



REGULAR ADJOURNED MEETING OF THE
MONTCLAIR PLANNING COMMISSION

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

Monday, April 25, 2022 7:00 p.m.

Remote Participation Information:
Zoom Link: <https://zoom.us/j/95858571900>
Dial Number: 1-(669)-900-6833
Meeting ID: 95858571900

*To make a public comment or speak on an agenda item, including a public hearing, please complete the online public comment form at <https://www.cityofmontclair.org/public-comment/>. 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 pcclerk@cityofmontclair.org at least one hour before the meeting begins. The chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate time during the meeting. Those participating remotely may request to speak using the "raise hand" function in Zoom (dial *9 if on the phone, and then *6 to un-mute when called on to speak).*

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Chair Manny Martinez, Vice-Chair Jaso Sanchez, Commissioner Ginger Eaton, Commissioner Krishna Patel, and Commissioner Sergio Sahagun

4. APPROVAL OF MINUTES

The minutes from the April 11, 2022 meeting were presented for approval.

5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS

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

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete an online public comment form as described above.

6. AGENDA ITEMS

- a. PUBLIC HEARING – CASE NUMBER 2022-07
Project Address: 5006-5010 Mission Boulevard
Project Applicant: New Crossings Development, LLC
Project Planner: Silvia Gutierrez
Request: General Plan Amendment to modify land use designation to Business Park, Precise Plan of Design for an industrial/warehouse building and associated site improvements and a Parcel Map to consolidate the three existing parcel into one parcel

- b. PUBLIC HEARING – CASE NUMBER 2022-08
Project Address: 9950 Monte Vista Avenue
Project Applicant: Bethany Baptist/Vertical Bridge
Project Planner: Michael Diaz
Request: Conditional Use Permit and Precise Plan of Design to allow a 65-foot high wireless telecommunication tower on the Bethany Baptist Church campus

- c. PUBLIC HEARING – CASE NUMBER 2022-17
Project Address: 8801 Central Avenue, Unit A
Project Applicant: Lee Pan Montclair, LLC
Project Planner: Christine S. Caldwell
Request: Conditional Use Permit request for an ABC Type 41 on-site beer and wine sales at an existing sit down restaurant

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/agendas by clicking on the Planning Commission agenda for April 11, 2022.

9. ADJOURNMENT

The City of Montclair Planning Commission meeting is adjourned to the regularly scheduled meeting of May 9, 2022, at 7:00 p.m.

CERTIFICATION OF AGENDA POSTING

I, Laura Embree, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda has been posted on the bulletin board adjacent to the north door of Montclair City Hall on April 21, 2022.



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 4/25/22

AGENDA ITEM 6.a

Case No. 2022-07

Application: The project involves the following requested entitlements:

- General Plan Amendment to change a portion of the project site's General Plan land use designation from General Commercial to Business Park; and
- Tentative Parcel Map No. 20393 to consolidate three existing parcels on the project site into one parcel; and
- A Precise Plan of Design (PPD) for a proposed 115,350 square-foot industrial warehouse building and associated site improvements on a 5.13-acre site.



Project Location: 5006-5010 Mission Boulevard, near the NEC of Mission Boulevard and Monte Vista Avenue

Property Owner: New Crossings Development, LLC

General Plan: General Commercial and Business Park

Zoning: MIP Manufacturing Industrial Park

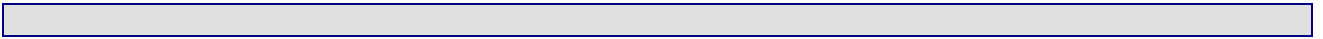
Assessor Parcel Numbers: 1011-311-15, 1011-311-17, and 1011-311-19

EXISTING SITE FEATURES:

Structure: Existing 8,000 square-foot building at 5010 Mission Boulevard to be demolished.

ADJACENT LAND USE DESIGNATIONS AND USES:

	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	General Commercial & Business Park	Manufacturing Industrial Park (MIP)	Undeveloped Land and a Vacant Building
North	Public/Quasi Public	M-1 Limited Manufacturing	City Yard
South	General Commercial	R3, Multifamily Residential and C3 General Commercial	Multifamily and single-family homes and commercial uses
East	Business Park	MIP Manufacturing Industrial Park	Industrial uses
West	General Commercial	MIP Manufacturing Industrial Park	Industrial uses



Report on Item Number 6.a

CASE NUMBER 2022-07

APPLICATION TYPE	General Plan Amendment Tentative Parcel Map No. 20393 Precise Plan of Design
NAME OF APPLICANT	New Crossings Development, LLC
LOCATION OF PROPERTY	5006-5010 Mission Boulevard
GENERAL PLAN DESIGNATION	General Commercial and Business Park (Current)
ZONING DESIGNATION	MIP Manufacturing Industrial Park
EXISTING LAND USE	Existing 8,000 square-foot building is to be demolished
ENVIRONMENTAL DETERMINATION	Mitigated Negative Declaration
PROJECT PLANNER	Silvia Gutiérrez

Project Proposal

The applicant is requesting approval of the following entitlements to allow for the redevelopment of a 5.13-acre site located on the north side of Mission Boulevard, approximately 250 feet east of Monte Vista Avenue. Construction activities for the project would consist of, the demolition of a freestanding 8,500 square-foot building, grading, building construction, paving, and landscaping.

The project requires approval of the following entitlements:

- General Plan Amendment - A change in the land use designation for two of three existing parcels to be consistent with the Zoning Map land use designation of the site and allow for development of the consolidated site achieved by the proposed Parcel Map (see below).

General Plan Land Use Map Amendment			
APN	Existing GP Designation	Proposed GP Designation	Zoning
1101-311-15	General Commercial	Business Park ¹	MIP Manufacturing Industrial Park
1101-311-17	General Commercial	Business Park ¹	MIP
1101-311-19	Business Park	Business Park	MIP
¹ Amendment of General Plan Map land use designation to be consistent with Zoning Map designation			

- Tentative Parcel Map No. 20393 – to merge and consolidate three abutting parcels into a single developable site of 5.13 acres in size.

Tentative Parcel Map No. 20393	
<i>APN</i>	<i>Lot Size</i>
1101-311-15	1.59 acre
1101-311-17	0.91 acre
1101-311-19	2.63 acre
Total	5.13-acres

- Precise Plan of Design (PPD) - for the site plan, floor plans, elevations, colors, materials, and conceptual landscape plan associated with the development of the entire site.

The floor plan for the proposed industrial warehouse building is designed to either accommodate a single user or up to two users with their own main entry/office area. The breakdown of the building and its parking requirements is summarized in the following table:

Proposed Industrial Warehouse Building - Uses and Parking Requirements		
<i>Use</i>	<i>Square Footage</i>	<i>Parking Ratio: Required/Provided</i>
Warehouse Area	107,800	1 space per 1,000 s.f.: 17/107.8
Mezzanine Office No. 1 (Facing West)	2,500	1 space per 250 s.f.: 10/10
Ground Floor Office (Facing West)	1,250	1 space per 250 s.f.: 5/5
Mezzanine Office No. 2 (Facing East.)	2,500	1 space per 250 s.f.: 10/10
Ground Floor Office (Facing East)	1,250	1 space per 250 s.f.: 5/5
Total	115,300	Proposed Stalls = 138

Access to the site would be from two driveways located on Mission Boulevard, which would allow for direct truck access to 12 loading docks and truck/trailer parking areas located on the north side of the new building. Surface parking spaces for 138 vehicles (including 6 disabled-accessible and 11 Clean Air Car parking spaces) are provided near the proposed building entry areas. Two trash enclosures are also provided at the rear of the property.

Architectural Design

The proposed industrial building is situated at the center of the site and would be constructed of concrete tilt-up panels. The proposed panels are designed with offsets, varied heights, and horizontal and vertical reveals to add depth and architectural interest. Required fire exit doors/stairs are also shown as part of the overall building design. The proposed building is 45 feet high as measured to the top of the tallest wall planes of the structure.

Since the building is designed to accommodate up to two (2) tenants, two entry points with office areas are provided at the southwest and southeast corners of the building. Each entry point features windows and decorative metal accents. The proposed colors for the new building are neutral tones of gray. A condition of approval has been added that windows be gray-toned tint.

Landscape Plan

A preliminary landscape plan, which utilizes plant species that are compatible with the overall architectural style of the proposed buildings, has been provided. The plan features a variety of trees selected to provide texture, shade, and greenery in the setback along Mission Boulevard frontage of the site, and within the parking areas of the property facing the street. In addition, shrubs, vines, and ground covers populate the planters and create visual interest throughout the site. The proposed trees located in the front setback and the parking lot will include the Crape Myrtle, Mondell Pine, Australian Willow, Chitalpa, and Chinese Elm. All plant materials are drought tolerant and a water budget for the project has been prepared. Irrigation would be provided via drip and/or a subsurface system. No turf areas are proposed as part of the conceptual landscape plan.

Other site improvements included 7'-6" to 8-foot high walls along the north boundary of the site and decorative metal fencing and gates in line or behind the front of the building facing Mission Boulevard to restrict access to the rear of the site and dock area. The parking areas near the front entrance of the building will remain generally accessible. All existing on-site utility poles and overhead wiring will be removed and placed underground. A condition of approval is included in the draft resolution of approval.

Plans for the proposed project are included in the Commission packets for reference. Copies of the plans and Environmental Documents for the project are available to view on the City's website at: [5006-and-5010-Mission-Boulevard-Warehouse-Project RTC Errata 2022.04.19.pdf \(storage.googleapis.com\)](https://storage.googleapis.com/5006-and-5010-Mission-Boulevard-Warehouse-Project_RTC_Errata_2022.04.19.pdf)

BACKGROUND

- The subject property is partially improved with a timeworn and vacant building and deteriorated asphalt parking areas. The vacant 8,500 square-foot building was constructed in 1967.
- The zoning designation for the site is "MIP" (Manufacturing Industrial Park).
- The project developer, New Crossings Development, LLC, purchased the subject property in 2021.

PLANNING DIVISION COMMENTS

Staff believes the proposed project to be appropriate with respect to making improvements to the area that are consistent with recent development activity. When completed the project will result in a major improvement to the Mission Boulevard streetscape. The subject site is within the City's modest-sized industrial corridor and the project will replace a timeworn building and site with substandard conditions that have been the focus of constant code enforcement action.

General Plan and Amendment

Staff supports the applicant's requests to amend the General Plan Land Use Map because the amendment would eliminate the current inconsistency between the General Plan's land use designations and the City's Official Zoning Map. Without the General Plan Amendment, development of the site would be limited. The proposed amendment would allow the site to be developed in accordance and compatible with the industrial uses of the area located along the northern side of Mission Boulevard.

Tentative Parcel Map 20393

Staff supports the applicant's request for the Tentative Parcel Map 20393 to accommodate the development of the site as proposed. As mentioned above, when combined into a single parcel, the site will be adequate in size and shape to accommodate the proposed development than would be as separate parcels with different land use designations. As such, the parcel map will enable the development of the site in a manner that is more in character with the industrial character and improvements that surround the site.

Access to the site will be from a fully developed major east-west arterial roadway and nearby intersections. Moreover, given the width of and development of Mission Boulevard, the site is more than adequately separated from any sensitive users including residential uses. The City Engineer and Fire Department have reviewed the proposed parcel map and subsequent development of the site and found the project to be appropriately designed. Finally, the site will be connected to the existing sanitary sewer system in Mission Boulevard and existing utility poles and overhead wires on the site and street frontage will be removed and/or placed underground.

Precise Plan of Design

The staff finds the proposed project to be well designed and the building is appropriately situated on the site. At 5.13 acres in size, the property is of adequate size and shape to support the proposed project as designed with required site improvements for access, parking, landscaping, and the requirements associated with the approved Water Quality Management Plan (WQMP). By locating all loading activities on the north side of the proposed building where they will be largely out of view, the design as proposed creates a visually attractive streetscape that will eliminate the current unsightly appearance of the site. When completed the new development would continue the improvement along Mission Boulevard and surrounding area.

The project complies with the applicable development standards of the MIP zoning designation of the property including setbacks, building height, and parking as generally described above. The building would be setback 25 feet from the Mission Boulevard property line, meets 25-foot setback requirement for each frontage and 50 to 65 back from adjacent properties. Moreover, the 45-foot building height for the project is well below the maximum 50-foot height limit allowed in the MIP Manufacturing Industrial Park zoning district. The rear area of the site will be adequately secured by means of new wrought iron gates and walls.

On-site parking at 138 spaces meets code requirements and is properly distributed around the site. All future business(s) and use(s) within the building would be subject to the land use provisions contained in the Montclair Municipal Code, including the requirement to obtain and maintain a valid business license. As part of the routine review process for any new business, the property would be inspected to ensure compliance with all applicable codes, including property maintenance and the provision of adequate on-site parking.

Building Design and Landscaping

Staff worked with the architect on the design of the building and is generally pleased with its overall design. The use of tilt-up panels is common for constructing a building of this type and size. The detailed elements incorporated into the panel design by means of reveals (horizontal and vertical), wall offsets, varied panel heights, and glass windows work well together on all sides of the building with special attention given to the corners of the building. Overall, the staff finds the proposed color palette of neutral grays for the balance of the building as depicted in the material board.

The building wall design includes a raised parapet, which is expected to be tall enough to provide appropriate screening of all rooftop equipment from street level and adjacent intersections. If necessary, the height of the panels could be increased as necessary to achieve full screening of any equipment items. Except for skylights, required vents, and the placement of limited air conditioning units (not ducts) for the proposed office spaces, no other major rooftop equipment pieces or elements are expected. Staff has added a condition of approval addressing the screening of future rooftop equipment.

Staff finds the proposed landscaping to be appropriate and sufficient to enhance the overall appearance of the new warehouse building. The selected plant materials are evenly distributed around the site where planter areas are proposed, and no turf areas are proposed. The proposed irrigation system is also designed to be water efficient and meet State water-saving requirements. All on-site runoff will be collected by catch basins and conveyed to the on-site underground infiltration system in the rear of the property. If, and when, the underground system reaches capacity, the excess runoff will discharge through the existing 4-foot parkway culvert to Mission Boulevard.

GENERAL PLAN AMENDMENT FINDINGS

The proposed General Plan Amendment (GPA) promotes the goals and objectives of the General Plan and leaves the General Plan a compatible, integrated, and internally consistent statement of policies for the following reasons:

- A. The GPA is integrated and compatible with the Land Use and Community Design Elements in that it provides an appropriate orientation and relationship between land uses within and adjacent to the Subject Site located on the north side of Mission Boulevard. The implementation of the Proposed GPA would be consistent with the General Plan's policy to establish an effective balance of land use, circulation, transportation, and community design. The proposed GPA does result in the removal or division of any existing residential neighborhoods on or

adjacent to the site, but would allow for the site to be redeveloped into a modern industrial warehouse building consistent with development standards of the underlying MIP zone and recent new development in the immediate area. As such, the site would become an integral part of the City's efforts to see dilapidated and underutilized properties transformed into attractive properties within the community.

- B. The GPA is integrated and compatible with the future use of the site on Mission Boulevard will generate traffic that is anticipated and within capacity levels as provided for in the Circulation Element. The GPA would be consistent with the General Plan's overall goal of providing residents and visitors of the City of Montclair with a circulation network that provides safe and efficient travel within and through the community.
- C. The GPA does not result in the displacement of any existing housing units located on the site or on adjacent parcels. The property does not contain any housing units and the surrounding development includes existing and new industrial uses only. The property is not on any potential housing inventory sites and as such do not impact the potential for adding new housing units allowed by the GPA within City.
- D. The GPA is integrated and compatible with the Conservation Element in that it provides uses, which promote the orderly conservation, development, and utilization of natural resources. The City's General Plan does not designate any areas of the City as being within a habitat conservation plan (City of Montclair 1999). Furthermore, the City is not within any of the regional conservation plans designated by the state (CDFW 2014). As such, implementation of the Proposed GPA would not conflict with any applicable habitat conservation plan or natural community conservation plan. More specifically, the subject site is characterized as partially developed with a timeworn building and deteriorating asphalt parking areas with no significant trees and minimal amounts of low growing vegetation (mostly annual weeds).
- E. The GPA is integrated and compatible with the Open Space Element in that it provides for uses that are consistent with and promote the adopted goals and policies for preserving and managing open space within the City. No open space resources exist on the subject site.
- F. The Amendment is integrated and compatible with the Noise Element in that it provides a pattern of land uses that minimizes the exposure of community residents to excessive noise. The Montclair General Plan requires future development to comply with the standards of Noise Element. The proposed GPA allows for the development of a modern industrial warehouse building that maximizes the use of the site leaving only areas for onsite circulation, required parking, setbacks, and landscaping. No outdoor storage, manufacturing or assembly operations are permitted. As such, outdoor activities would be largely limited to vehicle and truck movements. Moreover, the site does not share a boundary line with any residential properties or other uses with sensitive noise

receptors. The closest residential uses are located on the south side of Mission Boulevard, approximately 150 feet away from the subject site and separated by a full-length median island.

- G. The GPA is integrated and compatible with the Safety Element in that it provides an appropriate land use distribution and orientation that protects the community from unreasonable risks associated with seismic, geologic, flood, and wildfire hazards. Given the urbanized nature of the site and relatively gentle slope, there is no serious threat from wild land fires or geological instability. However, the General Plan recognizes the City Montclair's location within in Seismic Zone 4, which is considered the most active seismic zone in the state. Further, there are no designated "Earthquake Fault Zones" in the city or the subject as confirmed by the Alquist-Priolo Earthquake Fault Zoning Maps, geologic hazard overlays in the City of Montclair's General Plan Safety Element, and the County of San Bernardino's Land Use Plan General Plan (City of Montclair 1999 and County of San Bernardino 2010). Finally, as standard practice for all development in the City all development projects on the subject site will be required to comply with the Unified Building Code standards and regulations which include proper soil preparation and compaction requirements for construction.

TENTATIVE PARCEL MAP FINDINGS

- A. The proposed parcel map to merge abutting parcels into a single property to accommodate industrial building is designed, to the extent feasible, to provide for passive or natural heating or cooling opportunities. The proposed building on the site is generally oriented, spaced, and designed to allow for access to adequate light and air.
- B. The proposed parcel map and the provisions for its design and improvement are consistent with the General Plan for the City of Montclair ("General Plan"). With City Council approval the General Plan Amendment, subsequent consistency between the General Plan and Zoning Maps, and the associated Tentative Parcel Map would provide for land uses compatible with the land use classification for the subject site by the General Plan Amendment. The overall goal of the General Plan is to promote good planning practices and orderly development within the City and to recognize the potential of specific areas for special treatment.
- C. The subject site is physically suitable for the proposed development of the site with an 115,300 square foot industrial building and associated site improvements as shown on the Tentative Parcel Map. The size and configuration of the site have sufficient width and depth to allow for orderly site development, the provision of on-site circulation and parking, landscaping, and the proposed building. Moreover, the project site is also located adjacent to Mission Boulevard, a fully improved street that will provide good and safe access to and from the site.

- D. The merger design and improvements proposed in the Tentative Parcel Map are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat. An environmental assessment of the project on the subject site was conducted and revealed no significant impacts on the site or surrounding area overall. The site is surrounded by new and existing urban development and streets; does not contain any bodies of water, and is not linked to any wildlife corridors. The site does not contain any evidence of known habitats of significance including rare or endangered species of plant, animal, or insect life.
- E. The parcel map and improvements proposed with the development of the site are consistent with existing newer development in the immediate area and are not likely to cause serious public health problems because all site development and public improvements will be performed per the requirements of all applicable standards and codes including the zoning and building codes.
- F. The parcel map design and type of improvements proposed do not conflict with any public easements for access through or the use of the subject site because no such easements exist on the subject site.
- G. The discharge of waste into the existing sanitary sewer system from the development associated with the Tentative Parcel Map will not cause a violation of existing requirements prescribed by the Regional Water Quality Control Board. The entire project will be required to connect to a sanitary sewage system pursuant to California Plumbing Code and Municipal Code requirements. A sewer main exists and is available on Mission Boulevard.

PRECISE PLAN OF DEVELOPMENT FINDINGS

- A. The proposed development of a freestanding 115,300 square-foot industrial/warehouse building and associated on-site improvements is consistent with the current zoning designation and applicable development standards of the MIP (General Manufacturing) zone. Future users of the site will be subject to zoning verification and would be restricted to indoor activities only.
- B. The proposed industrial warehouse development project would result in a substantial improvement to the appearance of the area by replacing an underutilized and underdeveloped site with a new modern development that results in the efficient use of the site, high-quality site design, and up-to-date site improvements.
- C. The proposed building design features high-quality exterior materials/finishes, water-efficient landscaping plantings that are intentionally designed to soften views of the project site, and appropriate lighting and hardscape improvements that would result in an enhanced visual appearance for the site.

ENVIRONMENTAL ASSESSMENT

A Final Initial Study/Mitigated Negative Declaration (MND) for the proposed 5006-5010 Mission Boulevard Project (the Project) has been prepared for City review and approval (Attachment A.) The Draft Initial Study/MND was made available for public comment from February 24, 2022, through March 16, 2022, to a setlist of state and local agencies, designated Native American Tribes under AB 52, on the City's website, at the Planning Division public counter, and the Montclair City Library. The Notice of Intent to Adopt a Mitigated Negative Declaration was made available by the following methods to indicate the availability of the environmental document during the public comment period: (i) published in the Inland Valley Daily Bulletin newspaper, a newspaper of general circulation; (ii) filed with the San Bernardino County Clerk; (iii) filed with the State Clearinghouse; (iv) mailed to various interested persons, agencies, and tribes; and (v) posted on the City's website. During the public review period, two written comment letters were received from members of the public. No comments were received from public agencies. Copies of the comment letters and the City's responses to the comments are provided in the Response to Comments document (Attachment B).

In response to feedback received on the Draft Initial Study/MND via the public review process, Section 3.11 Land Use and Planning, and Mitigation Measures TCR-1 and TCR-2 were updated in the Final Initial Study/MND.

These changes/updates are further described in the Response to Comments and shown in the Errata section of the Final Initial Study/MND. The changes/updates do not result in alterations to the degree of impact or significance conclusions presented in the Draft Initial Study/MND and therefore do not constitute significant new information. Rather, the changes serve to clarify and strengthen the content of the Draft Initial Study/MND. Therefore, recirculation of the Initial Study/MND is not required under CEQA Guidelines Section 15073.5. The Final Initial Study/MND is attached and is available for review on the City's website.

Mitigation measures are proposed in the Initial Study/MND to mitigate the following impacts to less than significant: air quality, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources. These mitigation measures have been incorporated as conditions of approval for the Project, which are as follows:

MM-AQ-1 Construction Equipment Emissions Reductions. The following measures shall be incorporated into the project to reduce construction criteria air pollutant emissions of PM10:

- a) The following equipment shall make use of EPA Tier 4 Interim engines during construction: concrete/industrial saws, generator sets, rubber-tired dozers, and tractors/loaders/backhoes. An exemption from these requirements may be granted by the City in the event that the applicant documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment. Before an exemption may be considered by the City, the applicant shall be required to demonstrate that two construction fleet owners/operators in

the Los Angeles Region were contacted and that those owners/operators confirmed Tier 4 Interim or better equipment could not be located within the Los Angeles region. To ensure that Tier 4 construction equipment or better would be used during the proposed project's construction, the applicant shall include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities.

- b) Minimize simultaneous operation of multiple construction equipment units. During construction, vehicles in loading and unloading queues shall not idle for more than 5 minutes and shall turn their engines off when not in use to reduce vehicle emissions.
- c) Properly tune and maintain all construction equipment in accordance with manufacturer's specifications.

MM-CUL-1 All construction personnel and monitors who are not trained archaeologists shall be briefed regarding inadvertent discoveries prior to the start of construction activities. A basic presentation and handout or pamphlet shall be prepared in order to ensure proper identification and treatment of inadvertent discoveries. The purpose of the Workers Environmental Awareness Program (WEAP) training is to provide specific details on the kinds of archaeological materials that may be identified during construction of the project and explain the importance of and legal basis for the protection of significant archaeological resources. Each worker shall also learn the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground-disturbing activities. These procedures include work curtailment or redirection, and the immediate contact of the site supervisor and archaeological monitor.

MM-CUL-2 A qualified archaeologist shall be retained and on-call to respond and address any inadvertent discoveries identified during initial excavation in native soil. Initial excavation is defined as initial construction-related earth moving of sediments from their place of deposition. As it pertains to archaeological monitoring, this definition excludes movement of sediments after they have been initially disturbed or displaced by project-related construction. A qualified archaeological principal investigator, meeting the Secretary of the Interior's Professional Qualification Standards, should oversee and adjust monitoring efforts as needed (increase, decrease, or discontinue monitoring frequency) based on the observed potential for construction activities to encounter cultural deposits or material. The archaeological monitor will be responsible for maintaining daily monitoring logs.

In the event that potential prehistoric or historical archaeological resources (sites, features, or artifacts) are exposed during construction activities for the project, all construction work occurring within 100 feet of the find shall immediately stop and a qualified archaeologist must be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find, the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, data recovery, or monitoring may be warranted.

If monitoring is conducted, an archaeological monitoring report shall be prepared within 60 days following completion of ground disturbance and submitted to the City for review. This report should document compliance with approved mitigation, document the monitoring efforts, and include an appendix with daily monitoring logs. The final report shall be submitted to the South Central Coastal Information Center.

MM-GEO-1 Paleontological Construction Monitoring. If any grading activity below a depth of 10 feet below the ground surface is proposed for the project, the applicant shall retain a paleontologist to ensure the implementation of a paleontological monitoring program. The paleontologist shall meet the requirements of a qualified paleontologist, as defined by the Society of Vertebrate Paleontology (SVP 2010). The qualified paleontologist shall attend any preconstruction meetings and manage the paleontological monitor(s) if they are not doing the monitoring. A paleontological monitor shall be on site during all excavations below the depth of 10 feet below the ground surface. The qualified paleontologist shall determine the level of monitoring required based on subsurface conditions. If Pleistocene sedimentological indicators are not observed below 10 feet or sediments are too coarse grained for fossil preservation (e.g., large cobbles and boulders), the qualified paleontologist or paleontological monitor shall spot-check excavations at five-foot intervals to determine if Pleistocene sediments are being impacted. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. If sedimentological indicators conducive to the preservation of microvertebrates (as defined by SVP [2010]) are encountered, test sediment samples shall be collected to determine the presence of microvertebrate fossils. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is completed, the monitor will remove the rope and allow grading to recommence in the area of the find. Following the paleontological monitoring program, a final monitoring report shall be submitted to the City

for review and approval. The report shall summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.

- MM-HAZ-1** Prior to initiating any ground disturbing activities on the project site, the project applicant shall prepare a Soil Management Plan that is submitted and approved by the San Bernardino County Fire Department, Hazardous Materials Division. The Soil Management Plan shall be prepared by a qualified expert and provide all field protocols for the appropriate identification, notification, and handling/protection of suspect materials, if encountered during earthwork activities. Upon discovery of suspect soils or groundwater, the contractor shall notify the San Bernardino County Fire Department and retain a qualified professional to collect soil samples to confirm the type and extent of contamination that may be present. If contamination is confirmed to be present, any further ground disturbing activities within areas of identified or suspected contamination shall be conducted according to a site-specific health and safety plan, prepared by a California state licensed professional.

If contaminated soil or groundwater is encountered and constituents exceed human health risk levels, ground disturbing activities shall not recommence within the contaminated areas until remediation is complete and a “no further action” letter is obtained from the appropriate regulatory agency or direction is otherwise given by the overseeing agency that construction can commence. The project applicant shall submit the “no further action” letter or equivalent notification to the City prior to resumption of any ground disturbing activity on the relevant portion of the project site.

- MM-TCR-1** Prior to the issuance of any grading permit for the Project, the City of Montclair (City) shall ensure that the Project Applicant retains the services of a tribal monitor(s) approved by the Gabrieleño Band of Mission Indians Kizh Nation to provide Native American monitoring during ground-disturbing activities. This provision shall be included on the Project contractor’s plans and specifications. Ground-disturbing activities are defined by the Gabrieleño 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, borings, grading, excavation, drilling, and/or 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 possess Hazardous Waste Operations and Emergency Response (HAZWOPER) certification. In addition, the monitor(s) shall be required to provide insurance certificates, including liability insurance.

If evidence of any tribal cultural resources is found during ground-disturbing activities, the monitor(s) shall have the capacity to halt

construction in the immediate vicinity of the find to recover and/or determine the appropriate plan of recovery for the resource in consultation with a qualified archaeologist. The recovery process shall not unreasonably delay the construction process and must be carried out consistent with CEQA and local regulations.

Construction activity shall not be contingent on the presence or availability of a 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 and general observations and whether the Native American monitor believes they observed a TCR and what action they took. The on-site monitoring shall end when the Project site grading and excavation activities are completed or prior to the completion if the monitor has indicated that the site has a low potential for tribal cultural resources.

MM-TCR-2 Upon discovery of any tribal cultural resources, a Native American monitor has the ability to halt construction activities in the immediate vicinity (within 50 feet) of the find until the find can be assessed. All tribal cultural resources unearthed during the Project construction activities shall be evaluated by the Native American monitor approved by the Gabrieleño Band of Mission Indians Kizh Nation and a qualified archaeologist. Construction work shall be permitted to continue on other parts of the Project site while evaluation and, if necessary, additional investigations and/or preservation measures take place (CEQA Guidelines Section 15064.5(f)). If the resources are Native American in origin, the Gabrieleño Band of Mission Indians Kizh Nation tribe shall coordinate with the landowner regarding the 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 the implementation of avoidance measures shall be made available through coordination between the Gabrieleño Band of Mission Indians Kizh Nation and the Project applicant. The treatment plan established for the resources shall be in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15064.5(f) for historical resources and Public Resources Code (PRC) Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include the implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis.

PUBLIC NOTICE

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on April 15, 2022, 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 preparation of this agenda report, no comments were received from the public regarding the application.

Planning Division Recommendation

Staff recommends the Planning Commission find the proposal to construct a new, 115,300 square-foot industrial/warehouse building and associated site improvements for the 5.13-acre site at 5006-5010 Mission Boulevard to be well designed and compatible with surrounding land uses. Accordingly, the staff recommends approval of Case No. 2022-07 by taking the following actions:

- A. For environmental review, take the following actions:
 - 1. Review and consider the information contained in the Final Initial Study/MND, and administrative record, including all oral and written comments received during the comment period, and find that the Final Initial Study/MND has been completed in compliance with CEQA ; and
 - 2. Recommend to City Council to approve and adopt the proposed Mitigated Negative Declaration (MND), and approve and adopt the Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project and made a condition of Project approval; and;
 - 3. Recommend to City Council to approve the Project as described in the Final Initial Study/MND per Resolution No. 22-1967; and
 - 4. Recommend to City Council to direct staff to file a Notice of Determination (NOD) and the applicant to pay appropriate fees within five (5) days of this action, and;
- B. For the proposed land use amendment, make the following recommendations to the City Council:
 - 1. Recommend approval of the proposed amendment to the General Plan land use designation of the subject property from "General Commercial" to "Business Park" per attached Planning Commission Resolution No. 22-1964; and
- C. For the project, consider approval of the following actions:
 - 1. Recommendation to City Council for approval of Tentative Parcel Map No. 20393, to allow the merging of three separate parcels into a single 5.13-acre parcel to accommodate the proposed General Plan amendment and the subsequent development of the site with a single industrial warehouse building and finding that the map is consistent with the Montclair Municipal Code and the State Subdivision Map Act and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 22-1965; and

2. Approval of Precise Plan of Design for the site plan, elevations, conceptual colors and materials, and conceptual landscape plan associated with the proposed single industrial warehouse building and associated on- and off-site improvements per the submitted plans and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 22-1966, and subject to the City Council's approval of the MND, GPA, and Tentative Parcel Map No. 20393. If either the GPA, MND or the TPM are not approved by the City Council than the Precise Plan of Design approval shall be null and void.

Respectfully Submitted,

Michael Diaz
Director of Community of Development

MD/sg

Attachments: Draft Resolution No. 22-1964
Draft Resolution No. 22-1965
Draft Resolution No. 22-1966
Draft Resolution No. 22-1967
Final Initial Study Mitigated Negative Declaration 5006-5010 Mission Warehouse
Mitigation Monitoring and Reporting Program

c: Anthony La and Cary Niu, 138 North Glendora Avenue, Glendora, CA 91741
Roger Deitos, GAA Architects, 8811 Research Drive, Suite 200, Irvine, CA 92618
Madole & Associates 9302 Pittsburgh Avenue, Suite 230, Rancho Cucamonga, CA 91730
Scott Peterson Landscape Architect, Inc., 2883 Via Rancheros Way, Fall Brook, CA 92028

RESOLUTION NO. 22-1964

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL APPROVAL OF A GENERAL PLAN AMENDMENT TO MODIFY THE LAND USE DESIGNATION OF 5.13-ACRES OF LAND FROM TWO WESTERLY PARCELS HAVING THE "GENERAL COMMERCIAL" LAND USE DESIGNATION " TO ALL "BUSINESS PARK" TO ALLOW THE DEVELOPMENT OF THE SUBJECT SITE WITH A NEW INDUSTRIAL BUILDING THEREON (APNs 1101-311-15, 1101-311-17, and 1101-311-19)

A. Recitals.

WHEREAS, New Crossings Development, LLC the authorized representative of the property owner, has applied for a General Plan Amendment under Case No. 2022-07; and

WHEREAS, the application for General Plan Amendment applies to a 5.13-acre site currently composed of three parcels (APN 1101-311-15, 1101-311-17, and 1101-311-19) located on the north side of Mission Boulevard approximately 250 feet east of Monte Vista Avenue, and addressed as 5006 and 5010 Mission Boulevard; and

WHEREAS, the subject 5.13-acre site is currently designated by the General Plan as "General Commercial" on the westerly half and "Business Park on the easterly half"; and

WHEREAS, two of the three parcels are currently undeveloped and largely comprised of disturbed soils and minimal vegetation. The remaining parcel is developed and features an unoccupied building that was previously used as an auto-sales office; and

WHEREAS, the applicant has submitted concurrent applications related to developing the site with an industrial building including Tentative Parcel Map No. 20393 to merge the parcels and a Precise Plan of Design (PPD) (the "Project"); and

WHEREAS, the General Plan Amendment land use request would apply to the three (3) existing parcels to be merged into a single developable parcel on which the proposed use is envisioned; and

WHEREAS, the above-referenced site is illustrated on the attached Exhibit "A," a map incorporated herein by reference; and

WHEREAS, the City prepared an Initial Study/Mitigated Negative Declaration ("MND") (SCH #2022030195) that analyzed the proposed Project's environmental impacts in compliance with the provisions of the California Environmental Quality Act ("CEQA"), which determined that proposed mitigation measures would reduce impacts to air quality, cultural resources, geology and soils, hazards and hazardous materials,

and tribal cultural resources to less than significant, and was circulated for public review and comment between February 25, 2022, and March 16, 2022; and

WHEREAS, a Final Initial Study/MND was prepared and consists of the responses to comments and the Initial Study/MND; and

WHEREAS, public notice of this item was advertised as a public hearing on April 15, 2022, in the Inland Valley Daily Bulletin newspaper, and mailed to property owners within a 300-foot radius of the exterior boundaries of the Project site in accordance with State law for consideration of these discretionary entitlements; and

WHEREAS, on April 25, 2022, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a duly noticed public hearing to consider the proposed Project and its potential environmental impacts, the Final Initial Study/MND, and all evidence presented before and during the hearing and contained in the administrative record. All persons wishing to testify in connection with the said proposal were heard and said application was fully studied.

B. Resolution.

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

1. This Commission hereby specifically finds that all of the facts outlined in the Recitals, Part A, of this Resolution are true and correct.
2. Based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission finds the Amendment promotes the goals and objectives of the General Plan and leaves the General Plan a compatible, integrated, and internally consistent statement of policies for the following reasons:
 - A. The implementation of the Proposed GPA would be consistent with the following General Plan policies:

LU-1.1.0 To encourage compatible Land Uses within the City

LU-1.2.0 To promote the mitigation of existing land use conflicts

LU.1.3.0 To promote the rational utilization of underdeveloped and undeveloped parcels The proposed GPA would allow for the site to transition from a mix of old commercial vacant parcels to business park development consistent with adjacent existing business park designation of the easterly portion of the site and the remaining block bounded by the west side of Fremont Avenue. As such, the site would become an integral part of the City's efforts to provide a cohesive plan and vision for the side of Mission Boulevard along this block that is linked in terms of compatible design.

- B. The General Plan Amendment is integrated and compatible with the Conservation Element in that it provides uses that promote the orderly conservation, development, and utilization of natural resources. The City's General Plan does not designate any areas of the City as being within a habitat conservation plan (City of Montclair 1999). Furthermore, the City is not within any of the regional conservation plans designated by the state (CDFW 2014). As such, implementation of the Proposed GPA would not conflict with any applicable habitat conservation plan or natural community conservation plan. More specifically, the subject site is characterized as a mix of old commercial/industrial land uses and vacant parcels with no significant vegetation. The vacant areas at the subject location are highly disturbed, graded to varying degrees, and support only minimal amounts of low-growing vegetation (mostly annual weeds).
- C. –The Amendment is integrated and compatible with the Open Space Element in that it provides for uses that are consistent with and promote the adopted goals and policies for preserving and managing open space within the City. No open space resources exist on the subject site. However, with the GPA and attendant zone change new development on the site will be subject to the provisions of the amended NMDSP which includes requirements for landscaping (trees and vegetation) and open space/recreational spaces as part of the design of future projects, which are not currently present on the site.
- D. The Amendment is integrated and compatible with the Noise Element in that it provides a pattern of land uses that minimizes the exposure of community residents to excessive noise. The Montclair General Plan requires future development to comply with the standards of Noise Element. The proposed GPA would allow the subject site to be required to comply with the Noise Element standards, but also utilize site plan and building design strategies to reduce noise impacts to adjacent properties and future residents. Moreover, mitigation measures identified in the IS/MD are designed to address future term short-term and long-term noise impacts associated with new development projects.
- E. The Amendment is integrated and compatible with the Safety Element in that it provides an appropriate land use distribution and orientation that protects the community from unreasonable risks associated with seismic, geologic, flood, and wildfire hazards. Given the urbanized nature of the site and relatively gentle slope, there is no serious threat from wildland fires or geological instability. However, the General Plan recognizes the City of Montclair's location within Seismic Zone 4, which is considered the most active seismic zone in the state. Further, there are no designated "Earthquake Fault Zones" in the city or the subject as confirmed by the Alquist-Priolo Earthquake Fault Zoning Maps, geologic hazard overlays in the City of Montclair's General Plan Safety Element, and the County of San Bernardino's Land Use Plan General Plan (City of Montclair 1999 and County of San Bernardino 2010). Finally, as standard practice for all

development in the City, and as specifically required by the proposed Mitigation Measures prepared for the Amendment, all future development projects on the subject site will be required to comply with the Unified Building Code standards and regulations which include proper soil preparation and compaction requirements for construction.

This Commission recommends the City Council adopt Resolution No. 22-1964, amending the General Plan Land Use Map designation of the property associated with Case No. 2022-07 from both "General Commercial" and "Business Park" to "Business Park."

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

APPROVED AND ADOPTED THIS 15TH DAY OF APRIL, 2022.
PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 25th day of April 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Exhibit A

CASE NUMBER: 2022-07

PROJECT LOCATION: 5006-5010 Mission Boulevard
APN.: The project site is composed of three parcels
(APN 1101-311-15, 1101-311-17, and 1101-311-19)
PROPERTY OWNER: New Crossings Development, LLC authorized property
owner representative

General Plan Amendment		
APN	<i>Existing</i>	<i>Proposed</i>
1101-311-15	"General Commercial"	"Business Park"
1101-311-17	"General Commercial"	"Business Park"
1101-311-19	"Business Park"	"Business Park"

RESOLUTION NO. 22-1965

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MONTCLAIR RECOMMENDING
CITY COUNCIL APPROVAL OF TENTATIVE
PARCEL MAP NO. 20393, A MERGER OF THREE
ABUTTING PARCELS INTO A SINGLE
DEVELOPABLE 5.13-ACRE PARCEL AT 5006-5010
MISSION BOULEVARD (APNs 1101-311-15, 1101-
311-17, AND 1101-311-19)**

A. Recitals.

WHEREAS, on February 22, 2022, New Crossings Development, LLC the authorized representative of the property owner, filed an application for a Tentative Parcel Map No. 20393, to merge three abutting parcels into a single parcel totaling 5.13 gross acres; and

WHEREAS, the subject site commonly known as 5006-5010 Mission Boulevard is located approximately 240 feet from the northeast corner of Mission Boulevard and Monte Vista Avenue, further identified Assessor Parcel Nos. 1101-311-15, 1101-311-17, and 1101-311-19, and depicted on attached Exhibit "A," a map incorporated herein by reference; and

WHEREAS, the project site is wholly located within the MIP (Manufacturing Industrial Park) zone and is partially developed with a timeworn and vacant, 8,000 square-foot freestanding commercial building formerly used as an auto repair shop and used car sales lot; and

WHEREAS, the applicant has submitted concurrent applications requesting a General Plan Land Use Map Amendment and a Precise Plan of Design under Case 2022-07 in order to facilitate construction of the project; and

WHEREAS, the General Plan Land Use Map Amendment to "Business Park," if approved by the City Council, would be consistent with the MIP zoning designation for the site and allow for the development of the proposed project under Planning Case No. 2022-07; and

WHEREAS, staff finds the project to be in compliance with the guidelines and applicable development standards of the MIP (Manufacturing Industrial Park) zone; and

WHEREAS pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study (IS) for the project and released it for a 20-day public review and comment beginning on February 25, 2022, and ending on March 16, 2022; and

WHEREAS, a notice of the availability of the IS 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 pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study (IS) for the General Plan Amendment, Tentative Parcel Map No. 20393, and Precise Plan of Design and released it for public review and comment on February 25, 2022. Based on the findings of the Initial Study, staff has determined that, although the proposed project

could have a significant effect on the environment, there will not be a significant effect because revisions in the project have been made by or agreed to by the project proponent. Therefore, a Mitigated Negative Declaration (MND) is proposed for the project; and

WHEREAS, a 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, on February 25, 2022, the Notice of Availability of the IS/MND was filed with the San Bernardino County Clerk of the Board; and

WHEREAS, the minimum 21-day public review period for the IS/MND commenced on February 25, 2022, and concluded on March 16, 2022; and

WHEREAS, copies of the IS/MND were available during the public review period at the Community Development counter at City Hall and Montclair City Library; and

WHEREAS, public notice of this item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on April 15, 2022; and

WHEREAS, on April 25, 2022, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, 5111 Benito Street, Montclair California, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with the said application were heard, and said application was fully studied.

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RESOLVES AS FOLLOWS:

SECTION 1. 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 recommends the City Council find that the proposed project is exempt from further environmental review pursuant to State CEQA Guidelines, section 15182 based on the following findings of fact:

SECTION 2. Pursuant to California Government Code Section 66410 et seq., based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

- A. The proposed tentative parcel map to merge abutting parcels into a single property to accommodate an industrial warehouse building is designed, to the extent feasible, to provide for passive or natural heating or cooling opportunities. The proposed building on the site is generally oriented, spaced, and designed to allow for access to adequate light and air.
- B. The proposed tentative parcel map and the provisions for its design and improvement are consistent with the General Plan for the City of Montclair ("General Plan"). In the event that the City Council approves the General Plan

Amendment, the Tentative Parcel Map would provide for land uses compatible with the land use classification for the subject site by the General Plan Amendment. The overall goal of the General Plan is to promote good planning practices and orderly development within the City and to recognize the potential of specific areas for special treatment.

- C. The subject site is physically suitable for the proposed development of the site with a 115,000 square foot industrial warehouse building and associated site improvements as shown on Tentative Parcel Map No. 20393. The size and configuration of the site has sufficient width and depth to allow for orderly site development, the provision of on-site circulation and parking, landscaping, and the proposed building. Moreover, the project site is also located adjacent to a fully improved street that will provide good and safe access to and from the site.
- D. The merger design and improvements proposed in the Tentative Parcel Map is not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat. An environmental assessment of the project on the subject site was conducted and revealed no significant impacts to the site or surrounding area overall. The site is surrounded by new and existing urban development and streets; does not contain any bodies of water; and is not linked to any wildlife corridors. The site does not contain any evidence of known habitats of significance including rare or endangered species of plant, animal, or insect life.
- E. The parcel map and improvements proposed with the development of the site are consistent with existing newer development in the immediate area and are not likely to cause serious public health problems because all site development and public improvements will be performed per the requirements of all applicable standards and codes including the zoning and building codes.
- F. The Tentative Parcel Map design and type of improvements proposed do not conflict with any public easements for access through or the use of the subject site because no such easements exist on the subject site.
- G. The discharge of waste into the existing sanitary sewer system from the development associated with the Tentative Parcel Map will not cause a violation of existing requirements prescribed by the Regional Water Quality Control Board. The entire project will be required to connect to a sanitary sewage system pursuant to California Plumbing Code and Municipal Code requirements. A sewer main exists in Mission Boulevard.

SECTION 3. Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings set forth in this Resolution, the Planning Commission recommends the City Council approve Tentative Parcel Map No. 20393 as depicted in Exhibit "A" (attached) subject to the following Conditions of Approval:

Conditions of Approval

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

1. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
2. The tentative parcel map shall expire three years from the date of City Council approval unless extended under Government Code Section 66452.6. The final map shall be filed with the City Engineer and shall comply with the Subdivision Map Act of the State of California and all applicable Ordinances, requirements, and Resolutions of the City of Montclair.
3. The parcel map may be submitted for plan checking prior to, in conjunction with, or after the submittal of the public improvement plans. Parcel map submittals shall include a preliminary title report, reference deeds, closure calculations, reference maps, and other reference material as may be necessary to check the map. An advance plan check fee, the amount to be determined by the City Engineer, shall be required at the time map is submitted. Prior to approval of the final map, a subdivision agreement will be required. The agreement shall contain provisions for performance and payment bonds for all work within the public rights-of-way, and a monumentation bond for corner monuments in accordance with the Subdivision Map Act.
4. The subdivider/applicant shall reimburse the City for costs associated with the preparation/review of the Tentative Parcel Map and/or Final Parcel Map.
5. In establishing and conducting the subject use, the applicant shall at all times comply with any laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this Tentative Parcel Map shall not waive compliance with any such requirements.

SECTION 4. Based on the entire record before the Planning Commission and all written and oral evidence presented to the Planning Commission, the Planning Commission finds the nature and extent of the dedications, reservations, impact fees, and other exactions are reasonably related to public needs and roughly proportional to the impacts created by the subdivision and improvements proposed in the Tentative Parcel Map. The proposed conditions are typical of any subdivision of land and necessary to support the subsequent development of the site with residential uses as envisioned by the applicants. Street improvements, sanitary sewer connections, and associated impact fees are commensurate with the needs and impacts associated with the development of underutilized property for new uses.

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

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

APPROVED AND ADOPTED THIS 25TH DAY OF APRIL 2022.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 25th day of April 2022, by the following vote to-wit:

AYES:

NOES:

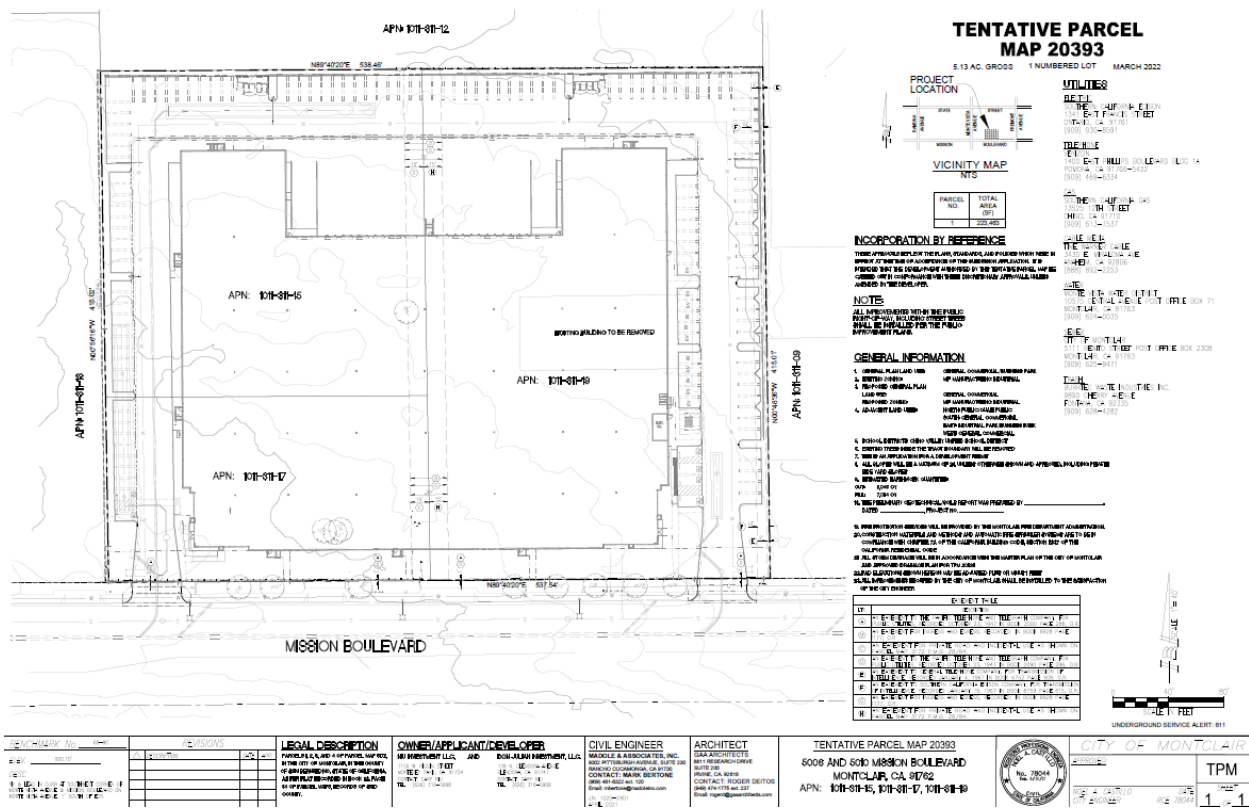
ABSENT:

Z:\COMMDEVSGUTIERREZ\CASES\2022-07 PC RESOLUTION1965

Exhibit A

Resolution No.22-1965

Tentative Parcel Map 20393



RESOLUTION NO. 22-1966

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A PRECISE PLAN OF DESIGN UNDER CASE NO. 2022-07 FOR THE SITE PLAN, FLOOR PLANS, ELEVATIONS, COLORS, MATERIALS, AND CONCEPTUAL LANDSCAPE PLAN FOR A 115,300 SQUARE-FOOT INDUSTRIAL BUILDING ON A 5.13-ACRE SITE (APN 1101-311-15, 1101-311-17, AND 1101-311-19)

WHEREAS, on February 22, 2022, New Crossings Development, LLC the authorized representative of the property owner, filed an application for a Precise Plan of Design (PPD) identified as Case No. 2022-7, to allow the development of a 115,300 square-foot industrial warehouse building and associated site improvements. (APN 1011-311-15, 1011-311-17, and 1011-311-19); and

WHEREAS, the subject site is currently composed of three adjacent parcels (APN 1101-311-15, 1101-311-17, and 1101-311-19) located on the north side of Mission Boulevard approximately 250 feet east of Monte Vista Avenue, and addressed as 5006 and 5010 Mission Boulevard; and

WHEREAS, the combined size of the existing parcels is 5.13 acres all of which are zoned "MIP" (Manufacturing Industrial Park); and

WHEREAS, the subject site is partially developed with a timeworn and vacant, 8,000 square-foot commercial building formerly used as a auto repair shop and an auto dealership ; and

WHEREAS, the applicant has submitted a concurrent applications requesting a General Plan Land Use Map Amendment to modify the current land use designation of "General Commercial" and "Business Park" to all "Business Park" and for Tentative Parcel Map No. 20393 to merge the existing three parcels into a single property for the purpose of constructing the proposed project; and

WHEREAS, the General Plan Land Use Map Amendment to "Business Park," if approved by the City Council, would be consistent with the MIP zoning designation for the site and allow for the development of the proposed project; and

WHEREAS, staff finds the project to be in compliance with the guidelines and applicable development standards of the MIP (Manufacturing Industrial Park) zone; 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 of the site with an industrial warehouse building; and

WHEREAS pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study (IS) for the General Plan Amendment, Tentative Parcel Map No. 20393, and Precise Plan of Design and released it for public review and comment on February 25, 2022. Based on the findings of the Initial Study, staff has determined that, although the proposed project could have a significant effect on the environment, there will not be a significant effect because revisions in the project have been made by or agreed to by the project proponent. Therefore, a Mitigated Negative Declaration (MND) is proposed for the project; 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 February 25, 2022, and ending on March 16, 2022; and

WHEREAS, copies of the IS/MND were made available during the public review period at the Community Development public counter at City Hall and Montclair City Library; and

WHEREAS, public notice of this item was advertised as a public hearing on April 15, 2022, in the Inland Valley Daily Bulletin newspaper, and mailed to property owners within a 300-foot radius of the exterior boundaries of the Project site in accordance with State law for consideration of these discretionary entitlements; and

WHEREAS, on April 25, 2022, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the Planning Commission conducted a duly noticed public hearing to consider the proposed Project and its potential environmental impacts, the Final Initial Study/MND, and all evidence presented before and during the hearing and contained in the administrative record. All persons wishing to testify in connection with the said proposal were heard and said application was fully studied.

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RESOLVES 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 the entire record before the Planning Commission during the above-referenced hearing on April 25, 2022, 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 2022-07, subject to the conditions of approval contained in this resolution:

- A. The proposed development of a 115,300 square-foot industrial warehouse building and associated on-site improvements is consistent with the current zoning designation and applicable development standards of the MIP (Manufacturing Industrial Park) zone. Future users of the site will be subject to zoning verification and would be restricted to indoor activities only.
- B. The proposed industrial warehouse development project would result in a substantial and significant improvement to the appearance of the area by replacing an underutilized and underdeveloped site with a new modern development that incorporates the efficient use of the site, and 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 project site, and appropriate lighting and hardscape improvements that would result in an enhanced visual appearance for the site.

SECTION 3. Based upon the entire record before the Planning Commission during the above-referenced hearing on April 25, 2022, 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 in Exhibit "B" – Case 2022-7 Conditions of Approval.

Exhibit "B"
Case No. 2022-07
5006-5010 Mission Boulevard
Conditions of Approval

PLANNING

1. This General Plan Amendment (GPA), Tentative Parcel Map 20393, Precise Plan of Design (PPD), approval is for the construction of a new, 115,300 square-foot industrial/warehouse building and associated site improvements including parking and landscaping for the property located at 5006-5010 Mission Boulevard, as described in the staff report and depicted on approved plans.
2. 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, a 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.
3. 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.
4. In approving this PPD, 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 PPD shall not waive compliance with any such requirements.
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 \$2,598 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 for the proposed Mitigated Negative Declaration as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$611.79 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.

6. 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.
7. 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.
8. 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.
9. No outdoor payphones, loudspeakers, or vending machines shall be installed or placed on the property.
10. All automobile parking spaces shall be clearly delineated with double-line (e.g. "hairpin") striping per City Standard No. SP-2A.
11. There shall be no outdoor storage of personal or other items (including motor vehicles).
12. 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 activities such as spending a significant time at the location for more than one day, sleeping at the location,
13. Future business operations the site shall be subject to the applicable noise requirements of Chapter 6.12 of the Montclair Municipal Code.
14. The placement and design of all walls or fences on the site shall be consistent with the submitted conceptual plans and shall be complementary to the overall appearance and colors of the new building. Fences and walls shall meet the following requirements subject to the approval of Director of Community Development (Director) or designee.:
 - a. Metal fencing shall have a durable finish (e.g. powder coat) in a color that compliments the building.

- b. The maximum height of the fence shall not exceed eight feet (8'-0") along the interior side or rear property line as adjusted for existing grade conditions.
 - c. Applicant shall coordinate with adjoining property owners when developing a fence/wall plan to avoid double fence conditions to the north, west, and east to the greatest extent possible.
 - d. Barbed or concertina wire shall be strictly prohibited.
 - e. All proposed block walls shall incorporate a finished cap piece (except concrete tilt-up walls). Unfinished gray colored masonry block is prohibited.
 - f. Any gates on the premises shall be made accessible to emergency personnel (Police/Fire/Building and Safety) during times when they are closed. Contact Brett Petroff, Deputy Fire Marshal, firemarshal@cityofmontclair.org for further information on requirements.
15. 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 so as to direct illumination down 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" (inclusive of base pedestals) 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 not be permitted.
 - g. "Wall-washers" or decorative landscape lighting shall be subject to review and approval by the Director.

16. The trash enclosure(s) shall have a solid roof cover and be designed to complement the overall architecture of the main building. Contact Gary Knootz gknootz@burrtec.com Burrtec Waste Industries to determine the number of required bins to support the most likely end-user(s) of the building and request a will serve letter. Will serve letter must be printed directly on the construction plan sets submitted for plan check.
17. Prior to issuance of a Certificate of Occupancy, the applicant shall install approved landscaping materials on the site including the exterior setback area along the Mission Boulevard frontage of the property, subject to the satisfaction of the Director or designee. The following standards shall apply:
 - a. All shrubs shall be a minimum five-gallon container size (except herbaceous perennials and woody spreading shrubs on slopes).
 - b. All trees (except required street trees) shall be a minimum 24-inch box size and double-staked.
 - c. A minimum of 3 inches of dark brown bark mulch (shredded or chips) shall be provided on all planted areas.
 - d. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
18. Prior to the issuance of a Certificate of Occupancy the Landscape Architect of record shall submit a Letter of Completion to both Planning Division and Engineering Division confirming plant materials and the irrigation system have been installed per approved plan and in compliance with the State Water Conservation Requirements.
19. All landscaping and irrigation systems shall be maintained in accordance with the approved site and/or landscape plan to ensure water use efficiency.
20. Any plant material that does not survive, or is removed, or destroyed shall be replaced upon its demise or removal with plant material of a 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 Director.

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 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. 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.
24. 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.
25. 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.
26. 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 project above the roof parapet.
27. Screening of roof-mounted equipment shall be accomplished with mechanical roof wells recessed below the roofline 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.
28. Access to the roof of the building shall be from within the structure and not by means of roof access ladders mounted to the exterior of the building.
29. 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 or his designee.
30. 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 and Fire Marshal. Efforts shall be made to place these elements in locations that are as visually unobtrusive as possible.

31. 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.
32. Graffiti or etching of glass areas on the building or other site improvements shall be removed/replaced immediately by the applicant/property owner upon notification by the City.
33. 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.
34. 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 the applicant of its obligations under this condition.

ENVIRONMENTAL MITIGATION MEASURES

These mitigation measures have been incorporated as conditions of approval for the Project, which are as follows:

35. **MM-AQ-1** Construction Equipment Emissions Reductions. The following measures shall be incorporated into the project to reduce construction criteria air pollutant emissions of PM10:
 - a) The following equipment shall make use of EPA Tier 4 Interim engines during construction: concrete/industrial saws, generator sets, rubber tired dozers, and tractors/loaders/backhoes. An exemption from these requirements may be granted by the City in the event that the applicant documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment. Before an exemption may be considered by the City, the applicant shall be required to demonstrate that two construction fleet owners/operators in the Los Angeles Region were contacted and that those owners/operators confirmed Tier 4 Interim or better equipment could not be located within the Los Angeles region. To ensure that Tier 4 construction equipment or better would be used during

the Proposed project's construction, the applicant shall include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities.

- b) Minimize simultaneous operation of multiple construction equipment units. During construction, vehicles in loading and unloading queues shall not idle for more than 5 minutes, and shall turn their engines off when not in use to reduce vehicle emissions.
 - c) Properly tune and maintain all construction equipment in accordance with manufacturer's specifications.
36. **MM-CUL-1** All construction personnel and monitors who are not trained archaeologists shall be briefed regarding inadvertent discoveries prior to the start of construction activities. A basic presentation and handout or pamphlet shall be prepared in order to ensure proper identification and treatment of inadvertent discoveries. The purpose of the Workers Environmental Awareness Program (WEAP) training is to provide specific details on the kinds of archaeological materials that may be identified during construction of the project and explain the importance of and legal basis for the protection of significant archaeological resources. Each worker shall also learn the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground-disturbing activities. These procedures include work curtailment or redirection, and the immediate contact of the site supervisor and archaeological monitor.
37. **MM-CUL-2** A qualified archaeologist shall be retained and on-call to respond and address any inadvertent discoveries identified during initial excavation in native soil. Initial excavation is defined as initial construction-related earth moving of sediments from their place of deposition. As it pertains to archaeological monitoring, this definition excludes movement of sediments after they have been initially disturbed or displaced by project-related construction. A qualified archaeological principal investigator, meeting the Secretary of the Interior's Professional Qualification Standards, should oversee and adjust monitoring efforts as needed (increase, decrease, or discontinue monitoring frequency) based on the observed potential for construction activities to encounter cultural deposits or material. The archaeological monitor will be responsible for maintaining daily monitoring logs.

In the event that potential prehistoric or historical archaeological resources (sites, features, or artifacts) are exposed during construction activities for the project, all construction work occurring within 100 feet of the find shall immediately stop and a qualified archaeologist must be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find, the archaeologist may simply record the find and

allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, data recovery, or monitoring may be warranted.

If monitoring is conducted, an archaeological monitoring report shall be prepared within 60 days following completion of ground disturbance and submitted to the City for review. This report should document compliance with approved mitigation, document the monitoring efforts, and include an appendix with daily monitoring logs. The final report shall be submitted to the South Central Coastal Information Center.

38. **MM-GEO-1** Paleontological Construction Monitoring. If any grading activity below a depth of 10 feet below the ground surface is proposed for the project, the applicant shall retain a paleontologist to ensure the implementation of a paleontological monitoring program. The paleontologist shall meet the requirements of a qualified paleontologist, as defined by the Society of Vertebrate Paleontology (SVP 2010). The qualified paleontologist shall attend any preconstruction meetings and manage the paleontological monitor(s) if they are not doing the monitoring. A paleontological monitor shall be on site during all excavations below the depth of 10 feet below the ground surface. The qualified paleontologist shall determine the level of monitoring required based on subsurface conditions. If Pleistocene sedimentological indicators are not observed below 10 feet or sediments are too coarse grained for fossil preservation (e.g., large cobbles and boulders), the qualified paleontologist or paleontological monitor shall spot-check excavations at five-foot intervals to determine if Pleistocene sediments are being impacted. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. If sedimentological indicators conducive to the preservation of microvertebrates (as defined by SVP [2010]) are encountered, test sediment samples shall be collected to determine the presence of microvertebrate fossils. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is completed, the monitor will remove the rope and allow grading to recommence in the area of the find. Following the paleontological monitoring program, a final monitoring report shall be submitted to the City for review and approval. The report shall summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.
39. **MM-HAZ-1** Prior to initiating any ground disturbing activities on the project site, the project applicant shall prepare a Soil Management Plan that is submitted and approved by the San Bernardino County Fire Department, Hazardous Materials

Division. The Soil Management Plan shall be prepared by a qualified expert and provide all field protocols for the appropriate identification, notification, and handling/protection of suspect materials, if encountered during earthwork activities. Upon discovery of suspect soils or groundwater, the contractor shall notify the San Bernardino County Fire Department and retain a qualified professional to collect soil samples to confirm the type and extent of contamination that may be present. If contamination is confirmed to be present, any further ground disturbing activities within areas of identified or suspected contamination shall be conducted according to a site-specific health and safety plan, prepared by a California state licensed professional.

If contaminated soil or groundwater is encountered and constituents exceed human health risk levels, ground disturbing activities shall not recommence within the contaminated areas until remediation is complete and a “no further action” letter is obtained from the appropriate regulatory agency or direction is otherwise given by the overseeing agency that construction can commence. The project applicant shall submit the “no further action” letter or equivalent notification to the City prior to resumption of any ground disturbing activity on the relevant portion of the project site.

40. **MM-TCR-1** Prior to the issuance of any grading permit for the Project, the City of Montclair (City) shall ensure that the Project Applicant retains the services of a tribal monitor(s) approved by the Gabrieleño Band of Mission Indians Kizh Nation to provide Native American monitoring during ground-disturbing activities. This provision shall be included on the Project contractor’s plans and specifications. Ground-disturbing activities are defined by the Gabrieleño 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, borings, grading, excavation, drilling, and/or 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 possess Hazardous Waste Operations and Emergency Response (HAZWOPER) certification. In addition, the monitor(s) shall be required to provide insurance certificates, including liability insurance.

If evidence of any tribal cultural resources is found during ground-disturbing activities, the monitor(s) shall have the capacity to halt construction in the immediate vicinity of the find to recover and/or determine the appropriate plan of recovery for the resource in consultation with a qualified archaeologist. The recovery process shall not unreasonably delay the construction process and must be carried out consistent with CEQA and local regulations.

Construction activity shall not be contingent on the presence or availability of a 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 and general observations and whether the

Native American monitor believes they observed a TCR and what action they took. The on-site monitoring shall end when the Project site grading and excavation activities are completed or prior to the completion if the monitor has indicated that the site has a low potential for tribal cultural resources.

41. **MM-TCR-2** Upon discovery of any tribal cultural resources, a Native American monitor has the ability to halt construction activities in the immediate vicinity (within 50 feet) of the find until the find can be assessed. All tribal cultural resources unearthed during the Project construction activities shall be evaluated by the Native American monitor approved by the Gabrieleño Band of Mission Indians Kizh Nation and a qualified archaeologist. Construction work shall be permitted to continue on other parts of the Project site while evaluation and, if necessary, additional investigations and/or preservation measures take place (CEQA Guidelines Section 15064.5(f)). If the resources are Native American in origin, the Gabrieleño Band of Mission Indians Kizh Nation tribe shall coordinate with the landowner regarding the 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 the implementation of avoidance measures shall be made available through coordination between the Gabrieleño Band of Mission Indians Kizh Nation and the Project applicant. The treatment plan established for the resources shall be in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15064.5(f) for historical resources and Public Resources Code (PRC) Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include the implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis.

BUILDING DIVISION

42. 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. Waste recycling plan, recycling 65 percent of all construction debris.

43. The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances, and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of the submitted plans.
44. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
45. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
46. Submit detailed plans for all walls and fencing associated with this project. Separate permits are required for fencing and/or walls. Double-wall conditions which have been created by an adjacent property line wall are not allowed.
47. All utility services to the project shall be installed underground.
48. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number.
49. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
50. Prior to issuance of building permits for a new commercial or industrial development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include but are not limited to Transportation Development Fees, Permit and Plan Check Fees, and School Fees. All required school fees shall be paid directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District. The applicant shall provide a copy of the school fees receipt to the Building Division prior to permit issuance.
51. Construct trash enclosure(s) per City Standard (available at the Building Division public counter).
52. Electrical and fire suppression service shall rise within the interior of the building(s). Roof ladders shall also be located entirely inside the building.
53. 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.
54. Provide and clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and 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%).

55. Construction drawings submitted to the building division for plan review shall comply with the Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. Install a numerical address on the north building elevation in a location satisfactory to the Director of Community Development.
 - b. Provide and maintain a minimum illumination level of one (1) foot candle from dusk until dawn every day.
 - c. Install approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
56. The newly constructed warehouse building will be known as 5008 Mission and the address 5010 Mission will be retired from use.
57. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from all other departments and/or agencies.
58. 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.
59. 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 Director of Community Development of His designee.
60. 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.
61. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.

62. Each unit shall have individual and independent one-hour separation walls enveloping each assigned airspace or unit and independent utility meters, sewer, water connections, and fire protection systems, subject to the review and approval of the Public Works, Community Development, and Fire Departments.
63. Security gates entering the property or rear of the building shall be equipped with Medeco locks or other acceptable devices to allow access by emergency personnel and utility providers at all times.
64. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
65. 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.
66. All trash enclosures shall be constructed of material consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City standards and shall have a solid roof complementary to the main building. Black-colored concrete shall be used for the trash enclosure floor and its apron.
67. 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.
68. 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, the developer shall also submit evidence to the Building Official that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.
69. 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.
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: 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.

71. 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 to show the proposed haul route within the City. The subject plan shall include provisions for street sweeping and cleanup. Applicant/contractor shall comply with all NPDES requirements.
72. Underground Service Alert shall be notified 48 hours prior to any excavation at (800) 422-4133.
73. All off-site and on-site trenching and excavation shall conform to CAL OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
74. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
75. 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, the developer shall also submit evidence to the Building Official that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.
76. 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.
77. A Certificate of Occupancy is required prior to the occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from all other departments and/or agencies.
78. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
 - a. Complete all on- and off-site improvements.
 - b. Install all disabled parking stalls and parking lot signage.

79. Temporary construction and storage trailers placed on the property shall first obtain approval from the Planning and Building Divisions. If any trailers will include uses for public access, handicap accessibility requirements shall apply. Before any trailer is set in its location, obtain all permits from the building division. Plans and structural calculations will be required for the tie-down devices. Trailers used for public use (and not used for construction only) are required to be handicapped accessible. The trailer will require access to the facility by way of ramps that comply with the California Building Code (CBC) 2016 edition, Chapter 11B, in addition to access to each feature of the trailer.

WATER QUALITY MANAGEMENT PLAN

80. 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.
81. The owner understands that if the stormwater treatment device is infeasible at the proposed location, and an alternative treatment device is proposed that may affect the site design project owner may have to revisit with the Planning Department for any revised site changes.
82. Owner understands no permits are issued prior to the approval of the WQMP.
83. 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 Steve Stanton, Engineering Division Manager, at (909) 625-9444.
84. At the time of Grading permit issuance; Post-Construction BMP inspection permit fees associated with the approved WQMP shall be paid. Contact Steve Stanton, Engineering Division Manager, at (909) 625-9444 for further information regarding permits and fees.
85. Prior to issuance of a rough grading and/or precise grading permit, the applicant must:
 - a. Submit to the Engineering Division an electronic copy of the approved WQMP in PDF format.

- b. Obtain a State Construction General Permit and proof must be shown (WDID Number) on both rough grading plan and precise grading plan.
 - c. Qualified SWPPP Developer and Practioner contact information must be included on the title page of grading plans.
86. Prior to issuance of Certificate of Occupancy, the applicant shall:
- a. Submit to the Engineering Division as built drawings as it relates to the WQMP and, provide adequate plan notes identifying grades, elevations for all inlets, outlets, flow lines and basins.
 - b. Record the WQMP Maintenance Agreement with the County of San Bernardino and provide evidence of said recording to the Engineering Division.
 - c. Prior to the release of the certificate of occupancy for the building, the person or corporation responsible for the preparation of the WQMP shall certify in writing to the NPDES Coordinator that all conditions and requirements of the WQMP have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, the developer shall also submit evidence to the NPDES Coordinator that the lessee or purchaser has been advised in writing of the lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the WQMP.
 - d. 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, if applicable.

LANDSCAPE CONDITIONS OF APPROVAL ASSOCIATED WITH THE WQMP

ENGINEERING

- 87. All public and private streets shall have sidewalks conforming to the Americans with Disabilities Act (ADA). Public and private streets shall have sidewalks on each side. Widths and scoring patterns shall conform to City Standard Plan No. 114.
- 88. All pavement damaged by excavation will be replaced with permanent pavement per the City Standard Plan No. 301 for paving and trench repair.
- 89. Replace all existing lifted or cracked curb gutter, damaged utility pull box lids, and the sidewalk adjacent to the property. Additionally, remove the sidewalk that show

signs of ponding or is pitting, scaling or spalling. Curb Ramps not in compliance with ADA guidelines will be removed and replaced.

90. All driveways, existing or proposed, shall comply with the Americans with Disabilities Act and shall conform to City Standard Plan No. 102.
91. New or reconstructed drive approaches shall have a minimum width of 25 feet for commercial development. Refer to City standard drawings for other details.
92. All poles in the public right of way or within development boundaries shall be placed underground prior to building permit issuance. This requirement applies to electrical services (facilities operated at nominal voltages in excess of 20,000 volts not included), transformers and switches, telephone, communications, and cable television facilities as well. Coordinate removal of poles along the west side of the property with Jim Diaz, Senior Inspector (909) 625-9442. Provide easement(s) for the utilities to be underground along the west side of the property and along the frontage.
93. All utilities within development boundaries shall be placed underground. This requirement applies to electrical services, transformers and switches, telephone, communications, and cable television facilities as well.
94. All existing overhead utilities within project boundaries and within street frontages adjacent to the project shall be placed underground. All existing or new guy wires required to anchor end poles shall be located beyond the project limits. No poles or guy wires shall be permitted to remain within property frontage.
95. Prepare and submit to the satisfaction of the City Engineer a Water Quality Management Plan (WQMP) in accordance with the State of California Santa Ana Regional Water Quality Control Board Guidelines for San Bernardino County.
96. Approval of the Water Quality Management Plan (WQMP) is required prior to the preparation of grading and/or other improvement plans. Requirements for the WQMP may be obtained from Steve Stanton at 909-625-9444.
97. All drainage facilities shall comply with the requirements of the approved WQMP.
98. 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.
99. Prepare and submit a final hydrology and hydraulic study showing the tributary area, layout of storm drains and downstream impacts to a point as defined as the closest receiving point on a master storm drain line or existing facility as approved by the City Engineer. The study shall identify off-site and on-site runoff impacts

resulting from the build-out of permitted General Plan uses, the project's contribution, location and sizes of catchments and system connection points plus all downstream drainage mitigation measures. All mitigations/recommendations resulting from any final approved report shall be included in the improvement design submittals.

100. Prepare and submit to the satisfaction of the City Engineer a comprehensive grading and drainage plan prepared by a Registered Civil Engineer in conformance with Chapter 70 of the Uniform Building Code. Prior to the commencement of any demolition, clearing and grubbing, and/or grading, a grading permit shall be obtained from the Building Division. Plan approval is required prior to the issuance of a grading permit by the Building Division.
101. Prepare and submit to the satisfaction of the City Engineer plans for erosion control and storm water pollution prevention. A general construction storm water permit may be required. Contact Steve Stanton at 909-625-9441 for details. The erosion control plan shall be an integral part of the grading plans. Plan approval is required prior to issuance of a grading permit by the Building Division.
102. No soil shall be imported or exported to or from the site or from any adjacent building sites or from other sources for construction purposes without first obtaining approval from the City Engineer. A plan acceptable to the City Engineer shall be prepared showing proposed haul routes within the City. The plan shall include provisions for street sweeping and cleanup. Contractor(s) shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements.
103. Prepare and submit to the satisfaction of the City Engineer "will serve" letters from all utility companies serving the site. The developer will be required to coordinate with the various public and private utilities for the necessary improvements for said utilities to service the site.
104. Prepare and submit to the satisfaction of the City Engineer a letter of non-interference from any utility company that may have rights or easement within the property boundaries.
105. Where street construction, surfacing, or resurfacing is required, all utility work within the frontage of the development shall be completed prior to the street being capped.
106. Disabled-accessibility shall be provided around all new, reconstructed, or existing drive approaches serving the site, except as may be otherwise approved by the City Engineer. Additional street right-of-way shall be dedicated as necessary.
107. Payment of Regional Sewerage Capital Outlay fees as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.

108. Payment of all sewer connection fees, outstanding sewer reimburse fees or assessments as imposed by a district or reimbursement agreement, if any shall be paid at time building permits are requested.
109. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
110. 811 Underground Service Alert shall be notified 48 hours prior to any excavation at the site.
111. 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.
112. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
113. The parcel map may be submitted for plan checking prior to, in conjunction with, or after the submittal of the public improvement plans. Parcel map submittals shall include a preliminary title report, reference deeds, closure calculations, reference maps, and other reference material as may be necessary to check the map. An advance plan check fee, the amount to be determined by the City Engineer, shall be required at the time map is submitted. Prior to approval of the final map, a subdivision agreement will be required. The agreement shall contain provisions for performance and payment bonds for all work within the public rights-of-way, and a monumentation bond for corner monuments in accordance with the Subdivision Map Act.
114. Street, sewer, and storm drain plans shall be prepared in a format acceptable to the City Engineer and shall be submitted to the City Engineer's office for approval. An advance plan check fee, the amount to be determined by the City Engineer shall be required at the time plans are submitted. Construction and acceptance of street improvements, as per the approved plans, shall be required to obtain a release for a Certificate of Occupancy from the Building Division.
115. A Public Works construction permit shall be obtained from the Engineering Division prior to any removals or construction of improvements in the public right-of-way.
116. Vehicular access is required to all sewer and storm drain manholes. Easements shall be further deed restricted with respect to building to the satisfaction of the City Engineer.
117. Payment of transportation-related development impact fees. Fees shall be assessed at the rate in effect at the time the fees are paid.

ENVIRONMENTAL

118. A Wastewater Discharge Survey must be completed and submitted to the Environmental Manager for review and approval prior to Plan submittal. All new business occupant(s) of the building shall complete a Wastewater Discharge survey prior to plan review. Contact Steve Stanton, Engineering Manager, at (909) 625-9444 for more information.
119. Additional Conditions may follow pending submittal of the Wastewater Discharge Survey and Project Plans.
120. Connection to the City of Montclair Sanitary Sewer System is required. Contact Steve Stanton, Engineering Manager at (909) 625-9444 for more information.
121. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
122. 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 Steve Stanton, Engineering Manager at (909) 625-9444 for fee information.
123. 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 the California Department of Resources Recycling and Recovery (CalRecycle). The applicant is required to provide documentation to the Environmental Manager from Burrtec Waste Industries, Inc. that a service agreement was set up with the hauler that meets all Mandatory Commercial Recycling Requirements for waste hauling as established by the State of California.
124. All wastewater discharged to the City of Montclair Sanitary Sewer System from the subject facility shall be in compliance with Montclair Municipal Code Section 9.20.610 – Local Concentration Limitations. For more information contact Steve Stanton Engineering Manager, at (909) 625-9444.

FIRE

125. The project shall comply with all requirements set forth by the California Code of Regulations Title 24 Parts 1-12 respectively.
126. The adopted edition of the California Code of Regulations, Title 24, Parts 1 through 12, and the Montclair Municipal Code shall apply at the time the architectural plans are submitted for construction permits.
127. Prior to the issuance of grading permits a fire department access plan shall be submitted to the City of Montclair for review and approval. The fire department access plan shall comply with the requirements specified by the City of Montclair

Guideline for Fire Department Access & Water Requirements for Commercial & Residential Development, and the California Fire Code, Chapter 5.

128. Prior to the to the issuance of a grading permits, evidence of sufficient fire flow of 3,625 GPM for 4-hours shall be provided to the City of Montclair. The City of Montclair Building and Fire Marshal Water Available/Fire Flow Form shall be utilized
129. A fire department access road complying with the CFC, Chapter 5 and the approved fire department access plans shall be installed prior to building construction.
130. The fire department access road shall be inspected by Montclair Fire Prevention Bureau prior to building construction.
131. The fire department access road shall remain unobstructed at all times.
132. A fire department connection (FDC) shall be provided and located within 50 feet of a public fire hydrant. The use of a private hydrant may be used with the use of an aboveground check valve to prevent the flow from the FDC back to the fire hydrant, and with the approval of Montclair Fire Prevention Bureau.
133. Water improvement plans shall be approved by Montclair Fire Prevention Bureau. On-site private fire service mains shall have a minimum of eight (8) inch water mains with six (6) inch laterals and risers. Larger pipes maybe required to meet required fire flow requirements. Fire hydrants shall provide one 4" port and 2- 2 ½ ports and must be an approved fire hydrant type. The private fire hydrant system must be approved, installed, tested, and accepted, prior to combustible construction.
134. A minimum of two points of connection to the public water shall be provided for the private fire-line water.
135. The private underground fire-line system shall be a looped design.
136. The private underground fire-line system shall have indicating sectional valves for every five (5) appurtenances.
137. All required fire hydrants shall be installed and operational prior to building construction. All fire hydrants shall remain operational during construction.
138. All required fire hydrants shall be readily visible and immediately accessible. A clear space of not less than 3-feet shall be maintained at all times.
139. Prior to construction a temporary address sign shall be posted and clearly visible from the street.

140. The permanent building address shall be provided and either internally or externally lighted during hours of darkness. The address shall be clearly visible from the street fronting the property and comply with California Fire Code Section 505.1 for size and color.
141. Montclair Fire Prevention Bureau approval shall be obtained prior to the storage and/or use of hazardous materials as defined by the California Fire Code.
142. The building shall be provided with an automatic fire sprinkler system in accordance with NFPA 13. Construction plans shall be submitted for review and approval to the City of Montclair prior to installation.
143. Prior to building final, the building shall be provided with a Knox Lock key box located no more than seven feet above the finished surface and near the main entrance door.
144. Prior to the issuance of a Certificate of Occupancy, the building shall be provided with an emergency radio communication enhancement system. The emergency radio communication enhancement system shall meet the requirements of CFC § 510 and all applicable subsections. The system shall be installed and inspected by the City of Montclair Building Department before the Certificate of Occupancy is issued. The requirement can be waived by the Fire Marshal if the building is evaluated by an Emergency Radio Communication Specialist license by FCC, which certifies the building meets the emergency communications capability as specified by the California Fire Code § 510. The certification shall be in the form of a written report which outlines the analysis used in determining the building meets the emergency communications without an enhancement system.

Police

145. 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.
146. 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.
147. 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.

148. The applicant shall install and maintain a closed circuit video surveillance (CCVS) system. The system shall, at minimum, be capable of monitoring all entrances/exits to the premises and exterior storage and parking areas. Cameras shall be positioned so as to allow for identification of patron facial features and physical characteristics. A minimum of one camera shall be placed in a position to monitor the parking lot of the premises, positioned in a manner which allows for the widest view from the entrance, without significant lens distortion. Typical acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920x1080 pixels, otherwise known as 1080p. IR (night vision) is preferred, however cameras shall at minimum be capable of low-light operation. Audio recording is desirable, but not a requirement. Camera footage shall be retained for a period of no less than 90 days. To conserve storage space, cameras may be motion-activated. When active, cameras shall record no less than 30 frames per second. Motion sensors shall be configured to activate properly in all areas covered including the parking area. Motion sensors may be configured to prevent incidental activation from hanging or moving displays. Depending on the nature of the premises, additional cameras may be required, but not limited to areas such as cash registers, or access to restroom areas.

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

APPROVED AND ADOPTED THIS 25TH DAY OF APRIL, 2022.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 25th day of April 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEVSGUTIERREZ\CASES\2022-07 PC RESOLUTION1966

RESOLUTION NO. 22-1967

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR RECOMMENDING CITY COUNCIL ADOPTION OF THE 5006 AND 5010 MISSION BOULEVARD INDUSTRIAL WAREHOUSE PROJECT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (SCH #2022030195) AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE PROJECT UNDER PLANNING CASE 2022-07

A. Recitals.

WHEREAS, New Crossings Development, LLC the authorized representative of the property owner, proposes to develop an approximately 115,300 square-foot, one-story industrial warehouse facility, parking spaces, tractor-trailer loading docks, and other associated site improvements such as landscaping, sidewalks, and internal driveways, on an approximately 5.13-acre property under Case No. 2022-07 (“Project”); and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, §21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, title 14, §15000 et seq.) (collectively, “CEQA”), an Initial Study analyzing all potential impacts of the Project was prepared for the City’s consideration as the lead agency under State CEQA Guidelines section 15063; and

WHEREAS, on the basis of the Initial Study, which indicated that all potential environmental impacts from the Project would be less than significant with the incorporation of the mitigation measures in the Mitigation Monitoring and Reporting Program (“MMRP”), City staff determined that a Mitigated Negative Declaration (“MND”) should be prepared; and

WHEREAS, the Draft Initial Study/MND (SCH #2022030195) was prepared in accordance with CEQA and circulated for public review and comment between February 25, 2022 and March 16, 2022 by: (1) filing a Notice of Intent to Adopt a Mitigated Negative Declaration (“NOI”) with the State Clearinghouse; (2) filing a NOI with the San Bernardino County Clerk; (3) placing a NOI in the Inland Valley Daily Bulletin Newspaper, a newspaper of general circulation; (4) mailing a NOI to various interested persons, agencies, and tribes; and (5) posting a NOI on the City’s website; and

WHEREAS, copies of the Draft Initial Study/MND were available during the public review period at the Community Development Department at City Hall, the Montclair Branch Library, and on the City’s website; and

WHEREAS, pursuant to Public Resources Code section 21081.6 and State CEQA Guidelines section 15074(d), the MMRP has been prepared and includes mitigation measures for air quality, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources, and

WHEREAS, all comments from the public, as well as any responsible, trustee, and interested agencies on the Initial Study/MND were considered and responded to; and

WHEREAS, the Final Initial Study/MND consists of the responses to comments, the Initial Study/MND, and an Errata section containing minor revisions to the Initial Study/MND; and

WHEREAS, notice of this item was advertised as a public hearing set for April 25, 2022 in the Inland Valley Daily Bulletin newspaper on April 15, 2022, and mailed to property owners within a 300-foot radius of the exterior boundaries of the Project site in accordance with State law for consideration of the Project's discretionary entitlements; and

WHEREAS, the Planning Commission conducted a duly noticed public meeting on April 25, 2022, to consider the proposed Project and its potential environmental impacts, the Final Initial Study/MND, MMRP and all oral and written evidence presented to it during all meetings; and

WHEREAS, all of the findings and conclusions made by the Planning Commission pursuant to this Resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the Project, which is incorporated herein by this reference, and are not based solely on the information provided in this Resolution; and

WHEREAS, the Planning Commission has reviewed and considered the Final Initial Study/MND, the MMRP, and all other relevant information contained in the administrative record regarding the Project, including all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the MND reflects the independent judgment of the City and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments or additional information submitted to the Planning Commission, and no other circumstances have produced substantial new information requiring substantial revisions that would trigger recirculation of the MND or additional environmental review of the Project under State CEQA Guidelines section 15073.5; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

B. Resolution.

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

1. The matters set forth in the recitals to the Resolution are true and correct statements and are incorporated herein as substantive findings of this Resolution.
2. The Planning Commission has reviewed and considered the information contained in the Final Initial Study/ Mitgated Negative Declaration (MND), and administrative record, including all oral and written comments received during the comment period, which is on file with the City and available for review. Based on the Planning Commission's independent review and analysis, the Planning Commission finds that the Final Initial Study/Mitgated Negative Declaration (MND) has been completed in compliance with CEQA.
3. Based on the Final Initial Study/MND and the administrative record, the Planning Commission finds that the Final Initial Study/MND contains a complete and accurate reporting of the environmental impacts associated with the Project. The Planning Commission further finds on the basis of the whole record before it that there is no substantial evidence supporting a fair argument that the Project will have a significant effect on the environment and that the Final Initial Study/MND reflects the City's independent judgement and analysis. The Planning Commission further determines that the MND has not been substantially revised after public notice of its availability, nor have there been new significant environmental effects identified in the Final Initial Study/MND in response to comments and thus recirculation is not required under State CEQA Guidelines, section 15073.5. Finally, the Planning Commission finds that the Final Initial Study/MND contains a complete, objective, and accurate reporting of the environmental impacts with mitigation associated with the Project and reflects the independent judgment of the Planning Commission.
4. Pursuant to Public Resources Code Section 21080, subdivision (c)(2), the Planning Commission recommends that the City Council approve and adopt the Final Initial Study/MND prepared for the Project.
5. Pursuant to Public Resources Code Section 21081.6, the Planning Commission recommends that the City Council approve and adopt the MMRP, which was prepared for the Project and made a condition of Project approval.
6. The Planning Commission recommends that the City Council approve the Project as described in the Final Initial Study/MND.
7. The documents or other materials which constitute the record of proceedings upon which this decision is based are located at the City's office at 5111 Benito

Street, Montclair, California 91763. The custodian of these documents or other material is the City Clerk for the City of Montclair.

8. The Planning Commission recommends to City Council to direct staff to file a Notice of Determination with the County of San Bernardino and the State Clearinghouse within five (5) working days of approval of the Project.

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

APPROVED AND ADOPTED THIS 25TH DAY OF APRIL, 2022
PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 25th day of April 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Report on Item Number 6.b

PUBLIC HEARING - CASE NUMBER 2022-08

APPLICATION TYPE(S)	Conditional Use Permit and Precise Plan of Design
NAME OF APPLICANT	Bethany Baptist Church/Vertical Bridge Holdings, LLC
LOCATION OF PROPERTY GENERAL PLAN DESIGNATION	9950 Monte Vista Avenue Low (3-7 Units/Acre)
ZONING DESIGNATION	R-1 (Single-Family Residential)
EXISTING LAND USE	Church
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15303 (New Small Facilities)
PROJECT PLANNER	Michael Diaz

Project Description

Bethany Baptist Church is requesting approval of a Conditional Use Permit (CUP), a Precise Plan of Design to allow the placement of a 65-foot high freestanding wireless telecommunications facility on its campus at the above address. The proposed wireless telecommunications facility (WTF) would be constructed by Vertical Bridge Holdings LLC and allow antennas for a maximum of three wireless carriers, the first being for the T-Mobile wireless network. Under the City's Ordinance (No. 21-998), an approved CUP is required for a proposed WTF.

The subject property has three street frontages, Monte Vista Avenue, Benito Street, and Denver Street. The proposed location of the new WTF is within an existing paved courtyard area on the north side of the original sanctuary building near the southeast corner of the church campus at Monte Vista Avenue and Denver Street. More specifically, the WTF will be located approximately 50-feet back from Monte Vista Avenue, as measured from the adjacent face of the curb.

The design of the new freestanding WTF will resemble an Elm tree (hereafter referred to as a "Monoelm") and will be 65-feet tall, as measured to the peak of the faux tree. The first carrier identified for the site is T-Mobile with a total of six (6) antennas boxes. The antenna panels will be mounted at 60 feet (as measured from the ground to the mid-point of the 6-foot tall antenna). All antennas and support poles will be painted and/or covered with "socks" to blend into the colors and textures of the tree. Maintenance of the facility will be the responsibility of the applicant and the WTF owner. In addition, each carrier will carry out periodic maintenance of their specific equipment.

At the base of the tree will be a 30' x 35' (1,050 square feet) secured area where the support equipment (e.g., equipment cabinets, emergency generator, utility connections, etc.) will be located. The size of the enclosure provides space in anticipation of adding two more wireless carriers to the facility. All cables between the cell tower and the equipment enclosure will be underground. There will be no overhead lines.

The equipment area will be enclosed with an 8-foot high decorative block wall and gate. An existing short masonry wall and some shrubbery will be removed to accommodate the enclosure. Access to the facility driveway is from Monte Vista Avenue via a new 12-foot wide curb-cut and paved drive. Additional parking is not proposed.

Plans and photo simulations of the facility are included in the agenda packet. Copies of the plans for the project are also available to view on the City's website at:

<https://www.cityofmontclair.org/Case-2022-08-Plans/>

<https://www.cityofmontclair.org/Case-2022-08-Photo-Sim/>

Background

- The Bethany Baptist Church campus is approximately 2.62 acres in size and consists of three buildings, recreational open space, and on-site parking. The original church building and adjacent church classroom building near the corner of Monte Vista Avenue and Denver Street were built in 1957. The larger main sanctuary building at the corner of Monte Vista Avenue and Benito Street was constructed in 1968.
- Vertical Bridge Holdings, LLC is a Florida-based company and is the largest private owner and operator of communications infrastructure in the U.S., with more than 318,000 sites nationwide, including wireless and broadcast towers.
- Since the passage of the 1996 Telecommunications Act, Congress and the Federal Communications Commission (FCC) have moved to expedite the deployment of wireless telecommunications facilities across the country and set federal and state law limitations on the authority of local governments in reviewing and approving such facilities. Further, while cities and counties retain some discretion over the design and location of the sites, they cannot exclude them.
- On September 20, 2021, the City Council adopted Ordinance No. 21-998 repealing and replacing Chapter 11.73 of the Montclair Municipal Code to update regulations, standards, and create design guidelines for wireless telecommunications facilities on public and private property; adding Chapter 11.77 to establish an administrative permitting process; and, amending Chapter 11.46 to exempt certain wireless telecommunications facilities.

- On September 20, 2021, the City Council adopted *Design Standards for Wireless Telecommunications Facilities on Public and Private Property*.
- Chapter 11.73 - Wireless Telecommunications Facilities (Wireless Ordinance) - of the Montclair Municipal Code permits wireless telecommunications facilities subject to the approval of a Conditional Use Permit (CUP). The wireless ordinance provides policies and direction, clarifies existing codes, and sets forth reasonable criteria, development standards, and standardized conditions of approval upon which staff used to evaluate this application.
- There are three primary reasons for expanding WTFs in a specific area:
 - Coverage – No service, or insufficient service in the area.
 - Capacity – Services exists, but is currently overloaded
 - Quality – Service exists, but signal stretch is inadequate or inconsistent.
- On March 30, 2022, the proposed location and design of the new wireless telecommunication facility was presented to the Development Review Committee for conceptual review.

Planning Division Comments

The Planning Commission's consideration of a WTF is governed by both the City's local zoning regulations and the Federal Telecommunications Act (47 USCS § 332). A CUP is required for a WTF to ensure that proposals at a qualifying site are appropriate given existing site conditions.

Previously, WTFs in single-family residential districts were restricted to public parks, but with the City's recently updated WTF Ordinance other residentially-zoned properties with non-residential uses such as a church or public utility sites are now eligible for consideration if the sites meets the following minimum criteria:

- Two acres in size (either a single parcel or multiple adjoining parcels under common ownership); and
- Location on a major street; and
- Undeveloped with residential structures.

At 2.62 acres in size and regular shape of the parcel, the Bethany Baptist Church site meets the above minimum criteria to qualify for consideration of the proposed WTF. The proposed facility will be closest to Monte Vista Avenue frontage of the site and tucked into an underutilized part of the site between existing buildings where it will not require the loss of parking or be set in a required building setback area as detailed in the following table:

<i>Proposed Setbacks for Monoelm Structure</i>			
<i>Direction</i>	<i>Distance to Property Line</i>	<i>Required Zoning Setback</i>	<i>Adjacent Land Use</i>
North	328'	25'	Benito Street
East	38'	15'	Monte Vista Avenue (130' to residences across Monte Vista Avenue)
South		25'	119' (210' to residences across Denver Street)
West	218'	15'	Single Family Residences (230' to the rear yard of residences off Greenwood Ave)

Based on the above table, the WTF is appropriately placed on the site and is also sufficiently separated from all surrounding properties. Further, the proposed WTF will require minimal preparation for site work (e.g., grading). Following construction activities, the use will not pose a substantial adverse effect on vehicular or pedestrian circulation or safety, or on new or existing public facilities or services. Under normal operation trips generated by the proposed use are insignificant because they are primarily due to routine and periodic maintenance.

Tower Height

Wireless technology relies on line-of-sight technology, so sufficient height is necessary to ensure clearance over nearby obstructions, coverage, and signal strength. At 65-feet in height, the proposed tower is taller than the City's default maximum 60-foot height limit for WTFs. However, the Wireless Ordinance allows the Planning Commission to consider an increase in height, up to 15-feet, when it finds that the additional height is necessary to provide improved coverage and reasonably lessen the potential need for installing additional WTFs in the area.

The purpose for the proposed WTF at the subject site is to address a gap in wireless services with respect to capacity in the immediate surrounding area. According to T-Mobile engineers, the area is currently served by existing WTF sites nearby, but accelerated growth in voice and data usage by T-Mobile customers has reached capacity exhaustion (since 2019). The proposed 65-foot height will allow for unobstructed signal propagation over existing natural trees and buildings in the immediate area and help to improve wireless service in the area for customers of T-Mobile and those of customers of wireless carriers added to the WTF at a later date.

The proposed height would be comparable in height to existing natural trees and the cross element on the main sanctuary building (approximately 62-feet) nearby on the property. The proposed height for this WTF would be less than already existing WTFs in proximity to the subject site at Alma Hofman Park (70' tall monopine - 1/3 mile east) and at Freedom Plaza (80' high obelisk structure/City entry sign - 2/3 of a mile north).

Staff believes the modest increase in height of five feet to 65-feet in height is appropriate and will be virtually imperceptible from the default 60-foot height allowed by the Wireless Ordinance. The taller structure would also allow for the required

separation distance (typically 10 feet) between antennas subsequently installed by other carriers. Finally, the structural integrity of the monoelm structure and ground-based equipment will be reviewed by the City's Building Division for compliance with all applicable building codes.

Design and Stealth Technology

The WTF Ordinance strongly encourages carriers to seek placement, construction, or modification of a WTF on existing host structures such as buildings and utility infrastructure rather than erecting freestanding towers whenever feasible. The goal is to develop an appropriate WTF design and scale to the surrounding setting. Initially, staff explored with the applicant the possibility of adding the antenna at the steeple/cross element of the main church. This approach turned out to be infeasible due to major changes that would have been required to add the WTF to the existing building and surrounding site (for the ground enclosure). As a result, a stealth tree design was selected.

Instead of proposing a "monopine" design like many of the existing WTFs in the City, the WTF designer determined that "Monoelm" fit the existing context better than a faux pine tree design. Staff is not opposed to the use of a "Monoelm" tree selection since there is no dominant tree theme on the street or site, but a mixture of trees such as Liquidambar, Melaleuca, and Magnolia trees along Monte Vista Avenue at this location. Although no faux tree will fully replicate a living natural tree, the key to a successful design is the installation of and maintenance of a sufficient amount of faux branches and foliage to resemble a mature tree and effectively screen antennas and supports.

Considering the appearance and proximity (approximately 100 feet) of two existing natural and very tall trees (probably Liquidambar) at the corner of Denver Street, the Monoelm appears to be an appropriate design for the project. As such, staff finds the proposed Monoelm to be consistent with the requirements of the WTF Ordinance and an appropriate and visually compatible design with the general appearance of the surrounding area.

Regarding the ground-mounted equipment and enclosure, the placement and general layout are appropriate and not within a required setback. Further, ground equipment for the facility will be secured from public access and is only accessed by authorized personnel for infrequent but routine maintenance and equipment updates. To ensure the enclosure wall design, hardscape, and landscaping around the WTF do not adversely affect the existing streetscape, a condition of approval is included in the draft resolution requiring final design approval by the Director for the affected area.

Lastly, though the WTF operator and carriers will bear primary responsibility for properly maintaining the appearance of the site, the applicant/property owner is ultimately responsible for ensuring a well-kept facility. Conditions of approval are included in the draft resolution to address this issue.

Eligible Facilities

If approved, and after the proposed WTF is constructed, the facility will then be classified as an “Eligible Facility” according to Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012 (47 USC 1455) where the FCC was directed to remove obstacles to the modification process of wireless facilities. As defined, “Eligible Facility” means modifications to an existing tower or base station including the collocation of new transmission equipment, removal of transmission equipment, or the replacement of transmission equipment. Further, the above-referenced Section requires state or local government to not deny, and approve any eligible request for a modification that does not substantially change the physical dimensions of the tower or base station that were legally established. As such, future carriers and upgrades to existing antennas, will be handled administratively by City staff.

Radio Frequency Radiation (RFR)

Concerns about the possible negative health effects of radiofrequency (RF) emissions generated by wireless facilities are often raised whenever cities consider approving new wireless regulations or approving new wireless facility applications. However, federal law has preempted the City’s ability to consider such matters to the extent wireless facilities comply with RF standards promulgated by the FCC. The Federal Telecommunications Act of 1996 states in part:

“No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities based on the environmental effects of radiofrequency emissions to the extent that such facilities comply with the FCC’s regulations concerning such emissions.” (47 U.S.C. § 332(c)(7)(B)(iv).

Thus, to deny any request for authorization to place, construct, or modify personal wireless service facilities based on environmental effects of RF emissions to the extent that such wireless facilities comply with the FCC’s regulations concerning such emissions is prohibited. Radiofrequency emissions are regulated by the FCC and the facility must operate in conformance with these regulations. The Ordinance requires applicants to furnish an RF exposure compliance report prepared by a certified RF engineer acceptable to the City, that certifies that the proposed small wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. Federal law also prohibits the city from denying the project if the facility is necessary to fill a significant service gap in the Applicant’s wireless network and the facility is the least intrusive means of filling the service gap.

Therefore, the Planning Commission is reminded that it cannot consider any environmental effects of emissions that otherwise comply with FCC regulations, including purported impacts upon health or alleged interference with television reception, in its decision to approve or deny the project.

Conditional Use Permit Findings

- A. The proposed wireless telecommunications facility is essential or desirable to the public convenience and public welfare in that such facilities help to provide universal access to telecommunications services for all Montclair residents, businesses, visitors, and commuters traveling through the City. In addition, the proposed wireless facility can continue to operate and provide communications service in the event of a major power outage that may cause traditional telephone service to be rendered inoperable.
- B. The proposed wireless telecommunications facility use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the staff report. At 2.62 acres in size, the Bethany Baptist Church site is ample in size and shape to easily accommodate the proposed on-site WTF (antenna support structure and associated ground equipment) to meet required standards. Once installed and operating, the facility is quiet. Further, the proposed use does not pose a substantial adverse effect on vehicular or pedestrian circulation or safety, or on new or existing public facilities or services in the area because the trips generated by the proposed use are insignificant. Lastly, all necessary building permits will be required to ensure that the facility is properly constructed and inspected.
- C. The proposed wireless telecommunications facility at the proposed location conforms to good zoning practices. The proposed location of the wireless telecommunications facility meets the locational criteria outlined in the Montclair Wireless Ordinance, including more than the minimum required setback distances from adjacent residential uses. The requested five-foot increase in height of the “Monoelm” tree (antenna support structure) from 60 to 65 feet is minor and difficult to perceive but necessary to ensure that up to three carriers with adequate separation space can be accommodated and thereby lessen the need to construct more WTFs in the area. Moreover, the proposed height of the “Monoelm” tree would be similar to the general height of other taller natural trees and structures (i.e., cross element) located along the Monte Vista Avenue frontage of the site.
- D. That such use in such location is not contrary to the objectives of any part of the adopted General Plan which encourages compliance with Federal law, increased emergency preparedness, enhancement of public convenience and communication, and projects which meet community design objectives and attempt to reasonably minimize undesirable aesthetic effects on adjacent property.

Wireless Telecommunications Facility Findings

Staff further finds the proposed wireless telecommunications facility to be consistent with Chapter 11.73 of the Montclair Municipal Code, and believes the necessary findings for allowing the establishment of such a facility can be made as follows:

- A. There is adequate space on the property for the wireless telecommunications facility without conflicting with existing buildings or other improvements on the property, reducing required parking or landscaping, or otherwise compromising applicable development standards. The church site is approximately 2.6 acres in size and developed in a manner that will easily accommodate the project without significant impact on the existing use of the site and does not eliminate any parking spaces or significantly alter existing landscaping.
- B. The design and placement of the wireless telecommunications facility will not adversely impact the use of the property, buildings, and structures located on the property or the surrounding area or neighborhood. The WTF facility will be tucked into an underutilized portion of the site and between existing buildings where it will not block views to or from the street and where ground-mounted support equipment can be secured and screened. The design of the project as a faux “monoelm” tree is compatible with the existing site and surrounding area because the proposed tree is designed to be compatible with the various existing mature trees in the immediate vicinity.
- C. The WTF, as proposed, is consistent with the provisions of Chapter 11.73 and complies with all other applicable requirements of Title 11 of the Montclair Municipal Code. The facility will not emit excessive noise, vibration, traffic, or other disturbances that would have a substantial adverse effect on the abutting property or uses located on these properties. Moreover, the proposed WTF meets distance requirements from adjacent residential properties, required setbacks of the underlying district, and is capable of accommodating up to three wireless carriers with only a modest increase in height for the proposed faux “Monoelm” tree that will not adversely affect the appearance of the surrounding area.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on April 15, 2022. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the tower project site under State law for consideration of this discretionary zoning entitlement.

Environmental Assessment

In compliance with the California Environmental Quality Act (CEQA), it has been determined that the Project qualifies for a Categorical Exemption according to Section 15303 of the CEQA Guidelines. This exemption includes the construction and location of limited numbers of new small facilities or structures and the installation of small new equipment. A Notice of Exemption will be filed according to CEQA requirements following the Commission action.

Planning Division Recommendation

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

1. Move that, based on the evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 3 exemption under State CEQA Guidelines Section 15303.
2. Move to approve a Conditional Use Permit and Precise Plan of Design under Case No. 2022-08 to allow a wireless telecommunications facility disguised as a 65-foot high faux elm tree (Monoelm) on the Bethany Baptist Church campus at 9950 Monte Vista Avenue, per submitted plans and as described in the staff report with required findings, and subject to the conditions of approval in attached Resolution Number 22-1963.

Respectfully Submitted,

Michael Diaz
Director of Community Development
MD/le

Attachments: Draft Resolution No. 22-1963 for Case No. 2022-08

- c: Bethany Baptist Church, 9950 Monte Vista Avenue, Montclair, CA 91763
Scott Dunaway, D4 Communications, LLC, 1114 State Street, Suite 234, Santa Barbara, CA 93101
Aaron Garcia, Vertical Bridge Holdings LLC, 750 Park of Commerce Drive, Boca Raton, FL 33487
AMS Wireless, 4431 Town Center Place, Kingwood, TX 77339
Monica Heredia, Director of Public Works
James Diaz, Assistant Public Works Superintendent
Merry Westerlin, Building Official

RESOLUTION NO. 22-1963

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AND PRECISE PLAN OF DESIGN UNDER CASE NO. 2022-08 TO ALLOW A 65-FOOT HIGH WIRELESS TELECOMMUNICATIONS FACILITY (MONOELM) AT 9950 MONTE VISTA AVENUE, IN THE R-1 ZONING DISTRICT (APN 1009-281-01)

A. Recitals.

WHEREAS, on February 28, 2022, Bethany Baptist Church, submitted an application for a Conditional Use Permit (CUP) and Precise Plan of Design (PPD) to allow the construction of a new wireless telecommunications facility (WTF) on its campus at 9950 Monte Vista Avenue; and

WHEREAS, the developer of the proposed WTF is Vertical Bridge Holdings, a Florida-based company, which is the largest private owner and operator of communications infrastructure in the U.S., with more than 318,000 sites nationwide, including wireless and broadcast towers; and

WHEREAS, the subject property is approximately 2.62 acres in size, rectangular in shape, and has three street frontages on Monte Vista Avenue, Benito Street, and Denver Street; and

WHEREAS, the Bethany Baptist Church campus is developed with three buildings, recreational open space, and on-site parking. The original church building and adjacent church classroom building near the corner of Monte Vista Avenue and Denver Street were built in 1957. The larger main sanctuary building at the corner of Monte Vista Avenue and Benito Street was constructed in 1968; and

WHEREAS, the proposed location of the new WTF will be within an existing paved courtyard area on the north side of the original sanctuary building near the southeast corner of the church campus at Monte Vista Avenue and Denver Street. More specifically, the WTF will be located approximately 50 feet back from Monte Vista Avenue frontage, as measured from the adjacent face of the curb; and

WHEREAS, the wireless telecommunications facility consists of a single 65-foot high "Monoelm" structure (hereafter "Monoelm") and associated ground lease space for support equipment; and

WHEREAS, the wireless telecommunications facility is designed to accommodate up to three wireless carriers; and

WHEREAS, since the passage of the 1996 Telecommunications Act, Congress and the Federal Communications Commission (FCC) have moved to expedite the deployment of wireless telecommunications facilities across the country and set federal and state law

limitations on the authority of local governments in reviewing and approving of such facilities. Further, while cities and counties retain some discretion over the design and location of the sites, they may not prohibit them; and

WHEREAS, on September 20, 2021, the City Council adopted Ordinance No. 21-998 repealing and replacing Chapter 11.73 of the Montclair Municipal Code to update regulations, standards, and create design guidelines for wireless telecommunications facilities on public and private property; adding Chapter 11.77 to establish an administrative permitting process; and amending Chapter 11.46 to exempt certain wireless telecommunications facilities; and

WHEREAS, on September 20, 2021, the City Council adopted *Design Standards for Wireless Telecommunications Facilities on Public and Private Property*; and

WHEREAS, Chapter 11.73 - Wireless Telecommunications Facilities (Wireless Ordinance) - of the Montclair Municipal Code permits wireless telecommunications facilities subject to the approval of a Conditional Use Permit (CUP). The wireless ordinance provides policies and direction, clarifies existing codes, and sets forth reasonable criteria, development standards, and standardized conditions of approval upon which staff used to evaluate this application; and

WHEREAS, On March 30, 2022, the proposed location and design of the new wireless telecommunication facility was presented to the Development Review Committee for conceptual review; and

WHEREAS, Montclair Wireless Ordinance strongly encourages co-location at WTFs to minimize their need within the community; and

WHEREAS, Section 11.73.090.B of the Wireless Ordinance recognizes the unique requirements of telecommunication antennas and allows the Planning Commission to consider an increase in height, up to 15 feet, for wireless support structures if it finds that the increased height works to advance the overall goals of the ordinance and to ensure wireless networks are implemented with fewest possible facilities and in the least visible manner; and

WHEREAS, staff has determined the application meets the intent and requirements of the Municipal Code and Wireless Ordinance; and

WHEREAS, Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, Section 15303 (Class 3 – New Construction or Conversion of Small Structures). In addition, there is no substantial evidence that the project will have a significant effect on the environment; and

WHEREAS, the Planning Commission has reviewed the Planning Division's determination of exemption, and based on its independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption; 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 April 25, 2022, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with the said 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 of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on April 25, 2022, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

- A. The proposed wireless telecommunications facility is essential or desirable to the public convenience and public welfare in that such facilities provide universal access to telecommunications services for all Montclair residents, businesses, visitors, and commuters traveling through the City. In addition, the proposed wireless facility can continue to operate and provide communications service in the event of a major power outage that may cause traditional telephone service to be rendered inoperable.
- B. The proposed wireless telecommunications facility use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the staff report. At 2.62 acres in size, the Bethany Baptist Church site is ample in size and shape to easily accommodate the proposed on-site WTF (antenna support structure and associated ground equipment) to meet required standards. Once installed and operating the facility is quiet. Further, the proposed use does not pose a substantial adverse effect on vehicular or pedestrian circulation or safety, or on new or existing public facilities or services in the area because the trips generated by the proposed use are insignificant. Lastly, all necessary building permits will be required to ensure that the facility is properly constructed and inspected.
- C. The proposed wireless telecommunications facility at the proposed location conforms to good zoning practices. The proposed location of the wireless telecommunications facility meets the locational criteria outlined in the

Montclair Wireless Ordinance, including more than the minimum required setback distances from adjacent residential uses. The requested 5-foot increase in height of the “Monoelm” tree (antenna support structure) from 60 to 65 feet is minor and difficult to perceive but necessary to ensure that up to three carriers with adequate separation space can be accommodated and thereby lessen the need to construct more WTFs in the area. Moreover, the proposed height of the “Monoelm” tree would be similar to the general height of other taller natural trees and structures (i.e., cross on the main sanctuary building) located along the Monte Vista Avenue frontage of the site.

- D. That such use in such location is not contrary to the objectives of any part of the adopted General Plan, which encourages compliance with Federal law, increased emergency preparedness, enhancement of public convenience and communication, and projects, which meet community design objectives and attempt to reasonably minimize undesirable aesthetic effects on adjacent property.

Wireless Telecommunications Facility Findings

Staff further finds the proposed wireless telecommunications facility to be consistent with Chapter 11.73 of the Montclair Municipal Code, and believes the necessary findings for allowing the establishment of such a facility can be made as follows:

- A. There is adequate space on the property for the wireless telecommunications facility without conflicting with existing buildings or other improvements on the property, reducing required parking or landscaping, or otherwise compromising applicable development standards. The church site is approximately 2.6 acres in size and developed in a manner that will easily accommodate the project without significant impact on the existing use of the site and does not eliminate any parking spaces or significantly alter existing landscaping.
- B. The design and placement of the wireless telecommunications facility will not adversely impact the use of the property, buildings, and structures located on the property or the surrounding area or neighborhood. The WTF facility will be tucked into an underutilized portion of the site and between existing buildings where it will not block views to or from the street and where ground-mounted support equipment can be secured and screened. The design of the project as a faux “Monoelm” tree is compatible with the existing site and surrounding area because the proposed tree is designed to be compatible with the various existing mature trees in the immediate vicinity.
- C. The WTF, as proposed, is consistent with the provisions of Chapter 11.73 and complies with all other applicable requirements of Title 11 of the Montclair Municipal Code. The facility will not emit excessive noise, vibration, traffic, or other disturbances that would have a substantial adverse effect on the abutting property or uses located on these properties. Moreover, the

proposed WTF meets distance requirements from adjacent residential properties, required setbacks of the underlying district, and is capable of accommodating up to three wireless carriers with only a modest increase in height for the proposed faux “Monoelm” tree that will not adversely affect the appearance of the surrounding area.

3. 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

1. The approval for the Case No. 2022-08 includes the following entitlements:
 - a. A Conditional Use Permit to construct a wireless telecommunication facility consisting of a 65-foot high antenna structure and a 1,057 square foot ground lease space for associated support equipment, on a portion of Bethany Baptist Church campus at 9950 Monte Vista Avenue as described in the staff report and depicted on the approved plans on file with the Planning Division. This approval also includes the following actions:
 - i. The approved 65-foot height of the WTF antenna support structure includes a five-foot increase as allowed by the Planning Commission with this action.
 - ii. Antennas for one wireless carrier with six antennas operated by T-Mobile. No more than three wireless carriers shall be permitted at this WTF location.
 - b. A Precise Plan of Design (PPD) approving the site plan for the WTF and design of the antenna support structure as a faux Monoelm tree, including colors and materials as depicted on approved plans on file with the Planning Division.
2. This approval shall become effective after all applicable appeal periods have expired or appeal processes exhausted.
3. Conditional Use Permit (CUP) approval shall be valid for six months from the date of Planning Commission action. If no construction drawings have been submitted to the City for plan review within this time frame or a time extension for such CUP is granted, then the approval shall automatically expire without further City action. The applicant shall be responsible to apply for a time extension at least 30 days before the approval’s expiration date.

4. Precise Plan of Design (PPD) approval shall be valid for one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant is diligently pursuing a building plan check toward the eventual construction of the project. The applicant owner shall be responsible to apply for a time extension at least 30 days before the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
5. 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 \$477.32 made payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
6. In establishing and conducting the subject use, the applicant/WTF operator shall at all times comply with all laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this PPD and CUP shall not waive compliance with such requirements.
7. If exhibits and written conditions are inconsistent, the written conditions shall prevail.
8. The applicant/WTF operator 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. In the event of a transfer of ownership of the WTF involved in this application, the new owner of the WTF shall be fully informed of the permitted use and development of the said property as set forth by this permit together with all conditions which are a part thereof. These specific requirements must be recorded with all title conveyance documents at the time of closing escrow. The applicant, WTF operator, and each subsequent wireless carrier shall each obtain and maintain a valid business license issued by the City.
10. The ground lease equipment area shall be enclosed with an 8-foot tall masonry wall and gate subject to Director of Community Development (Director) review and approval.
11. Minor modifications to this approval that are determined by the Director to be in substantial conformance with the approved plans and which do not

intensify or change the use or increase the height or extent of the ground lease space area may be approved by the Director upon submittal of prepared plans submitted for review and approval.

12. The applicant, WTF operator, and future wireless carriers shall be responsible for fully complying with all requirements of the Federal Communications Commission (FCC) regarding electromagnetic frequency (EMF) and radiofrequency radiation (RF) standards.
13. Before issuance of a building permit for the WTF, the applicant/WTF operator shall submit the following plans for the Director's review and approval:
 - a. A detailed landscaping and irrigation plan for the area between the WTF and Monte Vista Avenue, including the proposed driveway, new or existing pedestrian paths, wall design, and new and existing plant materials.
 - b. A detailed set of shop drawings and/or plans for the proposed project for final design review and approval by the Director. Drawings/plans shall incorporate or address the elements following:
 - i. Artificial branches and foliage shall be of sufficient quality, quantity, length, spacing, and density to provide screening of the antennas and achieve the appearance of a natural tree to the greatest extent possible, and fully conceal attached telecommunications equipment. The sole use of "socks" over the antenna is not sufficient for meeting this requirement.
 - ii. Each new antenna panel shall be covered with "antenna socks" that match the approved foliage color.
 - iii. All "stand-off-mounts" and support pipe mounts shall be painted in a "flat" complementary color/finish to reduce the reflection and visibility of the mounting hardware.
 - iv. No advertising, signs, or lighting shall be incorporated or attached to the antenna array or support facilities, except as required by the City's Building Division or federal regulations.
 - v. All electrical and utility connections serving the facility shall be placed underground per the requirements of the Montclair Municipal Code.
14. Within 90 days of commencement of operations, the applicant/WTF operator shall provide a preliminary report and field report prepared by a qualified engineer that shows the operation of the facility to be in conformance with the standards established by ANSI and IEEE for safe human exposure to EMF and RFR.

15. The applicant/WTF operator and all future wireless carriers shall submit to the City certification of continued use of the approved facility and antennas on an annual basis at the time of business license renewal for as long as the facility remains in operation. The certification shall indicate that the facility is operating as approved and that the facility complies with the most current FCC safety standards. Facilities that are no longer in operation shall be completely removed within 90 days after the date of cessation of operation.
16. If no annual certification is provided, this approval may be revoked by the Director. Before revoking a permit, the Director shall provide the owners of record written notice of their failure to provide the annual certification and an opportunity for a hearing.
17. Notice of change of ownership of the facility shall be provided in writing to the Director within 30 days of said change. The antennas shall not interfere with any radio communications and/or frequencies utilized or designated for use by the City of Montclair Public Safety (Police/Fire), and those utilized by the San Bernardino County Information Services Department.
18. All future changes and modifications to an approved facility, such as the addition of panel, whip, dish, omnidirectional, GPS, or test antennas, shall require prior review and approval by the City.
19. The applicant/WTF operator shall be responsible for maintaining the Monoelm structure, antennas and artificial foliage and branches, building, ground equipment, walls or fencing, lighting, landscaping, and all improvements in good condition, free of damage caused by vandalism, and/or in working order at all times.
20. Any accumulation of trash, weeds, or debris within the lease space of the WTF shall be removed by the property owner promptly so as not to present a visual distraction or public nuisance.
21. Before issuance of a building permit for the approved wireless telecommunication facility, the applicant/WTF operator shall remit to the City a deposit or post a bond in an amount to be determined by the Director to remove the subject facility and all associated support equipment in the event the facility becomes abandoned, the approval is revoked by the Director, or the applicant does not or is unable to remove the facility.
22. If, as a result of the operation of the subject facility, existing or future residential, commercial or industrial properties near the site experience interference difficulties with electronic equipment (such as radios, televisions, telephones, home computers, etc.), or if public safety personnel experience interference with communications systems, the applicant shall be solely and fully responsible to correct any and all problems upon proof of such interference.

23. At no time shall equipment noise from any source exceed an exterior noise level for nighttime hours as outlined in Table 6-2 of the Montclair General Plan. Any backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. on weekday nights. The applicant/WTF operator shall take corrective action within 30 days of receipt of any reported noise complaint by the Planning Division.
24. All graffiti and other forms of vandalism and damage to the wireless telecommunication facility shall be removed and/or repaired by the applicant/WTF operator within 72 hours of notice by the City.
25. This permit may be modified or revoked for failure to abide by the conditions contained herein, or in the event, the use is determined to be a nuisance to surrounding properties, businesses, or the community-at-large.
26. A final inspection is required before the use of the subject facility. Final approval by the Building Official and Director shall be contingent upon compliance with all conditions of approval. The applicant shall contact the City to schedule an appointment for such a final inspection.
27. The applicant/WTF operator 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 damages, loss, 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 the applicant of its obligations under this condition.

Building

28. Submit two complete sets of plans for the project, including engineered structural calculations and drawings for the Monoelm structure, and associated facilities for review and approval by the Building and Planning Divisions. Plans shall include the following:
 - a. Site/Plot Plan.
 - b. Three additional sets of architectural plans, including elevations, colors, and materials, foliage addition to the Monoelm, and lighting, if any.
 - c. Electrical Plans including the size of the main switch, number, and size of service entrance conductors, panel schedules, and single-line diagrams.

- d. Utility plans.
 - e. A waste recycling plan, recycling 65% of all construction debris.
29. The applicant shall comply with the latest adopted California Building Code, and other applicable codes, ordinances, and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of the submitted plans.
 30. Plans shall be submitted for plan check and approved before construction. All plans shall be marked with the project file number.
 31. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City before permit issuance.
 32. Architect's/Engineer's stamp and "wet" signature are required before permit issuance.
 33. Separate permits are required for fencing and/or walls. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. Monday – Saturday.
 34. Approval of final inspection is required before the use of the subject facility. Final approval by the Building Official shall be contingent upon compliance with all conditions of approval. The applicant shall contact the City to schedule an appointment for a final inspection.
 35. Accessible paths of travel, egress, or any other accessible function of the property shall not be obstructed at any time.
 36. All utility services to the project shall be installed underground.
 37. Underground Service Alert shall be notified 48 hours before any excavation by calling 811.
 38. All off-site and on-site excavation and trenching shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
 39. 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.
 40. The developer/contractor is to be responsible for reasonable periodic clean up of the construction site to avoid a hazardous accumulation of combustible trash and debris.

41. The applicant shall comply with the latest adopted California Codes, and all 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.
42. 'Approval of final inspection is required before the use of the subject facility. Final approval by the Building Official shall be contingent upon compliance with all conditions of approval. The applicant shall contact the City to schedule an appointment for a final inspection.

Engineering

43. All driveways, existing or proposed, shall comply with Americans with Disabilities Act, and shall conform to City Standard Plan No. 102.
44. All pavement damaged by excavation will be replaced with permanent pavement per the City Standard Plan No. 301 for paving and trench repair.
45. Replace all existing lifted or cracked curb gutter, damaged utility pull box lids, and sidewalk adjacent to the property. Additionally remove sidewalk that show signs of ponding or is pitting, scaling or spalling. Curb Ramps not in compliance with ADA guidelines will be removed and replaced.
46. All utilities shall be placed underground. This requirement applies to electrical services, transformers and switches, telephone, communications, and cable television facilities as well.
47. 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.
48. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 811.

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

APPROVED AND ADOPTED THIS 25TH DAY OF APRIL, 2022 PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

BY:

Manny Martinez, Chair

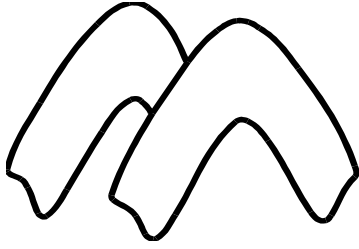
ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 25th day of April 25, 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:



CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 4/25/2022

AGENDA ITEM 6.c

Case No.: 2022-17

Application: Conditional Use Permit (CUP) request for on-site beer and wine sales pursuant to approval of an Alcoholic Beverage Control (ABC) Type 41 License at an existing sit-down restaurant in the Montclair Village Plaza shopping center. .

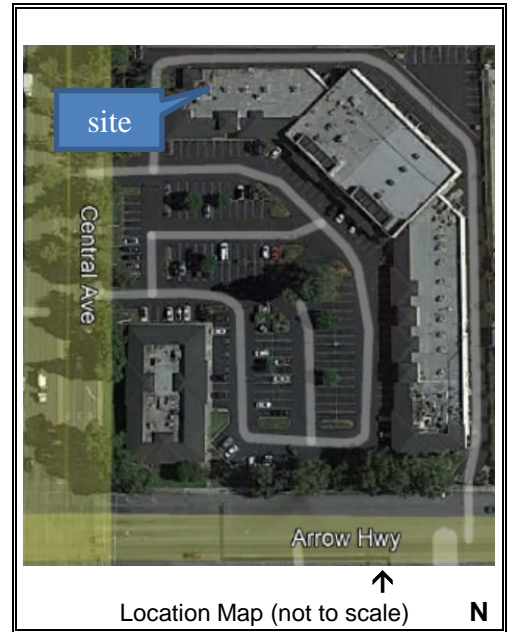
Project Address: 8801 Central Avenue, Unit A

Property Owner: Lee Pan Montclair, LLC

General Plan: Regional Commercial

Zoning: C-3 (General Commercial) per North Montclair Specific Plan (NMSP)

Assessor Parcel No.: 1007-661-19-0000



ADJACENT LAND USE DESIGNATIONS AND USES

	General Plan	Zoning	Use of Property
Site	Regional Commercial	C-3 (General Commercial) per NMSP	Multi-tenant Commercial Center
North	City of Upland Business/Residential Mixed Use (B/R-MU)	City of Upland Highway Commercial (HC) and Business/Residential Mixed Use	Rail Road Right-of-Way and Tracks
East	General Commercial	C-3 (General Commercial) per NMSP	Commercial Use
South	Regional Commercial	C-3 (General Commercial) per Specific Plan 86-1	Commercial Use
West	General Commercial	C-3 (General Commercial) per NMSP	Multi-tenant Commercial Center

Report on Item Number 6.c

PUBLIC HEARING – CASE NUMBER 2022-17

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Lee Pan Montclair, LLC
LOCATION OF PROPERTY	8801 Central Avenue, Unit A
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	General Commercial in the North Montclair Specific Plan
EXISTING LAND USE	Restaurant in the Montclair Village Plaza Shopping Center
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Christine Sanchez Caldwell

Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the on-premises sale of beer and wine with a Type 41 Alcoholic Beverage Control (ABC) license for Polas Mariscos restaurant located within the Montclair Village Plaza retail center at the northwest corner of Central Avenue and Moreno Street.

Polas Mariscos is a family-owned and operated sit-down restaurant specializing in Mexican-style seafood dishes. The Barrios family opened their restaurant in 2018. The existing restaurant is 1,266 square feet in size and contains a dining area with 34 seats. The current restaurant hours of operation are, and will remain, as follows:

Monday through Thursday: 11:00 a.m. to 6:00 p.m.
Friday through Sunday: 10:00 a.m. to 8:00 p.m.

This request does not include outdoor consumption of beer and wine nor outdoor dining.

Background

- Section 11.42.040.A of the Montclair Municipal Code requires approval of a CUP for the on-sale of beer and wine in conjunction with a bona fide eating establishment.
- Polas Mariscos is one of three sit-down restaurants currently operating in the Montclair Village Plaza Shopping Center. Dolce Bakery remains a major tenant in the shopping center, but at this time is not operating its bistro-style restaurant.

- The Department of Alcohol and Beverage Control (ABC) classifies Type 41 (beer and wine), Type 47 (beer, wine, and distilled spirits) and Type 77 (breweries) Licenses all as on-sale licenses in its respective census tracts.

Planning Division Comments

Staff supports the applicant's request to sell beer and wine in conjunction with meals served at Polas Mariscos restaurant. The business model of Mexican-style seafood restaurants frequently includes on-premises beer and wine sales as an incidental portion of the restaurant business. There will be no outdoor consumption of beer and wine on the premises and alcohol will only be served in conjunction with meal service. There will be no bar, pool tables, or dance floor within the restaurant.

The sale and consumption of alcoholic beverages in conjunction with a bona fide restaurant at this location is a compatible and consistent land use when compared to other commercial retail-type businesses in the City. For that reason, conditions of approval have been included to maintain the safety and general welfare of the balance of shopping center tenants and surrounding area.

Parking at Montclair Village Plaza shopping center is ample and easily accessible to all tenants including a number of restaurant uses. Over the years, the center has accommodated a number of restaurants concurrently. Currently there are three sit-down restaurants and a large bakery in operation on the site with no impact to parking overall. Staff does not believe the addition of the on-sale beer and wine request by the applicant would significantly affect existing parking conditions at the center.

Finally, the Police Department reviewed the proposed application and did not object to the proposal to allow for the on-premises sale of beer and wine in conjunction with the existing food use. The Police Department provided conditions of approval that include the requirement for video surveillance of the premises, which is consistent with recent City approvals allowing the on-premises sale and service of alcoholic beverages for restaurant uses.

It should be noted the applicant will be required to install signs stating "No Loitering or Consumption of Alcoholic Beverages on the Premises" on the exterior of the building and within all parking areas in plain view of store employees and customers.

Department of Alcoholic Beverage Control (ABC) Findings

The project site is located within Census Tract Number 2.01, which allows up to four on-sale ABC licenses. According to ABC records there are currently 13 on-sale licenses (Type 41, Type 47, and Type 77) within the census tract; therefore, ABC requires a finding of public convenience or necessity in order to issue a new license.

The majority of on-sale licenses in Census Tract Number 2.01 have been issued to restaurants located within the regional shopping mall district where these types of licenses would be expected to be found, thus increasing the number of on-sale licenses issued in the census tract.

City staff and the Police Department support and find the request for the on-premises sale of beer and wine for the existing restaurant as desirable to the public convenience and necessity. The sale of beer and wine will not be a major portion of the business but will simply offer customers an expanded choice of beverage options for those who are interested.

The Type 41 ABC License application is not an unusual request, nor is it expected to negatively affect the surrounding area, given:

1. The beer and wine sales would be an ancillary portion of the business;
2. The restaurant has limited hours of operation;
3. The restaurant has operated in a professional manner over the years; and
4. There is no bar associated with this request.

Moreover, the proposed restaurant is located within a flourishing and well-established shopping center, in a primary commercial area of the City where other restaurants are located and offer alcoholic beverages to customers. With this approval, there would be six Type 41 Licenses, on-sale beer and wine only, in the subject census tract.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for on-sale beer and wine in conjunction with a bona fide eating establishment can be made as follows:

- A. The proposed on-premises sale of beer and wine (ABC Type 41 License) in conjunction with a full menu and food service provided within a bona fide eating establishment (restaurant) is essential or desirable to the public convenience and public welfare, in that the option to purchase and consume beer, and wine with meals provides the general public of legal drinking age additional dining options within the community. Such availability of alcoholic beverages with meals, inside the restaurant or in an outdoor patio, is common among other restaurants in the vicinity.
- B. Granting the CUP for the proposed on-premises sale of beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the restaurant is located in properly developed lease space within a well-maintained retail commercial development with adequate parking, security, lighting, etc. Moreover, the existing restaurant use and proposed on-sale of beer and wine served in conjunction with bona fide meals is compatible with surrounding commercial uses and will not negatively affect any sensitive land uses in the surrounding area.
- C. The existing restaurant with the on-premises sale of beer and wine at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-premises sale of beer and wine in the Commercial zoning district of the North Montclair Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use so that the on-sale of beer and wine does not detract from the general quality of the subject use, commercial center, or the surrounding area. The project has been conditioned so that the restaurant use will be operated in a manner that will not be detrimental to the health and safety of the surrounding community.
- D. The proposed addition of alcoholic beverages in conjunction with meals at the subject site, is not contrary to the objectives of any part of the adopted General Plan, in that the

adopted Montclair General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses with beer and wine sales.

Public Notice and Comments from the Public

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on April 15, 2022, 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 preparation of this agenda report, no comments were received from the public regarding the application.

Environmental Assessment

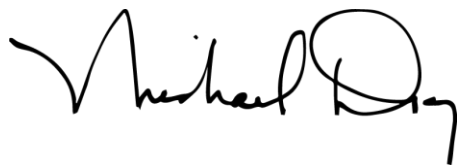
The proposed on-premises sale of beer and wine in conjunction with a bona fide eating establishment is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because it is on a fully developed site.

Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, because it is on a fully developed site.
- B. Move to approve a Conditional Use Permit under Case No. 2022-17 for the on-premises sale of beer and wine (Type 41 ABC license) in conjunction with an existing bona fide eating establishment at 8801 Central Avenue, Unit A, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 22-1962.

Respectfully Submitted,



Michael Diaz
Director of Community Development

MD/cc

Z:\COMMDEV\CC\CASES\2022-17\POLASMARISCOS\PCRPT

c: Lee Pan Montclair, LLC, 8801 Central Avenue, Montclair CA 91763
Mayra Lozada, Liquor License Agents, 5243 E Beverly Blvd, Los Angeles CA 90022

RESOLUTION NUMBER NO. 22-1962

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2022-17 ALLOWING FOR ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL (ABC) TYPE 41 LICENSE (ON-PREMISES SALE OF BEER AND WINE) FOR AN EXISTING RESTAURANT SERVING BONA FIDE MEALS AT 8801 CENTRAL AVENUE, UNIT A, IN THE GENERAL COMMERCIAL ZONING DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN (APN 1007-661-19-0000)

A. Recitals.

WHEREAS, on April 14, 2022, Lee Pan Montclair, LLC, property owner, filed an application for Conditional Use Permit under Case No. 2022-17 to allow an Alcoholic Beverage Control (ABC) Type 41 license (On-Sale Beer and Wine) for an existing restaurant; and

WHEREAS, the application applies to an existing sit-down restaurant use occupying a lease space of approximately 1,266 square feet located at 8801 Central Avenue, Unit A; and

WHEREAS, a Conditional Use Permit (CUP) is required when beer and wine are intended to be sold and served in a restaurant under Section 11.42.020 of the Montclair Municipal Code; and

WHEREAS, the existing restaurant is within a multi-tenant commercial retail center located within the General Commercial zoning district of the North Montclair Specific Plan (Montclair Village Plaza); and

WHEREAS, the on-premises sale of beer and wine at the existing restaurant is consistent with the use and development standards of the underlying General Commercial zoning district of the North Montclair Specific Plan and the intent and requirements of the Montclair Municipal Code, subject to the approval of a Conditional Use Permit; and

WHEREAS, staff has determined the proposed on-premises sale of beer and wine in conjunction with a bona fide eating establishment meets the intent and requirements of the ordinance for such use and the applicable development standards of the General Commercial zoning district of the North Montclair Specific Plan and Chapter 11.42 MMC ("Alcoholic Beverages – Regulation of Sale"); and

WHEREAS, the Planning Division has determined this project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), the project is deemed exempt from the requirements of CEQA. Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, because the changes because the changes are minor in scope and are limited to the interior of an existing lease space on a fully developed site.

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 April 25, 2022, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the Planning Commission conducted a meeting at which time all persons wishing to testify in connection with the said project were heard and said proposal was fully studied.

B. Resolution.

SECTION 1. This Commission hereby specifically finds that all of the facts outlined in the Recitals, Part A, of this Resolution are true and correct.

SECTION 2. Based upon the entire record before the Planning Commission during the above-referenced hearing on April 25, 2022, including written and oral staff reports together with public testimony, this Planning Commission hereby finds as follows concerning the recommendation of approval of Conditional Use Permit under Case No. 2022-17, subject to the conditions of approval contained in this resolution enumerated below:

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 outlined in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon substantial evidence presented to this Commission during the above-referenced public hearing on April 25, 2022, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for on-sale beer and wine in conjunction with a bona fide eating establishment can be made as follows:

- A. The proposed on-premises sale of beer and wine (ABC Type 41 License) in conjunction with a full menu and food service provided within a bona fide eating establishment (restaurant) is essential or desirable to the public convenience and public welfare, in that the option to purchase and consume beer and wine with meals provides the general public of legal drinking age additional dining options. Such availability of alcoholic beverages with meals, inside the restaurant is common among other restaurants in the vicinity.
- B. Granting the CUP for the proposed on-premises sale of beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the restaurant is located in properly developed lease space within a well-maintained retail commercial development with adequate parking, security, lighting, etc. Moreover, the existing restaurant use and proposed on-sale of beer and wine served in conjunction with bona fide meals is compatible with surrounding commercial uses and will not negatively affect any sensitive land uses in the surrounding area.

- C. The existing restaurant with the on-premises sale of beer and wine at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-premises sale of beer and wine in the Commercial zoning district of the North Montclair Specific Plan, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use so that the on-sale of beer and wine does not detract from the general quality of the subject use, commercial center, or the surrounding area. The project has been conditioned so that the restaurant use will be operated in a manner that will not be detrimental to the health and safety of the surrounding community.
- D. The proposed addition of alcoholic beverages in conjunction with meals at the subject site, is not contrary to the objectives of any part of the adopted General Plan, in that the adopted Montclair General Plan encourages a wide range of retail and service uses within the retail commercial area, including restaurant uses with beer and wine sales.

C. Conditions of Approval

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

Planning Division

1. Conditional Use Permit (CUP) approval is hereby granted to allow the following at 8801 Central Avenue, Unit A:
 - a. Issuance of a Type 41 ABC License to allow the on-premises sale of beer and wine within the existing 1,266 square foot restaurant.
 - b. Outside consumption of beer and wine shall be prohibited.
2. This CUP approval shall be valid for six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days before the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
3. In establishing and conducting the subject use, the applicant shall at all times comply with any laws, ordinances, and regulations of the City of Montclair, the County of San Bernardino, and the State of California. Approval of this CUP shall not waive compliance with any such requirements.
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 **539.33** made payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
6. The overall floorplan for the existing restaurant shall be as illustrated and noted on approved floor plans reviewed on April 25, 2022, on file with the Planning Division, and as described in the prepared staff report. No changes to the approved set of plans 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 CUP shall require review and approval by the Planning Commission.
7. Restaurant hours shall be Monday through Sunday from 10:00 a.m. to 8:00 p.m. The applicant may close the restaurant earlier than the hours stated herein. Any extension of the restaurant hours beyond the limits stated herein shall require written notification to the Planning Division and is subject to Director of Community Development approval.
8. Any substantial changes to the operation, increase in the floor area of the existing building shall require prior City approval.
9. The approved restaurant shall be operated, maintained, and open to the general public as a full service (bona fide) eating establishment, serving meals at all times that beer and wine are offered for sale and consumption on the premises.
10. No live entertainment activities are included with this approval. It shall be the responsibility of the business owner to submit an application for an Entertainment Permit pursuant to the Montclair Municipal Code. Entertainment Permits shall be reviewed and approved by the Montclair Police Department.
11. No alcoholic beverages shall be consumed outside the building (restaurant).
12. Any discontinuation or substantial changes to the full-service restaurant without City approval shall be a violation of this CUP and may be cause for revocation. Upon transfer, sale, or re-assignment of the restaurant to another individual or entity, the applicant shall make full disclosure of the CUP requirements and restrictions to future buyers, transferees, or assignees.
13. The Type 41 ABC license (on-premises sale of beer and wine) may be modified or revoked for failure to abide by the conditions of this approval or in the event the use is determined to be a nuisance to surrounding properties, businesses, or the community at large.

14. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar with no bona fide restaurant component, entertainment venue, night club, dance hall, or banquet hall operated by either the restaurant owner or outside vendors or promoters.
15. 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 executed Planning Commission Resolution.
16. 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, if applicable, and shall be distributed to all design professionals, contractors, and subcontractors participating in a construction phase of the project.
17. A copy of this Planning Commission Resolution, shall be kept on the premises at all times to be made immediately available to law enforcement officers, Code Enforcement officers, and/or Fire and Building inspectors in the course of conducting inspections of said premises.
18. The business owner shall apply maintain a City of Montclair Business License at all times. Should such licensing be denied, expire, or lapse at any time in the future, this permit shall become considered a violation of this condition and the user shall be subject to revocation proceedings.
19. The following mandatory conditions are hereby imposed as part of the CUP approval:
 - a. The premises shall be maintained at all times in a neat and orderly manner.
 - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Director of Community Development or designee.
 - c. Alcoholic beverages shall not be allowed to be consumed outside of the permitted restaurant premises, which shall consist of the demised lease space described herein as permitted by the Planning Commission. The applicant shall post notification of this limitation within plain view of employees and customers.
 - d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate area to not cause blight or deterioration or to substantially diminish or impair property values within the neighborhood.
 - e. The applicant/permittee shall comply with all California Department of Alcoholic Beverage Control (ABC) statutes, rules, and regulations relating to the sale, purchase, display, possession, and consumption of alcoholic beverages.

- f. The applicant shall acknowledge and agree the City has a legitimate and compelling governmental interest in the permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules, and regulations as specified in subsection (e) above. The applicant shall further acknowledge and agree, in writing, that any violation of a State statute, rule, or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:
 - i. The specific land use requested by the applicant/permittee and authorized by the City;
 - ii. The compatibility of applicant/permittee's authorized land use with adjacent land uses;
 - iii. The welfare and safety of the general public within the City. Given such deleterious secondary effects, the permittee shall acknowledge the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a State statute, rule or regulation concerning the sale to or consumption of beer and wine by a minor.
 - g. The permit shall, after notice to the applicant/permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
- 20. During all hours of business operation, the applicant/permittee shall have a manager present at the establishment and on duty. The applicant/permittee and manager shall be responsible for the conduct of all employees and shall not cause, permit, allow, aid, abet, or suffer any violation of the conditions of this permit or any provision of the Montclair Municipal Code. Failure to comply with any or all of the conditions of approval shall be deemed sufficient grounds to initiate revocation proceedings regarding the Conditional Use Permit approval.
 - 21. The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.
 - 22. No exterior security bars and roll-up doors shall be installed on windows and pedestrian building entrances.
 - 23. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine.
 - 24. All graffiti and vandalism and/or damage to the subject site and/or structure shall be removed or repaired within 72 hours of notice from the City.

25. On-site electronic arcades, amusement games, public telephones, vending machines, children's rides, or other coin-operated machines shall not be permitted.
26. At no time shall any storage occur in the area outside the rear exit of the tenant space, including shelving, boxes, supplies, etc.
27. Before installation of any new signs, the applicant shall apply for a Building sign permit and shall submit a set of plans to the Planning Division for review and approval. The set of plans shall be drawn to scale, and include all proposed building-mounted signs, The plans shall comply with the approved Sign Program for the Montclair Village Plaza shopping center.
28. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to the following:
 - a. Temporary banners to announce the grand opening or advertising promotions shall require a banner permit from the Planning Division before installation.
 - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 - c. At no time shall pennants, inflatable signs, "human" signs, or other similar advertising devices be utilized on the property or off-site.
29. All signs shall be maintained at all times, in good appearance and operating condition. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.
30. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative, or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void or annul, any action of, or permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities, thereof (including actions approved by the voters of City), for or concerning the project, whether such actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the

defense. The City shall promptly notify the applicant of any action brought and City shall cooperate with the applicant in the defense of the Action.

Police Department

31. 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.
32. This Conditional Use Permit (CUP) Amendment shall be reviewed one year from the date of approval and may be reviewed each year thereafter. The review shall be conducted jointly by the Community Development Director and Police Chief or designees. The purpose of this review shall be to identify uniquely adverse issues such as curfew, loitering, vandalism, criminal activity, noise, or nuisance issues. If such issues are identified, the CUP shall be presented to the Planning Commission for their consideration of conditions, modifications, or revocation.
33. 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.
34. Premises falling within the regulations of the State Alcoholic Beverage Control Board (ABC) shall remain consistent with plans submitted for review by the Planning Commission. No changes to the floor plans will occur unless a permit is issued by the Community Development Department unless otherwise agreed upon in advance through the Community Development Department.
35. Premises falling within the regulations of the State Alcoholic Beverage Control Board (ABC) shall not allow any consumption of alcoholic beverages on any property adjacent to the licensed premises under the control of the license.
36. The premises shall be equipped with the lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons within the premises, subject to Building and Planning approval.
37. The premises shall install and maintain a closed-circuit video surveillance (CCVS) system to the new addition. The system shall at minimum be capable of monitoring all entrances/exits to the premises and be positioned 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 that allows for the widest view from the entrance, without significant lens distortion. Typically acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920x1080 pixels, otherwise known as 1080p. IR (night-vision) is preferred, however, cameras shall at minimum be capable of low-light operation.

Audio recording is desirable, but not a requirement. Camera footage shall be retained for no less than 90 days. To conserve storage space, cameras may reduce frame-rate when no motion is detected, however must record at no less than 30 frames per second when motion is detected. Motion sensors shall be configured to activate properly in all areas covered including the parking area. Motion sensors may be configured to prevent incidental activation from hanging or moving displays. Depending on the nature of the premises, additional cameras may be required.

38. 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.

Building Department

39. Submit four complete floor plan and site plan sets to the Building Official.
40. 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.
41. 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, Accessible parking 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%).
42. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.
43. 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.
44. The applicant shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
45. An approved, emergency-keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Forms are available by contacting the Deputy Fire Marshal Brett Petroff at (909) 447-5552.

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

APPROVED AND ADOPTED THIS 25TH DAY OF APRIL 2022

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

BY: _____
Manny Martinez, Chair

ATTEST: _____
Michael Diaz, Secretary

I, Michael Diaz, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 25th day of April 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT: