

PLANNING COMMISSION OF MONTEREY PARK AGENDA

REGULAR PLANNING COMMISSION MEETING Monterey Park City Hall Council Chambers 320 West Newmark Avenue

Tuesday
December 12, 2023
6:30 PM

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community.

LAND ACKNOWLEDGMENT

We would like to acknowledge that the land we inhabit today was once known as Tovangaar, the home of the Gabrieleño-Tongva people. We show our respect to the Gabrieleño-Tongva people, as well as all Indigenous people, past, present, and future, and honor their labor as original caretakers of this land. We commit to uplift the Gabrieleño-Tongva people, invite you to acknowledge the history, and join us in caring for this land.

GENERAL INFORMATION

Documents related to an Agenda item are available to the public in the Community Development Department – Planning Division located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at <http://www.montereypark.ca.gov/AgendaCenter>.

PUBLIC PARTICIPATION

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Chairperson and Planning Commission Members may change the amount of time allowed for speakers. Written Communication will be accepted up to 24 hours before the meeting via email to planningpermitcounter@montereypark.ca.gov

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER

Chairperson Chiang

FLAG SALUTE

Commissioner Fung

ROLL CALL

Chairperson Jack Chiang, Vice Chairperson Tammy Sam, Peter Fung, Jasmine Pesantes, Bethelwel Wilson

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS. While all comments are welcome, the Brown Act does not allow the Commission to take discuss, deliberate, or take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on agenda Items at this time. If you provide public comment on a specific agenda item at this time, however, you cannot later provide comments at the time the agenda Item is considered.

ORAL AND WRITTEN COMMUNICATIONS

[1.] PRESENTATIONS – None.

[2.] CITY OF MONTEREY PARK – CONSENT CALENDAR - None.

[3.] PUBLIC HEARING

3-A. PUBLIC HEARING – VARIANCE (V-23-01) – A REQUEST TO VARY FROM THE PD OVERLAY ZONE PROHIBITED USES BY ALLOWING A LEGAL NON-CONFORMING “AUTO SALES – USED” USE AT 849 EAST GARVEY AVENUE (ASSESSOR’S PARCEL NUMBER 5258-005-058)

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) After considering the evidence received during the public hearing, adopting a resolution approving the requested Variance (V-23-01), subject to conditions of approval; and Taking such additional, related, action that may be desirable.

The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the “CEQA Guidelines”). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. . Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

[4.] OLD BUSINESS – None.

[5.] NEW BUSINESS

5-A. RECEIVE AND FILE - ZONING INTERPRETATION ISSUED BY THE CITY PLANNER CONSIDERING THE PERMISSIBILITY OF MEDICAL USES IN ZONES THAT HAVE COMMERCIAL, CORPORATE CENTER OR MIXED-USE GENERAL PLAN LAND USE DESIGNATIONS

It is recommended that the Planning Commission consider:

- (1) Receiving and filling a Zoning Regulation Interpretation, dated December 5, 2023
- (2) Taking such additional, related, action that may be desirable.

[6.] COMMISSION COMMUNICATIONS

[7.] FUTURE AGENDA ITEMS

ADJOURN

Next regular scheduled meeting is on December 26, 2023.



Planning Commission Staff Report

DATE: December 12, 2023

AGENDA ITEM NO: 3.A

TO: The Planning Commission
FROM: Jessica Serrano, Director of Community Development
SUBJECT: A Public Hearing to consider Variance (V-23-01) to vary from the PD Overlay Zone prohibited uses by allowing a legal nonconforming "Auto Sales – Used" at 849 East Garvey Avenue.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) After considering the evidence received during the public hearing, adopting a resolution approving the requested Variance (V-23-01), subject to conditions of approval; and
- (5) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act)

The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

EXECUTIVE SUMMARY:

Tengfei Pingjia LLC (the "Applicant") requests approval of V-23-01 to allow the continued operation of a legal nonconforming used auto sales business at 849 East Garvey Avenue (Assessor's Parcel Number 5258-005-058) (the "Subject Property"). The Subject Property is within the Commercial Services ("C-S") and Planned Development ("PD") Overlay Zone and has a Mixed Use General Plan land use designation. Through inadvertence, the City issued a zoning clearance to continue utilizing the Subject Property for used auto sales business on February 13, 2023. The zoning clearance should have been denied based

upon changes to the Monterey Park Municipal Code (“MPMC”) which now prohibits such use in the PD Overlay Zone (MPMC§ 21.15.080(A)(2)). The Director recommends approval of V-23-01 to allow a legal nonconforming used auto sales business, subject to the attached Resolution’s conditions of approval.

TYPE OF ACTION (QUASI-JUDICIAL)

The recommended action is to approve V-23-01. In considering such actions, the Planning Commission acts in a quasi-judicial role. In doing so, the Planning Commission acts like a court: it applies facts gathered during a public hearing to existing law. Just like a court, the Planning Commission can only consider facts that are relevant to the case. A party appearing before the legislative body is entitled to:

- Notice of the proposed action;
- Reasons for the action;
- A copy of the evidence on which the action is based; and
- The right to respond before a reasonably impartial, noninvolved reviewer.

The Planning Commission must base its decisions upon substantial evidence within the record. “Substantial evidence” generally means enough relevant information and reasonable inferences from information gathered during a public hearing that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts does not constitute substantial evidence. Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. If the Planning Commission asks irrelevant questions and bases its decision-making on such questions, a court may overturn the Planning Commission’s decision and potentially hold the City liable for violating the applicant’s constitutionally protected due process rights.

To approve the V-23-01 (per MPMC § 21.32.010), the Planning Commission must find:

- There are special circumstances applicable to real property, involving size, shape, topography, location or surroundings, that do not generally apply to other properties in the same zone (economic hardship, existing building configuration and intensification of uses are not hardships);
- Because of such circumstances or conditions, a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other real property in the vicinity and in the same zone, but which is denied to the property in question because of the special circumstances;
- Granting of the variance is consistent with the General Plan and applicable law; and

- Granting of the variance will not result in material damage or prejudice to other real property in the vicinity nor be detrimental to public safety or welfare.

BACKGROUND:

The Subject Property is located at the northwest corner of East Garvey Avenue and Florence Avenue and is developed with an existing one-story 896 square-foot building with one vehicle bay, a parking lot, and an unpaved area. The Subject Property is a rectangular-shaped lot and consists of approximately 12,591.81 square feet in size. The surrounding uses from the Subject Property: (1) to the north is a single-family residential use; (2) to the south is a used auto sales business; (3) to the east is an auto repair business; and (4) the west is a retail business.

The following provides background on the known history of uses at the Subject Property:

- Business license records show that Jims Volkswagen Service & Repair operated at the Subject Property, which had a business license from February 15, 1985 to November 29, 2018.
- Code Enforcement records show that HL Auto Group, Inc., an auto sales business, illegally operated at the Subject Property between 2019 – 2022. That business closed and no longer operates at the Subject Property.
- The Applicant currently operates a used auto sales business at the Subject Property. On February 6, 2023, the Applicant applied for a zoning clearance to obtain approval to operate a used auto sales business at the Subject Property. On February 13, 2023, Director of Community Development allowed a zoning clearance permitting a used auto sales business to operate at the Subject Property. Additionally, the Applicant also paid its business license tax and obtained a Business License for this business on February 8, 2023.
- Subsequently, the Applicant added building signage which does not meet the MPMC Sign standards and parked vehicles on an unpaved surface at the Subject Property which is a violation of MPMC § 21.22.190 (which requires that off-street parking areas and automobile sales areas must be paved with concrete or asphaltic pavement). A code enforcement case was opened to address these violations. These enforcement actions alerted the Director that the business approval occurred despite the prohibitions in MPMC §21.15.080(A)(2) which prohibits “[a]uto sales, rentals, repairs, or other commercial auto uses” at the Subject Property.
- The Director determined that the use should be considered a legal “nonconforming use” per MPMC § 21.04.601 which is defined as: “. . . the utilization of any lot, structure, building or improvement lawfully established and in use prior to the time this title becomes effective, or having had a nonconforming status under prior zoning regulations, but which utilization, due to the application of this title thereto, or any amendment hereto, does not comply with all of the regulations currently applicable to the zone in which the use is located.”

ANALYSIS:

The used auto sales business operations consist of auto sales, which are conducted from the existing building and auto display which is currently on the paved portions of the property located along Garvey Avenue. Vehicular access to the Subject Property is provided via a driveway approach accessible from Florence Avenue and a driveway from an adjacent property to the west that connects to Garvey Avenue. The Applicant informed the Director that it has a maximum of 3 number of employees at any given time at the Subject Property and its business operating hours are: Monday to Saturday, 9 a.m. to 5 p.m.

The Applicant provided information to the Director that when it moved into the Subject Property in February 2023, it was in poor condition with overgrown weeds and litter, and the building was in poor condition with evidence of individuals breaking into the building and doing illegal drug use. The Applicant made improvements to the Subject Property, including, removal of weeds and litter, and made cosmetic repairs to the building such as new paint, flooring, signage and office equipment. If V-23-01 is approved, the Applicant intends on making the following improvements to the Subject Property:

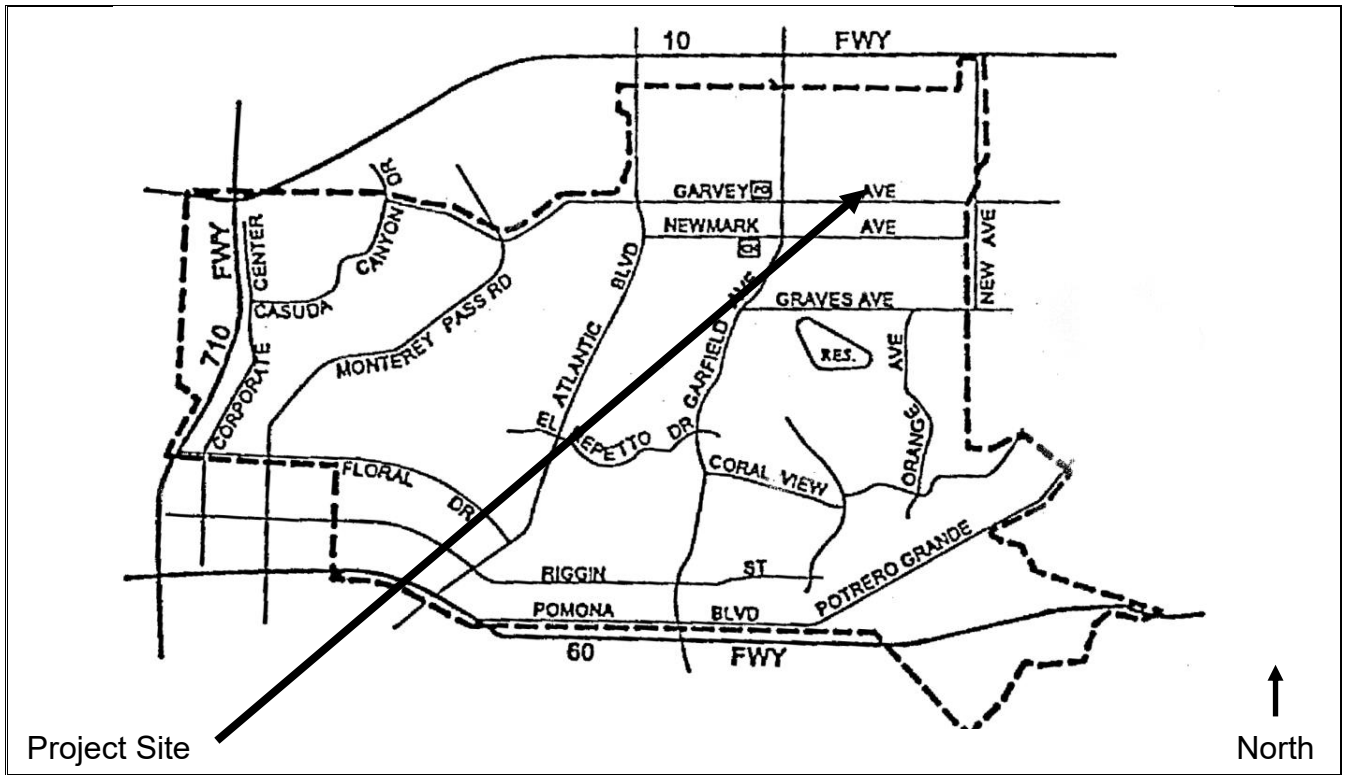
- Landscape enhancements, including tree trimming;
- Paving the unpaved areas to allow for auto display; and
- Remove garage door on the existing building since the building is being utilized as their sales office.

The applicant is requesting a Variance to allow relief from the strict language of the MPMC which would otherwise prohibit used auto sales at the Subject Property. The required findings necessary for the Planning Commission to grant V-23-01 are in the attached Resolution.

Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center and published in the Monterey Park Press on November 30, 2023 with affidavits of posting on file. The legal notice of this hearing was mailed to 66 property owners within a 300-foot radius on November 30, 2023.


Vicinity Map



Aerial Map

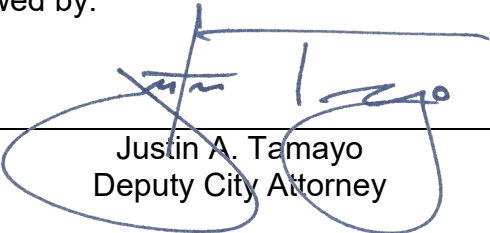


Respectfully submitted and prepared by:



Jessica Serrano
Director of Community
Development

Reviewed by:



Justin A. Tamayo
Deputy City Attorney

ATTACHMENTS:

- Attachment 1: Resolution, with Exhibit A
- Attachment 2: Notice of Exemption

Staff Report
December 12, 2023

ATTACHMENT 1

Resolution, with Exhibit A

RESOLUTION NO. _____

A RESOLUTION APPROVING VARIANCE (V-23-01) TO VARY FROM THE PLANNED DEVELOPMENT DISTRICT (“PD”) OVERLAY ZONE PROHIBITED USES BY ALLOWING LEGAL NONCONFORMING USED AUTO SALES AT 849 EAST GARVEY AVENUE.

The Planning Commission of the City of Monterey Park resolves as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On November 22, 2023, Tengfei Pingjia LLC, (the “Applicant”) submitted a variance (Case No. “V-23-01”) to vary from the PD Overlay Zone prohibited uses listed in MPMC Section 21.15.080 by allowing a legal nonconforming “Auto Sales – Used” at 849 East Garvey Avenue (Assessor’s Parcel Number 5258-005-058) (the “Subject Property”);
- B. V-23-01 was reviewed by the City of Monterey Park, Community Development Department for, in part, consistency with the General Plan, conformity with the Monterey Park Municipal Code (“MPMC”) and California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA,” and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”));
- C. The City Planner completed its review and scheduled a public hearing regarding V-23-01 before the Planning Commission for December 12, 2023;
- D. Notice of Public Hearing before the Planning Commission was duly given and published in the time, form, and manner as required by law;
- E. On December 12, 2023, the Planning Commission held a public hearing to receive public testimony and other evidence regarding V-23-01 including, without limitation, information provided to the Planning Commission by City staff and public testimony; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its December 12, 2023, hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant is requesting approval of V-23-01 to vary from the PD Overlay Zone prohibited uses listed in MPMC Section 21.15.080 by allowing legal nonconforming used auto sales at the Subject Property.
- B. The Subject Property has a zoning designation of C-S and PD Overlay Zone. Auto sales are an allowed use in the C-S Zone, but “Auto sales, rentals, repairs, or other commercial auto uses” are prohibited in the PD Overlay Zone.

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- C. The Subject Property is a rectangular-shaped lot and consists of approximately 12,591.81 square feet in size. The property is located at the northwest corner of East Garvey Avenue and Florence Avenue and is developed an existing one-story 896 square foot building with one vehicle bay, a parking lot, and an unpaved area.
- D. The surrounding uses from the Subject Property to the north is a single-family residential use, to the south is a used auto sales business, to the east is an auto repair business and the west is a retail business.
- E. On February 13, 2023, the Director of Community Development allowed the City to administratively approve a used auto sales business at the Subject Property.
- F. On February 8, 2023, the Applicant obtained a Business License for used auto sales at the Subject Property.

SECTION 3: Variance Findings. After considering the above facts, pursuant to MPMC § 21.32.010, the Planning Commission finds as follows:

- A. There are special circumstances applicable to real property, involving size, shape, topography, location or surroundings, that do not generally apply to other properties in the same zone (economic hardship, existing building configuration and intensification of and uses are not considered hardships);**

The Subject Property was previously occupied by an automotive repair use that operated at this location for 33 years before it closed in 2018. Unpermitted commercial auto uses, however, continued at the location including, without limitation, after zone changes that occurred in 2002 that ordinarily would rendered such uses legal nonconforming. The property was designed to support commercial auto uses. For example, the existing building has a garage door and the property has ample space for the storage or display of automobiles. The Director inadvertently allowed the Applicant to secure a zoning clearance from the City upon which the Applicant relied to make approximately \$50,000 in improvements to the Subject Property, so that it could continue to be used for auto uses, including sales. The Applicant relied upon the administrative clearance issued by the Director on February 13, 2023 in making the improvements to the Applicant's detriment. While economic hardship does not ordinarily qualify for a variance under the MPMC, the location and surroundings of the Subject Property show that substantially similar automobile uses exist in close proximity that are legal nonconforming uses. It is in the public interest to grant a variance under these circumstances.

- B. Because of such circumstances or conditions, a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other real property in the vicinity and in the same zone, but which is denied to the property in question because of the special circumstances;**

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Approval of V-23-01 is necessary for the preservation and enjoyment of a substantial property right possessed by other real property in the vicinity and in the same zone, but which is denied to the property in question. To the south, the Subject Property is boarded by an existing nonconforming used auto dealership at 840 Garvey Avenue which is within the C-S and PD Overlay Zones. The Subject Property is located within the C-S and PD Overlay Zones and V-23-01 is proposing the same use (used auto sales).

C. Granting of the variance is consistent with the General Plan and applicable law; and

The Monterey Park Land Use and Urban Design Element designates the Subject Property as Mixed Use which allows for a broad range of retail and service commercial uses, hospitality, entertainment, medical, professional offices, and residential uses. Auto sales is considered a type of retail land use and is therefore consistent with the intent of the General Plan.

Additionally, granting V-23-01 is consistent with Policy 1.1 of the Monterey Park Land Use and Urban Design Element which states: “[e]nsure zoning regulations provide flexibility regarding allowed uses.” Granting V-23-01 will provide flexibility from the MPMC’s strict language which would otherwise prohibit used auto sales at the Subject Property.

Additionally, approval of V-23-01 is consistent with Policy 19.8 of the Monterey Park Land Use and Urban Design Element which states: “[e]ncourage a diverse mix of uses that are innovative, competitive, entrepreneurial, local, and sustainable, thereby promoting economic development, increasing City revenues, expanding job growth, increasing property values, and meeting residents’ and visitor’s desires and needs.” By approving V-23-01, a continuation of a historically allowed commercial auto use at the property will positively contribute to the City by providing a service that meets the needs of City residents and visitors, through contemplated improvements to enhance the appearance of the property, and sales taxes that will be generated by auto sales.

D. Granting of the variance will not result in material damage or prejudice to other real property in the vicinity nor be detrimental to public safety or welfare.

Granting V-23-01 will not result in material damage or prejudice to other real property in the vicinity nor be detrimental to public safety or welfare, subject to the approval of the recommended conditions of approval pursuant to MPMC § 21.32.170, which states that whenever the City Council or Planning Commission grants a variance or conditional use permit, the granting authority may impose conditions, as follows:

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- (1) In the case of a variance, the granting authority may impose conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone in which such property is situated.
- (2) In any case, the granting authority may impose such conditions as are necessary to protect the public health, safety and general welfare including, without limitation, conditions relating to yards, fences and walls, dedications, improvements, landscaping, regulation of nuisance factors, regulation of signs and such other matters as will make the development compatible with the neighborhood.

As part of recommended conditions of approval for V-23-01, the Applicant would be required to do the following additional improvements:

- (1) Legalize signage and remove signage that does not comply with MPMC Chapter 21.24 *Sign Regulations*;
- (2) Restore the parking lot and ensure that parking stalls are made available to customers and staff in compliance with MPMC Chapter 21.22 *Off-Street Parking Regulations* and Americans with Disabilities Act (ADA) requirements; and
- (3) Comply with other MPMC requirements contained in Title 21 *Zoning*, including not limited to, adherence to required parking lot surfacing, barriers, screening, lighting and striping requirements that apply to auto sales businesses.

Additionally, a condition of approval is included to require that V-23-01 automatically expire once the Applicant voluntarily discontinues used auto sales at the property for more than 30 days. Any future use would be subject to the land use limitations existing at the time the use is discontinued and no new zoning clearance approvals would be approved for new operators of used auto sales at the property as granted by this Variance.

SECTION 4: *Environmental Assessment.* The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

**PLANNING COMMISSION
RESOLUTION NO.
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SECTION 5: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Variance (V-23-01).

SECTION 6: *Notice of Exemption.* The Director of Community Development, or designee, is directed to file a Notice of Exemption in accordance with CEQA §§ 15062, and any other applicable law.

SECTION 7: *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 8: *Construction.* This Resolution must be broadly construed in order to achieve the purposes stated in this Resolution. It is the Planning Commission's intent that the provisions of this Resolution be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Resolution.

SECTION 9: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 10: *Severability.* If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the Planning Commission intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Resolution are severable.

SECTION 11: *Preservation.* This Resolution does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Resolution's effective date. Any such amended part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Resolution.

SECTION 12: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of

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RESOLUTION NO.
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any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 13: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 14: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 15: A copy of this Resolution will be mailed to the applicant and to any other person requesting a copy.

SECTION 16: This Resolution is the Planning Commission's final decision and will become effective immediately upon adoption, and will remain effective unless the action is appealed within ten days pursuant to MPMC § 21.32.060, and MPMC § 1.10.

SECTION 17: The Planning Commission Chairperson, or presiding officer, is authorized to affix its signature to this Resolution signifying its adoption by the Planning Commission of the City of Monterey Park, and the Planning Commission Secretary is directed to attest.

PASSED, APPROVED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF MONTEREY PARK THIS 12TH DAY OF DECEMBER 2023.

Jack Chiang, Chairperson

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 12th day of December 2023, by the following vote of the Planning Commission:

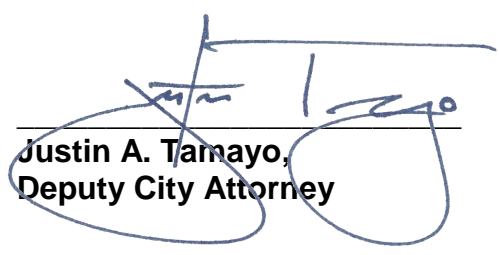
**AYES:
NOES:
ABSTAIN:
ABSENT:**

Jessica Serrano, Secretary

**APPROVED AS TO FORM:
KARL H. BERGER, CITY ATTORNEY**

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By:



Justin A. Tamayo,
Deputy City Attorney

RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

849 EAST GARVEY AVENUE

In addition to all applicable provisions of the Monterey Park Municipal Code (“MPMC”), Tengfei Pingjia LLC (the “Permittee”), agrees to comply with the following conditions of approval (“Project Conditions”) for Variance (“V-23-01”).

PLANNING:

1. The Permittee agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney’s fees), injuries, or liability, arising from the City’s approval of V-23-01 except for such loss or damage arising from the City’s sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of V-23-01, the Permittee agrees to defend the City (at the City’s request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section “the City” includes the City of Monterey Park’s elected officials, appointed officials, officers, and employees.
2. V-23-01 expires 12 months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of a one-year extension may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the Community Development Director, or designee.
3. The Permittee is responsible for maintaining the area adjacent to the business location and the site in general, including any parking areas, parkways and alleys.
4. The Permittee must ensure the Property is well maintained and free of graffiti. The Permittee’s failure to remove graffiti within 24 hours of written notice by the City will result in the City abating the graffiti at the Permittee’s cost.
5. A copy of the Project Conditions for V-23-01 must be kept on the premises of the establishment and presented to any authorized City official upon request.
6. The used auto sales operation must utilize the property as described in the Staff Report dated December 12, 2023. The Community Development Director, or designee, is authorized to approve minor modifications or any of the conditions if such modifications achieve substantially the same results as would strict compliance with said property utilization and conditions.

**PLANNING COMMISSION
RESOLUTION NO.**

7. All conditions of approval must be listed on the plans submitted for plan check and on the plans for which any building permit is issued.
8. Overnight parking of vehicles which are not for sale is prohibited.
9. The Permittee must legalize existing signage and remove signage that does not comply with MPMC Chapter 21.24 *Sign Regulations*.
10. The Permittee must restore the parking lot and ensure that parking stalls are made available to customers and staff in compliance with MPMC Chapter 21.22 *Off-Street Parking Regulations* and Americans with Disabilities Act (ADA) requirements.
11. V-23-01 automatically expires and is deemed null and void once the Permittee discontinues used auto sales at the Subject Property for more than 30 days.
12. The Permittee must notify the Community Development Director, or designee, in writing of any contemplated closure exceeding more than 30 days, at least 30 days in advance.
13. The Permittee must resolve any outstanding MPMC violations within 60 days of this approval.

By signing this document, the Permittee, certifies having read and understood the Project Conditions, and agrees to comply with the Project Conditions.

Tengfei Pingjia LLC, Permittee

Staff Report
December 12, 2023

ATTACHMENT 2

Notice of Exemption

Notice of Exemption

From: City of Monterey Park Planning
320 W. Newmark Avenue
Monterey Park, CA 91754

To:

- Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814
- Los Angeles, County Clerk
Environmental Filings
12400 Imperial Highway #1201
Norwalk, CA 90650
Attn: Business Filings and Registration

Project Title: Variance (V-23-01)
Project Location - Specific: 849 East Garvey Avenue
Project Location - City: Monterey Park
Project Location - County: Los Angeles

Description of Project:

Variance (V-23-01) to vary from the PD Overlay Zone prohibited uses by allowing a legal nonconforming "Auto Sales – Used" at 849 East Garvey Avenue.

Name of Public Agency Approving Project: City of Monterey Park
Name of Person or Agency Carrying Out Project: Tengfei Pingjia, LLC, Applicant

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: § 15301 (Class 1 – Existing Facilities)
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

Lead Agency Contact Person: Jessica Serrano Telephone (626) 307-1463

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: Director of Community Development

- Signed by Lead Agency Date received for filing at OPR:
- Signed by Applicant



Planning Commission Staff Report

DATE: December 12, 2023

AGENDA ITEM NO: 5.A

TO: The Planning Commission
FROM: Jessica Serrano, Director of Community Development
SUBJECT: A Public Hearing to consider Variance (V-23-01) to vary from the PD Overlay Zone prohibited uses by allowing a legal nonconforming "Auto Sales – Used" at 849 East Garvey Avenue.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) After considering the evidence received during the public hearing, adopting a resolution approving the requested Variance (V-23-01), subject to conditions of approval; and
- (5) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act)

The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

EXECUTIVE SUMMARY:

Tengfei Pingjia LLC (the "Applicant") requests approval of V-23-01 to allow the continued operation of a legal nonconforming used auto sales business at 849 East Garvey Avenue (Assessor's Parcel Number 5258-005-058) (the "Subject Property"). The Subject Property is within the Commercial Services ("C-S") and Planned Development ("PD") Overlay Zone and has a Mixed Use General Plan land use designation. Through inadvertence, the City issued a zoning clearance to continue utilizing the Subject Property for used auto sales business on February 13, 2023. The zoning clearance should have been denied based

upon changes to the Monterey Park Municipal Code (“MPMC”) which now prohibits such use in the PD Overlay Zone (MPMC§ 21.15.080(A)(2)). The Director recommends approval of V-23-01 to allow a legal nonconforming used auto sales business, subject to the attached Resolution’s conditions of approval.

TYPE OF ACTION (QUASI-JUDICIAL)

The recommended action is to approve V-23-01. In considering such actions, the Planning Commission acts in a quasi-judicial role. In doing so, the Planning Commission acts like a court: it applies facts gathered during a public hearing to existing law. Just like a court, the Planning Commission can only consider facts that are relevant to the case. A party appearing before the legislative body is entitled to:

- Notice of the proposed action;
- Reasons for the action;
- A copy of the evidence on which the action is based; and
- The right to respond before a reasonably impartial, noninvolved reviewer.

The Planning Commission must base its decisions upon substantial evidence within the record. “Substantial evidence” generally means enough relevant information and reasonable inferences from information gathered during a public hearing that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts does not constitute substantial evidence. Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. If the Planning Commission asks irrelevant questions and bases its decision-making on such questions, a court may overturn the Planning Commission’s decision and potentially hold the City liable for violating the applicant’s constitutionally protected due process rights.

To approve the V-23-01 (per MPMC § 21.32.010), the Planning Commission must find:

- There are special circumstances applicable to real property, involving size, shape, topography, location or surroundings, that do not generally apply to other properties in the same zone (economic hardship, existing building configuration and intensification of uses are not hardships);
- Because of such circumstances or conditions, a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other real property in the vicinity and in the same zone, but which is denied to the property in question because of the special circumstances;
- Granting of the variance is consistent with the General Plan and applicable law; and

- Granting of the variance will not result in material damage or prejudice to other real property in the vicinity nor be detrimental to public safety or welfare.

BACKGROUND:

The Subject Property is located at the northwest corner of East Garvey Avenue and Florence Avenue and is developed with an existing one-story 896 square-foot building with one vehicle bay, a parking lot, and an unpaved area. The Subject Property is a rectangular-shaped lot and consists of approximately 12,591.81 square feet in size. The surrounding uses from the Subject Property: (1) to the north is a single-family residential use; (2) to the south is a used auto sales business; (3) to the east is an auto repair business; and (4) the west is a retail business.

The following provides background on the known history of uses at the Subject Property:

- Business license records show that Jims Volkswagen Service & Repair operated at the Subject Property, which had a business license from February 15, 1985 to November 29, 2018.
- Code Enforcement records show that HL Auto Group, Inc., an auto sales business, illegally operated at the Subject Property between 2019 – 2022. That business closed and no longer operates at the Subject Property.
- The Applicant currently operates a used auto sales business at the Subject Property. On February 6, 2023, the Applicant applied for a zoning clearance to obtain approval to operate a used auto sales business at the Subject Property. On February 13, 2023, Director of Community Development allowed a zoning clearance permitting a used auto sales business to operate at the Subject Property. Additionally, the Applicant also paid its business license tax and obtained a Business License for this business on February 8, 2023.
- Subsequently, the Applicant added building signage which does not meet the MPMC Sign standards and parked vehicles on an unpaved surface at the Subject Property which is a violation of MPMC § 21.22.190 (which requires that off-street parking areas and automobile sales areas must be paved with concrete or asphaltic pavement). A code enforcement case was opened to address these violations. These enforcement actions alerted the Director that the business approval occurred despite the prohibitions in MPMC §21.15.080(A)(2) which prohibits “[a]uto sales, rentals, repairs, or other commercial auto uses” at the Subject Property.
- The Director determined that the use should be considered a legal “nonconforming use” per MPMC § 21.04.601 which is defined as: “. . . the utilization of any lot, structure, building or improvement lawfully established and in use prior to the time this title becomes effective, or having had a nonconforming status under prior zoning regulations, but which utilization, due to the application of this title thereto, or any amendment hereto, does not comply with all of the regulations currently applicable to the zone in which the use is located.”

ANALYSIS:

The used auto sales business operations consist of auto sales, which are conducted from the existing building and auto display which is currently on the paved portions of the property located along Garvey Avenue. Vehicular access to the Subject Property is provided via a driveway approach accessible from Florence Avenue and a driveway from an adjacent property to the west that connects to Garvey Avenue. The Applicant informed the Director that it has a maximum of 3 number of employees at any given time at the Subject Property and its business operating hours are: Monday to Saturday, 9 a.m. to 5 p.m.

The Applicant provided information to the Director that when it moved into the Subject Property in February 2023, it was in poor condition with overgrown weeds and litter, and the building was in poor condition with evidence of individuals breaking into the building and doing illegal drug use. The Applicant made improvements to the Subject Property, including, removal of weeds and litter, and made cosmetic repairs to the building such as new paint, flooring, signage and office equipment. If V-23-01 is approved, the Applicant intends on making the following improvements to the Subject Property:

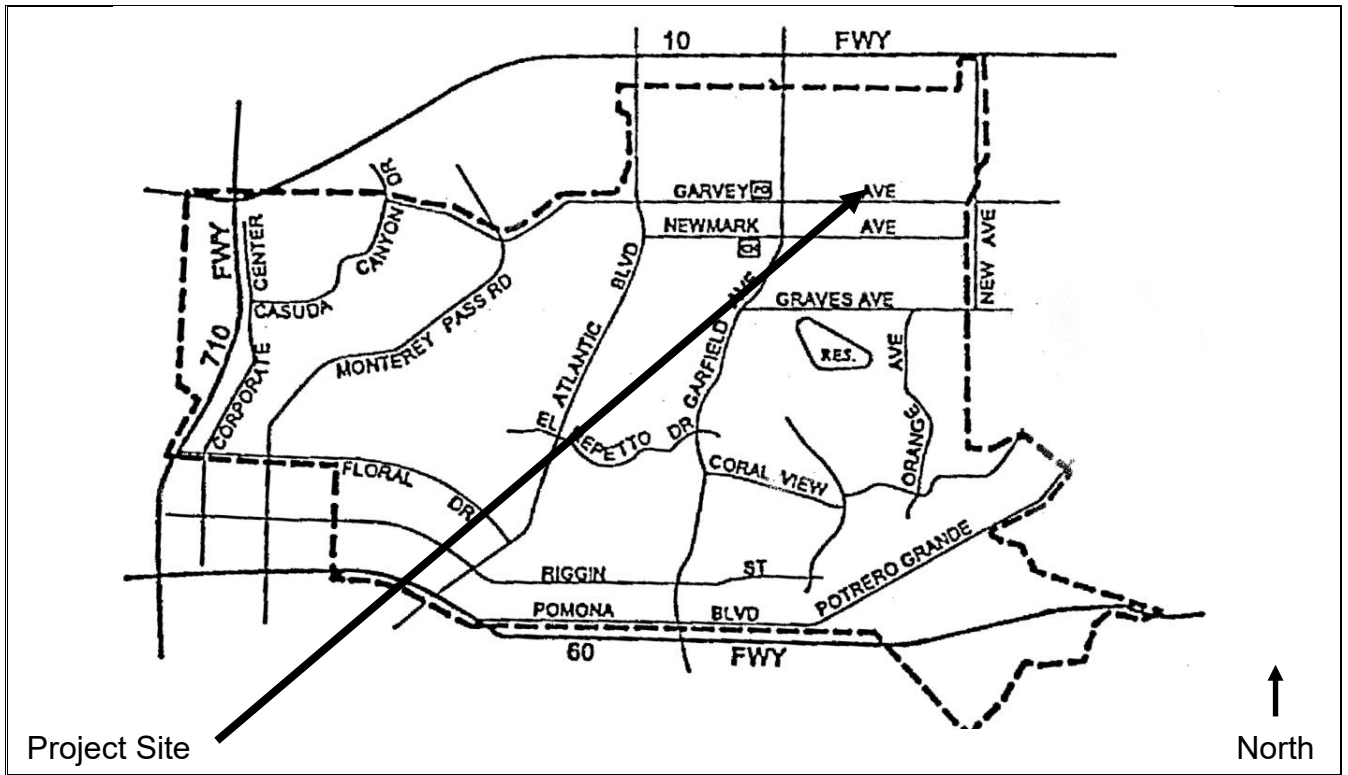
- Landscape enhancements, including tree trimming;
- Paving the unpaved areas to allow for auto display; and
- Remove garage door on the existing building since the building is being utilized as their sales office.

The applicant is requesting a Variance to allow relief from the strict language of the MPMC which would otherwise prohibit used auto sales at the Subject Property. The required findings necessary for the Planning Commission to grant V-23-01 are in the attached Resolution.

Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center and published in the Monterey Park Press on November 30, 2023 with affidavits of posting on file. The legal notice of this hearing was mailed to 66 property owners within a 300-foot radius on November 30, 2023.


Vicinity Map



Aerial Map

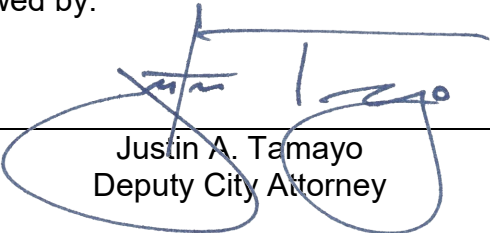


Respectfully submitted and prepared by:



Jessica Serrano
Director of Community
Development

Reviewed by:



Justin A. Tamayo
Deputy City Attorney

ATTACHMENTS:

- Attachment 1: Resolution, with Exhibit A
- Attachment 2: Notice of Exemption

Staff Report
December 12, 2023

ATTACHMENT 1

Resolution, with Exhibit A

RESOLUTION NO. _____

A RESOLUTION APPROVING VARIANCE (V-23-01) TO VARY FROM THE PLANNED DEVELOPMENT DISTRICT (“PD”) OVERLAY ZONE PROHIBITED USES BY ALLOWING LEGAL NONCONFORMING USED AUTO SALES AT 849 EAST GARVEY AVENUE.

The Planning Commission of the City of Monterey Park resolves as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On November 22, 2023, Tengfei Pingjia LLC, (the “Applicant”) submitted a variance (Case No. “V-23-01”) to vary from the PD Overlay Zone prohibited uses listed in MPMC Section 21.15.080 by allowing a legal nonconforming “Auto Sales – Used” at 849 East Garvey Avenue (Assessor’s Parcel Number 5258-005-058) (the “Subject Property”);
- B. V-23-01 was reviewed by the City of Monterey Park, Community Development Department for, in part, consistency with the General Plan, conformity with the Monterey Park Municipal Code (“MPMC”) and California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA,” and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”));
- C. The City Planner completed its review and scheduled a public hearing regarding V-23-01 before the Planning Commission for December 12, 2023;
- D. Notice of Public Hearing before the Planning Commission was duly given and published in the time, form, and manner as required by law;
- E. On December 12, 2023, the Planning Commission held a public hearing to receive public testimony and other evidence regarding V-23-01 including, without limitation, information provided to the Planning Commission by City staff and public testimony; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its December 12, 2023, hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant is requesting approval of V-23-01 to vary from the PD Overlay Zone prohibited uses listed in MPMC Section 21.15.080 by allowing legal nonconforming used auto sales at the Subject Property.
- B. The Subject Property has a zoning designation of C-S and PD Overlay Zone. Auto sales are an allowed use in the C-S Zone, but “Auto sales, rentals, repairs, or other commercial auto uses” are prohibited in the PD Overlay Zone.

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 2 OF 7**

- C. The Subject Property is a rectangular-shaped lot and consists of approximately 12,591.81 square feet in size. The property is located at the northwest corner of East Garvey Avenue and Florence Avenue and is developed an existing one-story 896 square foot building with one vehicle bay, a parking lot, and an unpaved area.
- D. The surrounding uses from the Subject Property to the north is a single-family residential use, to the south is a used auto sales business, to the east is an auto repair business and the west is a retail business.
- E. On February 13, 2023, the Director of Community Development allowed the City to administratively approve a used auto sales business at the Subject Property.
- F. On February 8, 2023, the Applicant obtained a Business License for used auto sales at the Subject Property.

SECTION 3: Variance Findings. After considering the above facts, pursuant to MPMC § 21.32.010, the Planning Commission finds as follows:

- A. There are special circumstances applicable to real property, involving size, shape, topography, location or surroundings, that do not generally apply to other properties in the same zone (economic hardship, existing building configuration and intensification of and uses are not considered hardships);**

The Subject Property was previously occupied by an automotive repair use that operated at this location for 33 years before it closed in 2018. Unpermitted commercial auto uses, however, continued at the location including, without limitation, after zone changes that occurred in 2002 that ordinarily would rendered such uses legal nonconforming. The property was designed to support commercial auto uses. For example, the existing building has a garage door and the property has ample space for the storage or display of automobiles. The Director inadvertently allowed the Applicant to secure a zoning clearance from the City upon which the Applicant relied to make approximately \$50,000 in improvements to the Subject Property, so that it could continue to be used for auto uses, including sales. The Applicant relied upon the administrative clearance issued by the Director on February 13, 2023 in making the improvements to the Applicant's detriment. While economic hardship does not ordinarily qualify for a variance under the MPMC, the location and surroundings of the Subject Property show that substantially similar automobile uses exist in close proximity that are legal nonconforming uses. It is in the public interest to grant a variance under these circumstances.

- B. Because of such circumstances or conditions, a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other real property in the vicinity and in the same zone, but which is denied to the property in question because of the special circumstances;**

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 3 OF 7**

Approval of V-23-01 is necessary for the preservation and enjoyment of a substantial property right possessed by other real property in the vicinity and in the same zone, but which is denied to the property in question. To the south, the Subject Property is boarded by an existing nonconforming used auto dealership at 840 Garvey Avenue which is within the C-S and PD Overlay Zones. The Subject Property is located within the C-S and PD Overlay Zones and V-23-01 is proposing the same use (used auto sales).

C. Granting of the variance is consistent with the General Plan and applicable law; and

The Monterey Park Land Use and Urban Design Element designates the Subject Property as Mixed Use which allows for a broad range of retail and service commercial uses, hospitality, entertainment, medical, professional offices, and residential uses. Auto sales is considered a type of retail land use and is therefore consistent with the intent of the General Plan.

Additionally, granting V-23-01 is consistent with Policy 1.1 of the Monterey Park Land Use and Urban Design Element which states: “[e]nsure zoning regulations provide flexibility regarding allowed uses.” Granting V-23-01 will provide flexibility from the MPMC’s strict language which would otherwise prohibit used auto sales at the Subject Property.

Additionally, approval of V-23-01 is consistent with Policy 19.8 of the Monterey Park Land Use and Urban Design Element which states: “[e]ncourage a diverse mix of uses that are innovative, competitive, entrepreneurial, local, and sustainable, thereby promoting economic development, increasing City revenues, expanding job growth, increasing property values, and meeting residents’ and visitor’s desires and needs.” By approving V-23-01, a continuation of a historically allowed commercial auto use at the property will positively contribute to the City by providing a service that meets the needs of City residents and visitors, through contemplated improvements to enhance the appearance of the property, and sales taxes that will be generated by auto sales.

D. Granting of the variance will not result in material damage or prejudice to other real property in the vicinity nor be detrimental to public safety or welfare.

Granting V-23-01 will not result in material damage or prejudice to other real property in the vicinity nor be detrimental to public safety or welfare, subject to the approval of the recommended conditions of approval pursuant to MPMC § 21.32.170, which states that whenever the City Council or Planning Commission grants a variance or conditional use permit, the granting authority may impose conditions, as follows:

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 4 OF 7**

- (1) In the case of a variance, the granting authority may impose conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone in which such property is situated.
- (2) In any case, the granting authority may impose such conditions as are necessary to protect the public health, safety and general welfare including, without limitation, conditions relating to yards, fences and walls, dedications, improvements, landscaping, regulation of nuisance factors, regulation of signs and such other matters as will make the development compatible with the neighborhood.

As part of recommended conditions of approval for V-23-01, the Applicant would be required to do the following additional improvements:

- (1) Legalize signage and remove signage that does not comply with MPMC Chapter 21.24 *Sign Regulations*;
- (2) Restore the parking lot and ensure that parking stalls are made available to customers and staff in compliance with MPMC Chapter 21.22 *Off-Street Parking Regulations* and Americans with Disabilities Act (ADA) requirements; and
- (3) Comply with other MPMC requirements contained in Title 21 *Zoning*, including not limited to, adherence to required parking lot surfacing, barriers, screening, lighting and striping requirements that apply to auto sales businesses.

Additionally, a condition of approval is included to require that V-23-01 automatically expire once the Applicant voluntarily discontinues used auto sales at the property for more than 30 days. Any future use would be subject to the land use limitations existing at the time the use is discontinued and no new zoning clearance approvals would be approved for new operators of used auto sales at the property as granted by this Variance.

SECTION 4: *Environmental Assessment.* The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 5 OF 7**

SECTION 5: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Variance (V-23-01).

SECTION 6: *Notice of Exemption.* The Director of Community Development, or designee, is directed to file a Notice of Exemption in accordance with CEQA §§ 15062, and any other applicable law.

SECTION 7: *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 8: *Construction.* This Resolution must be broadly construed in order to achieve the purposes stated in this Resolution. It is the Planning Commission's intent that the provisions of this Resolution be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Resolution.

SECTION 9: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 10: *Severability.* If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the Planning Commission intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Resolution are severable.

SECTION 11: *Preservation.* This Resolution does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Resolution's effective date. Any such amended part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Resolution.

SECTION 12: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 6 OF 7**

any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 13: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 14: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 15: A copy of this Resolution will be mailed to the applicant and to any other person requesting a copy.

SECTION 16: This Resolution is the Planning Commission's final decision and will become effective immediately upon adoption, and will remain effective unless the action is appealed within ten days pursuant to MPMC § 21.32.060, and MPMC § 1.10.

SECTION 17: The Planning Commission Chairperson, or presiding officer, is authorized to affix its signature to this Resolution signifying its adoption by the Planning Commission of the City of Monterey Park, and the Planning Commission Secretary is directed to attest.

PASSED, APPROVED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF MONTEREY PARK THIS 12TH DAY OF DECEMBER 2023.

Jack Chiang, Chairperson

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 12th day of December 2023, by the following vote of the Planning Commission:

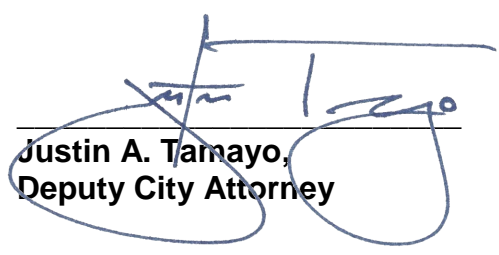
**AYES:
NOES:
ABSTAIN:
ABSENT:**

Jessica Serrano, Secretary

**APPROVED AS TO FORM:
KARL H. BERGER, CITY ATTORNEY**

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 7 OF 7**

By:



Justin A. Tamayo,
Deputy City Attorney

RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

849 EAST GARVEY AVENUE

In addition to all applicable provisions of the Monterey Park Municipal Code (“MPMC”), Tengfei Pingjia LLC (the “Permittee”), agrees to comply with the following conditions of approval (“Project Conditions”) for Variance (“V-23-01”).

PLANNING:

1. The Permittee agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney’s fees), injuries, or liability, arising from the City’s approval of V-23-01 except for such loss or damage arising from the City’s sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of V-23-01, the Permittee agrees to defend the City (at the City’s request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section “the City” includes the City of Monterey Park’s elected officials, appointed officials, officers, and employees.
2. V-23-01 expires 12 months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of a one-year extension may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the Community Development Director, or designee.
3. The Permittee is responsible for maintaining the area adjacent to the business location and the site in general, including any parking areas, parkways and alleys.
4. The Permittee must ensure the Property is well maintained and free of graffiti. The Permittee’s failure to remove graffiti within 24 hours of written notice by the City will result in the City abating the graffiti at the Permittee’s cost.
5. A copy of the Project Conditions for V-23-01 must be kept on the premises of the establishment and presented to any authorized City official upon request.
6. The used auto sales operation must utilize the property as described in the Staff Report dated December 12, 2023. The Community Development Director, or designee, is authorized to approve minor modifications or any of the conditions if such modifications achieve substantially the same results as would strict compliance with said property utilization and conditions.

**PLANNING COMMISSION
RESOLUTION NO.**

7. All conditions of approval must be listed on the plans submitted for plan check and on the plans for which any building permit is issued.
8. Overnight parking of vehicles which are not for sale is prohibited.
9. The Permittee must legalize existing signage and remove signage that does not comply with MPMC Chapter 21.24 *Sign Regulations*.
10. The Permittee must restore the parking lot and ensure that parking stalls are made available to customers and staff in compliance with MPMC Chapter 21.22 *Off-Street Parking Regulations* and Americans with Disabilities Act (ADA) requirements.
11. V-23-01 automatically expires and is deemed null and void once the Permittee discontinues used auto sales at the Subject Property for more than 30 days.
12. The Permittee must notify the Community Development Director, or designee, in writing of any contemplated closure exceeding more than 30 days, at least 30 days in advance.
13. The Permittee must resolve any outstanding MPMC violations within 60 days of this approval.

By signing this document, the Permittee, certifies having read and understood the Project Conditions, and agrees to comply with the Project Conditions.

Tengfei Pingjia LLC, Permittee

Staff Report
December 12, 2023

ATTACHMENT 2

Notice of Exemption

Notice of Exemption

From: City of Monterey Park Planning
320 W. Newmark Avenue
Monterey Park, CA 91754

To:

Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Los Angeles, County Clerk
Environmental Filings
12400 Imperial Highway #1201
Norwalk, CA 90650
Attn: Business Filings and Registration

Project Title: Variance (V-23-01)
Project Location - Specific: 849 East Garvey Avenue
Project Location - City: Monterey Park
Project Location - County: Los Angeles

Description of Project:

Variance (V-23-01) to vary from the PD Overlay Zone prohibited uses by allowing a legal nonconforming "Auto Sales – Used" at 849 East Garvey Avenue.

Name of Public Agency Approving Project: City of Monterey Park
Name of Person or Agency Carrying Out Project: Tengfei Pingjia, LLC, Applicant

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: § 15301 (Class 1 – Existing Facilities)
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The City reviewed the environmental impacts of the Project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines § 15301 (Existing Facilities) exempts existing facilities from further review, including, without limitation, negligible expansions of existing uses. This Project will not have a significant effect on the environment because the Project will allow used auto sales within an existing building and there is no new construction proposed. Accordingly, this Project is exempt from further review pursuant to CEQA Guideline § 15301.

Lead Agency Contact Person: Jessica Serrano Telephone (626) 307-1463

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: Director of Community Development

- Signed by Lead Agency Date received for filing at OPR:
- Signed by Applicant