



REGULAR ADJOURNED MEETING OF THE
MONTCLAIR PLANNING COMMISSION

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

Monday, June 26, 2023
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

None.

5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS

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

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

6. AGENDA ITEMS

- a. CASE NUMBER 2023-06
Project Address: 9645 Central Avenue
Project Applicant: Brito Brothers Property LLC
Project Planner: Silvia Gutiérrez
Request: Requests for a Conditional Use Permit (CUP) to allow the sale of alcoholic beverages (Type 47 ABC On-sale License) in an existing 4,800 SF restaurant and the addition of covered outdoor dining and a Precise Plan of Design (PPD) for the related exterior site and building improvements including the construction of a 1,280 SF patio outdoor dining area, a 169 SF front tower entry, and 200 SF rear covered entry. The applicant is also requesting a Variance from the front setback from 75 feet to 20 feet. The subject restaurant is developed on a 1.07-acre site that encompasses two parcels that shall be merged.

Environmental Assessment

The Planning Division has determined the project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of the State CEQA Guidelines. The project qualifies because the proposed improvements include building addition of less than 2,500 square feet to an existing structure on a fully developed site, with no grading, and involves minor interior improvements.

- b. CASE NUMBER 2023-16
Project Address: 5404 Moreno Street, Units A and B
Project Applicant: J A C Windows, Inc.
Project Planner: Silvia Gutiérrez
Request: Request for a Conditional Use Permit (CUP) to establish a church use within two vacant lease spaces that encompass approximately 4,728 SF at the address referenced below. The subject project is proposed to be located within a multiple-tenant commercial building on a 1.45-acre parcel.

Environmental Assessment

The Planning Department has determined this project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 Class 1 (a) of the State CEQA Guidelines. The project qualifies because the application applies only to the leasing of an existing building requiring only minor interior and/or exterior alterations. Moreover, there is no substantial evidence the project will pose a significant impact on the environment.

7. INFORMATION ITEMS

Although the Planning Commission is prohibited from taking action on or discussing items, not on the posted agenda, a member of the Planning Commission may ask for information, request a report back, or place a matter of business on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly, report on his or her own activities, provided the foregoing are related to, or within the jurisdiction of, the Planning Commission.

8. 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 June 26, 2023.

9. ADJOURNMENT

The City of Montclair Planning Commission meeting is adjourned to the regularly scheduled meeting of July 10, 2023, at 7:00 p.m.

**CERTIFICATION OF
AGENDA POSTING**

I, Michael Diaz, Secretary of the Montclair Planning Commission, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the north door of Montclair City Hall on June 22, 2023.

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CITY OF MONTCLAIR
PLANNING COMMISSION

MEETING DATE: 6/26/23

AGENDA ITEM 6.a

Case No. 2023-06

Application: A Conditional Use Permit (CUP) to allow the sale of alcoholic beverages (Type 47 ABC On-sale License) in an existing 4,800 SF restaurant and the addition of covered outdoor dining and a Precise Plan of Design (PPD) for the related exterior site and building improvements including the construction of a 1,280 SF patio outdoor dining area, a 169 SF front tower entry, and 200 SF rear covered entry. The applicant is also requesting a Variance from the front setback from 75 feet to 20 feet. The subject restaurant is developed on a 1.07-acre site that encompasses two parcels that shall be merged.

Project Location: 9645 Central Avenue

Property Owner: Brito Brothers Property LLC

General Plan: General Commercial

Zoning: C2– Restricted Commercial

Assessor Parcel Nos.: 1008-611-13 and 20



EXISTING SITE FEATURES/CONDITIONS

Structure(s): Existing 4,800-square-foot building with on-site parking.

Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	General Commercial	C2-Restricted Commercial	Vacant restaurant
North	General Commercial	C2-Restricted Commercial	Popular Café Restaurant
East	Senior Housing	R1-Single-Family Residential	Senior Housing
South	General Commercial	C2-Restricted Commercial	Bookkeeping Office
West	Low, 3-7 units/acre	R-3 Multiple-Family Residential	Single Family Residences

Report on Item Number 6.a

PUBLIC HEARING – CASE NUMBER 2023-06

APPLICATION TYPE(S)	Conditional Use Permit, Variance, and Precise Plan of Design
NAME OF APPLICANT	Jeronimo Brito, for Brito Brothers Property LLC
LOCATION OF PROPERTY	9645 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	C-2 (Restricted Commercial)
EXISTING LAND USE	Vacant Restaurant Building
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez, Senior Planner

Project Description

The applicant is requesting approval of a new Conditional Use Permit (CUP), Variance, and Precise Plan of Design to expand and remodel the existing restaurant building (formerly the Fu Lin Chinese Restaurant) to accommodate a new eating place known as Kalaveras Mexican Restaurant. Kalaveras is a sit-down restaurant where customers are seated by a host and served by wait staff. The site is currently developed with a 4,800 SF building and surface parking at the rear of the site.

Conditional Use Permit (CUP)

A CUP to allow the addition of a 1,280 SF covered outdoor dining area to the front (west/street side) of the existing building and to allow the service of alcoholic beverages with meals in the subject space. The ABC license for the restaurant is ABC License-Type 47 which allows the sale of beer, wine, and spirits served in conjunction with the service of meals.

Section 11.42.040.A of the Montclair Municipal Code requires approval of a CUP for the on-premises sale of beer, wine, and distilled spirits in conjunction with a bona fide eating establishment. Further, a CUP is required for activities in the C-2 zoning district that takes place outside of the building, such as outdoor dining.

Proposed business hours are 10:00 a.m. to 10:00 p.m. Sunday through Wednesday and 10:00 a.m. to 1:00 a.m. Thursday through Saturday. A bar counter has been requested staff is added a conditions alcoholic drink(s) be served in conjunction with meals.

Setback Variance

To accommodate the proposed patio addition at the front of the building, a 20-foot reduction (50 percent) from the existing 40-foot front building setback area that was established in 1971 when the existing building was constructed. The proposed setback is 20 feet in depth from the front property line along Central Avenue.

Precise Plan of Design (PPD)

To accommodate the remodeled and expanded restaurant use, several site exterior and interior tenant improvements are proposed as indicated below:

- Construction of a new outdoor covered patio for dining on the west side of the existing building. The patio would be approximately 1,280 SF in size and would be enclosed by a 3-foot tall coated steel railing, and covered with a standing seam metal roof. Primary access to the patio would be from the interior of the restaurant through new double doors on the west building elevation storefront. Table seating for 88 persons would be provided under the proposed covered patio.
- Addition of a covered porch element over the rear entrance to the building from the parking lot. A smaller paved area with benches and potted plants will enhance the space.
- Redesign of the existing building to create a “Spanish” themed architectural style featuring raised parapets, a new street-facing tower element and entry point into the building, and integration of the new outdoor patio area. The main public entrance to the restaurant would continue to be from the east side of the lease space facing the parking lot. Finally, painted “Dia de los Muertos” themed murals are also proposed as a major design feature of the project. The proposed murals are a characteristic element of all Kalaveras restaurants and are custom designed for each site.
- Interior tenant improvements for the new restaurant, which includes an interior bar. Food preparation and storage areas would be concentrated in the southeast corner of the space. The interior dining area has proposed seating for 152 seats.
- New decorative light fixtures on the exterior of the building and for the outdoor patio. Additional and upgraded exterior parking lot light fixtures are also proposed based on the findings of a photometric plan for the site.
- Installation of new landscaping and irrigation within the Central Avenue setback and in the rear parking area.
- Upgrade the three (3) existing disabled-accessible parking spaces (striping and ramp) to meet current ADA requirements.

- Construct a new trash enclosure within the parking lot. The new trash enclosure would meet current City standards including a roof. Used fry oil is proposed to be stored within the building in a grease caddy that would be picked up monthly by a recycling vendor.
- Slurry coat and restriping of the entire parking lot. Existing potholes and other damaged parking surfaces will be repaired before the final finishes are applied.
- Installation of new landscaping and irrigation in the Central Avenue setback and the rear parking area. The proposed landscape plan features a desert design scheme utilizing succulents and cacti set in decomposed granite ground materials. No lawn is proposed. In the rear parking areas, new trees and shrubs will be provided.
- Install new identification signs for the business. The applicant will submit a separate application for new signs for administrative review and approval by City staff.

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

Background

- The subject site is comprised of two adjoining parcels identified as APN 1008-611-20 (facing Central Avenue) and APN 1008-611-13, and an irregular-shaped lot accommodating the rear parking area.
- The existing building was originally constructed in 1971 and has been home to at least two restaurants – The Phoenix (1981-90) and Fu Lin (1990-2021).
- Kalaveras Mexican Restaurant is a family-owned restaurant chain founded in 2016. Thematically, the restaurant features vibrant colors that pay homage to a time-honored tradition of “El Dia de Los Muertos” or the “Day of the Dead.” Kalaveras’ menú features barbacoa, carnitas, enchiladas verdes, and shrimp tacos gobernador entrees.

Currently, there are 20 Kalaveras restaurants in the chain including sites in Montebello, Redondo Beach, Whittier, San Pedro, Chino Hills, West Los Angeles, Puente Hills, Silverlake, and newly opened locations in Rancho Cucamonga, Santa Monica, Newport Beach. All restaurants operate with a Type 47 ABC License (On-Premises Beer, Wine, and Spirits).

Planning Division Comments

Overall, City staff supports the proposed remodel and reuse of the existing site and building. The proposed improvements will enhance the dated look of the existing building and make way for a new restaurant in the community. Further, the remodel will continue a new trend of improvements being made to existing commercial properties along Central Avenue.

Conditional Use Permit

The proposed CUP will allow the introduction of outdoor dining to the site and extend the ability to offer alcoholic beverages with meals into the covered patio area. The new patio facing the street will enliven the building's presence on the street which up to now showed no signs of activity because the entry point to the former restaurant was oriented to the rear of the site. In addition, outdoor dining is of great value in attracting customers to a business, especially if the outdoor areas are well-designed and inviting. In addition, the attached covered patio dining area will be internally connected to the restaurant building and includes adequate security, lighting, and operational maintenance standards. Staff believes the outdoor dining area is well placed, will not obstruct the public sidewalk or any required path of travel, and will enhance the street character.

As required by the State Department of Alcoholic Beverage Control (ABC), the service of alcoholic drinks at this location will be limited to the interior of the restaurant and in the defined area of the outdoor patio. The ABC Type 47 license also requires that the restaurant continuously offer and provide meals (not snacks) at all times when alcoholic beverages are offered and/or served. ABC has its process to verify that on-premises sales and consumption of alcoholic beverages are incidental to the overall restaurant business. City staff has patronized the restaurant chain and is satisfied that they can satisfactorily manage their business. Alcoholic beverages are stored behind the bar counter and are not allowed to be taken off the premises even for "to-go" orders. Staff contacted ABC to determine if there were any specific issues related to Kalaveras who indicated no unusual or significant concerns. The sale and consumption of alcoholic beverages in conjunction with a bonafide restaurant use at this location has been present for at least 42 years without any known significant issues.

The placement of the outdoor patio on the street side of the property also minimizes noise concerns to adjacent properties and will be easily observable by Police patrols. As such, staff believes the CUP to allow the new outdoor dining area will continue to be a desirable and compatible land use that is compatible with the other adjacent commercial businesses in the surrounding area. Conditions of approval have been included to ensure that the safety and general welfare of the surrounding area are maintained.

Variance

Since the incorporation of the City the required front setback distance for C-2 and C-3 zone districts was set at 75 feet from the property line at the street. The standard appears to have been set in line with the suburban development pattern of the day that envisioned larger-scale commercial development on large lots (e.g., regional malls, community shopping centers, etc.) where the requirement would be more easily accommodated with minimal adverse impact. Over the years, the 75-foot front setback requirement has necessitated a variance to allow for new in-fill development. The Kalaveras proposal is the second project that involves a need for a variance to allow for improvements to existing development. Without the requested setback variance the proposed patio and tower entry elements of the project could not be constructed, leaving the 40-foot deep setback and flat building frontage.

Since the existing building will remain in place at 40 feet it is not possible to meet the 75-foot setback nor would it be an appropriate standard to apply if it were possible. Too much of the front and visible portion of the site would be unusable (except for parking areas) and would conflict with the goals of the expected General Plan and zoning updates that call for increased pedestrian activity on tree-lined streets with supportive building frontages. Approval of the requested variance would be consistent with that vision and allow for the activation of the front of the site. Further, relocating the patio addition to the rear of the site is not a practical solution and would create new impacts on the parking layout and reduce the existing number of on-site parking spaces needed for the use.

Moreover, the required standard has proved to be impractical and apparently was rarely applied since most of the commercial development on smaller lots along Central Avenue, including the subject site developed in 1971 after incorporation. A survey conducted by staff for properties immediately north and south of the subject site revealed the following:

Survey of Building Setbacks Adjacent to 9645 Central Avenue (east side)		
<i>Location</i>	<i>Front Setback (from Central Avenue)</i>	
	Required	Existing (approximate measurement)*
9515 Central Avenue (Jack N Box)	75	30'
9589 Central Avenue (Chinese Fast Food)	75'	30'
9617 Central Avenue (The Taco Man)	75'	45'
9637 Central Avenue (Popular Restaurant)	75'	20' (Variance in 2009)
9645 Central Avenue (Subject Site)	75'	40' (20' setback proposed)
9667 and 9671 Central Ave (Converted Houses)	75'	25'

*Measurements from the inside edge of the existing public sidewalk on Central Avenue

The above table indicates that over time, the 75-foot setback requirement for commercial development on Central Avenue has been rarely applied and that the setback distances for existing structures differ 10-15 feet from each other. As such, staff believes the precedent for reduced setbacks for properties along Central Avenue has long been established. Further, in 2009, a setback variance was approved for the adjacent property to the north (Popular Café) which permitted a 20-foot setback to allow for an outdoor dining patio at the front of the building. Kalaveras' setback reduction request would be the same as the approved setback for the Popular Cafe property and similar to the two lots to the south near the corner of Central Avenue and San Bernardino Street.

Lastly, the 75-foot setback requirement that has necessitated variances for new development projects (e.g., Montclair Shoppes project) will be eliminated and replaced with a new standard when the General Plan Update and associated Zoning Ordinance updates are approved later in 2023. The proposed *Draft Corridors Plan* (new zoning

ordinance) proposes a new front setback standard of 10-25 feet for new and existing development projects. With this anticipated change in setback standards, the proposed variance to allow a 20-foot setback distance for this project would be consistent and within the new front setback range.

Precise Plan of Design

City staff finds the proposed physical improvements related to the new restaurant use to be appropriate. When the project is completed it will provide a much-needed visual boost to the overall appearance of the site. In reviewing the project, staff discovered that the property is comprised of two separate parcels that need to be merged to unify the properties and avoid potential problems with the building code in the future. A merger of the two lots has been made a condition of approval.

The applicant has worked with staff to resolve several design and site issues. The proposed site improvements involving finding a new location for an updated trash enclosure, refinements to the parking layout and surface, inclusion of a covered back entry area, screening of roof equipment, and new landscaping are important and needed improvements. Storage of used fry oil will be stored within the building rather than outside in the trash enclosure where it would otherwise be susceptible to spills, vermin infestation, and vandalism.

The site has 60 parking spaces, including three disabled parking spaces, which meet the minimum number of spaces calculated for the restaurant use. The applicant has indicated that they will have active management of the parking including the possibility of providing valet parking for customers during peak hours. A condition of approval addressing this aspect of the restaurant's operation has been added.

The proposed exterior changes including the addition of a parapet, a new 16-foot tall entry tower, and a 1,280 SF covered outdoor patio made possible with an approved setback variance will allow a much-needed improvement to the front of the building facing the street. These elements will offer a bold change compared to the flat and dated appearance of the existing building. The proposed color murals facing the street and parking area, though not yet designed, will add a pop of bold coloring to the project and streetscape. A condition of approval requires that the applicant confer with City staff and obtain approval for the final design. The proposed exterior materials appear to be durable and complementary to the new design.

Lastly, City staff finds the proposed desert landscaping design theme to be appropriate for the site and use. The desert landscaping scheme is a major site feature at all Kalaveras restaurants. The varied number and types of succulents and cacti will provide visual interest to the site and the adjacent streetscape.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for outdoor dining with on-sale and service of beer, wine, and distilled spirits can be made, as follows:

- A. The proposed outdoor dining area and the on-premises sale of beer, wine, and distilled spirits at the restaurant are essential and desirable to the public convenience and welfare in that the restaurant use offers the public an additional alternative for dining in the community where adult patrons wishing to have alcoholic beverages with their meals have that opportunity. The proposed 1,280 SF dining area is covered and has controlled access which is similar to other restaurant uses with outdoor dining in the community and vicinity.
- B. Granting the CUP for the proposed outdoor dining area and the on-premises sale of beer, wine, and distilled spirits at the restaurant will not be materially detrimental to the public welfare and to other property in the vicinity, in that alcoholic beverages have been sold on the site in previous restaurants for over 42 years without significant issues. The proposed 1,289 SF outdoor dining area will not cause any significant issues with the operation of the restaurant use since it will be attached to and internally connected with the main restaurant building to control access. Further, the outdoor dining area will include adequate security, lighting, and operational maintenance standards to ensure ABC requirements are met concerning the service of alcoholic beverages with meals at the site. Lastly, the proposed outdoor dining area will be adequately setback from the street and not impact any sensitive land uses in the surrounding area.
- C. The CUP to allow outdoor dining in a 1,280 SF covered patio and with the on-premises sale of beer, wine, and distilled spirits at the subject site conforms to good zoning practice, in that the Municipal Code permits outdoor dining and the on-sale of beer, wine, and distilled spirits in conjunction with meals, within the "C-2" Restricted Commercial" zoning district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the outdoor dining area, including the sale of beer, wine, and distilled spirits, at the restaurant. Further, the proposed 1,280 SF covered outdoor dining area as designed does not detract from the general quality of the street and surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial areas of the City.

Variance Findings

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

- A. Because of special circumstances applicable to the subject property, including its size, depth, location, and surroundings, the strict application of the provisions of the Montclair Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The subject property, like many other properties on Central

Avenue, has a non-conforming setback of 40 feet which is well below the required. So strict adherence to the 75-foot setback standard of the underlying C-2 zoning is both impossible and impractical to apply to developed properties with varying front yard setback distances. Until the current setback standard is modified to a more practical standard, no improvements can be made for properties with non-conforming front yard setbacks, unless approved with a variance. The proposed variance is intended to allow for needed improvement to the site and to be on par with several similar developments that enjoy the benefit of a shorter setback distance.

- B. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zoning classifications. the precedent for reduced setbacks for properties along Central Avenue has long been established by the failure to apply the required setback distance. Further, in 2009, a setback variance was approved for the adjacent property to the north (Popular Café) which permitted a 20-foot setback to allow an outdoor dining patio at the front of the building. Kalaveras' setback reduction request would be the same as the approved setback for the Popular Cafe property and similar to the two lots to the south near the corner of Central Avenue and San Bernardino Street.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located, as the proposed outdoor dining area and tower additions to the front of the building will not be closer than 20 feet nor obstruct sight lines to adjacent commercial properties nor place restaurant patrons so close to the street that it would create any unsafe condition.
- D. Granting the requested setback variance will not be contrary to the objectives of any part of the adopted General Plan, as the adopted Land Use and Community Design Elements encourage the rational use and development of underdeveloped parcels within the City, including positive site and street improvements that benefit the community in terms of land use and design, which this project with the approved variance would accomplish.

PRECISE PLAN OF DEVELOPMENT FINDINGS

- A. The proposed improvements to the site and design update of the existing restaurant building and construction of the new attached 1,280 SF outdoor covered patio are consistent with the objectives of the Montclair Municipal Code and standards of the C-2 Restricted Commercial zoning district where the property is located.
- B. The proposed site and building improvements are well-designed and appropriate for the proposed use of the site. The improvements will result in a significant improvement to the appearance of the site and surrounding area.

- C. The proposed building improvements to the existing building located at the front of the restaurant site including the outdoor dining patio and the covered entries are well done and effective in changing the appearance of the site to the street. The new paint scheme, complementary water-efficient landscape design, and other site and street improvements will complete an updated look of the property and enhance the appearance of Central Avenue.

Department of Alcoholic Beverage Control Finding of Necessity

The project site is located within Census Tract Number 2.05, which allows up to three (3) on-sale ABC licenses. According to ABC records, as of June 2023, there are currently four (4) licenses existing within the census tract, the most recent being a transfer from the Fu Lin to the Kalaveras restaurant.

City staff and the Police Department support this request for expanding the sale of alcoholic beverages to the outdoor dining area in conjunction with the operation of a full-service restaurant. The proposed 1,289 SF outdoor dining area will not cause any significant issues with the operation of the restaurant use since it will be attached to and internally connected with the main restaurant building to control access. Further, the outdoor dining area will include adequate security, lighting, and operational maintenance standards to ensure ABC requirements are met regarding the service of alcoholic beverages with meals at the site.

Further, an ABC Type 47 license requires that the restaurant continuously offer and provide meals (not snacks) at all times when alcoholic beverages are offered and/or served. ABC has its process to verify that on-premises sales and consumption of alcoholic beverages are incidental to the overall restaurant business. Moreover, a restaurant has operated the subject site for over 42 years where alcoholic beverages have been served to customers with no known significant or unusual problems.

Lastly, local law enforcement indicated that the area in which the restaurant is located has not had significant calls for service within the last 12 months. Conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.

Public Notice and Comments from the Public

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on June 16, 2023, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet of the boundaries of the subject property.

Environmental Assessment

The Planning Division has determined the project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of


the State CEQA Guidelines. The project qualifies because the proposed improvements include building addition of less than 2,500 square feet to an existing structure on a fully developed site, with no grading, and involves minor interior improvements; and

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 and involves minor exterior and interior improvements and limited site changes not involving grading.
- B. Move to approve Conditional Use Permit, Setback Variance, and Precise Plan of Design, under Case No. 2023-06 approving an outdoor dining area with the on-premises sale of beer, wine, and distilled spirits (ABC Type 47 license) in conjunction with a bona fide eating establishment, and related site improvements including new landscaping, and variance to reduce the front (west) setback from 40 feet to 20 feet at 9645 Central Avenue, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 23-1983.

Respectfully Submitted,



Michael Diaz
Director of Community Development

MD/sgutierrez

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C: Brito Brothers Property LL c/o Jeronimo Brito, 2761 Buckingham Way Corona, CA 92879
Daniel Brito, 1974 Sacramento Street, Orange, CA 92867
Dary Engineering, 2207 Merced Avenue South El Monte, CA 91733
Victor Sanchez, Victor@synergv.com

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RESOLUTION NO. 23-1982

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT (CUP) AND A PRECISE PLAN OF DESIGN (PPD) UNDER CASE NO. 2023-06, TO ALLOW TYPE 47 ABC ON-SALE LICENSE FOR AN EXISTING 4,800 SQUARE FOOT RESTAURANT AND IMPROVEMENTS INCLUDING THE CONSTRUCTION OF A 1,270 SQUARE FOOT PATIO OUTDOOR DINING AREA, A TOWER ENTRY AND REAR COVERED ENTRY AT 9645 CENTRAL AVENUE. A REQUEST FOR A VARIANCE FROM THE FRONT SETBACK FROM 75 FEET TO 20 FEET (ASSESSOR PARCEL NOS. 1008-611-13-0000 AND 1008-611-20-0000).

WHEREAS, on May 4, 2023, Brito Properties, LLC, property owner, filed applications for a Conditional Use Permit (CUP), Variance, and a Precise Plan of Design (PPD) under Case No. 2023-06, to allow the construction of a 1,280 SF outdoor dining area including the ability to extend the service of food and alcoholic beverages (Type 47 ABC On-sale license) to diners in the outdoor dining area; and

WHEREAS, the applicant proposes to remodel the existing building and add the outdoor dining area and other proposed architectural improvements to the front of the existing building within the existing front setback and for which a variance is also requested to reduce the existing 40-foot setback to 20 feet (a 50 percent reduction); and

WHEREAS, the subject site is comprised of two adjoining parcels totaling approximately 1.07 acres in size. Further, the subject site is currently developed with an existing 4,800 SF building and paved parking surfaces; and

WHEREAS, the project site is located within the C-2 Restricted Commercial Zone, which requires approval of a CUP for outdoor dining and businesses serving alcoholic beverages per Section 11.78.030. of the Montclair Municipal Code; and

WHEREAS, the outdoor dining area is a common feature within commercial zones and when properly located and organized often poses no significant issues; and

WHEREAS, Kalaveras Mexican Restaurant is a family-owned sit-down restaurant with twenty locations throughout southern California; and

WHEREAS, at 1.07 acres in size, the property is of adequate size and shape to support the proposed building improvements as designed and site improvements for access, parking, landscaping; and

WHEREAS, the proposed improvements, including the renovation of the existing 4,800 SF foot restaurant building and the construction of a new attached 1,280 SF covered outdoor dining patio facing the front of the property, meets the intent and applicable development standards of the C-2 Restricted Commercial zone district including building height and required parking, setbacks with the exception of front yard setback for which the Variance is requested; and

WHEREAS, the Planning Division has determined the project to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of the State CEQA Guidelines. The project qualifies because the proposed improvements include building addition of less than 2,500 square feet to an existing structure on a fully developed site, with no grading, and involves minor interior improvements; and

WHEREAS, this item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on June 16, 2023, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet of the boundaries of the subject property; and

WHEREAS, the Planning Commission on June 26, 2023, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, 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 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 June 26, 2023, including written and oral staff reports, together with public testimony, this Commission hereby finds with respect to the Conditional Use Permit, Variance, and Precise Plan of Design applications as follows:

Conditional Use Permit Findings

- A. The proposed outdoor dining area and the on-premises sale of beer, wine, and distilled spirits at the restaurant are essential and desirable to the public convenience and welfare in that the restaurant use offers the public an additional alternative for dining in the community where adult patrons wishing to have alcoholic beverages with their meals have that opportunity. The proposed

1,280 SF dining area is covered and has controlled access which is similar to other restaurant uses with outdoor dining in the community and vicinity.

- B. Granting the CUP for the proposed outdoor dining area and the on-premises sale of beer, wine, and distilled spirits at the restaurant will not be materially detrimental to the public welfare and to other property in the vicinity, in that alcoholic beverages have been sold on the site in previous restaurants for over 42 years without significant issues. The proposed 1,289 SF outdoor dining area will not cause any significant issues with the operation of the restaurant use since it will be attached to and internally connected with the main restaurant building to control access. Further, the outdoor dining area will include adequate security, lighting, and operational maintenance standards to ensure ABC requirements are met concerning the service of alcoholic beverages with meals at the site. Lastly, the proposed outdoor dining area will be adequately setback from the street and not impact any sensitive land uses in the surrounding area.
- C. The CUP to allow outdoor dining in a 1,280 SF covered patio and with the on-premises sale of beer, wine, and distilled spirits at the subject site conforms to good zoning practice, in that the Municipal Code permits outdoor dining and the on-sale of beer, wine, and distilled spirits in conjunction with meals, within the "C-2" Restricted Commercial" zoning district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the outdoor dining area, including the sale of beer, wine, and distilled spirits, at the restaurant. Further, the proposed 1,280 SF covered outdoor dining area as designed does not detract from the general quality of the street and surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial areas of the City.

Variance Findings

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

- A. Because of special circumstances applicable to the subject property, including its size, depth, location, and surroundings, the strict application of the provisions of the Montclair Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The subject property, like many other properties on Central Avenue, has a non-conforming setback of 40 feet which is well below the required. So strict adherence to the 75-foot setback standard of the underlying C-2 zoning is both impossible and impractical to apply to developed properties with varying front yard setback distances. Until the current setback standard is modified to a more practical standard, no improvements can be made for properties with non-

conforming front yard setbacks, unless approved with a variance. The proposed variance is intended to allow for needed improvement to the site and to be on par with several similar developments that enjoy the benefit of a shorter setback distance.

- B. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zoning classifications. The precedent for reduced setbacks for properties along Central Avenue has long been established by the failure to apply the required setback distance. Further, in 2009, a setback variance was approved for the adjacent property to the north (Popular Café) which permitted a 20-foot setback to allow an outdoor dining patio at the front of the building. Kalaveras' setback reduction request would be the same as the approved setback for the Popular Cafe property and similar to the two lots to the south near the corner of Central Avenue and San Bernardino Street.
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity and zone in which the subject property is located, as the proposed outdoor dining area and tower additions to the front of the building will not be closer than 20 feet nor obstruct sight lines to adjacent commercial properties nor place restaurant patrons so close to the street that it would create any unsafe condition.
- D. Granting the requested setback variance will not be contrary to the objectives of any part of the adopted General Plan, as the adopted Land Use and Community Design Elements encourage the rational use and development of underdeveloped parcels within the City, including positive site and street improvements that benefit the community in terms of land use and design, which this project with the approved variance would accomplish.

PRECISE PLAN OF DEVELOPMENT FINDINGS

- A. The proposed improvements to the site and design update of the existing restaurant building and construction of the new attached 1,280 SF outdoor covered patio are consistent with the objectives of the Montclair Municipal Code and standards of the C-2 Restricted Commercial zoning district where the property is located.
- B. The proposed site and building improvements are well-designed and appropriate for the proposed use of the site. The improvements will result in a significant improvement to the appearance of the site and surrounding area.
- C. The proposed building improvements to the existing building located at the front of the restaurant site including the outdoor dining patio and the covered entries are well done and effective in changing the appearance of the site to the street.

The new paint scheme, complementary water-efficient landscape design, and other site and street improvements will complete an updated look of the property and enhance the appearance of Central Avenue.

3. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing on June 26, 2023, including written and oral staff reports together with public testimony, the Planning Commission hereby finds the proposal to be consistent with the overall objectives of the City of Montclair General Plan, the Montclair Municipal Code, and good planning principles, and approves the proposed Conditional Use Permit, Variance, and Precise Plan of Design and application subject to each condition set forth below.

Planning

1. This approval shall be for the following:
 - A. A Conditional Use Permit (CUP) to:
 - i. Allow the construction of a 1,280 SF covered outdoor dining patio on the west side of the existing 4,800 SF restaurant building. The outdoor dining area shall be enclosed by a 3-foot tall coated steel railing and have primary access from the interior of the restaurant. Seating within the outdoor dining area is 88 persons.
 - ii. Allow the service of on-sale of beer, wine, and distilled spirits in conjunction with meals within the outdoor dining area per the requirements of ABC License Type 47.
 - B. A Variance allowing the reduction of the front yard setback at Central Avenue, from 40 feet to 20 feet to accommodate the abovementioned outdoor dining patio and new front and rear entry tower additions.
 - C. A Precise Plan of Design (PPD) to accommodate the remodeled and expanded restaurant use, several site exterior and interior tenant improvements per approved plans on file with the Planning Division.
2. These entitlements are granted based on the maps, plans, and elevations submitted by the applicant and dated June 2023. Minor modifications to this approval which are determined by the Director of Community Development to be in substantial conformance with the approved site plan, building elevations, landscaping, and exterior lighting, and which do not intensify or change the use or require any deviations from adopted standards, may be approved by the Director of Community Development upon submittal of prepared plans submitted for review and approval. Any modifications,

intensification, or expansion of the use and design found by the Director of Community Development to be significantly different from the approved plan shall be referred to the Planning Commission for review and consideration of an amendment to this approval.

3. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A **\$50.00 check**, payable to the "Clerk of the Board of Supervisors," to cover the filing fee for the Notice of Exemption (NOE) as required by the California Environmental Quality Act (CEQA).
 - b. A check payable to the "City of Montclair" for **\$534.07** to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
4. Approval of this CUP, Variance, and PPD shall not waive compliance with any applicable regulations as set forth by the California Building Code and/or City Ordinances, the San Bernardino County Health Department, the State of California, or the Federal Government.
5. The approval of this CUP shall supersede all previous entitlements granted for the subject site.
6. Any substantial changes to the operation of a full-service restaurant, increase in floor area, new signs, or other exterior changes to the building or site shall require prior City review and approval. Changes to the operation of a 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.
7. The restaurant shall be operated, maintained, and open to the general public as a full-service (bonafide) eating establishment, serving meals at all times that beer, wine, and distilled spirits are offered for sale and consumption on the premises.
8. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar, sports bar, entertainment venue, night club, dance hall, or banquet hall operated by either the restaurant owner or outside vendors or promoters.
9. At no time shall happy hour, drink specials, or private drinking areas be permitted.

10. City review and approval of all exterior signs, including proposed monument signs, shall be required before signs are installed on the premises. A separate application shall be submitted for new signs for administrative review and approval by City staff.
11. No outdoor storage shall be permitted on the subject premises.
12. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 15 days of receipt of the signed Planning Commission Resolution.
13. 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 a 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.
14. PPD and Variance 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 building plan checks 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 before the approval's expiration date. No further notice from the City will be given regarding the expiration date.
15. 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.
16. All business(es) occupying and operating at the site shall obtain and maintain valid business licenses and comply with all applicable City regulations at all times. As part of the routine review process for each new business, the property shall be inspected to ensure compliance with all conditions of approval and applicable codes.
17. No outdoor pay telephones, loudspeakers, or vending machines shall be installed or used on the property.
18. No outdoor storage of used fats, oils, or grease (FOG) shall be allowed in trash enclosures. All food/restaurant users shall plan to store any used fats,

oils, or grease in an approved manner within their respective tenant spaces and contract with a recycler for regular removal from the site.

19. No temporary or permanent resident living quarters shall be established on the premises within any building or motorhome/recreational vehicle. Indications that a property is being used as temporary or permanent resident living quarters include actions such as spending significant time at the location on more than one day, sleeping at the location, and performing other life activities at the location repeatedly.
20. Restaurant hours shall be limited to 10:00 a.m. through 10:00 p.m. Sunday through Wednesday and 10:00 a.m. to 1:00 a.m. Thursday through Saturday. 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 City approval.
21. Business operations at the site shall be subject to the applicable noise requirements of Chapter 6.12 of the Montclair Municipal Code. Outdoor noise levels for outdoor including the proposed 1,280 SF covered patio area are a maximum of 70 dBA between the hours of 7:00 a.m. and 10:00 p.m.
 - a. Prior to the issuance of building permits for the project, the property owner or applicant shall complete a Photometric Plan for the site for review and approval by the Director of Community Development. The Photometric Plan shall Indicate the location of all existing and/or new exterior light fixtures (area, building, parking lot, etc.) and the overall illumination levels across the site.
 - b. All proposed exterior lighting shall comply with the following standards:
 - i. Provide a minimum maintained illumination level of one (1) foot-candle across the site.
 - ii. All parking lot and other freestanding light fixtures shall incorporate 90-degree cutoff 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.
 - iii. Maximum total height for freestanding light fixtures shall be limited to 20 feet, inclusive of the height for concrete bases.
 - iv. Above-grade concrete bases for lights, menu boards, speakers, vertical clearance bars, etc., shall be finished with

colored stucco matching the primary color and finish of stucco on the buildings.

- v. All exterior wall-mounted lighting fixtures shall be vandal-resistant and of a design that complements the architecture of the building.
22. Before issuance of a Certificate of Occupancy, the applicant shall install approved landscaping materials on the property, subject to the satisfaction of the Director of Community Development. The following standards shall apply:
- a. All shrubs shall be a minimum five-gallon container size (except herbaceous perennials and woody spreading shrubs).
 - 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 bark mulch (shredded or chips) shall be provided on all planted areas not specified for gravel.
 - d. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
23. All landscaping and irrigation systems shall be maintained per the approved site and/or landscape plan to ensure water use efficiency.
24. 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.
25. Plant material shall not be severely pruned such that it stunts or deforms its natural growth pattern or characteristic feature(s). Trees shall be pruned to ISA (International Society of Arboriculture) standards and only as necessary to promote healthy growth and for aesthetic purposes (i.e., to enhance the natural form of the tree). Improperly or severely pruned trees, including topping as defined by the Water Conservation Ordinance, that results in the removal of the normal canopy and/or disfigurement of the tree shall be replaced with a tree of similar size and maturity as that which was removed or, as required by the Community Development Director.
26. 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. Contact Burrtec Waste Industries

Gary Koontz at gkoontz@burrtec.com to determine the number of required bins to support the most likely end user(s) of the building.

27. All automobile parking spaces shall be delineated with double-line (e.g. "hairpin") striping. A total of 60 striped parking spaces shall be maintained at the rear half of the site to meet code requirements
28. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code. Temporary banners to announce a grand opening or promotional event shall require a banner permit from the Planning Division before installation.
29. No portable flags, pennants, spinners, painted-on signs, off-premise signs, trailer-mounted electronic sign/message boards, or other similar types of portable signs shall be allowed.
30. No exterior surface-mounted exposed ducts, conduits, 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.
31. All on-site ground-mounted mechanical equipment, including, but not limited to, utility meters, air conditioners, condenser units, and repair equipment shall be located within the building or on the exterior of the building only when necessary and screened in a manner that is compatible with the architectural design of the building subject to the satisfaction of the Director of Community Development.
32. The property owner shall be responsible for ensuring that all building(s), structures, signs, parking areas, and other improvements are maintained in good condition and in such a manner that does not detract from the appearance of the site and the surrounding area. Parking lots shall be free of potholes, and significantly cracked or uneven paving, and any other significant damage shall be repaired in a timely fashion throughout the life of the project.
33. The property owner and business manager shall be responsible for managing on-site parking to ensure that drive aisles remain clear at all times for passenger and emergency vehicle access.
34. In the event the property owner or business manager decides to employ valet parking on site the Director of Community Development shall review and approve the valet parking plan prior to implementation of valet services on the premises.

35. Any graffiti shall be removed within 24 hours of discovery or notification by the City. The paint utilized to cover the graffiti shall match the affected structure. If the paint finish of the abated area is noticeably distinguishable from the balance of the surface area of the building side just abated for graffiti, or noticeably distinguishable from the rest of the structure, the entire surface area of either the abated side or of the structure shall be painted to minimize the disparity, subject to Director of Community Development approval.
36. The applicant/property owner shall upon notification by the City restore and/or replace any finish, or other exterior design feature/ material that has been permanently damaged by graffiti, etching, or by other means.
37. 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.
38. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative, or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void or annul, the any action of, or permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities, thereof (including actions approved by the voters of City), for or concerning the project, whether such Actions, are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any action brought and City shall cooperate with the applicant in the defense of the Action.

Building

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

Submit four complete sets of plans including the following:

- a. Site/Plot Plan;
 - b. Floor Plan;
 - c. Reflected Ceiling Plan;
 - d. Electrical Plans including the size of the main switch, number, and size of service entrance conductors, panel schedules, and single line diagrams;
 - e. Plumbing plans, including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
 - f. Provide an existing plan of the building including all walls to be demolished.
 - g. Waste recycling plan, recycling 65% of all construction debris.
40. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
 41. Architect's/Engineer's stamp and "wet" signature are required before plan check approval.
 42. 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.
 43. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City before permit issuance.
 44. Separate permits are required for fencing and/or walls. Submit details of construction on the plans. Double wall conditions which have been created by an adjacent property line will not be allowed.
 45. Plans shall be submitted for plan check and approved before construction. All plans shall be marked with the project file number.
 46. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
 47. Prior to the issuance of building permits for a new commercial development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include but are not limited to Transportation Development Fees, Permit and Plan Check Fees, and School Fees. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District. The applicant shall provide a copy

of the school fees receipt to the Building and Safety Division before permit issuance.

48. Construct trash enclosure(s) per City Standards (available at the Building Division's public counter).
49. All utility services to the project shall be installed underground.
50. Electrical and fire suppression services shall rise within the interior of the building(s). Roof ladders shall also be located entirely inside the building.
51. 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.
52. Provide and indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way from the affected area of new construction or renovation. All required disabled-accessible parking lot signs, sidewalks, paths of travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path of travel shall not exceed two percent (2%).
53. All mechanical devices and their parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, satellite dish antennas, or similar equipment, whether located on the ground or the roof of the structure, shall be concealed on all sides of public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division.
54. 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.
55. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. The numerical address of the building shall be displayed on the west-facing elevation.
 - b. Numerals shall be in a font acceptable to the Planning Division, a minimum of 10 inches in height, a minimum of 1½ inches in depth, and in a color that adequately contrasts with the background to which they are attached.

56. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
57. Decorative foam trim shall not be used in areas subject to damage such as entry doors, garage doors, etc.
58. If buildings are ever demised each unit shall have individual and independent one-hour separation walls enveloping each assigned airspace or unit and independent utility meters, sewer and water connections, and fire protection systems, subject to the review and approval of the Public Works, Community Development and Fire Departments.
59. Security gates to the 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.
60. 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.
61. 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.
62. 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.
63. Underground Service Alert shall be notified 48 hours before any excavation at (800) 422-4133.
64. 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.
65. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.

66. 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 concerning the requirements of the Water Quality Management Plan.
67. 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 per all City Standards, Specifications, Conditions of Approval, and approved plans.
68. A Certificate of Occupancy is required before 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.
69. 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.
70. Temporary construction and storage trailers placed on the property shall first obtain approval from the Planning and Building Divisions. If any trailers will include uses for public access, handicap accessibility requirements shall apply. Before any trailer is set in its location, obtain all permits from the Building Division. Plans and structural calculations will be required for the tie-down devices. Trailers used for public use (and not used for construction only) are required to be handicapped accessible. The trailer will require access to the facility by way of ramps that comply with the California Building Code (CBC) 2022 edition, Chapter 11B, in addition to access to each feature of the trailer.

Environmental Compliance

71. Discharge of wastewater into the City of Montclair sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
72. 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).

73. Connection to the City of Montclair Sanitary Sewer System is required. Additional comments may follow pending submittal of plans for plan check review.
74. A grease interceptor is required for this project, please complete the Waste Discharge Survey form and submit for sizing requirements. Contact Engineering Division Manager, Steve Stanton at (909) 625-9444 or (sstanton@cityofmontclair.org) for more information.
75. A Sampling Station/Sample Wye is required to be installed at the last point of the non-domestic waste line prior to connection to the domestic waste line and final connection to the main sewer line. Please include the Sample Wye schematic on the plumbing plan.
76. The Sampling Station/Sample Wye must be located in a location that will not be obstructed by equipment or storage. The clean-out cover for the Sample Wye shall be accessible for inspection at all times.
77. Interior grease trap is not permitted by the County of San Bernardino and the City of Montclair.
78. Trash enclosures must be designed in accordance with the provisions of AB 341 Mandatory Commercial Recycling and AB 1826 Mandatory Commercial Organics Recycling as established by the California Department of Resources Recycling and Recovery (CalRecycle). Contact Engineering Division Manager, Steve Stanton at (909) 625-9444 for more information.
79. Documentation from Burrtec Waste Industries, Inc. (Burrtec) indicating that a service agreement has been set up with Burrtec that meets all Mandatory Commercial Recycling Requirements (AB 341) and Mandatory Organics Recycling Requirements (AB 1826) for waste hauling as established by the State of California and that the appropriate number of refuse/recycling dumpsters has been established, including meeting Montclair Municipal Code 6.16.025, Commercial recycling and organic waste recycling/diversion. Submit documentation to Engineering Division Manager, Steve Stanton (sstanton@cityofmontclair.org). Contact Steve Stanton at (909) 625-9444 for more information.
80. This project may still be subject to the submittal of a Water Quality Management Plan (WQMP). Following the submittal of a formal site plan, including demolition and proposed construction notes, staff will make the determination of the requirements. Provided the design of the project does not fall under the WQMP guidelines, the project designer shall follow and implement the "Low Impact Development" (LID) manual, a technical guidance and site planning strategy document.

Engineering

81. Replace all existing lifted or cracked curb gutter, damaged utility pull box lids, and the sidewalk adjacent to the property along Central Avenue. Additionally, remove and replace all sidewalks that show signs of ponding or is pitting, scaling, or spaulding, as determined by the Public Works Senior Inspector.
82. All pavement damaged by excavation for utility cuts will be replaced with permanent pavement per City Standard for Paving and Trench Repair No. 301.
83. All driveways, existing or proposed, shall comply with the Americans with Disabilities Act and shall conform to City Standard Plan No. 102. Construction and acceptance of street improvements shall be required to obtain a release for a Certificate of Occupancy from the Building Division.
84. All Utilities in the public right of way adjacent to the site shall be placed underground. If not feasible, pay in-lieu fees in the amount of \$11,400. This requirement applies to electrical services (facilities operated at nominal voltages in excess of 20,000 volts not included), transformers and switches, and where technology exists, telephone and cable television facilities as well.
85. 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.
86. Slurry seal and re-stripe existing asphalt pavement surface on the entire site.
87. The red curb fronting project shall be refurbished.
88. Payment of transportation-related development impact fees is required. Fees shall be assessed at the rate in effect at the time the fees are paid.
89. Monument signs shall not be permitted in the line-of-sight triangles next to driveway locations (see City STD 110).
90. Regional Sewerage Capital Outlay fees as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency may be required.
91. A lot merger which a condition of the approval to combine the two adjoining parcels into a single parcel and ensure that ownership will be held by a sole entity.

Fire Marshal

92. The project shall comply with all requirements set forth by the California Code of Regulations Title 24 Parts 1-12 respectively.
93. 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.
94. A carbon dioxide leak detection system shall be provided in areas where carbon dioxide is used and/or stored.
95. Fire sprinklers shall be provided throughout when the occupant load exceeds 100 people. Occupant load calculations shall comply with CBC Chapter 10.
96. Minimum aisle widths between shall be maintained and comply with CBC Chapter 10 and Chapter 11.
97. 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.
98. Prior to the issuance of a building permit, evidence of sufficient fire flow of shall be provided to the City of Montclair, Fire Prevention Bureau. The City of Montclair Building and Fire Marshal Water Available/Fire Flow Form shall be utilized.
99. Prior to the building final, the building shall be provided with a Knox Lock key box located no more than seven feet above the finished surface and near the main entrance door.
100. Prior to the issuance of a building permit a fire department access plan shall be submitted to the City of Montclair, Fire Prevention Bureau 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.

Police

101. 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.

102. 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.
103. There shall be no special promotional events held on the property unless a written request for such is received and approved by the Director of Community Development and the Police Chief or their designees.
104. 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.
105. The applicant shall submit a security camera plan to 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 outdoor storage and parking areas. Cameras shall be positioned so as to allow for the identification of patron facial features and physical characteristics. A minimum of one camera shall be placed in a position to monitor the parking lot of the premises, positioned in a manner that allows for the widest view from the entrance, without significant lens distortion. Typical acceptable camera angles range from 50-130 degrees. Cameras shall be capable of no less a resolution than 1920×1080 pixels, otherwise known as 1080p. IR (night vision) is preferred, however, cameras shall at minimum be capable of low-light operation. Audio recording is desirable, but not a requirement. Camera footage shall be retained for a period of no less than 90 days. To conserve storage space, cameras may be motion activated. When active, cameras shall record no less than 30 frames per second. Motion sensors shall be configured to activate properly in all areas covered including the parking area. Motion sensors may be configured to prevent incidental activation from hanging or moving displays. Depending on the nature of the premises, additional cameras may be required, but not limited to areas such as cash registers, or access to restroom areas.
106. Alarm systems are encouraged to complement the CCVS system. Current responsible party information shall be on file with the Police Department for appropriate response and notifications.

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

APPROVED AND ADOPTED THIS 26th DAY OF JUNE, 2023.

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 26th day of June, 2023, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SGUTIERREZ\CASES\2023-06\KALAVERAS MEXICAN RESTAURANT PC RESOLUTION



CITY OF MONTCLAIR PLANNING COMMISSION

MEETING DATE: 6/26/23

AGENDA ITEM 6.b

Case No. 2023-16

Application: Request for a Conditional Use Permit (CUP) to establish a church use within two vacant lease spaces that encompass approximately 4,728 SF at the address referenced below. The subject project is proposed to be located within a multiple-tenant commercial building on a 1.45-acre parcel.

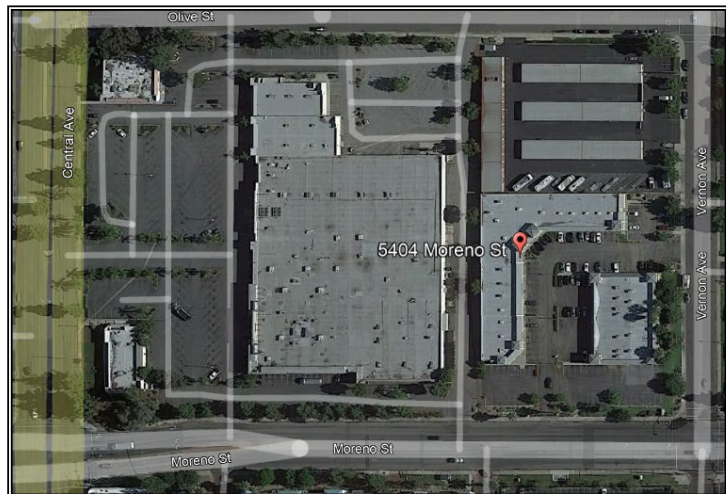
Project Location: 5404 Moreno Street
Units A and B

Property Owner: JAC Windows, Inc.

General Plan: General Commercial

Zoning: C-3 General Commercial of the *North Montclair Specific Plan*

Assessor Parcel No.: 1008-043-01



**EXISTING SITE
FEATURES/CONDITIONS**

Structure(s): Existing 22,574-square-foot multiple-tenant building with on-site parking.

Adjacent Land Use Designations and Existing Uses			
	<i>General Plan</i>	<i>Zoning</i>	<i>Existing Use of Property</i>
Site	General Commercial	C-3 –General Commercial per <i>North Montclair Specific Plan (NSP)</i>	Multi-tenant Commercial Center
North	General Commercial	C-3 –General Commercial (<i>NSP</i>)	Self-Storage Facility
East	General Commercial	C-3 –General Commercial (<i>NSP</i>)	Multi-tenant Commercial Center
South	General Commercial	C-3 –General Commercial (<i>NSP</i>)	Montclair East Center
West	General Commercial	C-3 –General Commercial (<i>NSP</i>)	Multi-tenant Commercial Center

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Report on Item Number 6.b

PUBLIC HEARING - CASE NUMBER 2023-16

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	JAC Windows, Inc.
LOCATION OF PROPERTY	5404 Moreno Street Units A and B
GENERAL PLAN DESIGNATION	Commercial
ZONING DESIGNATION	"C-3" General Commercial" per <i>North Montclair Specific Plan</i>
EXISTING LAND USE	Multi-tenant commercial building
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15301 (Existing Facilities)
PROJECT PLANNER	Silvia Gutiérrez, Senior Planner

Project Description

The applicant requests approval of a Conditional Use Permit (CUP) to allow a church use within two connected commercial lease spaces located at 5404 Moreno Street, Units A, and B. The combined lease spaces encompass approximately 4,728 SF and are currently vacant. The proposed church known as *Ministerio Unidos Por Cristo* (United Ministries for Christ) is a bilingual, non-denominational congregation that desires to hold mid-week and weekend services. The congregation's current size is approximately 80 persons and consists mainly of young families. Primary church services are conducted on Sundays between the hours of 10:00 a.m. to 2:00 p.m. and mid-week on Mondays, Wednesdays, and Saturday evenings between the hours of 6:00 p.m. and 10:00 p.m.

As indicated on the submitted floor plan, the sanctuary or main assembly hall is approximately 1,877 SF in size and has a seating arrangement to accommodate up to 80 members. The balance of the leasehold would be used as a multi-purpose room, storage, and an office. A daycare facility or private school use is not a part of this approval. No exterior building changes are proposed by the church.

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

Background

- Assembly and Religious Facilities (e.g., Churches, synagogues, or other houses of worship) are allowed in the "Commercial" (C) land use district of the *North Montclair Specific Plan* subject to the approval of a CUP.
- The subject property is developed with a multi-tenant commercial building built in the 1980's. The center currently has 90 off-street standard parking stalls, located mostly in the front of the building lease spaces.
- The existing building is currently divided into fifteen (15) lease spaces that are occupied by a range of tenants as listed in the following table:

Unit	Tenant	Use	Rentable area (sqft)
A-B	Ministerio Unidos Por Cristo	Proposed Church	4,728
C-D	CosmoProfs	Retail Store	3,300
E	Advance Pharmacy	Retail Pharmacy	1,778
F-G-H	Vida Health Clinic	Medical Clinic	6,000
J	Bianca Whitney Simmons-Hale	Current	1,768
K	Alyssa's Nail	Current	1,000
L	Relax Spa Massage	Personal Service	1,000
N-P	Supreme Suites LLC	Vacant	3,000
Total			22,574

- The subject property has a reciprocal access and parking agreement with the adjoining parcel which is developed with a freestanding 7,925 SF building that is currently occupied by Bobo's Beauty Supply a retail store.

Planning Division Comments

Overall, the Planning staff is supportive of the proposed CUP request to allow the proposed church use at the subject site as described herein. Staff finds the existing site and building to be adequate in shape and size and designed in such a way as to easily accommodate the proposed activities of the church use. The church's use will provide its adherents a place to worship within an appropriately located and developed site.

The physical condition of the property is sound and has been steadily improved as new tenants have been attracted to the site. The subject site is well maintained recently made landscaping enhancements to the front of the center, restriped parking spaces, and improved parking lot lighting when the Bobo Beauty Supply took over the former Pier One store. However, staff has noted a minor item regarding the physical condition of the property that needs attention. The facade of the building is in need of patching and a fresh coat of paint to eliminate holes and "ghosts" of removed signs.

The new church use is not expected to cause adverse impacts to any adjacent uses within the center, as all activities at the church are held entirely within the building, and services are typically held on weekends (Sundays) and evenings during off-peak hours of the work week when most other uses are closed. The proposed hours of operation are appropriate and work for the church and other uses within the center. A previous business in the subject lease spaces operated as a retail use during the day and during weekend evenings hosted internet game parties with little to no impact to the center. As such, the proposed hours and days the church will use the facility for services will pose little to no impacts to other tenants.

Pursuant to the Montclair Municipal Code, parking for a church use or public assembly is based on seats in the sanctuary at a ratio of one (1) parking space for every six (6) seats. As a commercial lease space, the subject 4,728 SF combined lease space would have 19 parking spaces allotted (not assigned) for its square footage. Nineteen spaces would allow a maximum of 113 seats in the sanctuary, and as such would allow for moderate growth for the church. With 80 remaining spaces in the parking lot, and operation of the church during off-peak hours when more parking in the center is available for use, there would be ample available parking to allow a modest increase in seating capacity under the current configuration and additional growth. Staff's field observations of parking patterns at the center during weekday mornings and afternoons and evenings after 6:00 p.m. indicate a large supply of available parking spaces at all times.

The church use will not result in excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Vehicular access to the site is appropriate via existing driveways, which are fully improved and directly connected to improved public roadways. Omnitrans Route 84 is also available on Moreno Street, which would benefit members of the congregation who rely on public transit. Therefore, the impacts of the proposed religious use, in relation to parking requirements, effects on the roadway infrastructure, and potential operational conflicts, are not significant.

Finally, staff finds the proposed church use to be in keeping with the General Plan, which promotes a balance of land uses to meet the needs of the residents, which includes churches, synagogues, temples, or other houses of worship in appropriate locations throughout the community.

Conditional Use Permit Findings

- A. The proposed use is essential or desirable to the public convenience and public welfare, in that the church use would provide its adherents a place to worship within an appropriately located and properly developed site.
- B. Granting this permit will not be materially detrimental to the public welfare and other property in the vicinity. Religious services at the site would be conducted entirely within the building and occur generally during off-peak hours so as not to have a significant impact on other businesses or activities of the center.

- C. The proposed use conforms to good zoning practices and development standards and is consistent with the Montclair Municipal Code. The church would be located in an existing multi-tenant commercial center that is adequate in size, shape, and configuration to accommodate the proposed use and its parking requirements. The proposed church use would not substantially affect traffic circulation, access, or parking in the center where it would be located nor pose an adverse impact on adjacent development/uses.
- D. The proposed church use at the subject location is not contrary to the objectives of any part of the adopted General Plan, or the *North Montclair Specific Plan* in that the plan promotes the balance of land uses to serve the community and continually improve City services, which includes churches and other houses of worship.

Public Notice

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on June 16, 2023. Public hearing notices were also mailed to existing tenants of the commercial center and property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, no comments or inquiries had been received by staff regarding the proposal.

Environmental Assessment

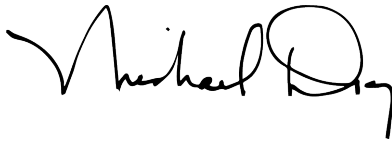
The project qualifies as a Class 1 exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects involving little to no expansion of existing structures or uses. The project does not involve an expansion of the existing structure.

Planning Division Recommendation

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

1. 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, which exempts projects involving little to no expansion of existing structures or uses.
2. Move to approve a Conditional Use Permit under Case No. 2023-16, subject to making the required findings, and subject to the conditions as described in attached Resolution Number 23-1983.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Diaz". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Diaz".

Michael Diaz
Director of Community Development

MD/sgutiérrez

Cc: JAC Windows Inc. c/o Lawrence Choi, Modern Property Services, Inc. 20 East Foothill Blvd,
Suite 218 Arcadia, CA 91006
ML Drafting Services, 1430 E Cooley Dr. Suite 220, Colton, CA 92324

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RESOLUTION NUMBER 23-1983

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT UNDER CASE NO. 2023-16 TO ALLOW A CHURCH USE IN THE "C-3" GENERAL COMMERCIAL LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN AT 5404 MORENO STREET, UNITS A AND B (APN 1008-043-04-0000).

A. Recitals.

WHEREAS, J A C Windows, Inc., filed an application on June 5, 2023, for a Conditional Use Permit (CUP) to allow a church use, hereinafter referred to as "the application"; and

WHEREAS, the subject site is located in the "C-3" General Commercial land use district of the *North Montclair Specific Plan*, which allows church uses subject to the approval of a CUP upon review of applicable development standards and the review of land use compatibility with surrounding properties; and

WHEREAS, the application applies to the lease space that encompasses approximately 4,728 SF, which is part of a 22,574 SF multiple-tenant building; and

WHEREAS, staff has determined that the application meets the intent and requirements of the *North Montclair Specific Plan* for the proposed use and the applicable development standards of the "C-3" General Commercial land use district; and

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

WHEREAS, on June 26, 2023, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with 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 June 26, 2023, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. The proposed use is essential or desirable to the public convenience and public welfare, in that the church use would provide its adherents a place to worship within an appropriately located and properly developed site.
 - b. Granting this permit will not be materially detrimental to the public welfare and other property in the vicinity. Religious services at the site would be conducted entirely within the building and occur generally during off-peak hours so as not to have a significant impact on other businesses or activities of the center.
 - c. The proposed use conforms to good zoning practices and development standards and is consistent with the Montclair Municipal Code. The church would be located in an existing multi-tenant commercial center that is adequate in size, shape, and configuration to accommodate the proposed use and its parking requirements. The proposed church use would not have a substantial adverse effect on traffic circulation, access, or parking in the existing center where it will be located nor pose an adverse impact on adjacent development/uses.
 - d. The proposed use at the subject location is not contrary to the objectives of any part of the adopted General Plan or North Montclair Specific Plan, in that the plan promotes a balance of land uses to serve the community and continually improve the City amenities and services, which includes churches and other house of worship.
3. 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. The project qualifies as a Class 1 exemption under State CEQA Guidelines, Section 15301, which exempts projects involving little to no expansion of existing structures or uses. The project does not involve an expansion of the existing structure or a fundamental change in the type of uses permitted by the zoning code. In addition, there is no substantial evidence that the project may have a significant effect on the environment.
4. Based upon the findings and conclusions set forth in paragraphs 1, 2 and 3 above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This CUP approval is to allow the operation of a church use and associated religious education and administrative uses at 5404 Moreno Street, Units A, and B, as described in the staff report and depicted on approved plans. Said approval shall be limited to one (1) lease space of approximately 4,728 square feet in area. A daycare facility or private school use is not a part of this approval.
2. This CUP approval shall be valid for six months (180 calendar days) from the date of Planning Commission action. Failure to initiate the approved use and/or improvements prior to the end of the six-month period shall result in the termination of and automatically void the CUP approval.
3. 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 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 the "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of **\$484.54**, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
4. No modification, intensification, or expansion of the use, including an increase in the floor area or occupancy load beyond that which is specifically approved with this CUP, shall be allowed without prior review and approval by the Planning Commission.
5. A copy of the signed Resolution of Approval with all conditions of approval shall be maintained on the premises at all times and shall be made available upon request for viewing to any law enforcement officer, fire, building, or code enforcement inspector in the course of conducting an official inspection on said premises.
6. Primary church services shall be limited to Sundays and weekday evenings (Monday through Saturday) after 6:00 p.m. The building may be used by the church for non-worship administrative activities (e.g,

offices/administration and or committee meetings) during regular daytime hours. Changes to the above time frames shall require City review and approval.

7. Seating capacity in the sanctuary shall not exceed a maximum 113 persons or a lesser capacity as required by the property owner. Additional seating beyond the above maximum shall require City review and approval, including the need to amend the CUP approved for the use.
8. Prior to the occupancy of the subject lease space, the property owner shall complete the following items subject to the satisfaction of the Director of Community Development or designee:
 - a. Repaint and patch the wall facade above the lease space entry to eliminate chipping/spaulding paint and to remove any "ghost" patterns and holes from previous sign installations.
 - b. Repair the existing monument sign for the center, including the removal of sign panels of former businesses.
 - c. Enhance existing landscaping at and around the parking area at the southwest corner of the site.
9. No temporary or permanent residential living quarters, including a homeless shelter, shall be established on the premises.
10. No outdoor amplified sound systems shall be installed or used on the property.
11. No pay telephones, vending machines, or merchandise collection boxes shall be located on the exterior of the building or on the subject property.
12. Prior to the installation of any signs on the property, the applicant shall submit plans prepared by a licensed sign contractor for review and approval by the Planning and Building Divisions. Signs shall conform to the provisions of the Montclair Sign Code and any specific sign program approved for the site.
13. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to, the following:
 - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.

- b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 - c. Portable flags, pennants, spinners, painted-on signs or the like shall be prohibited.
 - d. No trailer-mounted electronic sign/message boards or other similar types of portable signs shall be permitted on the property at any time.
14. The property owner and applicant shall routinely inspect and maintain the property (e.g., structures, equipment, landscaping, hardscape, and pavement) in good condition and in a clean and presentable manner at all times. All trash, debris, weeds (in landscape areas and in asphalt parking areas), graffiti, etc. shall be promptly and/or continually removed.
15. 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 contact the Planning Division to schedule an appointment for such an inspection.
16. Upon notification, this CUP approval may be revoked or modified by the Planning Commission or City Council at such time as any of the following conditions are found to exist:
- a. Conditions of Approval have not been fulfilled.
 - b. The use has resulted in a substantial adverse impact on the health and/or general welfare of users of adjacent or proximate properties.
 - c. The use has resulted in a substantial adverse impact on public facilities or services.
17. 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 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

18. Submit four complete sets of plans including the applicable elements of 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. Title 24 (Energy) Calculations and two sets of structural calculations.
 - g. Waste recycling plan, recycling 65% of all construction debris.
19. 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.
20. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
21. Plumbing Fixtures required for the occupancy type/load are in excess of the existing fixtures. An applicant shall be responsible for providing the required number of plumbing fixtures.
22. Clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way from the affected area of new construction or renovation. All required disabled-accessible parking lot signs, sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%). Clearly mark all disabled access within the building as well as accessible features which are required inside the building.
23. 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.
24. 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.

25. Provide required separation - The occupancy type requires a fire-rated separation between adjacent tenants and the church space.
26. All utility lines shall be installed underground.
27. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides of public view in a manner that is compatible with the architectural design of the building and to the satisfaction of the Planning Division. 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.
28. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
29. All construction activity shall be during the hours of 7:00 AM and 8:00 PM daily.
30. 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, all City Departments, Monte Vista Water District, and approval of all conditions.
31. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
32. Architect's/Engineer's stamp and "wet" signature are required prior to the plan to check approval.
33. The applicant shall comply with the latest adopted California Building Codes, 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.
34. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.

35. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number.
36. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
37. 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 durable nature. Paint and stucco in all cases shall be below the standard for the use applied.
38. Clearly indicate on submitted plans the existing 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%).
39. 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 at the top of the main storefront entrance or directly above it. Address numerals shall be in Helvetica font, a minimum of four inches in height, and be in a color that adequately contrasts with the background to which they are attached.
 - 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.
40. 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 other departments and/or agencies.
41. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Building Division electronic images of all plans and records which were submitted for the purpose of obtaining a

building permit. Electronic images shall comply with the City's Electronic Imaging Policy.

- b. Install all required disabled-accessible parking stalls, pedestrian path-of-travel, and parking lot signage.
- c. Complete items listed in Planning Condition No. 8.

Fire Marshal

- 42. The project shall comply with all requirements set forth by the California Code of Regulations Title 24 Parts 1-12 respectively.
- 43. 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.
- 44. Prior to the issuance of a building permit, architectural plans shall be submitted to the City of Montclair for review and approval.
- 45. Any modification or addition to the existing automatic fire sprinkler system shall be in accordance with NFPA 13. Construction plans shall be submitted for review and approval to the City of Montclair prior to installation.
- 46. Prior to the building final, the building shall be provided with a Knox Lock key box located no more than seven feet above the finished surface and near the main entrance door.

Environmental

- 47. No food preparation shall be permitted on-site with the exception of staff/employee meals prepared in a break room. Preparation of meals/food on-site in addition to aforementioned meals for staff may require the installation of a grease interceptor or other pretreatment device to the satisfaction of the Environmental Manager. Contact Steve Stanton, Engineering Manager (909) 625-9446 for more information.

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

APPROVED AND ADOPTED THIS 26TH DAY OF JUNE 2023.

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 held on the 26th day of June, 2023, by the following vote-to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SGUTIERREZ\CASES\2023-26 RESO2023-1983