1. Agenda For November 13, 2012

   Documents: 11-13-12.PDF

2. Item For November 13, 2012

   Documents: 11-13-12 ITEM.PDF

CITY OF MONTEREY PARK

PLANNING COMMISSION AGENDA

REGULAR MEETING
CITY HALL—COUNCIL CHAMBERS
320 W. NEWMARK AVENUE
November 13, 2012
7:00 P.M.

Planning Commission
Michael Hamner, Chairperson
Larry Sullivan, Vice-Chair
Hans Liang
Peter Ruiz
Vacant

Staff
Jim Basham, Director of Community Development
Elizabeth M. Calciano, Assistant City Attorney
Samantha Tewasart, Associate Planner
Crystal Landavazo, Assistant Planner

CALL TO ORDER:

ROLL CALL:

ORAL AND WRITTEN COMMUNICATIONS:

The public may at this time address the members of the Planning Commission on any matters within the jurisdiction of the Planning Commission, prior to any action taken on the agenda. No action may be taken on off-agenda items except as authorized by law. Speakers are requested to limit their comments to no more than **five minutes** each.

If you would like to address the Planning Commission, please complete the **white speaker's card.** The card is available at the speaker's podium or from the Secretary. Please identify on the card your name, address and the item on which you would like to speak and return to the Secretary. The **speaker's card** assists the Chairperson in ensuring that all persons wishing to address the Commission are recognized. If you wish to speak on an agendized item, your name will be called at the time the matter is heard by Planning Commission.

AGENDA CHANGES AND ADOPTION:

APPROVAL OF MINUTES: None

PUBLIC HEARING:

1. **DEVELOPMENT AGREEMENT, PRECISE PLAN, TENTATIVE TRACT MAP NO. 071549, SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, STATEMENT OF OVERRIDING CONSIDERATIONS AND MITIGATION MONITORING**

PROGRAM – MONTEREY PARK MARKET PLACE DEVELOPMENT – 2250 GREENWOOD AVENUE (DA-12-02/PP-12-01/TM-12-01)

The applicant, Monterey Park Retail Partners, LLC, is requesting approval of a Development Agreement, Precise Plan, Tentative Tract Map No. 071549, Supplemental Environmental Impact Report, Statement of Overriding Consideration and Mitigation Monitoring Program for the development of the Monterey Park Market Place in the R-S, P-D (Regional Specialty, Planned Development) Zone.

ENVIRONMENTAL: In March 2000, the Final EIR/EIS (State Clearinghouse Number 1999051058) for the Monterey Park Market Place project was certified by the City of Monterey Park Planning Commission (the "EIR"). The previously approved project included a total of 515,382 square feet of retail and restaurant uses, consisting of 464,143 square feet of retail uses, 36, 250 square feet of retail or restaurant uses, 14,989 square feet of restaurant uses, and 2,971 parking spaces (the "2000 MPMP Plan"). The EIR has been made available to the Planning Commission and considered by the Planning Commission in acting on this Resolution. The EIR is on file with the City Clerk and Planning Department of the City and available for inspection.

RECOMMENDATION: It is recommended that the Planning Commission 1) adopt the Resolutions recommending approval of the requested Development Agreement, Precise Plan, Tentative Tract Map No. 071549, Supplemental Environmental Impact Report, Statement of Overriding Consideration and Mitigation Monitoring Program (DA-12-02/PP-12-01/TM-12-01), subject to conditions of approval contained herein; and 2) take such additional, related action that may be desirable.

ITEMS FROM COMMUNITY DEVELOPMENT:

ITEMS FROM THE COMMISSION:

ADJOURNMENT:

Next regular meeting on November 27, 2012, at 7:00 p.m.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, YOU SHOULD

CONTACT CITY HALL, (626) 307-1359 OR TTD/TTY (626) 307-2540. PLEASE NOTIFY THE CITY CLERK'S OFFICE TWENTY-FOUR HOURS PRIOR TO THE MEETING SO THAT REASONABLE ARRANGEMENTS CAN BE MADE TO ASSURE ACCESSIBILITY TO THIS MEETING. STAFF REPORTS, WRITINGS, OR OTHER MATERIALS RELATED TO AN ITEM ON THIS AGENDA, WHICH ARE DISTRIBUTED TO THE PLANNING COMMISSION LESS THAN 72 HOURS BEFORE THIS SCHEDULED MEETING SHALL BE AVAILABLE FOR PUBLIC INSPECTION IN THE PLANNING DIVISION LOCATED AT 320 WEST NEWMARK AVENUE, MONTEREY PARK, CA 91754, DURING NORMAL BUSINESS HOURS. SUCH STAFF REPORTS, WRITINGS, OR OTHER MATERIALS ARE ALSO ON THE CITY'S WEBSITE SUBJECT TO STAFF'S ABILITY TO POST THE MATERIALS BEFORE THE MEETING. THE CITY'S WEBSITE IS LOCATED AT HTTP://WWW.CI.MONTEREY-PARK.CA.US.

APPROVED BY:

JIM BASHAM	

Staff Report City of Monterey Park

DATE: November 13, 2012

TO: PLANNING COMMISSION

FROM: MARK D. HENSLEY, CITY ATTORNEY

SUBJECT: MONTEREY PARK MARKET PLACE PROJECT

SUMMARY

This item involves consideration of the Monterey Park Market Place Project, including a proposed precise plan, tentative tract map, development agreement, and associated supplemental environmental impact report ("SEIR"). After conducting a public hearing and considering the proposed entitlements, the Commission must make a recommendation on each entitlement and the SEIR to City Council, which has final approval of all project entitlements and associated environmental review. While approval of the project entitlements would permit the applicant to begin certain grading and construction activities, additional approvals would be required for project completion. The City's Design Review Board would need to approve architectural review, a master sign plan, and hardscape and landscaping plans. The City Engineer would need to approve the final tract map. The Project would also require different levels of approvals from Caltrans; the City of Montebello, related to approval of signs and offsite roadway improvements required as part of the Project's traffic mitigation measures; the South Coast Air Quality Management District; and the Los Angeles Regional Water Quality Control Board. Some of these approvals are ministerial in nature.

BACKGROUND AND ANALYSIS

I. Background and Project Location

1. Project Location

The proposed project is located on approximately 51 acres in the southern portion of Monterey Park, along the north side of the SR-60 Freeway between the Paramount Boulevard and Potrero Grande Drive exits. It is bounded by Southern California Edison ("SCE") easements on the northwest and northeast. Beyond the SCE easements are Potrero Grande Drive to the northwest and the Resurrection Cemetery and residential land uses to the northeast and east. The primary access to the project site would be from Greenwood Avenue and Neil Armstrong Street. The site is zoned R-S(PD) – Regional Specialty Center – Planned Development Overlay Zone and the General Plan land use designation is Commercial. While the R-S(PD) Overlay Zone permits retail, restaurant and service uses, any development project in such a zone must submit a precise plan to be approved by the Commission.

2. Prior and Existing Uses

The project site is partially covered by the northern portion of a former 190-acre landfill, which was previously operated as a municipal waste disposal facility. The landfill has been inactive since 1984 and was listed on the National Priorities List as a Superfund Site in 1986. As part of the site cleanup process, a leachate treatment plant ("LTP") and thermal destruction facility ("TDF") were constructed on the site to process hazardous substances collected from the south parcel of the landfill. The proposed project would not affect these existing improvements. Other than the LTP and TDF, there are no structures on the project site.

3. Prior Approved Project

In March 2000, the Commission approved a project and certified an Environmental Impact Report and Environmental Impact Study ("EIR/EIS") for the project site. The project proposed 515,382 square feet of development for a proposed shopping center, including 267,148 square feet of anchor retail uses (consisting of two anchor retail stores), 196,995 square feet of other retail uses, 36,250 square feet that could be used for either retail or restaurant uses, and 14,989 square feet of restaurant uses (the "Approved Project"). The project also included 2,971 parking spaces.

II. Proposed Project

The proposed project includes a total of 500,000 square feet of development, including 455,000 square feet of commercial retail uses (including three anchor retail stores), 29,000 square feet of restaurant uses, 11,000 square feet that could be used for either retail or restaurant uses, and 5,000 square feet of bank uses (the "Project"). The Project also includes approximately 2,420 parking spaces, resulting in a surplus of 496 parking spaces beyond that required by the Monterey Park Municipal Code. Based upon the project description in the SEIR, the anchor retail stores will likely include a home improvement store and a warehouse or department store. A garden center would be attached to the home improvement store. Based on the SEIR and Precise Plan, the smaller buildings are planned to be used for a bank, three fast-food restaurants and three sit-down restaurants. The remaining development pads would be primarily used for mixed-retail uses, although the specific type of retail or restaurant use is not currently known at this time. The Project would also include several illuminated building and tenant identification signs as well as signs located near the SR-60 to advertise tenants.

III. Montebello Sales Tax Agreement

During the approval process for the Approved Project, Montebello raised concerns regarding the project's potential impact on retail located within Montebello and infrastructure and roadway improvements needed for the Approved Project within Montebello city limits. In 2001, in consideration for Montebello assisting with project improvements needed in Montebello and agreeing to support the Approved Project, the City and the former Redevelopment Agency entered into an Agreement Concerning the Monterey Park Market Place Shopping Center and the Apportionment of Sales Tax Revenues Therefrom with Montebello and the Community

Redevelopment Agency of the City of Montebello (the "Sales Tax Agreement"). The Sales Tax Agreement required Montebello to, among other things, (i) enter into road and slope easements with SCE for the construction of Market Place Drive and dedicate the easement area into the city street system; and (ii) agree that the proposed signs are a permitted use within Montebello. Montebello has completed these actions. The Project applicant is required to construct the street improvements and signs located in Montebello.

The Sales Tax Agreement also requires the City to give Montebello an apportionment of Market Place's sales tax revenue. The City must pay Montebello a minimum of $25,000 in sales tax revenue per quarter, commencing one year after Market Place is open to the public for business. The minimum sales tax revenue may be increased under the Sales Tax Agreement after the 20th quarter of payments. The amount of sales tax owed is 18% of sales tax revenue for non-specified retailers. For specified retailers, including, among others, Staples, Costco, Circuit City, J.C. Penney, Sears, Mervyns, Ross, Gap, and Petco, the City must pay to Montebello 50% of the sales tax revenue for the first 20 quarters of payments and 18% thereafter. The Sales Tax Agreement continues in perpetuity and never expires by its terms. The City cannot solicit any of the specified retailers to lease or occupy space within Market Place for the first 20 quarters; however, specified retailers may independently inquire about leasing space within Market Place and may sign a lease for such space as long as the City does not subsidize the lease or tenancy. The City must also pay Montebello a public safety payment of $5,000 per quarter, commencing one year after Market Place is open to the public. The City must also pay for any reasonable increased costs for police or other public safety services along Paramount Boulevard during the holiday shopping season. In return, Montebello is required to cooperate and work constructively with the City and Project applicant regarding the Project and any approvals required to be obtained from Montebello.

IV. Required Easements

1. Existing Easements

Several easements are required for construction of the project, regardless of whether the Council approves the Approved Project, the Project, or one of the SEIR alternatives. On July 17, 2003, Montebello acquired permanent easements from SCE for the construction of Market Place Drive, a parking lot, construction of two signs, and slope easements associated with the construction of Market Place and Market Place Drive. Montebello subsequently transferred the easements for construction of a parking lot, a slope easement and easements for installation of two signs to the Monterey Park Redevelopment Agency. On June 15, 2012, the Oversight Board for the Successor Agency to the Redevelopment Agency approved the transfer of the easements from the Successor Agency to the City to use for the Market Place Project. The easements are currently in the process of being assigned to the City by the Successor Agency. Pursuant to the Development Agreement, discussed below, the Project applicant will pay market value for the easements acquired by the former Redevelopment Agency, excluding the easements required for the construction of Market Place Drive and associated roadway improvements. Any construction in the easement areas must be approved by SCE prior to construction.

2. Proposed Easements

The Project applicant is currently seeking to acquire additional easements from SCE to allow additional parking and a slope easement along the northern project site boundary. Negotiations regarding these sites remain ongoing between the Project applicant, the City and SCE. These easements are not considered part of the Project currently sought for approval and are not analyzed in the SEIR. It is anticipated that the Project applicant will obtain these easements through a land swap with SCE at no additional cost to the City.

V. Proposed Entitlements

1. Precise Plan

Because the Project is in a R-S(PD) Overlay Zone, a Precise Plan must be approved that includes the specific land use regulations particular to the project site. The proposed Precise Plan generally regulates the permitted uses; maximum square footage for each development pad; building height and setbacks; parking; landscaping; signs; access and circulation; and trip reduction measures. It also includes a lighting plan, sign plan, landscaping plan, and elevations, which provide general guidelines for those improvements subject to final refinement and approval by the Design Review Board. The major provisions of the Precise Plan are as follows:

- The uses are restricted to an identified list of commercial, retail, and restaurant uses listed in Table V-1 (Permitted Uses). Banks and fitness centers are limited to one each within the project site. Certain ancillary uses are permitted for the home improvement center, including limited outdoor displays, truck rentals, and seasonal sales.

- The Precise Plan replaces the need for tenants or the Project applicant to seek conditional use permits for certain uses that would otherwise require one. The Precise Plan would permit a total of 5 restaurants to serve alcohol (subject to approval by ABC) and a maximum of 3 drive-thru restaurants.

- The maximum square footage for the site is 500,000 square feet. Individual building pads are limited to the square footage provided in Table V-2. The maximum square footage for the project site or any individual building pad may be increased in accordance with the amendment provisions discussed in the Development Agreement, below.

- The maximum height of any building is the same as generally permitted in the R-S Zone, which generally limits height to 50 feet or 4 stories.

- A minimum of 1,924 parking spaces are required for the Project. 22% of the required parking spaces may be compact spaces.

- The Project must include trip reduction measures, including bike racks and facilities, carpool and vanpool parking spaces, an on-site bus stop, and charging locations for electric vehicles.

2. Development Agreement

Government Code Section 65864 *et seq.* authorizes cities to enter into development agreements to provide developers certainty that, upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules, and regulations, subject to conditions of approval and mitigation measures. In return, cities may demand certain public benefits be paid or provided by the developer. The proposed Development Agreement would grant the Project applicant the right to develop the Project pursuant to the City's zoning provisions and other applicable rules and regulations in place at the time the development agreement is executed by the Project applicant and the City. In return, the development agreement would restrict development of the project site to the Project described in the project approvals and would provide certain assurances that the Project applicant would seek high-quality tenants. The development agreement does not affect the right of the City to exercise its police powers to (1) enact regulations that are necessary to preserve the public health and safety, (2) amend its Building Code or Fire Code, or (3) enact regulations that are necessary to comply with state or federal laws or regulations. The term of the Agreement would be 10 years, beginning upon the issuance of the first Certificate of Occupancy for the Project. The major terms of the Development Agreement are as follows:

A. Tenant Mix

At least 51% of the leased square footage of the Project must be leased to high-quality tenants with at least 20 stores in California or 50 stores nationally of a similar quality as stores found in other high-quality shopping centers (such as Long Beach Towne Center, the Commons at Chino Hills, etc.) ("Qualifying Tenants"). This requirement will generally last between 7-10 years from the date that 175,000 square feet of the project has been constructed, based on certain triggering events. The Project applicant must lease to at least three Qualifying Tenants at anchor locations of at least (1) 75,000, (2) 50,000 and (3) 15,000 square feet. The Development Agreement contains no restriction on how the other 49% of the project site is leased, other than the use restrictions provided in the Precise Plan. The Agreement does not guarantee that such high-quality tenants will ever actually open at the project site. Based on the proposed site plan included with the Precise Plan, the Project applicant would be able to meet this requirement if it leased the three proposed anchor locations (of 140,000 SF, 140,000 SF, and 41,000 SF) to Qualifying Tenants.

If a Qualifying Tenant subsequently leaves and subleases its property, it may sublease the property to any subtenant ***even if the Qualifying Tenant never actually opens a store for business***. If this occurs after 300,000 square feet of the Project has been leased and the sublease results in the Project having less than 51% Qualifying Tenants, the Project applicant must use its best efforts to lease any other parcels it controls to meet the 51% requirement. If this occurs before 300,000 square feet of the Project has been leased, the Project applicant must lease vacant space to Qualifying Tenants until it meets the 51% requirement. This creates a potentially significant issue, in that if a large anchor tenant subsequently subleases its property to a non-Qualifying Tenant and the project site is near full occupancy, it the Project may not meet the 51% requirement; however, certain potential tenants have strenuously objected to any limitation on their ability to sublease their property. ***This is a policy consideration that may or may not significantly affect the ultimate development of the site.***

B. Infrastructure and Off-Site Improvements

The Project applicant will construct all on-site infrastructure and off-site improvements required by the SEIR and Project Approvals. The off-site improvements may be funded from another source if the Project applicant can show that the source has committed to paying for the improvements. In the event that Montebello or Caltrans does not approve plans for the off-site improvements prior to the time that a portion of the Project is set to open, the Project applicant will set aside money in a trust fund to finance the off-site improvements in those jurisdictions if and when the plans are approved. It is anticipated that Caltrans may construct certain improvements required for the SR-60 Pomona Freeway on and off ramps; however, in the event that Caltrans fails to do so, the Project applicant would be required to pay for the improvements.

C. Easement Transfer

The easements currently held by the City will be transferred to the Project applicant once (1) 125,000 square feet of the development has been leased to Qualifying Tenants; (2) the Project applicant has closed escrow on the Property; and (3) the Project applicant has deposited an amount equal to the market value of the easements (other than the easements required for construction of Market Place Drive) into escrow, to be paid to the City upon transfer of the easements. If the Project applicant has not constructed at least 175,000 square feet of the Project within 5 years, it must place the appraised value of the Market Place Drive easements (not to exceed $800,000) into a trust fund, which will be released to the City to pay for the Market Place Drive easements at the end of an additional 5 years if the Project applicant has not completed construction of at least 175,000 square feet of building shells and the Paramount Avenue off-site improvements.

D. Amendments to the Precise Plan and Site Plan

The Community Development Director may approve any amendments to the Precise Plan and site plan that relocate less than 150,000 square feet of development and involve (1) no additional uses, (2) no increase in the maximum height, (3) no increase in Project aggregate square footage above 600,000 square feet, and (4) no changes requiring additional environmental review pursuant to CEQA. Any changes that relocate more than 150,000 square feet but none of the other changes listed above may be approved by the Planning Commission. All other changes must be approved by the City Council.

E. HUD Requirements

The Project applicant is required to comply with the requirements of the HUD Section 108 Loan regarding local hiring and hiring low- and moderate- income employees.

F. Annual Reviews

Pursuant to the Development Agreement Act, the Planning Department will conduct annual reviews to ensure the Project applicant's compliance with the terms of the Development Agreement.

G. Assignment

The City must approve any assignment of the project site before the Project applicant leases 175,000 square feet of the Project to Qualifying Tenants. The City has no authority to review an assignment after 175,000 square feet have been leased.

3. Tentative Tract Map

A tract map is required in most instances when a developer seeks to subdivide its property. A tract map is required for the proposed Project, as the Project applicant proposes to subdivide the project site into 12 different lots to permit lots to be individually sold or leased. The proposed lots generally correspond with the proposed development pads. The tract map identifies the existing easements and includes conditions associated with the engineering and infrastructure development of the project site. The City Engineer must approve the final tract map upon satisfaction of all the tentative tract map conditions by the Project applicant.

VI. SEIR

1. Draft SEIR

The City Council certified an EIR/EIS for the Approved Project in 2000. The SEIR was prepared to inform the Planning Commission, City Council, other responsible agencies, and the general public of the environmental effects of the development and operation of the Project. The SEIR incorporated the analysis contained in the prior EIR/EIS and further analyzed issues related to aesthetics, air quality, greenhouse gas emissions, noise, transportation and traffic, and utilities and service systems. It included two proposed plans, one which considered a commercial retail development of 600,000 square feet, including four anchor retail tenants, and a "small box alternative" similar to the actual proposed Precise Plan, which included 534,751 square feet of retail development.

The draft SEIR was circulated for a 45-day public comment period beginning on April 28, 2011. The SEIR found that the Project would result in significant and unavoidable adverse impacts, including air quality impacts associated with construction and vehicular emissions, greenhouse gas emissions, and transportation and traffic impacts at ten intersections, several of which are located in Montebello. Therefore, to approve the Project, the Planning Commission and City Council must adopt a Statement of Overriding Considerations which identifies Project benefits which outweigh and override the Project's significant and unavoidable environmental impacts.

2. SEIR Alternatives

The SEIR considered (1) the Approved Project; (2) an alternative land use plan which would allow for development of 600,000 square feet of light industrial and commercial uses on the site; and (3) a reduced density alternative, which would include the same proposed uses but would reduce each proposed land use by 10% each, resulting in an overall square footage of 540,000 square feet. The SEIR found that all alternatives would have less impacts associated with operational air quality emissions, greenhouse gas emissions, project noise, transportation and traffic, and utilities. The SEIR also noted that the small-box development alternative would also likely have fewer environmental impacts because it was designed to include less square footage.

The SEIR found that the Approved Project and reduced density alternative would meet all of the project objectives, although to a slightly lesser extent than the Project. The alternative land use plan alternative would meet almost none of the project objectives. The SEIR identified the reduced density alternative as the environmentally superior alternative. It should be noted that the current proposed Precise Plan would be environmentally superior to even the reduced density alternative considered in the SEIR.

3. Public Comments and Final SEIR

The public comment period for the draft SEIR closed on June 13, 2011. The City received comments from the Los Angeles County Sanitation District, Southern California Gas Company, Caltrans, SCE and Montebello. The environmental consultant prepared responses to all comments received and included the responses in the Final SEIR. The Final SEIR concludes that the comments do not identify any new significant impacts or more severe significant impacts other than those discussed in the Draft SEIR, and do not give rise to any need to recirculate the Draft SEIR for additional review and comment. Specifically, the environmental consultant reviewed the changes in the proposed Precise Plan as compared to the site plans studied in the SEIR and concluded that the Precise Plan would result in no new or additional significant impacts, because it reduces the square footage of the development and includes the same general mix of proposed uses. Other minor changes to the Draft SEIR are included in Section 3 of the Final SEIR. Montebello commented on the Final SEIR. A copy of its letter and the City's response are included.

Mark D. Hensley, City Attorney

By: ______________________
Robert M. Smith

Deputy City Attorney

Attachments: Draft and Final SEIR
Monterey Park Market Place Precise Plan
Development Agreement
Tentative Tract Map
Resolution Recommending Approval of SEIR
Resolution Recommending Approval of Development Agreement
Resolution Recommending Approval of Precise Plan and Tract Map
SEIR Findings and Statement of Overriding Considerations
SEIR Mitigation Monitoring Plan
October 15, 2012 Montebello Comment Letter
October 26, 2012 Letter Responding to Montebello Comment Letter