiting walk-up customers.

Variance (VAR)

A variance to reduce the required 75-foot front setback to 37 feet (approximately 50 percent reduction). The proposed setback for the new building would allow it to be closer to the street and more in line with the other satellite buildings within the center.

Precise Plan of Design (PPD)

Site Plan

The placement of the new building and double-lane drive-thru will eliminate 42 existing parking spaces, but four new spaces will be provided with the project on the north side of the building. The store's proposed drive-thru lane is a double-lane design with a stacking capacity for 20 vehicles. The drive-thru lane begins on the west side of the building, where the order menu board and speakers are located, and then wraps around the south side of the building. The drive-thru pick-up window is located on the east side of the building. A revised parking field to the north and west of the store would be developed with fully constructed curbs, aisles, planter areas, and sidewalks. The shopping center's reciprocal access and parking agreements will remain in place.

A 15-foot landscape planter along the Central Avenue side of the project will be retained with new plant materials. A preliminary landscape and irrigation plan for the project site is included. The selection and distribution of plant materials feature a desert design scheme utilizing succulents and cacti set in decomposed granite ground materials. No turf is proposed or will be retained on the project site.

Architecture/Design

The store features the modern architectural style and colors typical of the Dutch Bros Coffee brand. The building will be 24 feet in height at the tallest point, with multiple metal awnings surrounding the building and various materials as part of the construction. Building materials include a combination of vertical metal siding, fiber cement siding, and brick veneer used at the base of the building and on patio columns. The new building features gray-toned walls with complementary blue-color tower elements. All roof-mounted mechanical equipment will be screened from public view as the Montclair Municipal Code requires.

A preliminary sign program proposal has been submitted as part of the application. Proposed building-mounted signs are shown on the building elevations for reference. The applicant will submit a separate application for new signs for administrative review and approval by City staff.

The commission packets include copies of the site plan, floor plans, elevations, colors, sign plans, and a conceptual landscape plan.

Background

- The Montclair Town Center shopping center site is comprised of four parcels (APNs 1010-041-77, 78, 79, and 80), approximately 9.27 acres in size, and located in the C-3 (General Commercial) zone.

- The Dutch Bros Coffee store is proposed to be constructed on the largest of the four lots comprising the center, a 7.62-acre parcel (APN 1010-041-80).
- The satellite parcels, Burger King, Yum Yum Donuts, the dental office, and laundromat building sites, are not located on the subject parcel but are a part of the Montclair Town Center shopping center owned by Skolem Group, LLC, the applicant. A separate property owner owns the Kailasa Temple to the north.
- Montclair Town Center was developed in the 1960s with a lease space of 97,000 SF. Construction of a Dutch Bros Coffee store would increase the overall total lease space to 97,950 SF.
- On August 26, 2024, the Montclair Planning Commission approved the construction of a Sprouts Farmers Market grocery store in the Montclair Town Center, specifically in the lease space previously occupied by the *24 Hour Fitness* gym on the subject parcel.
- The Dutch Bros Coffee chain was founded in 1992 as a pushcart coffee business in Grants Pass, Oregon, by brothers Dane and Travis Boersma. Dutch Bros Coffee now operates as a national chain. Each store sells hot and cold drinks, including non-coffee beverage options, specialty drinks, and baked goods. The company employs approximately 24,000 people and, as of May 2024, had 876 stores across 17 states.

Planning Division Comments

The Planning Division finds the proposed drive-up coffee store to be a key improvement for the existing center. Together with the recently approved Sprouts Farmers Market store, the Dutch Bros Coffee store will be instrumental in transforming the existing center into a vital community asset. The closest Dutch Bros. Coffee store is located on Foothill Boulevard in the City of Upland.

Conditional Use Permit

The main feature of the Dutch Bros Coffee store is the drive-thru operation. However, uses with drive-thru operations have the potential to cause issues related to how they might impact traffic circulation and adjoining uses. The CUP requirement allows the City to evaluate each proposal on a case-by-case basis and determine whether the site and project design are appropriate for the use. If the site is large enough, drive-thru businesses can be successfully integrated and operated with minimum to no impacts. The recent opening of the Panera restaurant with a drive-thru is a good example of a well-designed and integrated drive-thru restaurant.

Overall, the existing shopping center is more than ample in size and configuration to accommodate the proposed project. The specific location identified for the proposed Dutch Bros Coffee store will be on an underutilized portion of the existing parking area of the center. In addition, the north-south orientation of the proposed building and drive-thru lanes take advantage of the length of the site so that potential impacts to internal vehicular circulation and other uses are minimized. Moreover, the site is uniquely situated between two existing vehicular entries into the center, which will give customers the ability to approach the coffee store from more than one direction rather than from a single point of entry.

While the project results in a net loss of 38 spaces, the number of on-site parking spaces in the center remains more than required. According to the City Municipal Code, business and commercial uses require one parking space per 250 SF. As such, the 97,000 SF Montclair Town Center requires 388 parking spaces. The proposed Dutch Bros Coffee store adds 950 SF to the total square footage of the center, thereby increasing the minimum required space for the center to 392 spaces. The number of on-site spaces at the Montclair Town Center is 511. Therefore, the Montclair Town Center exceeds City Municipal Code parking requirements and has more than adequate capacity to absorb the loss of 38 spaces to accommodate the proposed drive-thru project.

A “*Drive-Through Queuing and Parking Analysis*” (Study) for the project was prepared by LSA Associates (July 1, 2024). The Study aimed to identify and determine the potential drive-thru queues, assess the adequacy of the proposed drive-thru configuration, and conclude whether sufficient parking would be provided on-site for all uses of the Montclair Town Center. The Study confirms the adequacy of on-site parking despite the loss of parking spaces for the proposed project. Additionally, the Montclair Town Center is expected to have sufficient parking to meet current and future demands, and the drive-thru queue at the new location is anticipated to be manageable.

Dutch Bros Coffee stores are known to be a popular venue, and staff is anticipating a measurable increase in vehicular traffic into the shopping center. To determine potential drive-thru stacking lengths that may be anticipated with the completion of the project, LSA conducted a drive-thru stacking analysis of open Dutch Bros Coffee locations in Southern California. The heaviest traffic is expected at the store’s first opening. However, after a few weeks of being in operation, the traffic volume generally begins to level out. The Study also indicated that existing Dutch Bros Coffee shops in California show peak queues of 14 to 28 vehicles. If another Dutch Bros Coffee shop is nearby, the proposed project's peak drive-thru queue is expected to be reduced to approximately 15 to 20 vehicles. A Dutch Bros Coffee store is located in Upland, approximately 3.7 miles from the proposed Montclair location.

The proposed two-lane drive-thru will have a capacity for 20 vehicles, avoiding potential disruptions to site access and circulation. In addition, the second lane will also serve as a bypass lane, allowing customers to exit before reaching the service window, which will assist in alleviating congestion and minimizing the potential for overflow onto the public street. Given the size of the shopping center and the relatively small size and location of the drive-thru, there will be minimal to no adverse traffic/circulation conflicts within the site or parking in surrounding areas caused by vehicles waiting for service during peak business hours.

The City Engineer reviewed the “*Drive-Through Queuing and Parking Analysis*” and concurred with the findings of the Study. Based on the queuing information provided in the Study, the anticipated drive-thru queues for the proposed project could range from 15 to 20 vehicles during peak times of the day. As shown on the project site plan, the proposed project drive-thru could store 20 vehicles. Therefore, the proposed project queues are unlikely to extend into Central Avenue. As a condition of approval, a traffic management plan will be implemented whenever the drive-thru queues extend beyond the queue storage of 20 vehicles. Staff is confident that the measures included in the Conditions of Approval will mitigate concerns with anticipated traffic related to the operation of the business.

In regard to outdoor seating, staff believes the proposed location and number of tables and eight seats are appropriate for walk-up customers. Dutch Bros provides the table and seats as a convenience and not as a major element of their operation. Conditions of approval addressing the use and maintenance of the outdoor patio are included with the proposed resolution of approval.

Variance

As proposed, the location of the new building with a 37-foot setback would require a variance from the required 75-foot front building setback for the C-3 zone. Although this standard has been required since the City’s incorporation, it has proved impractical, especially for lots with shallow depths. As a result, several variances have been granted for commercial development on Central Avenue, including a setback variance in 1978 for the existing satellite buildings at the Montclair Town Center. Without the requested setback variance, the proposed building with a double-lane drive-thru could not be constructed without utilizing nearly all the parking fields in this area.

The table below compares the proposed setback with the setbacks previously approved for the satellite buildings at Montclair Town Center:

Satellite Building Front Setback Survey at Montclair Town Center		
<i>Location</i>	<i>Front Setback (from Central Avenue)</i>	
	Required	Existing or Proposed (approximate measurement)*
9710 Central Avenue Burger King	75'	25'
Dutch Bros Coffee 9750 Central Avenue	75'	37' setback proposed
9886 Central Avenue (Yum Yum Donuts)	75'	28'
9802 Central Avenue (Lucky Coin Laundry)	75'	25'-28'
9804 Central Avenue (First Dental Group)	75'	25'
*Measurements from the inside edge of the existing public sidewalk on Central Avenue		

While the 75-foot front building setback could be met, the improvements for the use would be pushed deep into the site and significantly impact on-site parking and internal vehicle circulation. Based on the above information, staff finds the request to reduce the required 75-foot setback to 37 feet to be appropriate and consistent with past setback variance approvals for past development within the shopping center.

The proposed setback would be for the building. A 15-foot landscape buffer would be maintained from the public sidewalk up to the drive-thru lanes.

Precise Plan of Design

Staff finds the project to be appropriately located on the shopping center site and well designed. Staff appreciates the effort Dutch Bros Coffee put into incorporating changes to enhance their standard building design. One significant change involved design modifications to the east building elevation. From this, an attractive spandrel window element was added to the east elevation to add architectural interest to a once plain prominent elevation. The changes ensured the project would have an attractive appearance on the street. Architectural design details are generally extended to all sides of the building. The patio pilasters will be clad in a brick veneer to match the building's wainscot material. Staff worked with the applicant's architects to resolve several design and site issues.

The combination of varying shades of blue and gray building colors, sturdy metal panels, metal awnings, and brick accents at the base of the building and columns will result in a handsome and unique building. Furthermore, staff believes the architectural features and colors selected for the project will complement future development styles coming to the shopping center, such as the forthcoming Sprouts Farmers Market and the future overall remodel of the center.

Additional site improvements, which involve a new trash enclosure, refinements to the parking layout and surface, screening of roof equipment, and new landscaping, are essential and needed site improvements for the project's overall success. Staff proposes to continue working with Dutch Bros Coffee landscape architects and the shopping center owner's landscape architect to develop a complementary landscape plan for the Dutch Bros Coffee site and the balance of the shopping center.

Regarding the proposed landscape plan and signs for the new use, staff finds them both to be generally appropriate for the project. Conceptually, the proposed preliminary landscaping plan, including hardscape elements, is essentially appropriate for the proposed architecture and size of the property. However, staff is recommending the applicant continue to work with staff on a small number of modifications and refinements to these project elements. Some of the items include modifications to plant and hardscape material selections and adjustments to the number and type of signs that are proposed. Staff is confident these small details can be easily resolved. A condition of the Planning Commission's recommendation has been added to address the above items before the issuance of building permits.

The proposed improvements will make way for a new quick-serve coffee shop for the community. Further, the new store would contribute to further activation of the shopping center and continue the trend of significant improvements to existing commercial properties along Central Avenue.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for the drive-thru coffee store with outdoor seating can be made as follows:

- A. That said, use is essential or desirable for public convenience and public welfare in that the proposed double-lane drive-thru use will provide residents and commuters the convenience of purchasing specialty drink items without leaving their vehicles. The proposed Dutch Bros Coffee brings a highly desired use as an additional retail opportunity at the existing shopping center that helps its renewal.
- B. That granting the permit will not be materially detrimental to public welfare and to other property in the vicinity, as the shopping center site is large and has ample area to accommodate the project. The north-south orientation of the proposed building and drive-thru lanes take advantage of the length of the site so that potential impacts to internal vehicular circulation and other uses are minimized. Based on the queuing information provided in the traffic study, the anticipated drive-thru queues for the proposed project could range from 15 to 20 vehicles during peak times of the day. As shown on the project site plan, the proposed project drive-thru could accommodate 20 vehicles. Therefore, the proposed project queues are unlikely to extend into Central Avenue. Further, a traffic management plan will be implemented whenever the drive-thru queues extend beyond the queue storage of 20 vehicles.
- C. That the use conforms to good zoning practices and development standards in that the project complies with all applicable regulations in the Zoning Ordinance for the General Commercial (C-3) zone and pertinent land use criteria. Given the size of the shopping center and the relatively small size and location of the drive-thru, there will be minimal to no adverse traffic/circulation conflicts within the site or in the surrounding area parking caused by vehicles waiting for service during peak business hours. Additionally, based on the parking demand surveys and analysis, the Montclair Town Center will have adequate parking for the proposed Sprouts Farmers Market and other existing uses. The number of actual on-site spaces at the Montclair Town Center is 511, which significantly exceeds the City's parking requirements for the center such that there is more than adequate capacity to absorb the loss of 38 spaces to accommodate the proposed drive-thru project. Therefore, the Montclair Town Center exceeds City Municipal Code parking requirements and has more than adequate capacity to absorb the loss of 38 spaces to accommodate the proposed drive-thru project.
- 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 retail commercial area to realize optimum benefits for the residents of the community.

Variance Findings

Staff believes the necessary findings for granting a front setback variance can be made as follows:

- A. That because of special circumstances applicable to the subject property, including its size, depth, location, and surroundings, the strict application of the required 75-foot deep setback for this project would be inconsistent with the manner in which buildings were developed on adjacent properties within the shopping center. While the 75-foot front building setback could be met, the improvements (building and drive-thru lanes) for the new use would be pushed deep into the site and significantly impact on-site parking and internal vehicle circulation. As such, staff finds the request to reduce the required 75-foot setback to 37 feet to be appropriate and consistent with past setback variance approvals for existing development within the shopping center.
- B. The application of the 75-foot front building setback for this project deprives the subject property of privileges enjoyed by other properties in the vicinity and under identical C-3 zoning classification in that the proposed variance is intended to allow for needed improvement to the site and to be on par with several similar developments on Central Avenue, and adjacent properties within the Montclair Town Center, that were granted a 25' to 28' reduced front yard setback variance for development in 1978.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located in that the north-south orientation of the proposed building and drive-thru lanes take advantage of the length of the site to minimize potential impacts to internal vehicular circulation and other uses within the existing center. Moreover, the project area is ideally situated between two existing major vehicular entries into the center from Central Avenue, allowing customers to approach the coffee store from more than one direction rather than from a single point of entry.
- D. Granting the requested setback variance will not be contrary to the objectives of any part of the adopted General Plan, as the adopted Land Use and Community Design Elements encourage the rational use and development of properties within the City, including positive site and street improvements that benefit the community in terms of land use and design, which this project, with the approved variance, would accomplish.

Precise Plan of Design Findings

- A. The proposed improvements to the site and design of the new 950 SF building are consistent with the objectives of the Montclair Municipal Code and standards of the C-3 Commercial zoning district where the property is located.
- B. The proposed site and building improvements are well-designed and appropriate for the proposed drive-thru use. The improvements will result in a significant improvement to the appearance of the site and surrounding area.

- C. The proposed building, including the outdoor seating area and other project improvements, will provide an updated look for the existing shopping center to the street.

Public Notice and Comments from the Public

This item was published as a public hearing in the *Inland Valley Daily Bulletin* newspaper on September 13, 2024, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet of the subject property's boundaries.

Environmental Assessment

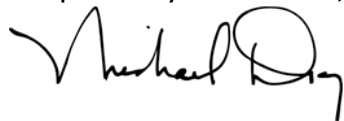
The Planning Division has determined this project to be Categorically Exempt from the California Environmental Quality Act (CEQA) under Section 15303, New Construction of new small facilities or structures less than 2,500 SF in size.

Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the California Environmental Quality Act (CEQA) requirements under Section 15303 - New Construction of new small facilities or structures less than 2,500 SF in size.
- B. Move to approve a Conditional Use Permit, Setback Variance, and Precise Plan of Design, under Case No. 2024-34, for the proposed 950 SF building with two drive-thru lanes and 336 SF covered patio and limited outdoor seating; a Variance for a reduced front building setback; and Precise Plan of Design (PPD) approval for the proposed site plan, building design, exterior materials and colors at 9752 Central Avenue within the Montclair Town Center, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 24-1998.

Respectfully Submitted,



Michael Diaz
Director of Community Development

MD/sgutierrez

Attachments:

1. Draft Resolution No. 24-1998
- C: Michael Kulchin, Skolem Group, LLC. 520 Newport Center Drive, Suite 480, Newport Beach, CA, 92660
Miles Lemaire, Skolem Group, LLC. 520 Newport Center Drive, Suite 480, Newport Beach, CA, 92660
John Caglia, 110 SW 4th Street, Grants Pass, OR, 97526
Shelby Eldridge, Barghausen Engineering, 18515 72nd Avenue South, Kent, WA, 98032

RESOLUTION NO. 24-1998

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT, A FRONT SETBACK VARIANCE, AND PRECISE PLAN OF DESIGN UNDER CASE NO. 2024-34 TO ALLOW THE CONSTRUCTION OF A DRIVE THRU COFFEE STORE WITH OUTDOOR SEATING WITHIN THE PARKING FIELD OF THE MONTCLAIR TOWN CENTER AT THE 9700 BLOCK OF CENTRAL AVENUE. (APN 1010-041-80)

A. Recitals.

WHEREAS, on July 8, 2024, Skolem Group, LLC, property owner, filed applications for a Conditional Use Permit (CUP), Variance, and Precise Plan of Design (PPD) under Case No. 2024-34 to allow the construction of a new 950 SF coffee store with double drive-thru lanes, and outdoor seating on a portion of the existing parking field of the Montclair Town Center shopping center, and

WHEREAS, subject applications apply to a 0.44-acre portion of the existing parking field between the northern two vehicle entry driveways into the Montclair Town Center shopping center; and

WHEREAS, the subject site is currently zoned “C-3 General Commercial;” and

WHEREAS, the proposed CUP is a request to allow a double-lane drive-thru and limited outdoor seating (for two tables and eight seats) beneath a proposed 336 SF patio cover; and

WHEREAS, the variance request is to reduce the required 75-foot front building setback distance of the C-3 zone to 37 feet (as measured from the public sidewalk to the face of the proposed building); and

WHEREAS, the proposed PPD is for the site plan, floor plans, elevations, colors, and materials of the new 950 SF coffee store, signs, and a conceptual landscape plan associated with the proposal; and

WHEREAS, Dutch Bros Coffee chain was founded in 1992 as a pushcart in Oregon that has grown to 876 stores across 17 states; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the Planning Division has determined this project to be Categorically Exempt from the California Environmental Quality Act (CEQA) under Section 15303, New Construction of new small facilities or structures less than 2,500 square feet in size; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on September 13, 2024; and

WHEREAS, on September 23, 2024, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the Planning Commission conducted a public hearing, at which time all persons wishing to testify in connection with the said proposal were heard, and said application was fully studied.

B. Resolution.

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

SECTION 1. Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings outlined in this Resolution, the Planning Commission hereby approves a Conditional Use Permit, Variance, and Precise Plan of Design under Case No. 2024-34, subject to the conditions of approval enumerated in Exhibit A, attached to this resolution.

SECTION 2. Based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows with respect to the recommendation of approval of a Conditional Use Permit, Variance, and Precise Plan of Design under Case No. 2024-34:

CONDITIONAL USE PERMIT FINDINGS

Staff believes the necessary findings for granting the CUP for double-lane drive-thru use and outdoor seating can be made as follows:

- A. That said, use is essential or desirable for public convenience and public welfare in that the proposed double-lane drive-thru use will provide residents and commuters the convenience of purchasing specialty drink items without leaving their vehicles. The proposed Dutch Bros Coffee brings a highly desired use as an additional retail opportunity at the existing shopping center that helps its renewal.
- B. That granting the permit will not be materially detrimental to public welfare and to other property in the vicinity, as the shopping center site is large and has ample area to accommodate the project. The north-south orientation of the proposed building and drive-thru lanes take advantage of the length of the site so that potential impacts to internal vehicular circulation and other uses are minimized. Based on the queuing information provided in the traffic study, the anticipated drive-thru queues for the proposed project could range from 15 to 20 vehicles during peak times of the day. As shown on the project site plan, the proposed project drive-thru could accommodate 20 vehicles. Therefore, the proposed project queues are unlikely to extend into Central Avenue. Further, a traffic management plan will be implemented whenever the drive-thru queues extend beyond the queue storage of 20 vehicles.
- C. That the use conforms to good zoning practices and development standards in that the project complies with all applicable regulations in the Zoning Ordinance for the General Commercial (C-3) zone and pertinent land use criteria. Given the size of the shopping center and the relatively small size and location of the drive-thru, there will be minimal to no adverse traffic/circulation conflicts within the site or surrounding parking area caused by vehicles waiting for service during

peak business hours. Additionally, based on the parking demand surveys and analysis, the Montclair Town Center will have adequate parking for the proposed Sprouts Farmers Market and other existing uses. The number of actual on-site spaces at the Montclair Town Center is 511, which significantly exceeds the City's parking requirements for the center such that there is more than adequate capacity to absorb the loss of 38 spaces to accommodate the proposed drive-thru project. Therefore, the Montclair Town Center exceeds City Municipal Code parking requirements and has more than adequate capacity to absorb the loss of 38 spaces to accommodate the proposed drive-thru project.

- 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 retail commercial area to realize optimum benefits for the residents of the community.

VARIANCE FINDINGS

Staff believes that the necessary findings for granting a front setback variance can be made as follows:

- A. That because of special circumstances applicable to the subject property, including its size, depth, location, and surroundings, the strict application of the required 75-foot deep setback for this project would be inconsistent with the manner in which buildings were developed on adjacent properties within the shopping center. While the 75-foot front building setback could be met, the improvements (building and drive-thru lanes) for the new use would be pushed deep into the site and significantly impact on-site parking and internal vehicle circulation. As such, staff finds the request to reduce the required 75-foot setback to 37 feet to be appropriate and consistent with past setback variance approvals for existing development within the shopping center.
- B. The application of the 75-foot front building setback for this project deprives the subject property of privileges enjoyed by other properties in the vicinity and under identical C-3 zoning classification in that the proposed variance is intended to allow for needed improvement to the site and to be on par with several similar developments on Central Avenue, and adjacent properties within the Montclair Town Center, that were granted a 25' to 28' reduced front yard setback variance for development in 1978.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located in that the north-south orientation of the proposed building and drive-thru lanes take advantage of the length of the site to minimize potential impacts to internal vehicular circulation and other uses within the existing center. Moreover, the project area is ideally situated between two existing major vehicular entries into the center from Central Avenue, allowing customers to approach the coffee store from more than one direction rather than from a single point of entry.

- D. Granting the requested setback variance will not be contrary to the objectives of any part of the adopted General Plan, as the adopted Land Use and Community Design Elements encourage the rational use and development of properties within the City, including positive site and street improvements that benefit the community in terms of land use and design, which this project, with the approved variance, would accomplish.

PRECISE PLAN OF DEVELOPMENT FINDINGS

- A. The proposed improvements to the site and design of the new 950 SF building are consistent with the objectives of the Montclair Municipal Code and standards of the C-3 Commercial zoning district where the property is located.
- B. The proposed site and building improvements are well-designed and appropriate for the proposed drive-thru use. The improvements will result in a significant improvement to the appearance of the site and surrounding area.
- C. The proposed building, including the outdoor seating area and other project improvements, will provide an updated look for the existing shopping center to the street.

SECTION 3. Pursuant to Section 66412.3 of the Government Code, based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission finds the improvements proposed with the subject application will provide new and desirable commercial development along the Central Avenue corridor of the city.

SECTION 4. The Planning Division has determined this project to be Categorically Exempt from the California Environmental Quality Act (CEQA) under Section 15303, New Construction of new small facilities or structures less than 2,500 square feet in size.

SECTION 5. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the Planning Commission based its decision is as follows: Planning Division, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by telephone at (909) 625-9477.

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

APPROVED AND ADOPTED THIS 23RD DAY OF SEPTEMBER 2024.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

BY _____
Many Martinez, 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 23rd day of September 2024, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

EXHIBIT A
Conditions of Approval
Case No. 2024-34

Planning

1. This approval shall be for the following:
 - a. Conditional Use Permit to:
 - i. Construct and operate a 950 SF Dutch Bros Coffee building with two drive-thru lanes.
 - ii. A 336 SF covered patio with limited outdoor seating will be located on the west side of the building. Outdoor seating shall be limited to two tables, and eight seats.
 - b. A Variance to reduce the required 75-foot front setback to 37 feet (approximately 50 percent reduction) for the proposed building. The approved setback shall be measured from the existing public sidewalk adjacent to Central Avenue to the face of the new building.
 - c. Precise Plan of Design (PPD) for the site plan, floor plans, elevations, conceptual colors and materials, for the new building and site improvements as described in the staff report and depicted on approved plans on file with the Planning Division.

The above entitlements are granted based on the plans and elevations submitted by Skolem Group, LLC, dated March 28, 2024. Minor modifications to this approval which are determined to be in substantial conformance with the approved site plan, building elevations, landscaping, and exterior lighting, and which do not intensify or change the use or require any deviations from adopted standards, may be approved by the Director of Community Development upon submittal of prepared plans submitted for review and approval.

2. CUP approval shall be valid for six (6) months. It shall automatically expire on the anniversary date of Planning Commission approval unless the applicant diligently pursues a building plan check toward the project's eventual construction. The applicant and/or property owner shall be responsible for applying for a time extension at least 30 days before the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
3. Variance approval shall be valid for one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant diligently pursues a building plan check toward the project's eventual construction. The applicant and property owner shall be responsible for applying for a time extension at least 30 days before the approval's expiration date. No further notice from the City will be given regarding the variance expiration date.

4. PPD approval shall be valid for one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant diligently pursues a building plan check toward the project's eventual construction. The applicant and property owner shall be responsible for applying for a time extension at least 30 days before the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
5. No changes to the approved set of plans, including the exterior design and materials/finishes, shall be permitted without prior City review and approval.
6. Any modification, intensification, or expansion of the use beyond that specifically approved by the above-noted entitlements and that is not reflected in plans and drawings approved with this action shall require review and approval by staff and/or the Planning Commission, as appropriate.
7. In the event that exhibits and written conditions are inconsistent, the written conditions shall prevail.
8. In establishing and conducting the subject use, the applicant shall at all times comply with any and all laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this CUP, Variance, and PPD shall not waive compliance with any such requirements.
9. Within five days of Planning Commission approval, the applicant shall submit the following payments to the Planning Division:
 - a. A check for **\$50.00**, payable to the "Clerk of the Board of Supervisors," to cover the fee for filing a Notice of Exemption (NOE) as required by the California Environmental Quality Act (CEQA).
 - b. A check for **\$494.33**, payable to the "City of Montclair," to cover the cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
10. Approved exterior materials and colors for the new Sprouts Farmers Market shall be as follows:
 - a. Fiber Cement Siding at Tower: Nichiha- Illumination AWP 1818 Color "Dutch Bros Blue" Paint
 - b. Exterior Cement Plaster at the balance of building Sherwin Williams - 8656-12046 Color: Dutch Bros Light Grey
 - c. Metal Panel at Building: Western States Metal -"Western Wave", 24 GA Orientation: Vertical
 - d. Base of exterior walls/wainscot: Brick Veneer- Belden Brick Color "Titanium Velour."
 - e. Clear front glass for all windows
 - f. Metal canopy

11. When work has been completed, the Planning Division requires a final inspection to ensure compliance with the provisions of this Planning Commission approval. The applicant shall inform the Planning Division and schedule an inspection appointment.
12. All future tenants and or uses of the approved drive-thru building shall comply with the following operational requirements:
 - a. No exterior security bars and roll-up doors shall be installed on windows and pedestrian building entrances.
 - b. No public telephones, vending machines, children's rides, or other coin-operated machines shall be located on the exterior of any building.
 - c. No outdoor storage or display of merchandise is allowed at any time.
13. Prior to the issuance of building permits, the applicant shall provide as part of the plan check submittal the following plans for Director of Community Development review and approval:
 - a. Exterior lighting and photometric plan for the entire site. The plans shall indicate the location of all existing and new exterior parking lot light fixtures 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 shields may be required to ensure illumination does not adversely impact adjacent properties to the greatest extent possible.
 - iv. Freestanding light fixtures and poles shall not exceed a maximum height of 20'-0" as measured from the adjacent grade to the top of luminaires.
 - v. 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 not be permitted.
 - vi. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Planning Division.

- b. The trash enclosure(s) details. All trash enclosures shall have a solid roof cover and be designed to complement the overall architecture of the main building and be in compliance with City standards.
 - i. Contact Burrtec Waste Industries to determine the number of bins required to support the building's most likely end user(s).
 - ii. Black-colored concrete shall be used for the trash enclosure floor and apron.
 - iii. Access to the trash enclosure shall be constructed with disabled-access features.
 - iv. No outdoor storage of used fats, oils, or grease (FOG) shall be allowed in trash enclosures. All food/restaurant users shall plan to store any used fats, oils, or grease in an approved manner within their respective tenant spaces and contract with a recycler for regular removal from the site.
 - c. Specific sign program for the project prior to the installation of any signs. The applicant shall work with staff on the number and type of signs that are proposed. When the sign program is improved, the applicant shall submit an application(s) for City review and approval of a required Sign Permit and applicable building permits.
14. 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.
15. All signs shall be maintained at all times, in good appearance and operating condition. Exposed surfaces shall be cleaned regularly and painted as necessary. Broken and defective parts shall be immediately repaired or replaced.
16. Coffee shop drive-thru hours shall be 24 hours, seven days a week. The applicant may close the coffee shop earlier than the hours stated herein.
17. The pick-up window associated with the drive-thru lane shall be covered by a solid roof or canopy structure integral and complementary to the architecture of the building to which it is attached, to the satisfaction of the Director of Community Development.

18. Speakers at the drive-thru ordering position shall comply with the City's Noise Ordinance (Chapter 6.12 of the Montclair Municipal Code) at all times and be subject to periodic inspection by the City. Violation of this condition shall be grounds for modifying the drive-thru hours of operation, closing the drive-thru until compliance can be achieved, or revocation of the Conditional Use Permit.
19. Where concrete is used within the drive-thru lane, such areas shall be constructed of black concrete and maintained clean and sound at all times.
20. The applicant and property owner shall ensure that a copy of the final Planning Commission Resolution, including all conditions of approval, is reproduced on the first page of the construction drawings and distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
21. The applicant and landscape architect shall continue working with City staff to refine the conceptual landscape plan into a comprehensive and coordinated plan for the shopping center. The refined landscape plan shall take into account State and local requirements for water conservation and removal of non-functional turf areas. A Complete Landscape Documentation Package shall include the following items:
 - a. Landscape Concept Plan;
 - b. Water Budget;
 - c. Landscape Construction Drawings (including an irrigation plan and planting plan);

A Landscape Documentation Package shall be approved when the Community Development Director verifies that the proposed Landscape Concept Plan for the project complies with the provisions of State law Chapter 11.60 of the MMC, other applicable provisions, and when any applicable land use permit or other entitlement requirements have been fulfilled. A copy of the approved plan will be kept on file to use at a later date to ensure that the plan was implemented as permitted and maintained as required;
 - d. Provide a certification of the landscape completion form, which is to be completed by the landscape architect of record.
22. All roof-mounted equipment, satellite dish antennas, and similar apparatus shall be screened from public view in a manner incorporated into the building's architectural design to the satisfaction of the Director of Community Development.

23. All mechanical equipment, including, but not limited to, utility meters, air conditioners, vents, and repair equipment, shall be located within the building or screened in a manner that is compatible with the architectural design of the building to the satisfaction of the Director of Community Development. Wooden lattice or fence-like screens/covers are not appropriate screening materials and shall not be allowed.
24. Surface-mounted exposed conduit or electrical lines shall not be allowed. Electrical switchgear, meters, etc., shall be screened or housed in an enclosure to the extent allowed by the utilities.
25. Freestanding electrical transformers and the Fire Department double-check detector assembly equipment shall be screened with masonry walls compatible with the building architecture and landscaping to the satisfaction of the Director of Community Development and Fire Marshal. Efforts shall be made to place these elements in locations that are as unobtrusive as possible.
26. All future business(es) occupying the building allowed by this PPD and CUP approval shall be required to obtain and maintain valid business licenses and comply with all applicable City regulations at all times. As part of the routine review process for each new business, the property and subject lease spaces will be inspected to ensure compliance with all applicable codes, including the provision of adequate on-site parking.
27. Business operations at the site shall be subject to the applicable based ambient noise levels of Chapter 6.12 of the Montclair Municipal Code. Outdoor noise levels for commercial areas are a maximum of 65 dB(A) between 7:00 AM and 10:00 PM. Maximum noise levels between hours 10:00 PM to 7:00 AM shall be 55 dB(A).
28. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code. Temporary banners announcing a grand opening or promotional event shall require a banner permit from the Planning Division prior to installation.
29. No portable flags, pennants, spinners, painted-on signs, off-premise signs, trailer-mounted electronic sign/message boards, or other similar types of portable signs shall be allowed.
30. Prior to issuance of a Certificate of Occupancy, the applicant shall install approved landscaping materials on the property, subject to the satisfaction of the Director of Community Development. The following standards shall apply:
 - a. All shrubs shall be a minimum five-gallon container size (except herbaceous perennials and woody spreading shrubs on slopes).
 - b. All trees (except required street trees) shall be a minimum 24-inch box size and double-staked.

- c. A minimum of three inches of bark mulch (shredded or chips), decorative gravel, or decomposed granite shall be provided as a finished surface for all planted areas, subject to the approved landscape plan.
 - d. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
31. All landscaping and irrigation systems shall be maintained in accordance with the approved site and/or landscape plan to ensure water use efficiency at all times. Future modifications to and/or removal of existing landscaping shall require prior approval by the Planning Division.
 32. Any plant material that does not survive or is removed or destroyed shall be replaced upon its demise or removal with plant material of a similar type and size as that originally approved and installed.
 33. 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, litter removal, fertilizing, and sufficient irrigation of all plants. Dead vegetation shall be promptly replaced with healthy, living plants in accordance with standard seasonal planting practices. The property owner shall also be responsible for keeping the landscaped areas reasonably free of weeds, trash, and debris.
 34. Plant material 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.
 35. All automobile parking spaces shall be clearly delineated with double-line (e.g. "hairpin") striping.
 36. 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.
 37. All on-site 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 compatible with the architectural design of the building subject to the satisfaction of the Director of Community Development.
 38. Freestanding electrical transformers and Fire Department double check detector assembly (DCDA) equipment shall be screened with masonry walls compatible with the building architecture and landscaping to the satisfaction of the City Planner and Fire Marshal. Efforts shall be made to place these elements in locations that are the least visually intrusive as possible.

39. The property owner shall be responsible for maintaining all buildings, yards, structures, signs, parking areas, and other improvements at all times in such a manner that does not detract from the appearance of the site and the surrounding area. Parking lots shall be maintained in an attractive and suitable fashion, with any potholes, significantly cracked or uneven paving, and any other significant damage repaired in a timely fashion throughout the life of the project.
40. Prior to the issuance of building permits for the project, the property owner or applicant shall provide plans submitted for Building Division Plan Check the following items to the satisfaction of the Director of Community Development:
 - i. Catalog cuts for proposed exterior tables and chairs, umbrellas, trash receptacles, dish collections cabinets, etc., for the Director of Community Development review and approval. All patio furniture and umbrellas shall be made of high-quality, durable materials. No plastic furniture shall be allowed.
 - ii. Catalog cutouts for all building-mounted light fixtures are for the Director of Community Development's approval.
 - iii. All exterior wall-mounted lighting fixtures shall be vandal-resistant and designed to complement the building's architecture. Freestanding parking lot luminaires shall match the style and color of freestanding light fixtures utilized for the adjacent parking lot.
 - iv. No roof-mounted light fixtures shall be allowed.
 - v. The use of wall packs, barn lighters, or other similar unshielded luminaires on the property shall be prohibited.
 - vi. Soffit lights on the exterior of the building, including under drive-thru canopies, shall be flush-mounted with the surface to which they are attached.
41. All rooftop or roof-mounted equipment shall be fully screened from view to the satisfaction of the Director of Community Development.
42. All graffiti shall be removed from affected surfaces within 24 hours of discovery or notification by the City. The paint utilized to cover the graffiti shall match the affected structure. In the event that the paint finish of the abated area is noticeably distinguishable from the balance of the surface area of the building side just abated for graffiti or noticeably distinguishable from the rest of the structure, the entire surface area of either the abated side or of the structure shall be painted to minimize the disparity, subject to Director Community Development approval.
43. The applicant/property owner shall, upon notification by the City, restore and/or replace any glazing, architectural metal panels, or other exterior design feature/material permanently damaged by graffiti, etching, or other means.
44. This permit may be modified or revoked for failure to abide by these conditions or if the use is deemed a nuisance to surrounding properties, businesses, or the community at large.

45. 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.
46. 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 the applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The city shall promptly notify the applicant of any action brought, and the City shall cooperate with the applicant to defend the Action.

Building

47. Prior to the issuance of building permits, the applicant shall 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;
 - e. Plumbing plans, including isometrics, underground diagrams, water and waste diagrams, fixture units, gas piping, and heating and air conditioning.
 - f. Provide an existing plan for the building, including all walls to be demolished.
 - g. Waste recycling plan, recycling 65% of all construction debris.
48. Submit two sets of structural calculations and two sets of energy conservation calculations.

49. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
50. 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 the submitted plans.
51. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
52. Separate permits are required for fencing and/or walls. Submit details of construction on the plans. Double wall conditions created by an adjacent property line wall are not allowed.
53. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number.
54. The new address assigned to the Dutch Bros shall be 9752 Central Avenue.
55. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
56. Prior to the issuance of building permits for a new commercial development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include but are not limited to Transportation Development Fees, Permit and Plan Check Fees, and School Fees. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District. The applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance.
57. All utility services to the project shall be installed underground.
58. Electrical and fire suppression services shall rise within the interior of the building(s). Roof ladders shall also be located entirely inside the building.
59. 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 straight, level, plumb, square, etc., work as the situation requires. All work shall be well-fitted and durable. Paint and stucco shall not be below the standard for use.
60. An Accessible Path of Travel from Public Transportation is required and shall comply with the requirements of the California Building Code, Title 24. The path leading from the bus stop on Central Ave shall be clearly identified and be continuous to the entry of the market, restrooms, drinking fountains, and required exits. The Path of Travel must be free of obstruction, debris, holes, lifted asphalt, or concrete and have a sturdy, smooth, slip-resistant surface. The path shall have a cross-level surface with no more than a 2% slope and include truncated domes when entering a vehicular traffic area.

61. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backer panel may be allowed on the commercial building subject to review and approval by the Director of Community Development.
62. Decorative foam trim shall not be used in areas subject to damage, such as entry doors, service windows, roll-up doors, etc.
63. 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 of public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
64. 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.
65. All trash enclosures shall be constructed of 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.
66. Construction drawings submitted to the building division for plan review shall comply with the Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. Install a numerical address on the East building elevation. Address numerals shall be in font acceptable to the Planning Division, a minimum of ten inches in height, a minimum of 1 ½ inches in depth, and contrasting colors that adequately contrast the background to which they are attached.
 - b. Provide and maintain a minimum illumination level of one (1) foot candle every day from dusk until dawn.
 - c. Install approved emergency lighting to provide adequate illumination automatically during an electrical service interruption. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. However, an architectural sign backing/raceway may be allowed on a commercial building, subject to review and approval by the Director of Community Development.
67. Decorative foam trim shall not be used in areas subject to damage, such as entry doors, and shall not be used below 10' in height.

68. No soil shall be imported or exported to or from the project site from an adjacent building site or other sources for construction purposes without first obtaining approval from the City Engineer. A plan satisfactory to the City Engineer shall be prepared showing the proposed haul route within the City. The subject plan shall include provisions for street sweeping and cleanup. Applicant/contractor shall comply with all NPDES requirements.
69. Underground Service Alert shall be notified 48 hours prior to any excavation at (800) 422-4133.
70. 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.
71. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
72. Prior to the issuance of the Certificate of Occupancy, a Final Grade Certificate shall be provided to the Building Official issued from the Registered Civil Engineer of Record that all on-site improvements have been constructed in accordance with all City Standards, Specifications, Conditions of Approval, and approved plans.
73. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from all other departments and/or agencies.
74. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
 - a. Complete all on- and off-site improvements.
 - b. Install all required disabled parking stalls and parking lot signage.
 - c. Install required Electric Vehicle Spaces and chargers.
75. Temporary construction and storage trailers placed on the property shall first obtain approval from the Planning and Building Divisions. If any trailers will include uses for public access, handicap accessibility requirements shall apply. Before any trailer is set in its location, obtain all permits from the building division. Plans and structural calculations will be required for the tie-down devices. Trailers used for public use (and not used for construction only) are required to be handicapped accessible. The trailer will require access to the facility by way of ramps that comply with the California Building Code (CBC) 2022 edition, Chapter 11B, in addition to access to each feature of the trailer.

Engineering

76. Existing and new sidewalks, pathways, signage, and curb cuts shall comply with the Americans with Disability Act requirements. The maximum cross slope on a sidewalk or path of travel shall not exceed 2%.
77. All utilities within development boundaries shall be placed underground. This requirement also applies to electrical services, transformers and switches, and communication facilities.
78. Replace all existing lifted or cracked curb gutter, damaged utility pull box lids, and the sidewalk around and adjacent to the property. Additionally, remove and replace all sidewalks that show signs of ponding or pitting, scaling, or spalling along Central Avenue, as determined by the Public Works Senior Inspector.
79. All pavement damaged by excavation for utility cuts will be replaced with permanent pavement per City Standard for Paving and Trench Repair No. 301.
80. All driveways, existing or proposed, shall comply with the Americans with Disabilities Act and shall conform to City Standard Plan No. 102. Construction and acceptance of street improvements shall be required to obtain a release for a Certificate of Occupancy from the Building Division.
81. Owner/applicant shall process right-of-way dedications, easements or grant deeds required for ADA sidewalk accessibility around existing driveway approaches.
82. Replace all damaged curbs around existing planters.
83. Remove all dig alert markings throughout the parking site.
84. Remove any and all graffiti throughout the project site.
85. Replace existing parking lot signs that are damaged.
86. A Public Works construction permit shall be obtained from the Engineering Division prior to any removals or construction of improvements in the public right-of-way.
87. Resurface and re-stripe existing asphalt pavement surface on the entire project site and all three drive aisles shown on the site plan adjacent to the coffee shop.
88. Refurbish red, yellow, and blue curbs within the project site, including planters and speed humps, to the satisfaction of the Building Official and Public Works Director.
89. Payment of transportation-related development impact fees is required. Fees shall be assessed at the rate in effect at the time the fees are paid.
90. Monument signs shall not be permitted in the line of sight triangles next to driveway locations (see City STD 110).

91. Regional Sewerage Capital Outlay fees as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency may be required.
92. Implement Traffic Management Plan CA7501 – Montclair (TMP) when the drive-through queues extend beyond the queue storage of 20 vehicles. Dutch Bros shall provide a point of contact when store opens.
93. Per the TMP, the coffee shop entrance located nearest to the Central Avenue driveway entrance on the north side of the project site will be restricted to exit only to avoid drive-through queues extending onto Central Avenue.
94. The owner shall prepare a Photometric Plan indicating 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:
 - a. Provide a minimum maintained illumination level of one (1) foot-candle across the site.
 - b. All parking lot and other freestanding light fixtures shall incorporate 90-degree cutoff style luminaires and flat lenses so as to direct illumination downward to the surface to be illuminated and away from public rights-of-way surrounding the subject site.
 - c. The maximum total height for freestanding light fixtures shall be 20 feet, including the height for concrete bases.
 - d. Above-grade concrete bases for lights, menu boards, speakers, vertical clearance bars, etc., shall be finished with colored stucco matching the primary color and finish of stucco on the buildings.
 - e. All exterior wall-mounted lighting fixtures shall be vandal-resistant and of a design, that complements the architecture of the building.

Water Quality Management Plan

95. The property owner shall be responsible for inspecting and maintaining all stormwater treatment devices specified by the approved WQMP on an annual schedule, following all maintenance recommendations. It shall also be the responsibility of the property owner to maintain inspection reports and have them readily available for review by City staff upon request. In the event that any stormwater treatment device fails due to lack of or insufficient maintenance and/or inspection or some other unforeseen circumstance, it shall be the responsibility of the property owner to correct the deficiency and restore the stormwater treatment device(s) to its original working condition.
96. Prepare and submit plans for erosion and sediment control. Plans shall include all phases of the construction project, including rough grading, utility and road installation, and vertical construction included in the grading plans to the satisfaction of the City Engineer. Contact Samantha Contreras, NPDES Coordinator, at (909) 625-9447.

97. Prior to issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit an electronic copy of the approved WQMP to the Engineering Division in PDF format.
 - b. Submit to the Engineering Division as built drawings related to the WQMP.
 - c. Record the WQMP Maintenance Agreement with the County of San Bernardino and provide evidence of said recording to the City Engineer/NPDES Coordinator.
 - d. Demonstrate that all structural stormwater devices described in the project's WQMP have been constructed and installed in conformance with approved plans and specifications.
 - e. Demonstrate that the applicant can implement all non-structural stormwater treatment devices in the project's WQMP.
 - f. Demonstrate that the property owner has a copy of the city-approved WQMP.
98. Prior to the release of the Certificate of Occupancy for the building, the person or corporation responsible for the preparation of the WQMP shall certify in writing to the City Engineer/NPDES Coordinator that all conditions and requirements of the WQMP have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, the developer shall also submit evidence to the City Engineer/NPDES Coordinator that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the WQMP.
99. Prior to issuance of a grading or building permit, the applicant shall submit to the City a revised WQMP Plan for review and approval.
100. The revised WQMP must meet stormwater requirements for any additional hardscape area(s) of the project site. Please contact NPDES Coordinator, Samantha Contreras at (909) 625-9447.
101. The applicant shall ensure that all requirements of the approved WQMP for the project are incorporated and consistent with the approved landscape and irrigation plans for the project. All required stormwater treatment devices shall be duly noted and shown on the landscape plans per the approved WQMP.
102. The applicant is responsible for ensuring the WQMP Maintenance Agreement is completed between the City and property owner and recorded at the County of San Bernardino with the sale of the parcel.

Environmental

103. All new business occupant(s) of all buildings shall complete a Wastewater Discharge survey before plan check. For more information, contact Samantha Contreras at (909) 625-9447.
104. All wastewater discharged to the City of Montclair Sanitary Sewer System from the subject facility shall comply with Montclair Municipal Code Section 9.20.610 – Local Concentration Limitations. For more information, contact Samantha Contreras at (909) 625-9447.

Fire

105. The project shall comply with all requirements set forth by the California Code of Regulations Title 24 Parts 1-12, respectively.
106. The adopted edition of the California Code of Regulations, Title 24, Parts 1 through 12, and the Montclair Municipal Code shall apply at the time the architectural plans are submitted for construction permits.
107. Prior to the to the issuance of a grading permits a fire department access plan shall be submitted to the City of Montclair for review and approval. The fire department access plan shall comply with the requirements specified by the City of Montclair Guideline for Fire Department Access & Water Requirements for Commercial & Residential Development and the California Fire Code, Chapter 5.
108. Prior to the to the issuance of a grading permits, evidence of sufficient fire flow of 1,500 GPM for 2 hours shall be provided to the City of Montclair. The City of Montclair Building and Fire Marshal Water Available/Fire Flow Form shall be utilized.
109. A fire department access road complying with the CFC, Chapter 5 and the approved fire department access plans shall be installed prior to building construction.
110. The fire department access road shall be inspected by Montclair Fire Prevention Bureau prior to building construction.
111. The fire department access road shall always remain unobstructed.
112. A fire department connection (FDC) shall be provided and located within 100 feet of a public fire hydrant. The use of a private hydrant may be used with the use of an aboveground check valve to prevent the flow from the FDC back to the fire hydrant and with the approval of the Montclair Fire Prevention Bureau. The fire hydrant that supports the FDC shall be on the same side of the street. A vehicle access 951.772.0007 | 800.975.7395 | 6560 Van Buren Blvd, Ste B, Riverside, CA 92503 roadway/approach shall not be placed between the FDC and fire hydrant.
113. A minimum of two points of connection to public water shall be provided for the private fire-line water.

114. The private underground fire-line system shall be a looped design.
115. The private underground fire-line system shall have to indicate sectional valves for every five (5) appurtenances.
116. All required fire hydrants shall be installed and operational prior to building construction. All fire hydrants shall remain operational during construction.
117. All required fire hydrants shall be readily visible and immediately accessible. A clear space of not less than three feet shall always be maintained.
118. Prior to construction, a temporary address sign shall be posted and clearly visible from the street.
119. The permanent building address shall be provided and either internally or externally lit during hours of darkness. The address shall be clearly visible from the street fronting the property and comply with California Fire Code Section 505.1 for size and color.
120. The building shall be provided with an automatic fire sprinkler system in accordance with NFPA 13. Construction plans shall be submitted for review and approval to the City of Montclair prior to installation.
121. Prior to the building final, the building shall be provided with a Knox Lock key box located no more than seven feet above the finished surface and near the main entrance door.
122. Prior to the use of carbon dioxide approval from Montclair Fire Prevention shall be obtained. The area storing or using carbon dioxide shall be provided with either a carbon dioxide gas leak detection system specified by CFC 5307.4.3, or a ventilation system specified by CFC 5004.3.

Police

123. Prior to the installation of video surveillance cameras, the applicant shall submit a plan showing their location to the Chief of Police.
124. 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.
125. 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.

126. No special promotional events shall held on the property unless a written request for such is received and approved by the Director of Community Development and the Police Chief or their designee.
127. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make the appearance and conduct of all persons on or about the parking lot easily discernible.
128. 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 exterior storage and parking areas. Cameras shall be positioned to allow for the 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 that 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 1920×1080 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 of 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.
129. Alarm systems are encouraged to compliment the CCVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.
130. The applicant shall conduct a traffic analysis to study the existing left-turn lane queuing on northbound Central Avenue into the Montclair Town Center.