



REGULAR ADJOURNED MEETING OF THE
MONTCLAIR PLANNING COMMISSION
to be held in the Council Chambers
5111 Benito Street, Montclair, California

Monday, June 14, 2021
7:00 p.m.

Remote Participation Information:

Zoom Link: <https://zoom.us/j/95858571900>
Dial Number: 1-(669)-900-6833
Meeting ID: 958 5857 1900

*If you want to make a public comment or speak on an agenda item, including public hearing, please complete a Speaker Card in the Council Chambers or at <https://www.cityofmontclair.org/public-comment/>. The Chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate times during the meeting. Those who did not submit a request to speak who are present at the meeting location may raise their hand during Public Comment to request to speak. Those participating remotely may request speak using the "raise hand" function in Zoom or may dial *9 if on the phone, and then *6 to un-mute when called on to speak. Written comments (200-word limit per agenda item, and 200-word limit for all non-agenda items combined) and requests to speak can also be emailed to planning@cityofmontclair.org at least one hour before the meeting begins.*

AGENDA

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

None.

5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS

The public is invited to address the Planning Commission regarding any items that are not on the agenda. Comments should be limited to matters under the jurisdiction of the Planning Commission. It is respectfully requested that speakers limit their comments to no more than three minutes in length.

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete a Speaker/Virtual Speaker Card as described above.

6. AGENDA ITEMS

- a. PUBLIC HEARING – CASE NUMBER 2021-16
Project Address: Residential Zones Citywide
Project Applicant: City of Montclair
Project Planner: Silvia Gutiérrez, Associate Planner
Request: Zoning Code Amendment pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units in Residential Zones

- b. PUBLIC HEARING – CASE NUMBER 2021-17
Project Address: 9631, 9635, & 9655 Monte Vista Avenue
Project Applicant: Chengdu Holding, LLC
Project Planner: Christine Sanchez Caldwell, Economic Development Consultant
Request: Tentative Parcel Map No. 20375 and Conditional Use Permit

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 on our website www.cityofmontclair.org by clicking on the agenda for June 14, 2021.

9. ADJOURNMENT

The City of Montclair Planning Commission meeting is adjourned to the regularly scheduled meeting of July 12, 2021, at 7:00 p.m.

CERTIFICATION OF AGENDA POSTING

I, Michael Diaz, Community Development Director 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 June 10, 2021.

Report on Item Number 6.a

PUBLIC HEARING - CASE NUMBER 2021-16

APPLICATION TYPE(S)	Zoning Code Amendment Ordinance No. 21-996
NAME OF APPLICANT	City of Montclair
LOCATION OF PROPERTY	Citywide
ENVIRONMENTAL DETERMINATION	Exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h)
PROJECT COORDINATOR	Silvia Gutiérrez, Associate Planner

PROPOSAL

In direct result of ongoing changes in State law regarding Accessory Dwelling Units (ADUs), the City's current ADU Ordinance has been rendered invalid. In response, staff is proposing amendments to Title 11 of the Montclair Municipal Code regarding regulations for Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) developed within the City. These zoning code amendments are necessary to be in compliance with new and/or revised State regulations pertaining to ADUs and JADUs pursuant to Government Code Sections 65852.2 and 65852.22 that went into effect on January 1, 2020. The proposed Ordinance updates the City's local standards to comply with the revisions to state law. The full text of the proposed changes are contained in Draft Ordinance No. 21-996 (Exhibit A).

Summary of Proposed Ordinance

As mentioned above, new or revised State regulations necessitate several changes to the City's current zoning code pertaining to ADUs. Chapter 11.23 (currently referred to as "Second Dwelling Units") was adopted in 2009 and is the primary set of current regulations for "second units." Ordinance No. 21-996 proposes to repeal and replace

Chapter 11.23 in its entirety with new regulations and to make associated changes in other related portions of Chapter 11 to ensure consistency. The following excerpts are intended to summarize the key changes in the new Ordinance.

- Replace the existing term and definition of “Second Dwelling Unit” with the new terms “**Accessory Dwelling Unit (ADU)**” and “**Junior Accessory Dwelling Unit (JADU)**” at Section 11.02.010, which are defined as:

Accessory Dwelling Unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. The ADU shall include a permanent structure with a permanent foundation, connection to utilities, with provisions for living, sleeping, cooking, and bathroom facilities. An ADU may also include:

- An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code for occupancy by no more than two persons which have a minimum floor area of 150 square feet and shall have kitchen and bathroom facilities; and
- A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

Junior Accessory Dwelling Units (JADU). A JADU is a dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence and an converted garage that provides living facilities for up to two persons. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing residence.

- Requires City approval for complete ADU applications within 60 days. If all submittal requirements are met, ADUs and JADUs will be reviewed much like a room addition is routinely handled.
- Establishes new development standards for ADUs and JADUs in single-family and multifamily residential zones. ADUs are currently only allowed on lots within single-family zones with single-family dwellings. Proposed new Ordinance introduces the concept of Junior Accessory Dwelling Units (JADUs) not currently addressed by the existing code.

Comparison of Existing and New ADU Regulations	
Existing Ordinance	New Ordinance¹
One ADU per lot	Two ADUs per lot
No Junior ADU provisions	Junior ADU allowed
Single-family lots only	Allowed in single-family and multifamily zones
5-foot minimum setbacks	4-foot setbacks
15-foot height limitation	Minimum 16 feet in height
Max Size: 750 SF attached or detached	150 SF Minimum 850 SF Maximum (One-bedroom) 1,000 SF Maximum (Two-bedroom)
Replacement covered parking if garage is converted	No parking required including garage conversions
ADU permits processed in 120 days	ADU permits processed in 60 days
Owner-occupancy required	No owner occupancy required until January 2025 JADU requires owner-occupancy
¹ Pursuant to new or updated State law as of January 1, 2020	

- Eliminates minimum lot size (previously a 5,000 square-feet) resulting in the potential that any property improved with an existing residential unit could be eligible to allow an ADU.
- Establishes new standard design criteria intended to streamline the review process (e.g., matching rooflines and roof materials, exterior finishes and window styles, etc.) and promote architectural compatibility with the main dwelling.
- Owner-occupancy is not required as a condition of having a detached or attached ADU (City currently requires that either the primary dwelling or ADU and/or Junior ADU are occupied by the owner). Owner-occupancy is other either the main unit or Junior ADU is required as a condition of having a Junior ADU.

Background

- On January 5, 2009, Ordinance No. 08-905 was approved by the City Council to amend Chapter 11 Sections 11.02, 11.18, 11.2 and add Chapter 11.23 of the Montclair Municipal Code related to Second Dwelling Units.
- Effective January 1, 2017, Assembly Bill 2299 ("AB 2299") and Senate Bill I 069 ("SB 1069") amended Government Code Section 65852.2 to limit the

standards cities may impose on new ADUs and require city ordinances to incorporate State-mandated standards for certain types of ADUs.

- In 2019, the California Legislature adopted a group of housing bills aimed at addressing the housing crisis. The Governor signed, SB 13, AB 68, and AB 881 into law that amended Government Code sections 65852.2 and 65852.22 to impose new limits on the City's ability to regulate ADUs and JADUs (Exhibit B).
- As of January 1, 2020, the City's ordinance regulating ADUs is null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs, unless and until a compliant ordinance is adopted.
- AB 670 (Chapter 178, Statutes of 2019) deems any CC&Rs recorded to a property that is zoned for single-family residential uses and prohibits, or unreasonably restricts, ADUs or JADUs, null and unenforceable. This effectively eliminates an HOA's ability to prohibit ADUs and JADUs.
- Draft Ordinance No. 21-996 was presented to the Real Estate Committee of the City Council on April 19 and May 17, 2021.

Analysis

In 2019, the California Legislature adopted a group of housing bills aimed at addressing the housing crisis in the State. The Governor signed, SB 13, AB 68, and AB 881 into law that, amended Government Code Sections 65852.2 and 65852.22 to impose new limits on the City's ability to regulate ADUs and JADUs. Moreover, the intent of the State Legislature was to reduce regulatory barriers and costs, streamline the approval, and expand the potential capacity for ADUs in response to California's housing shortage.

In adopting these new regulations, the State Legislature determined these changes are a matter of statewide concern, rather than a local matter. Existing City ordinances regulating ADUs which did not comply with Government Code Sections 65852.2 and 65852.22 (as amended) by January 1, 2020, were deemed to be null and void. In their place, the standards provided in Government Code Sections 65852.2 and 65852.22 for the approval of ADUs and JADUs would apply by default, unless and until a compliant ordinance is adopted. Draft Ordinance No. 21-996 would comply with state requirements and restore local control to extent allowed by the State.

As identified in the Summary section above, the City's current regulations allow property owners the ability to build one ADU on any residentially-zoned property that is improved with single-family residence. The maximum size allowed for an ADU was limited to 750 square feet whether attached or detached to the main dwelling unit. If

the ADU was located in a garage conversion, then replacement parking was required for the displaced parking. The City also required that the property owner live in either the main dwelling unit or the ADU. JADUs were not an available option.

Based on State mandates, all of the City's current provisions above have been modified to allow ADUs and JADUs in all residential zones, an increase in maximum unit sizes, reduced minimum setbacks, and prohibited requirements to replace or add parking. In single-family zones, a maximum number of two ADUs (one being a JADU) could be added to a property (presuming other development standards are met). In multifamily developments at least one ADU would be allowed with a maximum number of units allowed being limited to no more than 25 percent of the total existing number of units in the development. Non-habitable space, such as garages, storage rooms, etc., would be eligible for conversion into a dwelling unit with no parking requirements. For the purpose of implementing these new regulations, multi-unit dwellings that are approved and built as a single complex are considered one property, regardless the number of parcels.

State ADU Law does not require additional building setbacks for the conversion of existing accessory structures to an ADU. Additionally, setbacks were reduced to four feet from side and rear setbacks. One area where local regulations have some flexibility is the side street setback for corner lots. The proposed Ordinance requires a minimum setback of fifteen (15) feet on the street side. This will enable an adequate open yard for visual relief but not be too excessive to conflict with the minimum size standard in the ADU Law. The Ordinance also requires that all corner lots must provide and maintain a clear vision triangle at the intersection of the streets' right-of-way for the purpose of traffic safety.

The state's regulations prohibiting the City from requiring replacement or new parking spaces for ADUs is of concern generally, but specifically with respect to the City's multifamily districts where parking shortages is already a problem on-site and on public streets. Despite the restraint put upon the City by the State, staff encourages property owners to consider the potential adverse impacts caused by eliminating on-site parking and to explore alternatives to add ADU(s) in other areas where existing parking for their residents is retained.

Another significant change is regarding the requirement for the property owner to live in either the primary unit or the ADU. Under the new State requirements, this rule is temporarily suspended for five years. For ADUs built from January 1, 2020, through January 1, 2025, the City is not permitted to impose an owner-occupant requirement, except for applications to create a JADU (owner-occupant is required). This new change does not void previous covenants requiring owner-occupancy for the ADUs that were built prior to January 1, 2020, nor will it prevent the City from requiring owner-occupants for units built after January 1, 2025. Staff believes the occupancy requirement is a crucial factor in ensuring the maintenance and upkeep of the property and a recognized way to maintain neighborhood stability and harmony.

ADUs and Regional Housing Needs Assessment (RHNA)

New ADUs and JADUs developed in the City will count towards the City's housing production in meeting RHNA housing targets. The City's RHNA allocation for the upcoming 6th Cycle, 2021-2029 timeframe is 2,593 units. As allowed by HCD, staff fully intends to use ADUs as a strategy towards meeting housing targets for the City.

Housing and Community Development (HCD) Review

Government Code Section 65852.2 requires the City submit the ordinance to the State Department of Housing and Community Development (HCD) within 60 days of adoption by the City Council. If HCD finds the ordinance does not comply with the new ADU laws, HCD will notify the City. Should this occur, the City would have 30 days to either amend the ordinance or adopt additional findings that explain the reason the ordinance complies with the statute.

General Plan Consistency

The law states that ADUs shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed a residential use that is consistent with the existing general plan and zoning district for the lot. Therefore, no amendments to the General Plan are required.

Conclusion

City staff recognizes the need to address the State's housing shortage and the role ADUs and JADUs present in addressing the issue. Despite some concerns with the State's parking regulations, if done well, ADUs can be successfully integrated into the existing housing stock and contribute to the community. Although the opportunity to have an ADU has expanded, it is unlikely that every property in the City will construct an ADU and/or JADU. Staff cannot predict how many ADUs will be constructed in the City, but have seen an uptick in the number of applications submitted thus far. Currently, Planning Division staff has processed 10-15 applications per year, but expects the number to fluctuate from year to year.

Finally, City staff will continue to work on developing pre-approved ADU designs to aid in the review process and help ensure appropriate architectural integration of the units into the fabric of community.

PUBLIC NOTICE

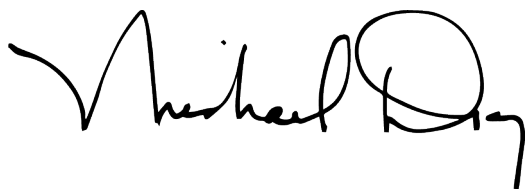
A notice was published in the Inland Valley Daily Bulletin on June 14, 2021. The notice meets the legal noticing requirements and is adequate in scope for this project. No comments have been received to date.

ENVIRONMENTAL REVIEW

The proposed Zoning Code Amendment Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the required changes have no potential for resulting in physical change to the environment, directly or indirectly and the changes are consistent with the goals and policies of the General Plan and will bring the City's code into compliance with State Law.

- 1) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units in a single-family or multiple family residential zone to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA; and
- 2) Adopt Planning Commission Resolution No. 21-1947 recommending the City Council approve Zoning Code Amendment ZCA 2021-16 to modify the regulations pertaining to accessory dwelling units and junior accessory dwelling units amending Chapters 11.02 (Definitions), portions of 11.16, 11.18, 11.19, 11.20, 11.22, and 11.36 and replace Chapter 11.23 of the Montclair Municipal Code. (Exhibit C)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Diaz". The signature is fluid and cursive, with a large, prominent "D" at the end.

Michael Diaz
Director of Community Development

Attachments:

Exhibit A – Draft Ordinance No. 21-996

Exhibit B – Draft Resolution No. 21-1947

Exhibit C – HCD Memorandum Summarizing Changes in State Law

EXHIBIT A

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ORDINANCE NO. 21-996

ORDINANCE NO. 21-996

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA, AMENDING PORTIONS OF CHAPTERS 11.02, 11.16, 11.18, 11.19, 11.20, 11.22, and 11.36 AND REPEALING AND REPLACING CHAPTER 11.23 OF THE MONTCLAIR MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS IN THE CITY

WHEREAS, the California Legislature adopted and Governor Newsom signed Senate Bill 13 and Assembly Bills 68 and 881 in 2019 amending California Government Code Sections 65852.2 and 65852.22, which took effect January 1, 2020, imposing new limitations on local agencies, including charter cities, ability to regulate accessory dwelling units (ADUs), and junior accessory dwelling units (JADUs); and

WHEREAS, the City Council finds that it is necessary and appropriate to amend Chapters 11.02 (Definitions), portions of 11.16, 11.18, 11.19, 11.20, 11.22, and 11.36 and replace Chapter 11.23 of the Montclair Municipal Code in order to comply with Assembly Bill 2299 and Senate Bill 1069. In approving AB 2299, the state found that accessory second dwelling units (also commonly referred to as "granny flats," in-law apartments," or "accessory units") provided an important source of affordable rental housing designed to meet the special housing needs of individuals and families, particularly those of low and moderate income; and

WHEREAS, adopting an ordinance consistent with California Government Code Sections 65852.2 and 65852.22 ensures that the character of the City is preserved to the maximum extent permitted by law and that the City's regulation of accessory dwelling units and junior accessory dwelling units continues to promote the health, safety, and welfare of the community; and

WHEREAS, allowing accessory dwelling units and junior accessory dwelling units in conjunction with existing or proposed residential development provides additional rental housing stock, some of which will satisfy the City's 6th Cycle Regional Housing Needs Assessment (RNHA) for the period covering 2021-2029; and

WHEREAS, accessory dwelling units and junior accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

WHEREAS, a public hearing was held by the Planning Commission on June 14, 2021, in the Council Chambers located at 5111 Benito Street, Montclair, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing; and

WHEREAS, at the hearing, the Planning Commission adopted Resolution 21-

1947 recommending City Council approval of Ordinance 21-996; and

WHEREAS, a public hearing was held by the City Council on June 14, 2021, in the Council Chambers located at 5111 Benito Street, Montclair, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Montclair City Council:

SECTION I. The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION II. The Montclair Municipal Code for the City of Montclair ("Code") shall be amended to add new definitions to Chapter 11.02 DEFINITIONS, Section 11.02.010 (Definitions) as follows:

Accessory Dwelling Unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include a permanent structure, with a permanent foundation, connection to utilities, with provisions for living, sleeping, eating, cooking, and bathroom facilities on the same parcel the main dwelling exists. The definition of accessory dwelling unit includes the following:

- 1 An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code for occupancy by no more than two persons which have a minimum floor area of 150 square feet and shall have kitchen and bathroom facilities; and
- 2 A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

Accessory Dwelling Unit Types. For purposes of this section, there are three types of accessory dwelling units allowed, subject to the requirements of Chapter 11.23.030, and as described below:

1. **Detached Accessory Dwelling Unit.** A detached ADU is a dwelling unit with complete independent living facilities constructed as a separate structure from the main dwelling unit on the property.
2. **Attached Accessory Dwelling Unit.** An attached ADU is a dwelling unit with complete independent living facilities that shares at least one common wall with the existing main dwelling unit on the property.

Junior Accessory Dwelling Units (JADU). A JADU is a dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence that provides living facilities for up to two

persons. A JDAU may include separate sanitation facilities or may share sanitation facilities with the existence residence.

Accessory Structure means a structure that is accessory and incidental to a dwelling located on the same lot.

Complete Independent Living Facilities means the permanent provision for living, sleeping, eating, cooking, and bathroom facilities for a main or accessory dwelling unit.

Kitchen means a room or area that is designed for and contains approved permanent cooking, refrigeration and sink facilities.

Kitchenette or Efficiency Kitchen means a small area designated for preparing food as part of a room instead of a separate room. A kitchenette or Efficiency Kitchen shall include each of the following elements:

- 1 Approved cooking, refrigeration, and sink facilities. A microwave or toaster oven shall not be considered an approved cooking appliance for purposes of determining if a room constitutes a kitchenette/efficiency kitchen.
- 2 A food preparation counter or counters that total at least 15 square feet in area; and
- 3 Food storage cabinets that total at least 30 square feet of shelf space.

Floor Area means the total floor area measured from the outside of the exterior walls of a detached ADU, or the area from the outside of the exterior walls of the ADU to the centerline of shared interior walls that separate the accessory unit and primary-unit living space. Proposed habitable space located under a sloping roof where the sloping ceiling measures less than five feet from the finished floor to the finished ceiling is not counted as floor area. Carports, covered porches (open on three sides) and patios, chimneys, stairwells and mechanical closets are not counted toward the determination of floor area of an ADU.

Habitable Floor Area means the total floor area of all habitable rooms in a dwelling unit.

Habitable Room means any finished and conditioned (heated) space or room in a dwelling unit other than a bathroom, closet, pantry, hallway, storage space, enclosed patio, laundry room, garage or carport as defined by the Building Code.

Main Dwelling Unit means the existing or proposed single-family dwelling on the lot where an ADU would be located.

Nonconforming Zoning Condition means a physical improvement on a property that does not conform to current zoning standards.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

Proposed Dwelling means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

Public Transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

Tandem Parking means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

SECTION III. The Montclair Municipal Code for the City of Montclair ("Code") shall be further amended at the following sections to ensure consistency with Chapter 11.23:

- **11.16.030 Uses Permitted**

The following uses shall be permitted in the Estate A zone: *(amending text as shown below)*

A. ~~Second Dwelling~~ Accessory Dwelling Units and Junior Accessory Dwellings Units

- **11.18.30 Uses Permitted**

The following uses shall be permitted in the R-1 zone: *(amending text as shown below)*

H. ~~Second Dwelling~~ Accessory Dwelling Units and Junior Accessory Dwellings Units, subject to provision in Chapter 11.23 of this title.

- **11.18.040.E - Property development standards:** *(adding No. 4 as shown below)*

E. Yards.

4. See Chapter 11.23 for setbacks applicable to Accessory Dwelling Units.

- **11.19.080 - Building Separation:** *(adding C as shown below)*

C. See Chapter 11.23 for building separation standards applicable to Accessory Dwelling Units.

- **11.20.020 Uses Permitted** *(adding F as shown below)*

F. Accessory Dwelling Units subject to Chapter 11.23 of this title.

- **11.20.070 – Yards** *(adding F as shown below)*
 - E. See Chapter 11.23 for setbacks applicable to Accessory Dwelling Units.
- **11.22.020.B Uses Permitted** *(adding 5 as shown below)*
 - 5. Accessory Dwelling Units subject to Chapter 11.23 of this title.
- **11.36.040 Permitted Uses** *(amending text to add 1 for existing text and adding 2 with the following text)*
 - 2. Accessory Dwelling Units and Junior Accessory Dwellings Units, subject to provision in Chapter 11.23 of this title.

SECTION IV. The Montclair Municipal Code for the City of Montclair ("Code") shall be amended to repeal existing Chapter 11.23 and replace it with new Chapter 11.23 entitled "ACCESSORY DWELLING UNITS" as follows:

11.23.010 - Purpose and intent.

The purpose and intent of this chapter is to establish procedures for permitting accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) on lots zoned for residential uses, in accordance with California Government Code sections 65852.2 and 65852.22. This chapter provides standards for ADUs to minimize adverse impacts on the public health, safety, and general welfare from the establishment of accessory dwelling units.

Nothing herein shall preclude or prevent the City from undertaking any other enforcement action with respect to an accessory dwelling unit which the City is otherwise authorized under this code or applicable state or federal law, including but not limited to the abatement of public nuisances.

11.23.020 - Applicability.

- 1 This chapter shall apply to the construction of any ADU in single-family and multifamily residential districts within the City as defined herein.
- 2 The construction, establishment, alteration, enlargement, or modification of an accessory dwelling unit shall comply with the requirements of this chapter in conjunction with the issuance of necessary construction and alteration permits as may be required by adopted codes listed in Title 10 of the Montclair Municipal Code.
- 3 The provisions of this chapter shall in no way validate any existing accessory dwelling unit constructed without City approval and permits. Accessory structures erected without benefit of City approval and a building permit shall be removed upon notification or, if possible, modified to comply with

the provisions of this chapter and any applicable requirements in the adopted codes listed in Title 10 of the Montclair Municipal Code.

- 4 Existing ADUs that were approved pursuant to City requirements and permits prior to the adoption of this Chapter are deemed to be lawfully permitted. Existing ADUs shall count towards the maximum number of ADUs allowed for each property. Modifications to the size of existing ADUs shall be subject to the provisions of this Chapter as modified from time to time.
- 5 ADUs are prohibited in all zones other than those zones where residential uses are permitted. ADUs are also prohibited in the following locations:
 - a. Adopted specific plans that already contain provisions for high-density residential and mixed-use development, including but not limited to the *North Montclair Downtown Specific Plan, Montclair Place District Specific Plan, and the Arrow Highway Mixed-Use District Specific Plan.*
 - b. Non-conforming residential developments on Commercial and Industrial zoned properties.

11.23.030 - Permitted Locations and Standards.

Accessory dwelling units are allowed in all residential zones with a legally established existing, or proposed, main dwelling unit as specified in this section, and generally by means of one of the following scenarios:

- 1 In Single Family Zoned Districts (Table 1):
 - a. Conversion of existing space within the floor space of the main dwelling unit to provide a JADU. In a single-family zoned districts, only one JADU shall be allowed on a single parcel.
 - b. Construction of an attached ADU or a detached ADU. In single-family zoned districts only one ADU, attached or detached, shall be allowed with or without one JADU on a single parcel.

Table 1
ADU Development Standards - Single Family: R-1, R-1(SL), R-1(11), R-1(20)

Standard	JADU	Attached- ADU	Detached-ADU
Number of ADUs Allowed Per Lot ¹	Minimum of 1: JADU, or Attached- ADU, or Detached-ADU Maximum of 2: One JADU plus an Attached- ADU, or Detached-ADU		
Unit Size	Minimum 150 SF Maximum 500 SF	Minimum 150 SF Maximum 1,000 SF	150 SF 1,000 SF
Lot Coverage ² (All structures)	N/A	35 percent	35 percent Or 50 percent ³
Setbacks		Front: 25 feet Street Side: 15 feet Interior: 4 feet Rear: 4 feet	
Building Separation	N/A	N/A	6 feet
Building Height⁴	Maximum 16 feet for JADU, Attached- ADU, or Detached-ADU Exception for JADU or Attached-ADU when integrated into, or when attached to an existing two-story main dwelling unit. Maximum 35 feet or the height of the existing two-story main dwelling unit, whichever is less. Detached-ADU limited to 1-Story and maximum height of 16 feet.		

¹ Main dwelling unit required.

² Lot coverage Maximum does not applied to ADUs 800 SF and under

³ Single family residential properties located in R1 zones on the official zoning map designated by the "SL" suffix

⁴ Building height measured to the peak of the structure.

Minimum setback and building separation distances shall be measured from the closest points of the building or structure walls to another structure or property line, including chimneys, bay windows, or other architectural elements extending outward from the building wall plane.

- 2 In multifamily-zoned districts and developments (Table 2) ADUs, except a JADU, are permitted and may be accommodated in one or more of the following ways:
- a. Conversion of covered or enclosed parking spaces, or
 - b. Conversion of unused or vacated non-habitable spaces such as offices, storage rooms, passageways, attics, basements, etc.; Conversion of Laundry facilities shall be permitted unless required as part of a previously approved Precise Plan of Design and/or Conditional Use Permit for the subject property; or
 - c. Construction of detached ADUs on surplus or utilized open space area not within a required front or street side setback area;

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Table 2
ADU Development Standards - Multi-Family Zones: R-2 and R3

<i>Standard</i>	<i>Attached- ADU-</i>	<i>Detached-ADU</i>
Number Per Lot ¹ <i>(Includes conversion of qualifying existing space and new construction)</i>	Minimum of 1 unit (Attached or Detached ADU) or Maximum of 25 percent of the total number of existing dwelling units within in the complex ²	
Unit Size	150 SF Minimum 850 SF Maximum (One-bedroom) 1,000 SF Maximum (Two-bedroom)	
Lot Coverage ³ <i>(All structures)</i>	R-2:40 percent for structures over 800 SF R-3: Buildings and structures shall not cover more of a lot than would be permitted when satisfying all yard, open space, parking and access requirements for structures over 800 SF per MMC	
Setbacks	Front: 25 feet Street Side: 15 feet Interior: 4 feet Rear: 4 feet	
Building Separation	N/A	6 feet
Building Height ³	Attached-ADU: Maximum 16 feet or height of existing main residential building whichever is less, or Maximum height 35 feet or height of the existing two-story residential building, whichever is less. Detached-ADU: 1-Story and maximum height of 16 feet	
¹ An approved and constructed multifamily dwelling complex required. Complex is considered one property regardless of the number of parcels. ² When the calculation for maximum number of units results in a fractional number over 1 unit, it shall be rounded to the next highest whole number if the fraction is one-half or more; otherwise it shall be rounded down to the next lowest whole number. ³ Lot coverage Maximum does not applied to ADUs 800 SF and under		

11.23.040 - Process and Timing.

The review of an ADU application is considered and approved ministerially, without discretionary review or a hearing. The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:

- 1 The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or
- 2 When an application to create an ADU or JADU is submitted on a vacant or partially vacant site involving new construction with a Precise Plan of Design permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the Precise Plan of Design permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerial without discretionary review or a hearing.
- 3 When an application to create an ADU is submitted on a vacant or partially vacant site involving new construction with a Precise Plan of Design permit application to create a new multiple family dwelling on the lot, the City may delay acting on the permit application for the ADU until the City acts on the Precise Plan of Design permit application to create the new single-family dwelling, but the application to create the ADU will still be considered ministerial without discretionary review or a hearing.

11.23.050 - ADU and JADU Permit

The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City's ADU ordinance. The ADU-permit processing fee is determined by the Planning Department and approved by the City Council by resolution.

11.23.060 - Parking.

One on-site uncovered parking space shall be required for each ADU, regardless of the number of bedrooms. No on-site parking shall be required for a JADU.

Parking space(s) may be provided on a paved surface within:

- 1 A front or street side setback area, provided that said space when combined with other hardscape surfaces within the setback does not exceed 50 percent of the required landscape setback area, as approved by the Community Development Director/Designee; or
- 2 As a tandem parking space on a new or existing paved driveway.
- 3 Parking space dimensions shall be at least 9 feet wide by 20 feet deep. Parking

space within an enclosed garage shall have unobstructed dimensions of at least 10 feet wide by 20 feet deep.

- 4 No additional driveway approaches from public streets shall be permitted for required parking spaces for ADUs. Access to an authorized parking space may be provided from an alley.
- 5 Exception: No on-site parking space for an ADU shall be required in the following situations:
 - a. The ADU is located within one-half mile walking distance of public transit, including, without limitation, a bus stop, train station, or paratransit stop, as designated by a public agency; or
 - b. The ADU is located within an architecturally and historically significant district established by the City; or
 - c. When on-street parking permits are required but not offered to the occupant of the ADU; or
 - d. When there is an established car share vehicle stop located within one block of the ADU.
 - e. The ADU is converted as part of the proposed or existing primary residence or an accessory structure.
- 6 When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, replacement of such structures not required.

11.23.070 - Plan Review Submittal Requirements.

Proposals for an ADU or JADU shall require the preparation of professionally and accurately drawn plans for City review and subsequent approval of a building permit. Plans for an accessory dwelling unit shall be submitted to the Department of Community Development for review to determine compliance with each of the general requirements in subsection 11.23.090, prior to the submittal of an application for a building permit.

A complete set of plans, drawn in a standard architectural and/or engineering scale (e.g. ¼, ½, 1:10, 1:20, etc.) with appropriate dimensions and labels, shall include:

- 1 Site Plan. A site plan showing the entirety of the property and the location of the proposed ADUs in context with property lines, existing and/or proposed structures, and other significant features (e.g., driveways, pools, fences and walls, trees, utility poles and boxes, major slopes, etc.) on the site. Add dimensions for the site and setback distances from property lines and existing structures.

- 2 Floor Plans. Prepare a detailed and scaled floor plan for the ADU(s), identifying each room, room dimensions, and floor area calculations. Show location and size of all windows and doors. For an attached ADU or JADU provide a complete floor plan for the main dwelling unit to which they are attached.
- 3 Building Elevations. Complete set of dimensioned building elevations for detached and attached ADUs. Show all proposed openings, exterior materials/finishes, roof pitch, and architectural details. For a JADU or Attached ADU, show proposed unit in context with the existing main dwelling unit to which it is attached.
- 4 Roof Plan. Show roof pitch, and placement of any required vents. No new or additional roof top air conditioner units or ducts shall be permitted on an attached or detached ADU, or JADU.

The review and approval of plans by Community Development Department shall be performed by the Director of Community Development or his/her designee and shall be completed within 60 days of receiving a complete application for an ADU which meets the requirements and standards of this Chapter.

11.23.080 - Building Permit Required.

Approval of an ADU application pursuant to this chapter is a ministerial action not subject to discretionary review beyond the General Requirements contained in this chapter. As such, plans receiving approval by the Community Development Department shall be submitted to the Building Division for required building permit(s). Plans shall comply with all applicable requirements of the Building Code as adopted pursuant to Title 10 of the Municipal Code and enforced at the time of application.

11.23.090 - General requirements.

- 1 The property and on-site structures on which an ADU is proposed shall be in good physical condition consistent with Chapter 10.32 (Property Maintenance Code) of the Montclair Municipal Code. No building permit for an ADU or JADU shall be issued for properties having current building or zoning code violations, unpermitted construction, or code enforcement violations/liens, until such matters have been resolved.
- 2 Placement of an attached or detached ADU shall not be located on a parcel in a way that would prohibit access to a designated parking area, or impede safe ingress or egress by emergency personnel to the structure or yard areas.
- 3 A Detached-ADU may be of standard residential construction, manufactured housing, or factory-built housing placed on permanent foundations. Manufactured or factory-built housing shall be generally consistent with Design Guidelines specified in Section 11.23.100. The use of commercial storage or shipping containers for purposes of this Chapter shall not be permitted.

- 4 An Attached or Detached ADU shall contain no more than two (2) bedrooms
- 5 ADUs shall be assigned a separate address and identified by the addition of an alpha character (e.g., A, B.) to the address of the main dwelling unit on the property.
- 6 An ADU may be metered separately from the main dwelling unit for gas, electricity, communications, water, sewer services. A JADU shall not be metered separately. The use of a sub meter for the JADU may be allowed to measure the amount of the utility (i.e., gas, electricity, and water) used by a JADU, subject to Building Code regulations.
- 7 All new utilities for a Detached-ADU shall be installed underground.
- 8 An Attached or Detached-ADU shall be constructed on a permanent foundation and connected to the public sewer.
- 9 An ADU must have a separate exterior entrance, apart from that of the main dwelling unit dwelling. The separate entrance shall be located on the side or rear of the structure and whenever possible facing interior yard areas; and
- 10 The primary and ADUs may not be sold separately and no subdivision of land or air rights shall be allowed.
- 11 Property owner shall obtain and provide to the City a Will Serve Letter from the City's authorized solid waste hauler.
- 12 Fire sprinklers shall be required in an ADU if sprinklers are required in the primary residence unless specifically exempt per Montclair City Code or State Code.
- 13 The detached ADU, and attached ADU and/or principal dwelling may be rented. Junior ADU constructed with living area of principle dwelling shall be subject to owner occupancy requirements.

11.23.100 – Standard ADU Design Guidelines.

The design of all ADUs shall be complementary or similar to the appearance of the main dwelling unit. When appropriate, the use of City pre-approved ADU designs is encouraged. In preparing plans, consideration shall be given to the following basic design elements:

- 1 Roof shape and pitch, eaves, roofing materials; and
- 2 Materials, textures, finishes and colors of the exterior walls, windows, doors, etc.; and
- 3 ADU façade elevations visible from the public right-of-way shall incorporate

Windows, entries, or other architectural features that are compatible with the main dwelling unit.

- a. Avoid locating bathroom facilities and placing related windows or vents on the street facing side of a proposed ADU.
 - b. Remove garage doors and replace with a new façade when converting a garage or carport attached to an existing main dwelling unit, or a detached garage structure. The new façade shall include windows and exhibit other architectural features that are proportionate and compatible with the appearance of the main dwelling unit. Stucco walls devoid of compatible architectural features shall not be allowed.
- 4 No window-mounted or exposed roof-mounted HVAC equipment (e.g., air conditioners, condensers, and/or ductwork, etc.) shall be allowed. Roof mounted HVAC equipment may be proposed when fully screened from view to the street and adjoining properties by means of a mechanical well and/or parapets walls of a height proportionate and appropriate to architecture of the ADU and main dwelling unit, as approved by the Community Development Director. The use of a mini-split HVAC system that does not rely on ducts to deliver heated and cooled air is encouraged.

11.23.110 - Owner Occupancy.

An ADU and/or the main dwelling may be rented without owner occupancy requirements. ADUs can be rented for a term no fewer than 30 days for residential purposes, and cannot be used as a short-term or vacation rental (fewer than 30 days).

If there is a JADU on the property, either the JADU or Primary Dwelling shall be occupied by the owner of record, unless the property is entirely owned by another governmental agency, land trust, or housing organization.

- 1 Deed Restriction. Prior to issuance of a final inspection and release of occupancy of building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Development Services Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
 - a. The ADU or JADU may not be sold separately from the main dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against future property owners.
 - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To

remove the deed restriction, an owner may make a written request to the Community Development Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Community Development Director's determination consistent in accordance with Chapter 17.47. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

- 2 The deed restriction is enforceable by the Community Development Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

11.23.120 - Reporting of Annual Rent

To facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements shall be satisfied:

- 1 With the building permit application, the applicant shall provide the City with an estimate of the projected annual rent that will be charged for the ADU or JADU.
- 2 By January 31 of each calendar year, the owner of the property containing an ADU or JADU shall report the actual rent charged for the ADU or JADU during the prior calendar year. If the City does not receive the report, the owner is in violation of this Code, and the City may send the owner a notice of violation. If the owner fails to submit the report within the time period stated in the notice of violation, the City may enforce this provision in accordance with applicable law. This condition shall be added to owner occupancy covenant,

11.23.130 - Impact Fees.

- 1 Development impact fees are required to be paid for an attached or detached ADU greater than 750 square feet. Development impact fees charged shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- 2 Development impact fees are not required to be paid for construction of a JADU.

11.23.140 - Conformance.

Approved accessory dwelling units that conforms to this section shall:

- 1 Be deemed an accessory use or an accessory building; and
- 2 Be deemed a residential use that is consistent with the General Plan and the zoning designations for the lot; and
- 3 Not be considered to exceed the allowable density for the lot on which it is located and not be counted as part of the overall density allowed in the zoning district.

DRAFT

EXHIBIT B

DRAFT

RESOLUTION NO. 21-1947

RESOLUTION NO. 21-1947

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL APPROVAL OF ORDINANCE NO. 21-996 TO AMEND CHAPTERS 11.02, 11.16, 11.18, 11.19, 11.20, 11.22 AND 11.36 AND REPEALING AND REPLACING CHAPTER 11.23 OF THE MONTCLAIR MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS IN THE CITY

A. RECITALS.

WHEREAS, effective January 1, 2017, Assembly Bill 2299 ("AB 2299" and Senate Bill 1069 ("SB 1069") amended Government Code Section 65852.2 to limit the standards cities may impose on new accessory dwelling units (ADUs) and require city ordinances to incorporate State-mandated standards for certain types of ADUs. And, effective January 1, 2020, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881 again amended Government Code Sections 65852.2 and 65852.22 to further limit the standards cities may impose on ADUs and junior accessory dwelling units ("JADUs"). The Ordinance updates the City's local standards to comply with the revisions to state law, and

WHEREAS, the City desires to amend its local regulations for the construction of ADUs and JADUs to comply with the amended provisions of Government Code Sections 65852.2 and 65852.22; and

WHEREAS, allowing ADUs and JADUs in conjunction with existing or proposed residential development provides additional rental housing some of which will satisfy the City's 6th Cycle Regional Housing Needs Assessment (RHNA); and

WHEREAS, the proposed Zoning Code Amendment is consistent with Montclair General Plan and implement the following General Plan Goals and Policies; and

WHEREAS, a notice of a public hearing on said application has been given in the manner and for the time required by law; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on June 4, 2021; and

WHEREAS, on June 14, 2021, 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 said proposal were heard, and said application was fully studied.

NOW, THEREFORE, the Planning Commission hereby finds, determines, resolves, and recommends as follows:

SECTION 1. The Planning Commission recommends that the City Council adopt Ordinance No. 21-996 amending Chapters 11.02, 11.16, 11.18, 11.19, 11.20, 11.22, 11.36 and repealing and replacing Chapter 11.23 of the Montclair Municipal Code regulating accessory dwelling units for compliance with recent changes to State Government Code section 65852.2 and 65852.22.

SECTION 2. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the recommendation for approval of Ordinance No. 21-996:

- A. The above Recitals are true and correct.
- B. The proposed zoning amendment is consistent with the General Plan as provided by Government Code Section 65860.

SECTION 3. DETERMINATION. In light of the evidence presented at the hearing on this application, and based on the findings set forth above, the Planning Commission hereby finds that the requirements necessary for the recommendation of approval of Ordinance No. 21-996, subject to all applicable provisions of the Montclair Municipal Code.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). This ordinance is exempt from review under the California Environment Quality Act ("CEQA") (California Public Resources Code Section 21000, et seq.), pursuant to State CEQA and the CEQA Guidelines (14 California Code of Regulations §§ 1 5000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and

California Code of Regulations Section 15282(h). To the extent that any provisions of this ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 5. INCONSISTENCY. If any section, division, sentence, clause, phrase or portion of this resolution or the document in the record in support of this resolution is determined by a court of competent jurisdiction to be invalid, unenforceable, unconstitutional or otherwise void, that determination shall not affect the validity of the remaining sections, divisions, sentences, clauses, phrases of this resolution.

B. RESOLUTION.

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

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. This Commission recommends that the City Council adopt the finding that proposed Ordinance No. 21-996 is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA and the CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because this zoning ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080.17 and California Code of Regulations Section 15282(h). To the extent that any provisions of this ordinance are not exempt pursuant to Section 15282(h), the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061 (b)(3).
3. This Commission recommends the City Council adopt proposed Ordinance No. 21-996, to amend Chapters 11.02 (Definitions), 11.16, 11.18, 11.19, 11.20, 11.22, and 11.36 and repeal and replace Chapter 11.23 of the Montclair Municipal Code in order to comply with Assembly Bill 2299 and Senate Bill 1069.

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

APPROVED AND ADOPTED THIS 14TH DAY OF JUNE, 2021.
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 14th day of June, 2021, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

z:\COMMDEV\SG\2021\2021-16PC RESO 21-1947

EXHIBIT C

**CALIFORNIA DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT
ACCESSORY DWELLING UNIT MEMORANDUM**

DATED JANUARY 10, 2020

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

**MEMORANDUM**

DATE: January 10, 2020
TO: Planning Directors and Interested Parties

A handwritten signature in black ink, appearing to read "Zachary Olmstead".

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **Local Agency Accessory Dwelling Units**
Chapter 653, Statutes of 2019 (Senate Bill 13)
Chapter 655, Statutes of 2019 (Assembly Bill 68)
Chapter 657, Statutes of 2019 (Assembly Bill 587)
Chapter 178, Statutes of 2019 (Assembly Bill 670)
Chapter 658, Statutes of 2019 (Assembly Bill 671)
Chapter 659, Statutes of 2019 (Assembly Bill 881)

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

This recent legislation, among other changes, addresses the following:

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).

- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
- Clarifies “public transit” to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
- Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
- Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
- Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
- Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (b) and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code Section 65852.22).
- Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n)).
- Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
- Removes covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
- Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD’s ADU team at adu@hcd.ca.gov.

ATTACHMENT A

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

(AB 881, AB 68 and SB 13 Accessory Dwelling Units)

(Changes noted in strikeout, underline/italics)

Effective January 1, 2020, Section 65852.2 of the Government Code is amended to read:

65852.2.

- (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
- (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on ~~criteria that may include, but are not limited to,~~ the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
- (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, ~~lot coverage,~~ landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. Resources. These standards shall not include requirements on minimum lot size.
- (ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
- (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- (D) Require the accessory dwelling units to comply with all of the following:
- (i) The accessory dwelling unit may be rented separate from the primary residence, ~~but~~ but may not be sold or otherwise conveyed separate from the primary residence.
- (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing ~~single-family~~ dwelling.
- (iii) The accessory dwelling unit is either attached ~~to,~~ or located ~~within the living area of the~~ within, the proposed or existing primary ~~dwelling or~~ dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
- (iv) ~~The total area of floorspace of~~ If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet. existing primary dwelling.
- (v) The total floor area of ~~floorspace~~ for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing ~~garage living area or~~ accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five-four~~ feet from the side and rear lot lines shall be required for an accessory dwelling

unit that is ~~constructed above a garage.~~ not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per a ccessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, ~~and the local agency requires~~ shall not require that those ~~offstreet~~ offstreet parking spaces be replaced, ~~the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).~~ replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, ~~the application~~ A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, ~~within 120 days after receiving the application.~~ permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs ~~that it incurs~~ as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency ~~subsequent to the effective date of the act adding this paragraph~~ shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. ~~In the event that~~ If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void ~~upon the effective date of the act adding this paragraph~~ and that agency shall thereafter apply the standards established in this

subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the *delay or denial* of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ used or imposed, including any owner-occupant requirement, except that a local agency may require an ~~applicant for a permit issued pursuant to this subdivision to be an owner-occupant~~ or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application. (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

~~(A)~~ Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

~~(A)~~ A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

~~(B)~~ A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

~~(i)~~ 850 square feet.

~~(ii)~~ 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

~~(C)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. 800 square

foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

§ Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

§ (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit ~~to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure,~~ ~~has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.~~ within a residential or mixed-use zone to create any of the following:

Ⓐ) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

Ⓘ The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

Ⓝ The space has exterior access from the proposed or existing single-family dwelling. (iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

Ⓑ) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit: (i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

Ⓒ) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

Ⓓ) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

Ⓔ) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

§) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

§) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

§) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

§) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

¶(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size-square feet or the number of its plumbing fixtures, drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

Local (1) agencies A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time,

no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(X) Amend the ordinance to comply with this section.

(Y) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

B(A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

~~(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.~~

~~(2) "Local agency" means a city, county, or city and county, whether general law or chartered.~~

~~For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.~~

~~(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:~~

~~(A) An efficiency unit.~~

~~(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~

~~(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.~~

~~(3) An efficiency unit, "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.~~

~~(4) A manufactured home, as defined in Section 18007 of the Health and Safety Code. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.~~

~~(5) "Local agency" means a city, county, or city and county, whether general law or chartered.~~

~~(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.~~

~~(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.~~

~~(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.~~

~~(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.~~

~~(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.~~

~~(6)~~ (11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

~~(j)~~ (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(f) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(g) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(3) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Becomes operative on January 1, 2025)

Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

~~N~~otwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding

Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section. No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(5) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, ~~including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.~~ imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(6) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(7) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application

ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an

application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

§ } (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test

completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

§ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed~~ become operative on January 1, 2025. Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in ~~strikeout~~, underline/italics) (AB 68 (Ting)):

65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence ~~already built~~ built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom. proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation. proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

~~A~~ } ~~A sink with a maximum waste line diameter of 1.5 inches.~~

~~B~~ } ~~(A) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas. appliances.~~

~~C~~ } ~~(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.~~

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether if the junior accessory dwelling unit is in compliance complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes

a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g)) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(g) (h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within ~~an existing a single-family structure.~~ residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered. Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

A) The accessory dwelling unit was built before January 1, 2020.

B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

C) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

D) The enforcement agency shall grant an application described in paragraph (2) if the enforcement agency determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of

building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

E) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

F) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

G) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

ATTACHMENT B

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

AB 587 Accessory Dwelling Units

(Changes noted in underline/italics)

Effective January 1, 2020 Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.

§) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

⓪) The property was built or developed by a qualified nonprofit corporation.

Ⓛ) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements

specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

Ⓜ) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

Ⓐ) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

Ⓑ) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

Ⓒ) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

Ⓓ) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

Ⓔ) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership

Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

Ⓟ) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

Ⓠ) For purposes of this section, the following definitions apply:

Ⓡ) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

Ⓢ) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

ATTACHMENT C

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1 AB 670 Accessory Dwelling Units (Changes noted in underline/italics)

Effective January 1, 2020, Section 4751 is added to the Civil Code, to read (AB 670 (Friedman)):

4751.

Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

ATTACHMENT D

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6

AB 671 Accessory Dwelling Units

(Changes noted in underline/italics)

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is added to the Health and Safety Code, to read (AB 671 (Friedman)):

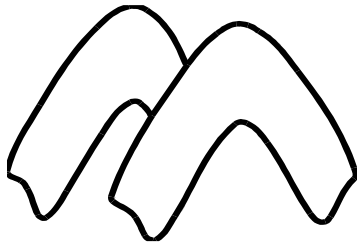
50504.5.

§) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning,

construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

§) The list shall be posted on the department's internet website by December 31, 2020.

§) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 06/14/2021

AGENDA ITEM 6.b

Case No. 2021-17

Application: A Tentative Parcel Map and Conditional Use Permit for a three-unit commercial condominium project on a 3.9-acre site. The Condominium Plan would apply to the three existing medical-use buildings (one building currently under construction) on the site.

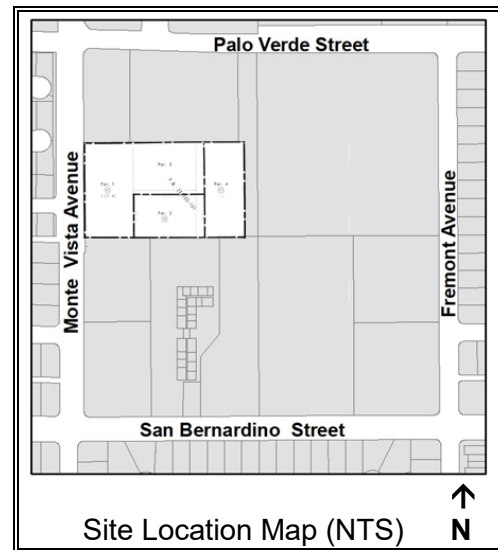
Project Address: 9631, 9635 & 9655 Monte Vista Avenue

Property Owner: Chengdu Holding, LLC

General Plan: Office Professional

Zoning: Administrative Professional (AP)

Assessor Parcel Nos.: 1008-651-45-0000, 1008-651-46-0000, and 1008-651-47-0000



ADJACENT LAND USE DESIGNATIONS AND USES

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
Site	Office Professional	Administrative Professional	Medical Use
North	Office Professional	Administrative Professional	Professional Offices
South	Office Professional and Senior Housing	Administrative Professional	Medical Use and Senior Housing
East	Multifamily	Multifamily Residential (R3)	Multifamily Apartments
West	Low 3-7 Units/Acre Residential and Planned Development	Single-family (R-1) and Single-family Overlay (R-1 SL)	Single-family Residential And Single-family Small Lot

Report on Item Number 6.b

CASE NUMBER 2021-17

APPLICATION TYPE	Tentative Parcel Map (For Condominium Purposes) and Conditional Use Permit
NAME OF APPLICANT	Chengdu Holding, LLC
LOCATION OF PROPERTY	9631, 9635 & 9655 Monte Vista Avenue
GENERAL PLAN DESIGNATION	Office Professional
ZONING DESIGNATION	Administrative Professional (AP)
EXISTING LAND USE	Medical Office Buildings
ENVIRONMENTAL DETERMINATION	Categorically Exempt: Section 15301(k) (Class 1–Existing Facilities) and Section 15315 (Minor Land Divisions)
PROJECT PLANNER	Christine Sanchez Caldwell Economic Development Consultant

Project Proposal

9

The applicant is requesting consideration of a Conditional Use Permit approving Tentative Parcel Map 20375 (For Condominium Purposes) to create a three-unit office condominium project for the properties addressed as 9631, 9635, and 9655 Monte Vista Avenue. The proposed condominium plan would remove all existing property lines and create one singular 3.99-acre parcel.

On July 8, 2019, the Planning Commission approved Case No. 2019-07, a Conditional Use Permit (CUP) and Precise Plan of Design (PPD) to allow the development and operation of a two-phased, 84,023 sq. ft., senior assisted living and memory care facility at the above-referenced site, subject to conditions of approval contained in Resolution No. 19-1932 (Exhibit A attached). Phase 1 construction of the 62,023 sq. ft. main building commenced in February 2020 and is nearing completion. As a condition of approval, the Planning Commission required all four existing parcels be merged into a single parcel pursuant to a lot merger to ensure orderly development of the project and eliminate existing landlocked parcels.

Conditions 1.m and 1.n of Resolution No. 19-1932, specifically requires the original four-parcel site be merged into a single unified parcel, which the applicant is now requesting

to satisfy through the approval of a condominium map. The proposed condominium map (Tentative Parcel Map 20375 – attached as Exhibit B) will allow the senior assisted living and memory care facility to operate independently from the two medical buildings on the site and removes existing property lines, thereby satisfying Conditions 1.m and 1.n of the original approval. The proposed configuration would allow the owner to obtain a permanent loan for the newly developed project exclusive of the remaining two medical buildings. Moreover, the development project now consists of only one phase; no other new construction will occur on the site.

Conditions of approval No. 1.m and No. 1.n read as follows:

Condition No. 1.m:

A parcel merger shall be required. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.

Condition No. 1.n:

Prior to the issuance of a building permit for construction of the new 62,023 sq. ft. building (Phase 1), the applicant shall complete the appropriate lot merger and lot line adjustments to create new Parcels 1-3 so that no building is constructed over a property line. Upon the completion of the new building in Phase 1 and prior to the issuance of a Certificate of Occupancy for said building, Parcels 1-3 shall be combined into a single parcel pursuant to a recorded lot merger for the entire 3.98-acre site. A new reciprocal access agreement granting parking and vehicular and pedestrian access shall be required as an interim measure until all three new parcels are merged and recorded.

Background

- At the time the project was reviewed by the Planning Commission, the subject site was comprised of four separate lots each with a freestanding office building. Two of the four medical buildings were to be demolished to accommodate the first phase of the senior assisted living and memory care facility. A third medical building was to be demolished during Phase 2 and replaced with a new two-story building for 50 additional beds. The originally approved project elements under Planning Case No. 2019-07 are summarized as follows:

Approved Senior Assisted Living and Memory Care Facility	
Phase 1	
Demolition	New Construction
9625 & 9645 Monte Vista Avenue. - 20,092 SF	Two-story Building - <u>62,023</u> SF
9635 & 9655 Monte Vista Avenue to remain	<ul style="list-style-type: none"> • 15 memory care units (28 beds) • 75 assisted living units (75 beds) Total: 90 units with 103 beds.
Phase 2	
Demolition	New Construction
9635 Monte Vista Avenue - 9,111 SF	Two-Story Building – 22,000 SF/50 beds
Total	84,023 SF

- As part of Phase 1, the remaining buildings at 9635 and 9655 Monte Vista Avenue were to be repainted to complement the new color scheme of the new senior assisted living and memory care building. The rear building, 9655 Monte Vista Avenue, would not be demolished in either phase and was intended to retain its medical offices/uses throughout the life of the project.
- Phase 2 construction was planned to begin shortly after the completion of Phase 1 construction. Except for general clean-up of the existing 9635 Monte Vista Avenue medical building and the requirement for new paint, no additional requirements were called for because the medical building was intended to be demolished in a short time span.
- Three temporary lots were created prior to the issuance of a building permit. This required additional lot line adjustments to accommodate the new building (the building could not be constructed across property lines) and to satisfy required setback and building exit requirements. This change allowed for the new building to be constructed on a separate lot and henceforth, allowed the developer to obtain a construction loan.
- On December 19, 2019, the owner recorded the lot line adjustment to create three temporary lots.
- The building address for the lot created with the merging of 9625 and 9645 Monte Vista Avenue is now addressed as 9631 Monte Vista Avenue.
- No Certificate of Occupancy for the assisted living facility would be issued until the final lot merger creating one parcel for the entire 3.99-acre site was completed.

- Office condominium developments are permitted in the AP zone subject to the issuance of a conditional use permit pursuant to the provisions of Chapter 11.78 and the approval of a tentative tract or parcel map.
- Approval of a condominium map would eliminate all existing property lines and create one singular 3.99-acre site.
- The senior assisted living and memory care facility is now named *Aqua Ridge of Montclair Senior Living Community*.

Planning Division Comments

In September 2020, the owner expressed “a financial hardship caused by tightened lending practices” with the requirement to merge the two remaining lots with the newly developed temporary lot that accommodates the under-construction senior assisted living facility. Through a lengthy series of discussions between Planning staff and the owner’s representatives, a condominium map was determined to best satisfy Condition No. 1.n for creating a single parcel, while still providing the developer the opportunity to secure a permanent loan for the assisted senior living and memory care facility. Since there will no longer be a Phase 2 construction project, the two remaining medical buildings are to remain as they currently exist. Recordation of the condominium map, which will now include recorded Covenants, Conditions, Restrictions and Reservations of Easements (CC&Rs), will allow for the orderly operation of the existing and new businesses and provide and maintain uniform on-site improvements. The covenants will ensure professional maintenance and management of the common areas for the entire site.

The CC&Rs for this project remain under draft form and require additional modifications to better address the overall future needs of the project. The proposed CC&Rs will be in final form at the time the Tentative Parcel Map is presented to the City Council.

Tentative Parcel Map

The tentative parcel map seeks only to provide legal documentation of merging the three existing lots into one parcel and creating three individual condominium buildings. Additionally, the proposed map will eliminate all conflicts with property lines posed by the existing parcels and will create a new single parcel appropriate in size and shape to support the formation of the proposed office condominium subdivision on the property. It will eliminate an existing landlocked parcel and two irregularly-shaped lots.

Staff finds the proposed tentative parcel map to be consistent with the applicable minimum development standards regarding minimum property size and dimensions for new parcels within the AP zoning district in which the site is located. Below is the summary of the proposed lot configuration that demonstrates all development standards are met once the three lots are merged and will be maintained with the approval of this action:

TPM 20375 – Zoning Compliance with AP Zoning Development Standards			
<i>Development Standard</i>	<i>Minimum Lot Size</i>	<i>Minimum Lot Width</i>	<i>Minimum Lot Depth</i>
Required	10,000 square feet	75 feet	100 feet
Provided	173,847 square feet	322.21 feet	539.72 feet

Staff further notes the proposed map is consistent with the City of Montclair’s General Plan and Zoning Ordinance requirements for parcels in the AP zone.

The new map would also allow the office condominium units to be sold and ensure each owner has control and ownership over the common areas and in the airspace related to their building and business.

Conditional Use Permit

MMC’s Chapter 11.88 provides flexibility to employ more innovative and imaginative land use planning concepts subject to a Conditional Use Permit approval. Staff recognizes that office condominium developments are different in many respects from other types and land ownership as it provides variety in the physical development pattern as well as diverse office activities including medical uses. Chapter 11.88.100.C.2.a of the Montclair Municipal Code (MMC) provides regulations in terms of unit size and uses in which the project meets.

Unit Size:

The units are sized in compliance with the minimum size specifications per code. Specifically, each office condominium building would meet the minimum code requirements for all the structures, parking, open space, private unit space, and other appurtenant facilities that are reserved for the exclusive use of each unit as well as a proportionate share of all common space and facilities. Each building would also have separate water, sewage, and utility connections as required by the MMC. Each utility would be separately billed and have access to its own meters, heaters, air-conditioners with its own electrical panels. Additionally, the owners of the buildings would have equal use of on-site assigned parking, landscaped and walkway areas, shared driveways, outdoor picnic area, and shared expenses related to common area maintenance.

Allowed Uses:

The types of office condominium uses allowed in the project are those allowed per the requirements of Chapter 11.24 AP- Administrative Professional zone, unless a particular use is specifically limited by the owner of the property. All of the current uses in the buildings are medical use related, which is allowed per code.

Finally, the uses would be governed by CC&Rs and the site will be regulated by an on-site property management company that will ensure daily maintenance (including

landscape), proper assignment of parking spaces, guest management, proper uses of the units, and security of the site.

In conclusion, the proposed CC&Rs will create a positive impact to the existing site in that there will be an established set of uniform maintenance requirements and employment of a professional property management company.

Tentative Tract Map Findings

Pursuant to California Government Code Section 66410, *et seq.*, the following findings for recommending approval to the City Council of Tentative Parcel Map No. 20375 can be made:

- A. The proposed subdivision and the provisions for its design and improvements are consistent with the adopted General Plan and the Montclair Municipal Code in that the Tentative Parcel Map proposal meets minimum lot size and dimension standards of the “AP” zoning district and provides for ample area on which to accommodate existing and future land uses compatible with the underlying zoning district. Moreover, the Tentative Parcel Map eliminates landlocked and irregularly-shaped lots thereby promoting good planning practices and orderly development within the City.
- B. The proposed office condominium subdivision is physically suitable for the types and densities of the existing buildings and on-site improvements, in that the overall combined total of 3.99 acres in area, is of a configuration that has sufficient width and depth to allow for orderly development. The two existing medical buildings and senior assisted living and memory care facility (currently in the final stages of construction) are located adjacent to a fully improved street that connects to Monte Vista Avenue and will provide direct and safe access to the project site. In addition, the site is designed to allow for appropriate internal pedestrian and vehicular circulation around the proposed improvements and managed through recorded CC&Rs.
- C. The proposed office condominium subdivision and existing improvements are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat, in that the site is recently developed and surrounded by urban development and streets; does not contain any bodies of water; is not linked to any wildlife corridors; and does not contain any evidence of known habitats of significance including rare or endangered species of plant, animal, or insect life.
- D. The proposed office subdivision design in the Tentative Parcel Map is not likely to cause serious public health problems because all development and public improvements will have been constructed per the requirements of all applicable standards and codes including the zoning and building codes, and subject to all Planning Commission Conditions of Approval associated with Case No. 2019-07.

- E. The subdivision design and type of existing improvements proposed Tentative Parcel Map will not conflict with any onsite public or private easements for access or use, in that CC&Rs will be recorded on the property addressing reciprocal access, parking, maintenance, etc., on the property.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for the approval of Tentative Parcel Map 20375 (for condominium purposes) can be made, as follows:

- A. The proposed office condominium development is essential and desirable to the public convenience and public welfare, in that the condominium map and recorded CC&Rs will allow for the continued orderly operation of the businesses and provide a uniform appearance of the site. The covenants will ensure the professional maintenance and management of the common areas for the entire site and allow for the orderly future sale of the existing buildings.
- B. Granting the CUP for Tentative Parcel Map 20375 will not be materially detrimental to the public welfare and to other properties in the vicinity, in that the creation of a single parcel will ensure the orderly property management and future redevelopment of the site by eliminating existing landlocked and unusually-sized parcels.
- C. The existing development located on the site of the proposed office condominium subdivision is well designed and appropriately located in an area where there would be little to no impacts, in that the site is located in the Administrative Professional (AP) zone that allows for office condominium subdivisions. The project site has easy and safe access from developed streets, meets all applicable development standards for condominium subdivisions, and recorded CC&Rs will have a positive impact to the area and surrounding streetscape, in that CC&Rs will ensure proper uses and operations of each building and all the common areas.
- D. The proposed office condominium project for the subject site is not contrary to the objectives of any part of the 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 office and medical uses while eliminating or minimizing potential detrimental impacts on surrounding properties and uses such as landlocked and irregularly-sized parcels.

ENVIRONMENTAL ASSESSMENT

Planning staff finds this project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301(k) (Class 1 – Existing Facilities) and Section 15315 (Minor Land Divisions) of the State CEQA Guidelines. The project qualifies because the proposed project is on a developed site, involves no expansion of the existing buildings, and is the formation of an office condominium subdivision consisting of three buildings existing on the site.

PUBLIC NOTICE AND COMMENTS

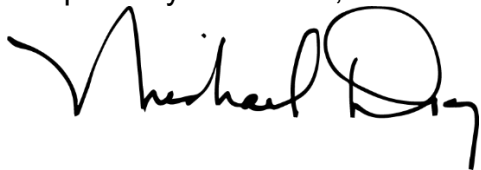
This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on June 4, 2021, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property. As of the date of the writing of this report, no inquiries regarding the project were received by staff.

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 requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301(k) (Class 1 – Existing Facilities) and Section 15315 (Minor Land Divisions) of the State CEQA Guidelines. The project qualifies because the proposed project is on a developed site, involves no expansion of the existing buildings, and is the formation of a condominium subdivision of three existing medical buildings on the site.
- B. Move to recommend City Council approval of Tentative Parcel Map No. 20375 to allow the design and improvement of land subdivision in compliance with the Subdivision Map Act of the State, including the conditions of approval in attached Resolution No. 21-1949.
- C. Move to approve the Conditional Use Permit per the submitted plans and as described in the staff report for the three-unit office condominium project under Case No. 2021-17, subject to the conditions of approval in attached Resolution No. 21-1949.

Respectfully Submitted,



Michael Diaz
Director of Community Development

MD/csc

Attachments: Exhibit A – Resolution No.19-1932
 Exhibit B – TPM 20375
 Exhibit C:– Draft Resolution No. 21-1949

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c: Chengdu Holding, LLC, 701 S. San Gabriel Blvd. Ste. D, San Gabriel, CA 91776
Robert Chiang, Clover Estate, Inc., 2361 Fullercreek Road, Chino Hills, CA 91709

EXHIBIT A

**PLANNING COMMISSION
RESOLUTION NO. 19-1932**

RESOLUTION NO. 19-1932

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2019-07 FOR DEVELOPMENT OF A SENIOR ASSISTED LIVING AND MEMORY CARE FACILITY AT 9625, 9635, 9645 AND 9655 MONTE VISTA AVENUE AND PRECISE PLAN OF DESIGN APPROVAL OF THE SITE PLAN, FLOOR PLANS, ELEVATIONS, COLORS, MATERIALS, AND CONCEPTUAL LANDSCAPE PLAN FOR CONSTRUCTION OF THE 62,023 SQUARE-FOOT BUILDING AND REMODEL OF THE REMAINING BUILDINGS (ASSESSOR PARCEL NUMBERS 1008-651-09-0000, 1008-651-10-0000, 1008-651-11-0000, AND 1008-651-12-0000)

WHEREAS, on September 17, 2018, Chendu Holdings, LLC, property owner, filed an application for a Conditional Use Permit (CUP) and Precise Plan of Design (PPD) identified as Case No. 2019-07, to allow the development of a two-phased senior assisted living and memory care facility at 9625, 9635, 9645, and 9655 Monte Vista Avenue; and

WHEREAS, the subject property is approximately 3.98 acres in size and is comprised of four separate legal parcels with four freestanding office buildings, two of which will be demolished to accommodate the first phase of the project; and

WHEREAS, the four existing properties will be merged into a single parcel pursuant to a lot merger and allow the development of the proposed project per approved plans; and

WHEREAS, the Phase 1 includes the demolition of two buildings, 9625 and 9645 Monte Vista Avenue, to all the construction of a new two-story 60,023 square foot assisted living and memory care facility; and

WHEREAS, the subject site is located in the AP (Administrative Professional) zone; and

WHEREAS, an assisted living and memory care facility is allowed in the AP zone pursuant to the approval of a Conditional Use Permit; and

WHEREAS, the Precise Plan of Design pertains to the site plan, floor plans, elevations, colors, materials, and conceptual landscape plan associated with the proposed development and redevelopment of the site; and

WHEREAS, the Precise Plan of Design details the site plan, building placements, landscaping, and parking fields for both construction phases of the project; and

WHEREAS, the application only includes design plans for the two-story 62,023 SF building to be built during Phase 1 of the project; and

WHEREAS, the building design plans for Phase 2 shall require prior City review approval for Precise Plan of Design prior to construction of the Phase 2 improvements that will include building elevations, colors, materials, etc.; and

WHEREAS, staff finds the project to be in compliance with the guidelines and applicable development standards of the AP (Administrative Professional) zone; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study for the project and released it for a 20-day public review and comment beginning on June 7, 2019, and ending on June 26, 2019; and

WHEREAS, notice of the availability of the Initial Study and Planning Commission review of this item was mailed out to property owners within a 300-foot radius of the project site boundaries; and

WHEREAS, one comment was received by staff on June 24, 2019, from the Inland Pulmonary Medical Group, 9655 Monte Vista Avenue, regarding the number and type of rooms, the amount of landscaping for the project, and whether the zoning for the project was appropriate; and

WHEREAS, based on the findings of the Initial Study, staff has determined that the project could have a potential significant adverse environmental impact unless reduced to a level of less than significance by the implementation of eleven proposed mitigation and standard measures. Areas identified as subject to potential environmental impacts requiring mitigation were Biological Resources, Cultural Resources (short term during site preparation), Geology and Soils, Hazards and Hazardous Materials, and Tribal Cultural Resources (short term during site preparation). Eleven (11) mitigation measures and standard conditions have been proposed and included as conditions of approval for the project. Therefore, a Mitigated Negative Declaration is proposed for the project; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that no subsequent or supplemental environmental document is required pursuant to the California Environmental Quality Act (CEQA) in connection with the review and approval of this application based upon the following findings and determinations; and

WHEREAS, the Planning Commission finds there is no substantial evidence the project may have a significant effect on the environment with the implementation of

mitigation measures and directs staff to prepare a Notice of Determination for the Mitigated Negative Declaration and a De Minimis finding of no effect on fish and wildlife; and

WHEREAS, a notice of public hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on July 8, 2019, 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 said application 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. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

SECTION 2. Based upon substantial evidence presented to this Commission during the above-referenced public hearing on July 8, 2019, including written and oral staff reports, together with public testimony, this Commission hereby makes the following findings to approve the Conditional Use Permit for the senior assisted living and memory care facility at 9625, 9635, and 9645 Monte Vista Avenue as follows:

- A. The proposed senior assisted living and memory care facility would be beneficial to the public convenience and public welfare, in that the project would provide a safe and healthy alternate living option to a primarily senior-aged population. Personal care is provided for residents who cannot care for themselves and all residents would benefit from nutritional well-balanced meals and will be provided transportation to medical appointments, errands, and other areas of interest.
- B. Granting the CUP to allow the establishment of a senior assisted living and memory care facility will not be materially detrimental to the public welfare and to other property in the vicinity in that proposed project will generate relatively less peak-hour or total traffic counts on the site compared to the existing medical office uses. The majority of the residents will not drive cars and will rely primarily on the shuttle service provided by the operator. In addition, a senior assisted living and memory care facility is complementary to the surrounding healthcare-focused land uses.
- C. The proposed senior assisted living and memory care facility at the subject location conforms to good zoning practice, in that the Montclair Municipal Code allows for assisted living/memory care facilities in the Administrative Professional (AP) zone, subject to CUP approval. The CUP allows the City to place reasonable conditions

to govern the overall operation of the senior assisted living and memory care facility.

- D. The subject use in the proposed location is not contrary to the objective of any part of the adopted General Plan, in that the General Plan encourages a wide range of healthcare and medical service uses complementary to the local community hospital.

SECTION 3. Based upon the entire record before the Planning Commission during the above-referenced hearing on July 8, 2019, including written and oral staff reports together with public testimony, this Planning Commission hereby finds as follows with respect to the recommendation of approval of Precise Plan of Design under 2019-07, subject to the conditions of approval contained in this resolution. Staff believes the findings for approving the PPD for a senior assisted living and memory care facility can be made, as follows:

- A. The proposed development of a 62,023 square-foot assisted living and memory care facility and associated on-site improvements is consistent with the current zoning designation and applicable development standards of the AP (Administrative Professional) zone. Phase 2 construction of a future 22,000 square foot building (memory care center) will require prior Planning Commission Precise Plan of Design approval. The design of the building will be generally consistent and/or complement the overall design, colors, and materials used on Building 1.
- B. The proposed assisted living and memory care development project would result in a substantial and significant improvement to the appearance of the site by replacing underutilized and dilapidated and neglected buildings and landscape planters with a new contemporary development that incorporates the efficient use of the site, high quality site design, and architectural design features.
- C. The proposed building design features high quality exterior materials/finishes, water efficient landscaping plantings that are intentionally designed to soften views of the plain, wall elements of the building, and provide appropriate lighting and hardscape improvements that would result in an enhanced visual appearance for the site.

SECTION 4. Based upon the entire record before the Planning Commission during the above- referenced hearing on July 8, 2019, including written and oral staff reports together with public testimony, this Planning Commission hereby finds the proposal to be consistent with the overall objectives of the City of Montclair General Plan, Montclair Municipal Code, and good planning principles, and approves the application subject to each and every condition set forth below.

Planning

1. This Conditional Use Permit, and Precise Plan of Design approval is for development of an assisted living and memory care facility as depicted on approved plans dated April 16, 2019 and as described in the staff report. The approved CUP and PPD shall comply with the following requirements:
 - a. This Precise Plan of Design (PPD) approval is only for Phase 1 – the construction of a new 62,023 square-foot assisted living and memory care facility and associated site and building improvements including parking and landscaping for the properties located at 9625, 9635, 9645, and 9655 Monte Vista Avenue, as described in the staff report and depicted on approved plans.
 - b. Phase 2 – the construction of the 22,000 square foot secondary building shall require prior Planning Commission consideration for Precise Plan of Design approval prior to issuance of a building permit.
 - c. The maximum number of beds for the assisted living and memory care facility is as follows:
 - Phase 1: 15 memory care units (28 beds)
75 assisted living units (75 beds)
 - Phase 2: 50 memory care/assisted living units (50 beds)
 - d. Buildings at 9635 and 9655 Monte Vista Avenue shall be repaired and repainted as depicted on approved plans and as described in the staff report. Replacement of all deteriorated exterior materials and finishes shall be repaired and/or replaced in good quality condition to the satisfaction of the Community Development Director and/or City Planner/Planning Manager.
 - e. Colors and materials as shown on the plans dated April 16, 2019, cannot be modified and/or replaced without prior approval of the Director of Community Development and/or City Planner/Planning Manager. Approved materials and colors are as follows:
 - i. SW 7041 Van Dyke Brown (Accent Stucco and Trim)
 - ii. SW 6385 Dover White (Base Stucco)
 - iii. DEC 760 Desert Gray (Accent Stucco)

- iv. DEC 761 Cochise (Accent Stucco)
- v. Coronado Stone “Special Used Brick”—Eagle Bluff; proposed color may change pursuant to the Director of Community Development and/or City Planner determination.
- f. The applicant will continue to work with Planning staff to fine-tune the selection of brick veneer color (Eagle Bluff) for the Phase 1 building. A true sample of the material (color) shall be submitted to Planning staff during the plan check process.
- g. Windows shall be dark bronze or black in color. No specifications were provided to Planning Division at time of submittal of application; therefore, a catalogue-cut out of the window style, brand, and specifications shall be submitted to Planning staff during the Building Plan Check process for final approval.
- h. All windows shall provide a minimum 2” depth inset from the wall plane.
- i. No decorative foam trim shall be installed around door entries, windows, and/or trim elements (e.g., belt courses) utilized within eight feet (8’) from finished adjacent ground or floor elevations.
- j. All interior window treatments (blinds, roller shades, etc.) shall be uniform in color and style and shall be a neutral color. The Director of Community Development and/or City Planner/Planning Manager shall approve final selections.
- k. Roof materials on the porte-cochere shall be approved by the Director of Community Development and/or City Planner/Planning Manager.
- l. The applicant shall continue to work with the Planning staff for final development of the landscape plans—particularly with the placement of trees and shrubs in order to ensure the landscape fully complements the buildings and the full site.
- m. A parcel merger shall be required. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
- n. Prior to the issuance of a building permit for construction of the new 62,023 sq. ft. building (Phase 1), the applicant shall complete the appropriate lot merger and lot line adjustments to create new Parcels 1-3 so that no building is constructed over a property line.

Upon the completion of the new building in Phase 1 and prior to the issuance of a Certificate of Occupancy for said building, Parcels 1-3 shall be combined into a single parcel pursuant to a recorded lot merger for the entire 3.98-acre site. A new reciprocal access agreement granting parking and vehicular and pedestrian access shall be required as an interim measure until all three new parcels are merged and recorded.

- o. There shall be no exposed individual air conditioner units located on/within any of the exterior wall elevations or located in the front landscape planter areas. Ground-placed air conditioner units/compressors must be completely screened from Monte Vista Avenue.
 - p. The applicant shall provide Planning staff a catalogue cut of the proposed decorative wall lighting for final approval by the Director of Community Development and/or City Planner/Planning Manager.
 - q. The applicant shall provide Planning staff a catalogue cut of the proposed metal awnings/canopies for final approval by the Director of Community Development and/or City Planner/Planning Manager.
2. The CUP approval shall be valid for six (6) months and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant is diligently pursuing building plan check toward obtaining building permits and completing the approved 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.
3. 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 has submitted plans for, and is diligently pursuing, building plan check and building permits to allow 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.
4. No changes to the approved set of plans, including the exterior design and materials/finishes, shall be permitted without prior City review and approval. Any modification, intensification, or expansion of the use and design plan beyond that which is specifically approved with this PPD shall require review and approval by the Planning Commission.

5. 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, including but not limited to Chapter 11.78.030 of the Montclair Municipal Code. Approval of this CUP and PPD shall not waive compliance with any such requirements.
6. 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 \$2,354.75 payable to "Clerk of the Board of Supervisors," to cover the California Department of Fish and Wildlife (CDFW) fee for filing a Notice of Determination (NOD) for the proposed Mitigated Negative Declaration as required by the California Environmental Quality Act (CEQA).
 - b. A check for \$627.56, the actual cost of publication, 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.
7. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
8. 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.
9. Any future business(es) occupying the completed building 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 license application, the property and subject lease spaces will be inspected to ensure compliance with all applicable codes, including the provision of adequate on-site parking.
10. The operator of the assisted living and memory care shall be responsible for obtaining and maintaining all appropriate licenses and certifications required to operate proposed subject facility.
11. No outdoor pay phones, loudspeakers, or vending machines shall be installed or placed on the property.
12. All automobile parking spaces shall be clearly delineated with double-line (e.g. "hairpin") striping.

13. There shall be not outdoor storage of personal or other items (including motor vehicles).
14. No temporary or permanent living quarters shall be established on the premises within any building or motorhome/recreational vehicle. Indications that the property is being used as temporary or permanent living quarters including action such as spending a significant time at the location on more than one day, sleeping at the location,
15. Future business operations on the site shall be subject to the applicable noise requirements of Chapter 6.12 of the Montclair Municipal Code.
16. 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 lighting fixtures shall be vandal-resistant and of a design that complements the architecture of the building.
 - c. All parking lot and other freestanding light fixtures shall incorporate 90-degree cut-off style luminaires and flat lenses to direct illumination downward to the surface to be illuminated and away from public rights-of-way surrounding the subject site.
 - d. Freestanding light fixtures and poles shall not exceed a maximum height of 25'-0" as measured from adjacent grade to top of luminaires.
 - e. 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.
 - f. 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.
 - g. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Planning Division.
17. The trash enclosure(s) shall have a solid roof cover and be designed to complement the overall architecture of the main building. Contact Burrtec Waste Industries to determine the number of required bins to support the most likely end user(s) of the building.

18. Prior to issuance of a Certificate of Occupancy, the applicant shall install approved landscaping materials on the entire site, subject to the satisfaction of the Director of Community Development and/or City Planner/Planning Manager. The following minimum standards shall apply:
 - a. All shrubs shall be minimum five-gallon container size (except herbaceous perennials and woody spreading shrubs on slopes).
 - b. All trees (except required street trees) shall be minimum 24-inch box size and double-staked.
 - c. A minimum of 3 inches of bark mulch (shredded or chips) shall be provided on all planted areas or an alternative material approved in advance by the Director of Community Development and/or City Planner/Planning Manager.
 - d. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
19. All landscaping and irrigation systems shall be maintained in accordance with an approved site and/or landscape plan to ensure water use efficiency.
20. Any plant material that does not survive, is removed, or destroyed shall be replaced upon its demise or removal with plant material of a like type and size as that originally approved and installed.
21. 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 Community Development Director and/or City Planner/Planning Manager.
22. Signage on the building shall be limited to the name of the business only and numerical address. A monument sign may be installed subject to prior City review and approval. A separate Sign Permit Application shall be submitted by the property owner (or licensed sign contractor) for the abovementioned sign(s) to the Planning and Building Divisions for review, approval, and issuance of all necessary permits prior to installation of any sign(s).

23. 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.
24. All roof-mounted mechanical equipment (e.g., vents, meters, HVAC units, ducts, conduit, satellite dishes, photovoltaic systems, etc.), enclosures or equipment screen walls shall not, under any circumstances, project above the roof parapet.
25. Screening of roof-mounted equipment shall be accomplished with mechanical roof wells recessed below the roof line or by solid and permanent roof-mounted screens. Screening shall be compatible with the architectural style, materials, and color of the building upon which the equipment is located, subject to the approval of the Director of Community Development and/or City Planner/Planning Manager.
26. Ground-mounted mechanical equipment shall be fully screened from view from streets or surrounding residential or commercial uses by a combination of decorative walls and an evergreen hedge equal to or exceeding the height of the equipment.
27. Access to the roof of the building shall be from within the structure and not be means of roof access ladders mounted to the exterior of the building.
28. 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 and/or City Planner/Planning Manager.
29. Freestanding electrical transformers and Fire Department double check detector assembly (DCDA) equipment shall be screened with masonry walls compatible with the building architecture and/or landscaping to the satisfaction of the Director of Community Development and/or City Planner/Planning Manager and Fire Marshal. Efforts shall be made to place these elements in locations that are as visually unobtrusive as possible.
30. The property owner shall be responsible for maintaining all buildings, yards, structures, signs, parking areas and other improvements in such a manner that does not detract from the appearance of 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.

31. Graffiti or etching of glass areas on the building or on other site improvements shall be removed/replaced immediately by the applicant/property owner upon notification by the City.
32. 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.
33. 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.
34. 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.
35. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

Environmental Mitigation Measures

36. *Biological Resources (Mitigation Measure BIO-1)* – If project activities are planned during the bird nesting season (February 1 to August 31), a nesting bird survey shall be conducted within three days (72 hours) prior to any ground disturbing activities, including but not limited to demolition, clearing, grubbing, and/or rough grading, to ensure birds protected under the Migratory Bird Treaty Act (MBAT) are not disturbed by onsite activities. Any such survey(s) shall be conducted by a qualified biologist. If no active nests are found, no additional actions related to this measure are required. If active nests are found, the nest locations shall be mapped by the biologist. The nesting bird species shall be documented and, to the degree feasible, the nesting stage (e.g., incubation of eggs, feeding of young, near fledging) determined. Based on the species present and surrounding habitat, a no-disturbance buffer shall be established around each active nest. The buffer shall be identified by a qualified biologist and confirmed by the City; non-raptor bird species nests shall be buffered at least 280 feet, while raptor nests shall be buffered at 820 feet. No construction or ground disturbance

activities shall be conducted within the buffer until the biologist has determined the nest is no longer active and has informed the City and construction supervisor that activities may resume. This measure shall be implemented to the satisfaction of the Community Development Director or designee.

37. *Cultural Resources (Mitigation Measure CUL-1)* – Prior to issuance of grading permits, the City shall verify that the following note is included on the grading plans:

“If any suspected cultural resources are discovered during ground-disturbing activities, the construction supervisor is obligated to halt work within a 60-foot radius around the find and call the project archaeologist to the site to assess the significance of the find. The project archaeologist, the project proponent, and the City Community Development Department shall confer regarding the disposition of the discovered resource(s). The project archaeologist shall prepare a treatment plan and/or preservation plan to be reviewed by the project proponent and the City Community Development Department and implemented by the project archaeologist; the project archaeologist shall monitor remaining earthmoving activities at the project site to protect the identified cultural resource(s) from damage and destruction in accordance with the treatment plan and/or preservation plan. A final report containing the significance and treatment findings shall be prepared by the project archaeologist and submitted to the City Community Development Department and the South Central Coastal Information Center at California State University, Fullerton. Any cultural material, excluding sacred, ceremonial, grave goods, and human remains, collected during construction and from any previous archaeological studies or excavations on the project site shall be curated, as determined by the treatment plan, according to current professional repository standards.”

This measure shall be implemented to the satisfaction of the City Community Development Director or designee.

38. *Geology and Soils (Standard Condition GEO-1)* - Prior to the approval of grading and/or building permits, the project proponent shall provide evidence to the City for review and approval that proposed on-site structures, features, and facilities have been designed and will be constructed in conformance with applicable provisions of the 2016 California Building Code and the recommendations cited in Section 5.1 (Grading), Section 5.2 (Shallow Foundation Design), Section 5.3 (Foundation Construction), Section 5.4 (Concrete Slab), Section 5.5 (Retaining Wall), Section 5.6 (Temporary Excavation and Backfill), Section 6.0 (Seismic Design), Section 8.0 (Corrosion Potential), Section 9.0 (Inspection), Section 10.0 (Double Ring Infiltration Test), Section 11.0 (Drainage), and Section 12.0 (Asphalt Pavement) of the project-specific Geotechnical Engineering Investigation.

39. *Geology and Soils (Mitigation Measure GEO 1)* – Prior to issuance of grading permits, the City shall verify that the following note is included on the grading plans:

“If paleontological resources are encountered during the course of ground disturbance, work in the immediate area of the find shall be redirected and a paleontologist shall be contacted to assess the find for scientific significance. If determined to be significant, the fossil(s) shall be collected from the field. The paleontologist may also make recommendations regarding additional mitigation measures, such as paleontological monitoring. Scientifically significant resources shall be prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a museum repository. If scientifically significant paleontological resources are collected, a report of findings shall be prepared to document the collection.”

This measure shall be implemented to the satisfaction of the City Community Development Director or designee.

40. *Hazards and Hazardous Materials -- (Mitigation Measure HAZ-1)*: If asbestos-containing materials (ACM) are identified during demolition activities, demolition shall be halted, and all ACM shall be abated from the demolition site. An Asbestos Notification shall be prepared and submitted to the South Coast Air Quality Management District (SCAQMD) for approval before any asbestos abatement may commence. The contractor shall provide an asbestos report and a construction and demolition plan with disposal tickets from an SCAQMD-approved disposal facility and air clearances to the City prior to final inspection and approval for the resumption of demolition. This measure shall be implemented to the satisfaction of the City of Montclair Community Development Director or designee, and/or Building and Safety Division, or designee.
41. *Hazards and Hazardous Materials - (Mitigation Measure HAZ-2)*: If lead-based materials (LBM) are identified during demolition activities, demolition shall be halted, and all LBM shall be abated from the demolition site. The contractor shall provide a lead report and a construction and demolition plan with disposal tickets from an SCAQMD-approved disposal facility and air clearances to the City prior to final inspection approval for the resumption of demolition. This measure shall be implemented to the satisfaction of the City of Montclair Community Development Director or designee, and/or Building and Safety Division, or designee.
42. *Hydrology and Water Quality – (Standard Condition HYD-1)*: Prior to the issuance of a grading permit, the project applicant shall file and obtain a Notice of Intent (NOI) with the Regional Water Quality Control Board

(RWQCB) in order to be in compliance with the State National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit for discharge of surface runoff associated with construction activities. Evidence that this has been obtained (i.e., a copy of the Waste Discharger's Identification Number) shall be submitted to the City of Montclair for coverage under the NPDES General Construction Permit. The NOI shall address the potential for an extended and discontinuous construction period based on funding availability. This measure shall be implemented to the satisfaction of the Director of the City Engineering Division of the Public Works Department or designee.

43. *Hydrology and Water Quality – (Standard Condition HYD-2):* Prior to the issuance of a demolition and/or grading permit, the project applicant shall submit to the City of Montclair a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall include a surface water control plan and erosion control plan citing specific measures to control on-site and off-site erosion during the entire demolition, grading, and construction period. In addition, the SWPPP shall emphasize structural and nonstructural Best Management Practices (BMPs) to control sediment and non-visible discharges from the site. The SWPPP shall include inspection forms for routine monitoring of the site during both the demolition and construction phases to ensure National Pollutant Discharge Elimination System (NPDES) compliance and that additional BMPs and erosion control measures will be documented in the SWPPP and utilized if necessary. The SWPPP shall address the potential for an extended and discontinuous construction period based on funding availability. The SWPPP shall be kept on site for the entire duration of project construction and shall be available to the local RWQCB for inspection at any time. BMPs to be implemented may include the following:

- Sediment discharges from the site may be controlled by the following: sandbags, silt fences, straw wattles and temporary basins (if deemed necessary), and other discharge control devices. The construction and condition of the BMPs shall be periodically inspected during construction, and repairs shall be made when necessary as required by the SWPPP.
- Materials that have the potential to contribute to non-visible pollutants to storm water must not be placed in drainage ways and must be contained, elevated, and placed in temporary storage containment areas.
- All loose piles of soil, silt, clay, sand, debris, and other earthen material shall be protected in a reasonable manner to eliminate any discharge from the site. Stockpiles shall be surrounded by silt fences and covered with plastic tarps.

- In addition, the construction contractor shall be responsible for performing and documenting the application of BMPs identified in the SWPPP. Weekly inspections shall be performed on sandbag barriers and other sediment control measures called for in the SWPPP. Monthly reports and inspection logs shall be maintained by the contractor and reviewed by the City of Montclair and the representatives of the State Water Resources Control Board. In the event that it is not feasible to implement specific BMPs, the City of Montclair can make a determination that other BMPs will provide equivalent or superior treatment either on or off site.

This measure shall be implemented to the satisfaction of the Director of the City Engineering Division of the Public Works Department or designee.

44. *Hydrology and Water Quality – (Standard Condition HYD-3):* Prior to issuance of a grading permit, the project proponent shall submit evidence to the City that the Low Impact Development (LID) Best Management Practices (BMPs) specified in the Final Water Quality Management Plan (Final WQMP) approved by the City of Montclair on February 21, 2019 shall be written into the grading and development plans submitted to the City for review and approval to manage water quality and hydrologic effects of the proposed project. Final WQMP BMPs shall include conveyance of storm water runoff to the off-site Chino Basin Water Conservation District Montclair Basin #4 - Wilderness Park, located 1,500 feet to the west and 40 feet down gradient of the project site for natural infiltration in accordance with the San Bernardino County Watershed Action Plan and the Technical Guidance Document for Water Quality Management Plans prepared for the County of San Bernardino Area wide Stormwater Program, National Pollutant Discharge Elimination System Permit Number CAS618036, Order Number R8-2010-0036. Specifically, the low impact development BMPs shall be implemented to ensure the project meets or exceeds the minimum design capture volume of the site and ensure all storm water runoff from the site be free of debris pursuant to City and Chino Basin Water Conservation District requirements and standards prior to conveyance off-site to the Chino Basin Water Conservation District Montclair Basin #4 - Wilderness Park.

Periodic maintenance of LID BMPs during project occupancy and operation shall be in accordance with the schedule outlined in the Final WQMP. This measure shall be implemented to the satisfaction of the Director of the City Engineering Division of the Public Works Department or designee.

45. *Tribal Cultural Resources – (Mitigation Measure TCR-1):* Prior to issuance of any grading permit for the proposed project, the City of Montclair (City) shall ensure that the project applicant retains the services of a Tribal monitor approved by the Gabrieleno Band of Mission Indians-Kizh Nation for Native

American monitoring during ground-disturbing activities. This provision shall be included on proposed project plans and specifications.

Ground-disturbing activities are defined by the Gabrieleno Band of Mission Indians-Kizh Nation as activities that may include, but are not limited to, pavement removal, pot-holing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching within the project area. The project site shall be made accessible to the monitor(s) provided adequate notice is given to the construction contractor and that a construction safety hazard does not occur. The monitor(s) shall be approved by the Gabrieleno Band of Mission Indians-Kizh Nation and shall be present on site during the construction phases that involve any ground-disturbing activities.

The monitor(s) shall possess Hazardous Waste Operations and Emergency Response (HAZWOPER) certification. In addition, the monitor(s) shall be required to provide insurance certificates, including liability insurance, for any tribal cultural resources and/or archeological resource(s) encountered during grading and excavation activities pertinent to the provisions outlined in the California Environmental Quality Act (CEQA), California Public Resources Code (PRC) Division 13, Section 21083.2 (a) thorough (k).

Construction activity shall not be contingent on the presence or availability of monitor, and construction may proceed regardless of whether or not a monitor is present on site. The monitor shall complete daily monitoring logs that will provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when the project site grading and excavation activities are completed or when the monitor has indicated that the site has a low potential for tribal cultural resources and/or archeological resources.

46. *Tribal Cultural Resources – (Mitigation Measure TCR-2):* All tribal cultural resources and/or archeological resources unearthed by proposed project construction activities shall be evaluated by the qualified archeologist and Native American monitor approved by the Gabrieleno Band of Mission Indians-Kizh Nation. Upon discovery of any archeological resources, construction activities shall cease in the immediate vicinity of the find until the find can be assessed. Construction work shall be permitted to continue on other parts of the project site while evaluation and, if necessary, additional evaluation and/or preservation measure takes place (*CEQA Guidelines* Section 15064.5[f]).

If the resources are Native American in origin, the Gabrieleno Band of Mission Indians-Kizh Nation tribe shall coordinate with the landowner regarding treatment and curation of these resources. If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time allotment and funding

sufficient to allow for implementation of avoidance measures shall be made available through coordination between the Gabrieleno Band of Mission Indians-Kizh Nation and the project applicant. The treatment plan established for the resources shall be in accordance with *CEQA Guidelines* Section 15064.5 (f) for historical resources and Public Resources (PRC) Sections 21083.2(b) for unique archeological resources. Preservation in place (i.e., avoidance) shall be the preferred manner of treatment.

If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with the subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated by a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.

Water Quality Management Plan

47. The property owner shall be responsible to contract with a qualified firm to inspect and maintain any stormwater treatment devices specified by the approved WQMP, following all WQMP 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.
48. 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 to the satisfaction of the City Engineer. Contact Joe Rosales, NPDES Coordinator, at (909) 625-9470.
49. Prior to receiving a City Grading permit a State Construction General permit must be obtained and proof must be shown (WDID number) to the Building Division.
50. At the time of Grading permit issuance; Post-Construction BMP inspection permit fees associated with the approved WQMP shall be paid. Contact Joe Rosales, NPDES Coordinator, at (909) 625-9470 for further information regarding permit and fees.

51. Prior to issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Engineering Division an electronic copy of the approved WQMP in PDF format.
 - b. Submit to the Engineering Division as built drawings as it relates to the WQMP.
 - c. The WQMP Maintenance Agreement must be signed by the property owner and recorded with the County of San Bernardino and provide evidence of said recording to the Engineering Division.
52. Prior to 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 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, developer shall also submit evidence to the NPDES Coordinator that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the WQMP.
53. 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 Best Management Practices (BMPs) shall be duly noted and shown on the landscape plans per the approved WQMP.

Building Division

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

54. 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 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.
55. 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.
 56. A building, structure, sewage system, utility line, eave or projection of a structure, or similar shall not cross over a property line so as to encroach on another property. All property, if separated by property line, shall be merged into a single property by way of lot merger before the beginning of improvements to the site.
 57. Submit two sets of structural calculations, if required, and two sets energy conservation calculations.
 58. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
 59. Submit separate detailed plans for all walls, fencing and accessory structures such as trash enclosures associated with the project.
 60. 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%).
 61. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District.
 62. 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.
 63. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to

enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint and stucco in all cases shall not be below standard for the use applied.

64. 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.
65. Each unit shall have individual and independent one-hour separation walls enveloping each assigned airspace or unit and independent utility meters, sewer and water connections and fire protection systems, subject to the review and approval of the Public Works, Community Development and Fire Departments.
66. If security gates are to be utilized on any portion of the property they shall be equipped with Medeco locks or other acceptable devices to allow access by emergency personnel and utility providers at all times.
67. All roof-mounted equipment, satellite dish antennas, mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers 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. A mockup of the unit shall be placed in the intended location before the deck inspection of the roof will be performed to ensure the units on the roof will be sufficiently screened from view from any adjacent street or property.
68. 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.
69. 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.
70. 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:
71. The numerical address of the building shall be displayed in a maximum of two locations on the East-facing elevation as follows:
72. 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.

73. 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.
74. No soil shall be imported or exported to or from the project site from an adjacent building site or from 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. Subject plan shall include provisions for street sweeping and cleanup. Applicant/contractor shall comply with all NPDES requirements.
75. Underground Service Alert shall be notified 48 hours prior to any excavation at (800) 422-4133.
76. 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.
77. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
78. 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.
79. Prior to issuance of a Certificate of Occupancy, the person or corporation responsible for the preparation of the Water Quality Management Plan shall certify, in writing, to the Building Official that all conditions and requirements of the Water Quality Management Plan have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.
80. 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.
81. 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 requires access to the facility by way of ramps which comply with the California Building Code (CBC) 2016 edition, Chapter 11B, in addition to access to each feature of the trailer.

Engineering

82. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
83. Construction permit shall contain provisions for performance and payment bonds for all work within the public rights of way, and a monumentation bond for tract monuments in accordance with the Subdivision Map Act.
84. A park land fee is not applicable for this site.
85. Payment of transportation-related development impact fees. Fees shall be assessed at the rate in effect at the time the fees are paid.
86. Any street improvements shall be shown on street improvement plans, they may also be included in the grading plans.
87. All pavement damaged by excavation shall be replaced with permanent pavement per the City Standard for paving and trench repair STD No. 121.
88. All existing lifted or cracked curb gutter and sidewalk adjacent to the property shall be replaced. All sidewalk that shows signs of ponding or is pitting, scaling or spalling shall be replaced.
89. ADA accessible sidewalk around the two driveway approaches shall be provided; additional ROW will be dedicated if needed.
90. Project shall add at least two lights along property frontage. Streetlights will be owned and maintained by Southern CLIFORNIA Edison. The minimum lighting level for all streets shall be to the satisfaction of the City Engineer.
91. Developer shall pay Regional Sewerage Capital Outlay fees as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.
92. Discharge of wastewater into the sewer collection system shall conform to all requirements of the Montclair Municipal Code.
93. Approval of the WQMP is required prior to the preparation of grading and/or other improvement plans. Requirements for the WQMP may be obtained

from the City NPDES Coordinator Joseph Rosales at 909-625-9470. Requirements of the WQMP may require significant modifications to the approved tentative map. If significant modifications are required, a resubmittal to the Planning Commission and City Council may be required.

94. A grading plan shall be prepared subject to the approval of the City Engineer. An erosion control plan is to be included and considered an integral part of the grading plan. Grading plans shall be designed in accordance with City standards and guidelines, and shall be on 24" by 36" sheets.
95. All drainage facilities shall comply with requirements of the approved WQMP.
96. 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.
97. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 800-422-4133.

Environmental

98. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
99. 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 Nicole deMoet for fee information.
100. An individual Wastewater Discharge Survey must be completed for each of the following uses: Kitchen (Restaurant Survey), Bistro (Restaurant Survey), and remaining Montclair Senior Housing support services (NSIU Survey) and submitted to the Environmental Manager prior to plan review by the Environmental Manager. Please contact Nicole deMoet, Environmental Manager at (909) 625-9446 for any questions regarding the Surveys. The Environmental Manager, upon receipt and review of the surveys, will make a determination on the potential requirement of a gravity Grease Interceptor. The capacity of the grease interceptor shall be determined by the Environmental Manager without exception.
101. All non-Domestic waste (non-restroom waste) fixtures must connect to the grease waste line that flows through the Grease Interceptor (capacity to be determined by the Environmental Manager).

102. All trash enclosures must be designed in accordance with the provisions of AB 341 Mandatory Commercial Recycling and AB 1826 Mandatory Commercial Organics Recycling (MORE) as established by California Department of Resources Recycling and Recovery (CalRecycle). Sufficient facilities must be provided and maintained for the mandatory recycling of all recyclable materials and food waste/organics. Documentation from Burrtec Waste Industries, Inc. (The City's Franchise Waste Hauler) must be provided to the City verifying that Burrtec has reviewed plans for the facility and established all required account services for the facility. For additional information, contact Mr. Gary Koontz with Burrtec for review of site plans and to establish the correct services on the refuse account. gkoontz@burrtec.com.
103. Verify if facility will have a Water Softener. If the facility is installing a Water Softener, it must use Recharge Canisters that are removed regularly for off-site brine disposal using an approved service provider. No brine disposal is permitted onsite. All Brine-Self-Regenerative Water Softeners are prohibited. Must show Water Softener Specs on plan showing softener does not discharge brine to sewer and brine canisters serviced off-site.
104. The applicant shall contact Nicole deMoet, Environmental Manager at (909) 625-9446 and provide 72 hours' notice in advance to schedule all inspections. The Environmental Manager shall be given access to complete inspections for the interior and exterior rough plumbing for the sample wye installation, prior to the issuance of a Certificate of Occupancy.
105. Additional comments may follow.

Fire

106. This is a general plan review only and is to determine if this project should be allowed to move forward to the City Development Review and/or the Fire Prevention Bureau plan check phase. Additional requirements may be necessary to comply with all applicable codes and will be determined during the Fire Department plan check process. The Fire Prevention Bureau requires three sets of plans be submitted with an application and all fees pre-paid.
107. Permits are required for the plan review and inspection of fire detection, fire sprinkler, hood and duct, and occupancy plan reviews. Fees shall be collected by the Fire Prevention Bureau at the time an application for permit is filed (CFC 2016 105.3.8).
108. When submitting plans provide three (3) complete architectural, structural, Fire Alarm and Fire Sprinkler plans, including all specifications, shall be submitted to the fire department for review prior to the issuance of any

building permits. These plans and specifications shall include, but are not limited to, construction type, exits, fire protection equipment, building protection, and interior finish. The developer is responsible for, and shall apply for and receive, all Fire Prevention Bureau permits, paying all necessary fees prior to beginning construction. (2016 CFC 105.4.1)

109. Construction documents and calculations for all fire protection systems and permits are required for the installation, rehabilitation or modification of any fire protection system. Construction documents for fire protection systems shall be submitted for review and approval prior to system installation. (2016 CFC 105.4.2.1 and Chapter 9)
110. Each page shall bear the contractor's license number, including expiration date, wet stamp and signature of the contractor licensee on each plan (California Business & Professions Code Sec. 7031.5).
111. Provide an accurate description of the scope of work for the project on the title page.
112. Show all exterior and interior building dimensions on the plans.
113. The plan check application can be found on the City of Montclair web site: <http://www.cityofmontclair.org> and clicking on following Departments, Fire, Fire Prevention, Plan check and permit process.
114. This project is required to comply with the 2016 California Fire Code as amended in the Montclair Municipal Code, and Montclair Fire Prevention Bureau development standards.
115. All fees are required to be paid in full prior to any permit issuance.
116. Fire apparatus access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility (2016 CFC 503.1.1). Exception: Dimension may be increased if the building is equipped throughout with an approved automatic sprinkler system installed in accordance with 2016 CFC Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
117. Fire apparatus roads shall have an unobstructed width of not less than 20 feet. (D103.6.1) and vertical clearance of not less than 13 feet 6 inches. Show all dimensions on the plans. (2016 CFC 503.2.1)
118. Provide a site plan using a 20-30-40- scale to show the turn radius for all corners, using a minimum 32 feet inside & 45 feet outside. (CFC 2016 503.2.4)

119. Provide fire apparatus turn-around dimensions (hammerhead, boot, or cul-de-sac) where fire apparatus access roads and driveways exceed 150 feet (2016 CFC 503.2.5)
120. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. (2016 CFC 503.2.3)
121. Traffic calming devices shall be prohibited unless approved by the fire code official. (2016 CFC 503.4.1)
122. Fire apparatus access roads shall not exceed 10 percent in grade. Exception: Grades steeper than 10 percent with mitigating protection measures as approved by the fire code official. (CFC 2016 503.2.7)
123. The angles of approach and departure for any means of access shall not exceed the design limitations of the fire apparatus of the fire department, subject to the approval of the Fire Code Official. (CFC 2016 503.2.8)
124. A Knox Box is required and shall be of an approved type and shall contain Master keys to allow the fire department to gain necessary access (2016 CFC 506.1).
125. Exterior doors and openings shall be maintained readily accessible for emergency access by firefighters. An approved ramped access walkway leading from the fire apparatus road to exterior openings is required (2016 CFC 504.1).
126. Install parapet ladders and emblems. Locations to be determined by the Fire Prevention Bureau during plan check.
127. Commercial Address numbers must be 8-10" tall and automatically illuminated and facing the street. Contact Planning Division for further information (CFC 2016 505.1)
128. Exact number, location, and type of fire extinguishers shall be determined by Fire Prevention Bureau.
129. Public Water Systems must meet all Monte Vista Water District standards. Contact the Monte Vista Water District at 909-624-0035
130. Exact number, location, and design of fire hydrants shall be determined by Fire Department and the Monte Vista Water District.

131. Private Water Systems must comply with the NFPA 24 standard and the 2016 California Fire Code. Must install a Fire Department Connection (FDC) located at the Double Detector Check Assembly (DCDA) / Outside Screw and Yoke valve (OS&Y) to act as a Fire Department Boost. The combination FDC shall be equipped with two 2 ½ -inch NST female swivel inlets and one 7-inch NST female swivel and the riser to this FDC must be at least 6 inches in diameter.
132. An approved water supply capable of providing the required fire flow for fire protection shall be provided (2016 CFC 508.1).
133. The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings shall be as specified in 2016 CFC Appendix B, Table B105.1 Exception: A reduction in required fire flow of up to 50 percent, as approved, is allowed when the building is provided with an automatic sprinkler system installed in accordance with 2013 CFC Section 903.3.1.1, 903.3.1.2 or 903.3.1.3. The resulting fire flow shall not be less than 1,500 gallons per minute for the prescribed duration as specified in Table B105.1
134. Private fire service mains and appurtenances shall be installed in accordance with NFPA 24 (508.2.1). Submit plans to the fire department showing the fire water system detail.
135. Fire Department Connections (FDC) and Post Indicator Valves (PIV) locations to be determined by the fire department during plan check. Every sprinkler system shall have at least (1) fire department connection located within 50 feet of a fire hydrant. (MMC 10.28.060K(1)).
136. The installation of check valves is required between fire hydrants and Fire Department Connections (FDC).
137. Show pipe size of the fire water system on the plans.
138. Provide a site plan showing on-site fire hydrants and mains shall be provided when the exterior of a facility or building is more than 300 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building. (CFC 2016 508.5.1)
139. Provide a site plan showing all fire hydrants and distances to nearest fire hydrants in all directions along fire apparatus access roads.
140. Minimum underground fire service supply pipe shall be 6 inches in diameter. (MMC 10.28.060K(5))
141. Double Check Detector Assembly shall be painted Rustoleum Hunt Club Green, satin acrylic finish stock #7944502.

142. An approved automatic fire sprinkler system shall be provided throughout, as defined by the most current edition of NFPA 13, in all newly constructed buildings of any occupancy group. (CFC 2016 903.2). Three (3) sets of plans shall be submitted to the Montclair Fire Prevention Bureau for review and approval prior to starting work.
143. Trash enclosures shall be fully enclosed and shall have fire sprinklers installed should any one of the following conditions exist; the trash enclosure has a combustible roof covering, the trash enclosure contains two or more individual trash containers, or the trash enclosure is under or within 5 feet of combustible construction. (MMC 10.28.060) Three (3) sets of plans shall be submitted to the Montclair Fire Prevention Bureau for review and approval prior to starting work.
144. Any Outdoor detached facilities greater than 200 square feet is required to install an approved fire sprinkler system. (MMC 10.28.060 J(3).
145. Fire sprinkler system plans are required to be a separate plan submittal with a completed application and all fees pre-paid.
146. Commercial cooking equipment that produces grease laden vapors shall be provided with a Type 1 hood, in accordance with the California Mechanical Code. An automatic fire-extinguishing system that is listed and labeled for its intended use is also required. (2016 CFC 904.12)
147. The application, installation, performance and maintenance of fire alarm systems and their components in new and existing buildings and structures shall be in compliance with 2016 CFC Chapter 9 (2016 CFC 907.1). Fire alarm and detections system plans are required to be a separate plan submittal with a completed application and all fees pre-paid.
148. Fire Sprinkler riser assemblies shall be weather protected in an enclosure large enough to accommodate repair or replacement of components. The enclosure shall have a door or hatch large enough to accommodate the removal of the largest component of the riser assembly which it contains.
149. When automatic fire sprinkler systems or fire alarm systems are installed in buildings constructed for multiple tenants and these systems protect multiple tenant spaces, the main controls and control appurtenances, such as risers, fire alarm control panels, and valves for such systems, shall be located in an attached or included room or an approved weather resistant enclosure with at least one exterior access door of not less than 3'-0" by 6'-8".

150. 2016 CFC Chapter 33 conditions shall apply to this project during construction and demolition (2016 CFC 3301.1).
151. Develop and maintain an approved pre-fire plan in cooperation with the fire department (2016 CFC 3308.2).
152. An approved water supply for fire protection, either temporary or permanent, shall be made available prior to combustible materials arriving on-site. The water supply, including mains and hydrants, shall be acceptably tested, painted, and approved by the Monte Vista Water District and Fire Prevention Bureau prior to the issuance of permits (2016 CFC 3312.1).
153. Fire Apparatus access road and water supply must be inspected and approved by the Montclair Fire Department prior to lumber being dropped at the project site. The Fire Apparatus access road shall be 2" thick, 20' wide (minimum) paved asphalt road through-out the project. (CFC 2016 503.2.3)
154. Approved vehicle access firefighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections. Vehicle access shall be provided by temporary or permanent roads, capable of supporting imposed loads of fire apparatus under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available (2016 CFC 3310.1).
155. Fire apparatus roads shall not be obstructed in any manner, including the parking of vehicles (CFC 2016 503.4).
156. Buildings and structures under construction shall post temporary 8-10" inch address signs meeting fire department standards and at locations determined by the Fire Code Official (CFC 2016 505.1.2).
157. Welding, cutting, open torches and other hot work operations and equipment shall comply with 2016 CFC Section 2601.1.
158. Provide a readily accessible telephone on-site for emergency use. The street address of the construction site. The emergency telephone number of the fire department dispatch center at 911 for emergencies and (909) 884-7248 for non-emergencies, shall be posted adjacent to the telephone (2016 CFC 3309.1).
159. Structures under construction, alterations or demolition shall be provided with not less than one approved portable fire extinguisher (2016 CFC 3315.1).

160. KNOX boxes are required and shall be of an approved type and shall contain keys to gain necessary access as required by the Fire Code Official (2016 CFC 1410.2 & 506).

Police

161. 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.
162. 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.
163. 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.
164. 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.
165. 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.
166. 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, if applicable. 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.

167. It is the responsibility of the project owner/property manager to obtain a security plan which meets the above requirements.
168. 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.
169. Management shall not allow any consumption of alcoholic beverages on any publicly accessible areas of the property, including but not limited to: park areas, street and off-street parking areas. Private, resident only accessible areas (IE clubhouses, patios, access restricted gated areas, etc.) are exempt.


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

APPROVED AND ADOPTED THIS 8TH DAY OF JULY, 2019

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 8th day of July 2019, by the following vote, to-wit:

AYES: Chair Rowley, Vice Chair Martinez, Commissioner Eaton, Commissioner Sahagun and Commissioner Sanchez

NOES: None

ABSENT: None

EXHIBIT B

**TENTATIVE PARCEL MAP 20375
(FOR CONDOMINIUM PURPOSES)**

TENTATIVE PARCEL MAP 20375

(FOR CONDOMINIUM PURPOSES) CITY OF MONTCLAIR, STATE OF CALIFORNIA MONTCLAIR SENIOR LIVING

PARCELS 1 THROUGH 3 OF CERTIFICATE APPROVING LOT LINE ADJUSTMENT NO. 2019-5, IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER INSTRUMENT NO. 2020-0004570, DATED JANUARY 06, 2020, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ZONING:

ZONING MAP: AP (ADMINISTRATIVE PROFESSIONAL)
GENERAL PLAN LAND USE: OFFICE PROFESSIONAL

ASSESSOR PARCEL NUMBERS:

1008-651-45; 46 & 47.

PROJECT ADDRESS:

9631, 9635 AND 9655 MONTE VISTA AVENUE,
MONTCLAIR, CA 91763

PROJECT DATA:

A. EXISTING CONDITION:

PARCEL #	TYPE OF DEVELOPMENT	LOT AREA (AC)	BUILDING (SF)
A	ASSISTED LIVING AND MEMORY CARE BUILDING	2.217	32255
B	MEDICAL AND PHARMACY RETAILS BUILDING	0.773	9685
C	MEDICAL BUILDING	1.001	13187
TOTAL DEVELOPMENT AREA:		3.991	

B. PROPOSED CONDITION:

PARCEL #	TYPE OF DEVELOPMENT	LOT AREA (AC)	BUILDING (SF)
1	ASSISTED LIVING AND MEMORY CARE BUILDING	3.991	32255
	MEDICAL AND PHARMACY RETAILS BUILDING		9685
	MEDICAL BUILDING		13187
TOTAL DEVELOPMENT AREA:		3.991	

C. PARKING REQUIREMENT:

SITE TOTAL REQUIRED: 191
SITE TOTAL PROVIDED: 196

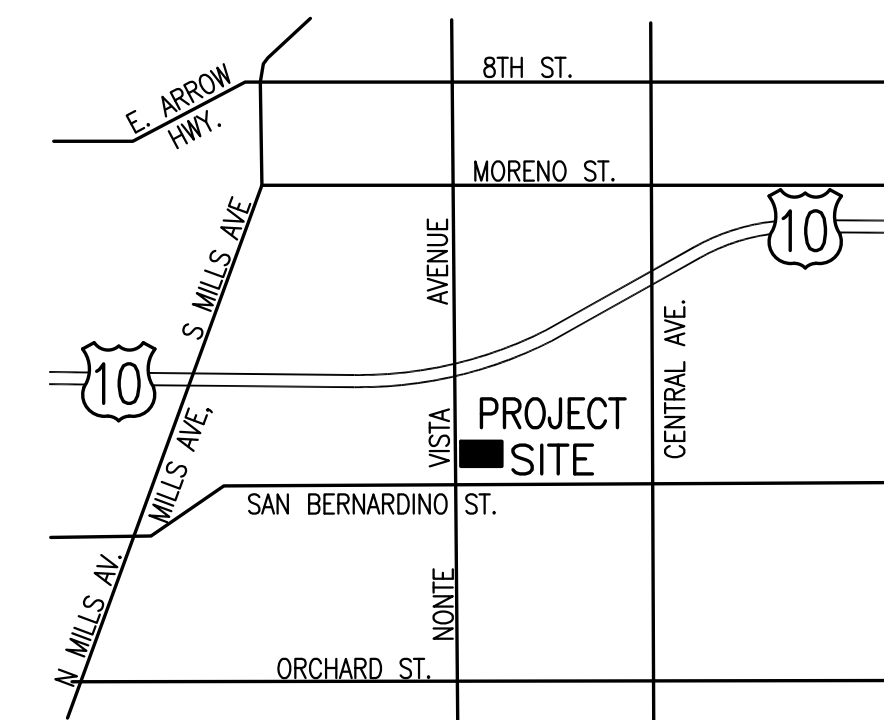
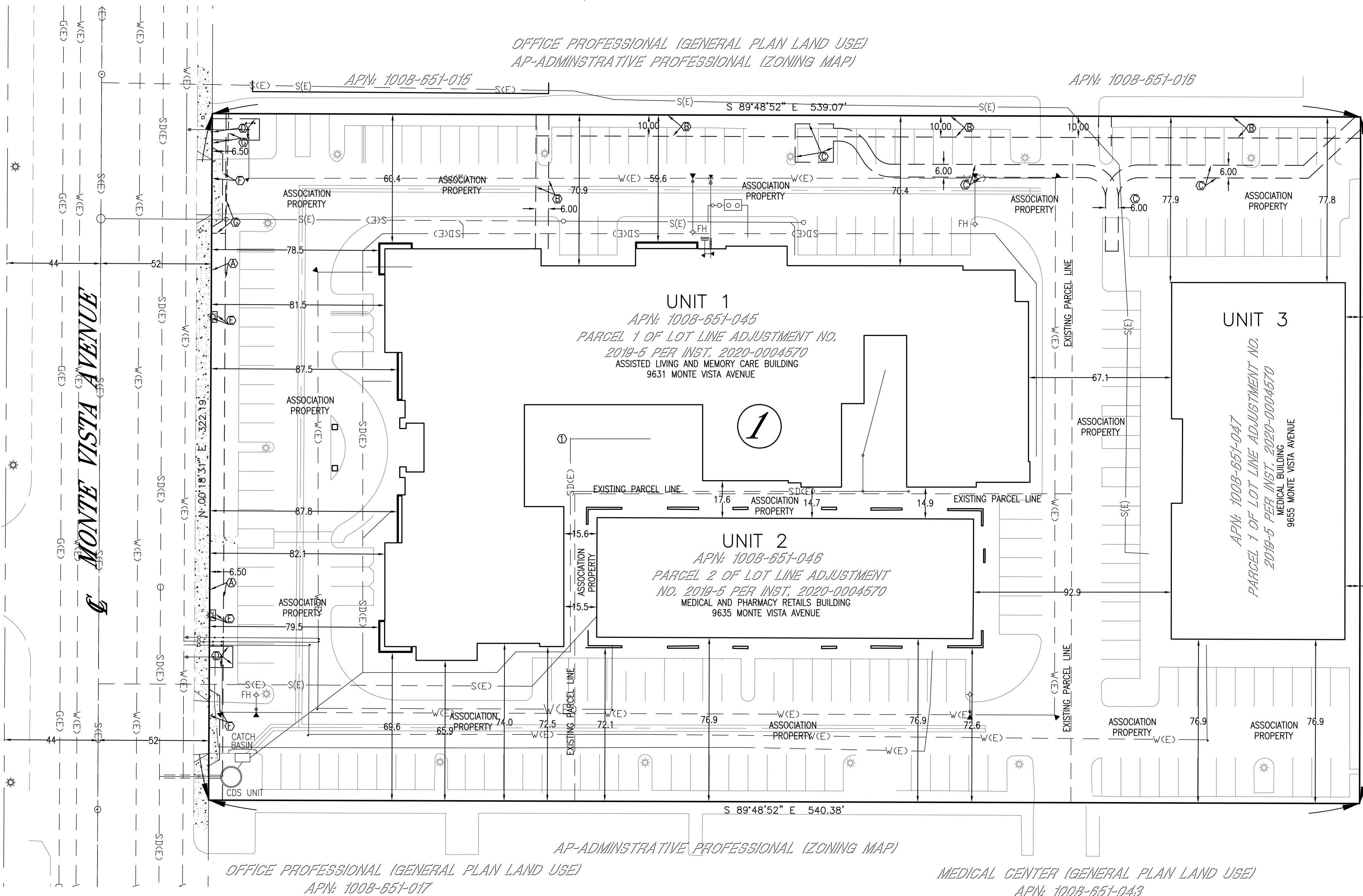
NOTE:
EXISTING TOPOGRAPHIC AND BOUNDARY INFORMATION ARE PREPARED BY:

ELKINS SURVEYING
4391 BANDINI AVE.,
RIVERSIDE, CA 92506
(909) 613-9164
elksurvey@aol.com

IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL EXISTING DATA PRIOR TO ANY CONSTRUCTION.



NOTE:
SECTION 4216/4217 OF THE GOVERNMENT CODE REQUIRES A DIG ALERT IDENTIFICATION NUMBER BE ISSUED BEFORE A PERMIT TO EXCAVATE WILL BE VALID. FOR YOUR DIG ALERT ID NUMBER CALL UNDERGROUND SERVICE ALERT
TOLL FREE "811"
TWO WORKING DAYS BEFORE YOU DIG.



VICINITY MAP
T.G. 641-F5
NTS

SHEET INDEX

SHEET 1: TENTATIVE TRACT MAP
SHEET 2: SITE IMPROVEMENT PLAN

LEGAL DESCRIPTION

PARCELS 1 THROUGH 3 OF CERTIFICATE APPROVING LOT LINE ADJUSTMENT NO. 2019-5, IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER INSTRUMENT NO. 2020-0004570, DATED JANUARY 06, 2020, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

BASIS OF BEARINGS

THE BEARING N 00°18'31" E OF THE CENTERLINE OF MONTE VISTA AVENUE AS SHOWN ON PARCEL MAP NO. 3010, FILED IN BOOK 28 OF PARCEL MAPS, PAGES 100 AND 101 OF PARCEL MAPS, IS TAKEN AS THE BASIS OF BEARINGS OF THIS PROJECT.

BENCH MARK:

CITY OF MONTCLAIR BENCHMARK NO. 188-90:
SAN BERNARDINO STREET & MONTE VISTA AVE.
PK & LEAD IN CURB AT SOUTHWEST CORNER, SAN BERNARDINO STREET AND MONTE VISTA AVENUE, 2'+/- WEST OF B.C.R.
ELEV.=1051.81

CITY OF CARLSBAD - UTILITIES NOTIFICATION LIST

CITY OF MONTCLAIR
5111 BENITO STREET
MONTCLAIR, CA 91763
(909) 626-8571

Underground Service Alert
(800) 227-2600

MONTE VISTA WATER DISTRICT
10575 CENTRAL AVENUE
MONTCLAIR, CA 91763
(909) 624-0035

SOUTHERN CALIFORNIA EDISON
1341 EAST FRANCIS STREET
ONTARIO, CA 91761
(909) 930-8591

VERIZON
1400 EAST PHILIPS BOULEVARD
POMONA, CA 91766
(909) 469-6334

SOUTHERN CALIFORNIA GAS
13525 12TH STREET
CHINO, CA 91710
(909) 613-1537

TIME WARNER CABLE
3430 E. MIRALOMA AVENUE
ANAHEIM, CA 92806
(888-TW-CABLE)

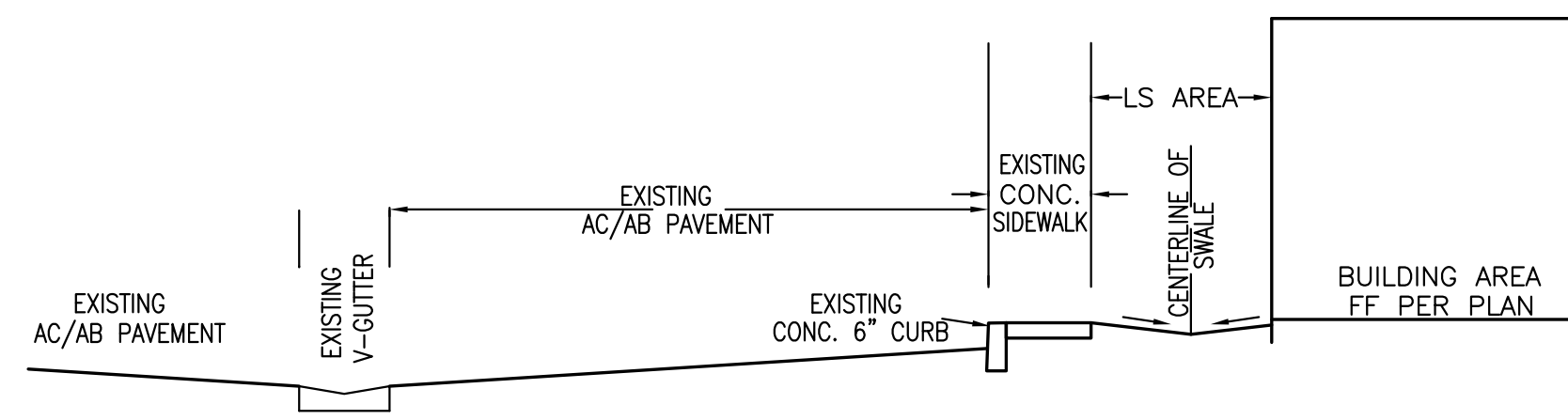
BURRTEC WASTE INDUSTRIES, INC.
9890 CHERRY AVENUE
FONTANA, CA 92335
(909) 628-4282

NOTE:

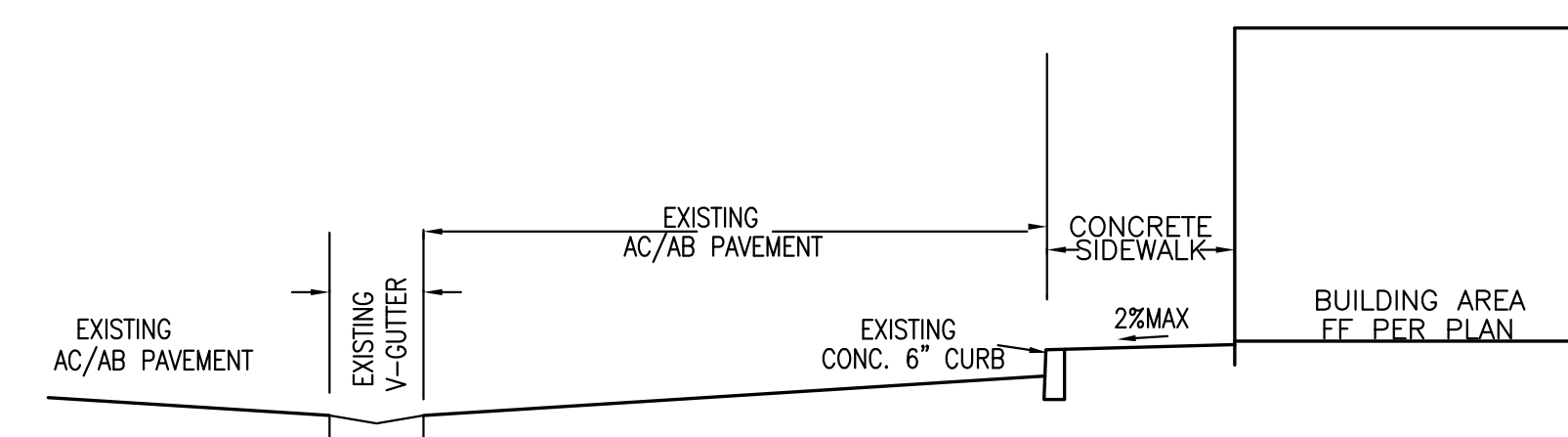
SEE SHEET 2 OF 2 FOR SITE GRADING.

LIST OF EASEMENTS WITH NOTES:

ID	ESMT HOLDER	PURPOSE	ACTION
A	CITY OF MONTCLAIR	6.5' PUBLIC UTILITY EASEMENT	REMAIN IN PLACE
B	GENERAL TELEPHONE	PUBLIC UTILITY EASEMENT	REMAIN IN PLACE
C	SOUTHERN CALIFORNIA EDISON	PUBLIC UTILITY EASEMENT	REMAIN IN PLACE
D	MONTE VISTA WATER DISTRICT	PUBLIC UTILITY EASEMENT	REMAIN IN PLACE
E	CITY OF MONTCLAIR	STREET LIGHT EASEMENT	REMAIN IN PLACE
F	CITY OF MONTCLAIR	PUBLIC PEDESTRIAN EASEMENT	REMAIN IN PLACE
G	SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY	PUBLIC ACCESS EASEMENT	REMAIN IN PLACE
1	GENERAL TELEPHONE	PUBLIC UTILITY EASEMENT	TO BE QUIT CLAIMED
2	SOUTHERN CALIFORNIA EDISON	PUBLIC UTILITY EASEMENT	TO BE QUIT CLAIMED



TYPICAL SECTION A-A
NTS



TYPICAL SECTION B-B
NTS

OWNER:

CHENGDU HOLDING, LLC

701 S. SAN GABRIEL BLVD., SUITE D
SAN GABRIEL, CA 91776

E-MAIL: jasminelbuch@gmail.com

PROJECT MANAGER:

CLOVER ESTATE INC.

2361 FULLERCREEK ROAD
CHINO HILLS, CA 91709
TEL: (909) 973-6999
FAX: (909) 539-0395
E-MAIL: www.cloverestate.com

PROJECT ARCHITECT

IRWIN PARTNERS ARCHITECTS

245 FISCHER AVE., SUITE B-2
COSTA MESA, CA 92626
TEL: (714) 557-2448
FAX: (714) 486-3994
E-MAIL: www.ipaac.com

CIVIL ENGINEER:

FOCUS ENGINEERING, INC.

CIVIL ENGINEERS LAND SURVEYORS

25 MAUCHLY, SUITE 317
IRVINE, CA 92618
TEL: (949) 450-0590
FAX: (949) 450-0592

E-MAIL: focusengr@sbcglobal.net



PRINT: 2021-05-19

REVISIONS

NO. DATE DESCRIPTION

CITY OF MONTCLAIR

TENTATIVE PARCEL MAP 20375
(FOR CONDOMINIUM PURPOSES)
MONTCLAIR SENIOR LIVING
9631, 9635 & 9655 MONTE VISTA AVENUE
TITLE SHEET

SHEET
1 OF 2

EXHIBIT C

DRAFT PLANNING COMMISSION RESOLUTION NO. 21-1949

RESOLUTION NO. 21-1949

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2021-17 APPROVING TENTATIVE PARCEL MAP NO. 20375 (FOR CONDOMINIUM PURPOSES) PERTAINING TO THE PROPERTIES LOCATED AT 9631, 9635, AND 9655 MONTE VISTA AVENUE (ASSESSOR PARCEL NUMBERS 1008-651-45-0000, 1008-651-46-0000, AND 1008-651-47-0000)

A. Recitals.

WHEREAS, on May 18, 2021, Chengdu Holdings, LLC, property owner, filed an application for a Conditional Use Permit (CUP) and Tentative Parcel Map No. 20375 (for condominium purposes) identified as Case No. 2021-17, to allow for the recordation of an office condominium subdivision encompassing the properties located at 9631, 9635, and 9655 Monte Vista Avenue; and

WHEREAS, the subject site is approximately 3.99 acres in size and is presently comprised of three separate legal parcels; and

WHEREAS, the two-story senior assisted living and memory care facility (currently under construction) is situated on the 9631 Monte Vista Avenue parcel; and

WHEREAS, the 9635 and 9655 Monte Vista Avenue parcels each contain a freestanding single-story medical office building; and

WHEREAS, on July 8, 2019, the Planning Commission approved Planning Case No. 2019-07, a Conditional Use Permit (CUP) and Precise Plan of Design (PPD) to allow the development and operation of a two-phased, 84,023 sq. ft. senior assisted living and memory care facility at the subject site; and

WHEREAS, as a condition of approval, the Planning Commission required all existing parcels be merged into a single parcel pursuant to a lot merger to ensure orderly development of the project and eliminate existing landlocked parcels, and

WHEREAS, *Conditions 1.m and 1.n* of Montclair Planning Commission Resolution No. 19-1932, specifically required the four-parcel site be merged into a single unified parcel; and

WHEREAS, pursuant to *Condition No. 1.n* of Montclair Planning Commission Resolution No. 19-1932, three temporary lots were created prior to the issuance of a building permit. This required additional lot line adjustments to accommodate the new building (the building could not be constructed across property lines) and to satisfy required setback and building exit requirements. This change allowed for the new building to be constructed on a separate lot and henceforth, allowed the developer to obtain a construction loan; and

WHEREAS, on December 19, 2019, the owner recorded the lot line adjustment to create three temporary lot; and

WHEREAS, on February 26, 2020, building permits were issued for the construction of the senior assisted living and memory care facility at 9631 Monte Vista Avenue; and

WHEREAS, the owner was advised that no Certificate of Occupancy for the senior assisted living and memory care facility would be issued until the final lot merger creating one parcel for the entire 3.99-acre site was completed; and

WHEREAS, the subject site is in the Administrative Professional (AP) zone designation; and

WHEREAS, office condominium developments are permitted in the AP zone subject to the issuance of a conditional use permit pursuant to the provisions of Chapter 11.88 and the approval of a tentative tract or parcel map; and

WHEREAS, approval of Tentative Parcel Map 20375 (for condominium purposes) would eliminate all existing property lines and create one singular 3.99-acre site; and

WHEREAS, staff finds the project to be in compliance with the guidelines and applicable development standards of the AP (Administrative Professional) zone; and

WHEREAS, the development project now consists of only one phase; no other construction will occur on the site; and

WHEREAS, any changes, modifications and or expansions to any of the buildings referenced in Tentative Parcel Map 20375 would require prior City approvals; and

WHEREAS, the condominium plan subdivision will be referenced as Monte Vista Medical Owners Association; and

WHEREAS, Covenants, Conditions, Restrictions and Reservations of Easements (CC&Rs) will be recorded on the property for Monte Vista Medical Owners Association as a condition of approval; and

WHEREAS, the City of Montclair will be made a party to the CC&Rs in that the City will have power to enforce the provisions of the CC&Rs; and

WHEREAS, the Planning Commission finds this project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301(k) (Class 1 – Existing Facilities) and Section 15315 (Minor Land Divisions) of the State CEQA Guidelines. The project qualifies because the proposed project is on a developed site, involves no expansion of the existing buildings, and consists of the formation of an office condominium subdivision consisting of three buildings existing on the site; and

WHEREAS, a notice of public hearing was duly given and posted in the manner and for the time frame prescribed by law; and

WHEREAS, on June 14, 2021, 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 said application 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:

1. This Commission hereby specifically finds that all the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based on substantial evidence presented to this Commission during the above-referenced public hearing on June 14, 2021, including written and oral staff reports, together with public testimony, this Commission hereby finds with respect to Tentative Parcel Map No. 20375 and Conditional Use Permit under Case No. 2021-17, request as follows:

Tentative Parcel Map Findings

Pursuant to California Government Code Section 66410, *et seq.*, the following findings for recommending approval to the City Council of Tentative Parcel Map No. 20375 can be made:

A. The proposed subdivision and the provisions for its design and improvements are consistent with the adopted General Plan and the Montclair Municipal Code in that the Tentative Parcel Map proposal meets minimum lot size and dimension standards of the “AP” zoning district and provides for ample area on which to accommodate future land uses compatible with the underlying zoning district. Moreover, the Tentative Parcel Map eliminates landlocked and irregularly-shaped lots thereby promoting good planning practices and orderly development within the City.

B. The proposed office condominium subdivision is physically suitable for the types and densities of the existing buildings and on-site improvements, in that the overall combined total of 3.92 acres in area, is of a configuration that has sufficient width and depth to allow for orderly development. The two existing medical buildings and senior assisted living and memory care facility (currently in the final stages of construction) are located adjacent to a fully improved street that connects to Monte Vista Avenue and will provide direct and safe access to the project site. In addition, the site is designed to allow for appropriate internal pedestrian and vehicular circulation around the proposed improvements and managed through recorded CC&Rs.

C. The proposed office condominium subdivision and existing improvements are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat, in that the site is recently developed and surrounded by urban development and streets; does not contain any bodies of water; is not linked to any wildlife corridors; and does not contain any evidence of known habitats of significance including rare or endangered species of plant, animal, or insect life.

D. The proposed office subdivision design in the Tentative Parcel Map is not likely to cause serious public health problems because all development and public improvements will have been constructed per the requirements of all applicable standards and codes including the zoning and building codes, and subject to all Planning Commission Conditions of Approval associated with Case No. 2019-07 and Resolution No. 19-1932.

E. The condominium subdivision design and type of existing improvements relative to Tentative Parcel Map 20375 will not conflict with any onsite public or private easements for access or use, in that CC&Rs will be recorded on the property addressing reciprocal access, parking, maintenance, etc., on the property.

Conditional Use Permit Findings

The Planning Commission finds with respect to approval of a Conditional Use Permit for Tentative Parcel Map 20375 (for condominium purposes) can be made, as follows:

A. The proposed office condominium development is essential and desirable to the public convenience and public welfare, in that the condominium map and recorded CC&Rs will allow for the continued orderly operation of the businesses and provide a uniform appearance of the site. The covenants will ensure the professional maintenance and management of the common areas for the entire site and allow for the orderly future sale of the existing buildings.

B. Granting the CUP for Tentative Parcel Map 20375 will not be materially detrimental to the public welfare and to other properties in the vicinity, in that the creation of a single parcel will ensure the orderly property management and future redevelopment of the site by eliminating existing landlocked and unusually-sized parcels.

C. The existing development located on the site of the proposed office condominium subdivision is well designed and appropriately located in an area where there would be little to no impacts, in that the site is located in the Administrative Professional (AP) zone that allows for office condominium subdivisions. The project site has easy and safe access from developed streets, meets all applicable development standards for condominium subdivisions, and recorded CC&Rs will have a positive impact to the area and surrounding streetscape, in that CC&Rs will ensure proper uses and operations of each building and all the common areas.

D. The proposed office condominium project for the subject site is not contrary to the objectives of any part of the 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 office and medical uses while eliminating or minimizing potential detrimental impacts on surrounding properties and uses such as landlocked and irregularly-sized parcels.

Conditions of Approval

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

Planning Division

1. This approval is hereby granted to allow the following entitlements at 9631, 9635, and 9655 Monte Vista Avenue (Assessor Parcel Nos. 1008-651-45-0000, 1008-651-46-0000 and 1008-651-47-0000):

- a. Tentative Parcel Map No. 20375, to merge Assessor Parcel Nos. 1008-651-45-0000, 1008-651-46-0000 and 1008-651-47-0000 into a single lot with a combined area of approximately 173,847 square feet (3.99 acres), and to allow the creation of a three-unit office condominium subdivision; and
- b. A Conditional Use Permit (CUP) to create a three-unit office condominium subdivision pursuant to the development standards contained in Chapters 11.32 and 11.88 as it pertains to the allowable uses and required unit sizes, and other development requirements; and

2. Notice to Applicant/Subdivider: The conditions of approval for this project include certain fees, dedication requirements (if applicable), reservation requirements, and/or other exactions more specifically described in the conditions of approval herein. The subdivider/applicant is hereby notified that the 90-day protest period to challenge such items has begun as of the date of the project approval. For purposes of this notice, "project approval" shall mean the date that the Planning Commission approves the

Conditional Use Permit and Precise Plan of Design for the project and recommends City Council approval of the Tentative Tract Map. All impact fees shall be due and payable at the time stated in the adopted ordinance, resolution or policy adopting and imposing such fees. If the applicant fails to file a protest regarding any of the fees, dedications, reservations or other exaction requirements as specified in Government Code Section 66020, the subdivider/applicant shall be legally barred from later challenges.

3. The subdivider/applicant shall reimburse the City for the legal costs associated with the preparation/review of any agreements and covenants required by these conditions.

4. This decision or any aspect of this decision may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.

5. 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 of \$862.52, made payable to "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.

6. 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.

7. All Conditions of Approval pursuant to Resolution No. 19-1932 approved by the Montclair Planning Commission on July 8, 2019, for Planning Case No. 2019-07, for this site, shall remain in effect and are hereby attached as Exhibit A of this resolution.

8. Any modification, intensification, or expansion of the use beyond that which is specifically approved by the above-noted entitlements and that is not reflected in the map, plans, and drawings approved with this action shall require review and approval by staff, the Planning Commission, or the City Council as appropriate.

9. In the event that exhibits and written conditions are inconsistent, the written conditions shall prevail.

10. No Certificate of Occupancy shall be provided for the senior assisted living and memory care facility at 9631 Monte Vista Avenue until Tentative Parcel Map 20375 is recorded.

11. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the sixth month anniversary date of Planning Commission action, unless the applicant is diligently pursuing recordation of a Final Map for Condominium Purposes at this site. 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.

12. 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 Tentative Parcel Map (for Condominium Purposes) and CUP shall not waive compliance with any such requirements.

13. The Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements (CC&Rs) for *Monte Vista Medical Owners Association* shall be recorded prior to, or concurrently, with the recording of the Final Map. Upon transfer, sale or re-assignment of the property to another individual or entity, the applicant shall make full disclosure of the CUP requirements and restrictions to future buyers, transferees, or assignees.

Building Division

14. The Mylar plans shall be approved and stamped by the Civil Engineer who drew the plans, and the City Engineer for the City of Montclair. The completed plans shall be filed with the San Bernardino County Department of Records by the owner at owner's expense.

15. Provide new and accurate parcel numbers and addresses on the Final Map.

Water Quality Management

16. Applicant shall prepare and submit to the City a Water Quality Management Plan and Storm Water BMP Transfer, Access and Maintenance Agreement identifying the property address and assigned San Bernardino Tax Assessor Parcel Number that reflects the condominium subdivision (Tentative Parcel Map 20375). Following the approval by the City, the agreement shall be recorded by the owner in the Office of the Recorder of San Bernardino County, California, at the expense of the owner.

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

APPROVED AND ADOPTED THIS 14TH DAY OF JUNE, 2021

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 14th day of June 2021, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\CSCALDWELL\CASES\21-1949PC RESOLUTION