

**PLANNING COMMISSION MINUTES
OF THE FEBRUARY 28, 2005 MEETING
HELD IN THE COUNCIL CHAMBER
OF THE MONTCLAIR CIVIC CENTER
5111 BENITO STREET, MONTCLAIR**

CALL TO ORDER

Chairman Lenhert called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Commissioner Johnson led those present in the salute to the flag.

ROLL CALL

Present: Chairman Lenhert, Vice Chairman Flores, Commissioners Johnson, Sahagun (arrived at 7:05) and Vodvarka, Community Development Director Clark, City Planner Lustro, Associate Planners Frazier-Burton and Lai, and City Attorney Robbins

MINUTES

The minutes of the February 14, 2005 Planning Commission meeting were presented for approval. Commissioner Johnson moved to approve, Commissioner Vodvarka seconded, there being no opposition to the motion, the minutes were approved 4-0.

ORAL AND WRITTEN COMMUNICATIONS

AGENDA ITEMS

1. PUBLIC HEARING – CASE NUMBER 2005-3
Brighton Place LP
4545 Mission Boulevard
Request for a Precise Plan of Design and Variance

Associate Planner Frazier-Burton reviewed the staff report.

Vice Chairman Flores commented that the site plan lacked several dimensions and contained a scale of one inch equals 15 feet, which he had not seen before.

Commissioner Sahagun commented that he wanted to see a bus shelter constructed in conjunction with the project and concurred with Vice Chairman Flores that he had not seen that scale before.

Commissioner Vodvarka inquired why canvas awnings are being proposed instead of metal. City Planner Lustro replied that canvas awnings have come back into favor again with many architects. Staff does not necessarily have a problem with the canvas awnings as long as they are maintained. If a property owner takes pride in their property, it never gets to be a Code Enforcement issue. Commissioner Vodvarka stated that he was not insinuating that this company would let the awnings deteriorate, but was curious because he did not feel canvas awnings were cost effective.

Commissioner Johnson asked about the businesses that are proposed to move into the site; McDonald's being one, did staff know who the others would be. Associate Planner Frazier-Burton deferred the question to the applicant, who was present at the meeting.

Vice Chairman Flores concurred with Commissioner Sahagun regarding the bus stop and asked if it could be added. City Planner Lustro stated that staff does not know whether there is an existing Omnitrans bus route along Mission Boulevard, but he believed there was a north-south route along Ramona Avenue, at least up to Holt Boulevard. Staff would check into it and should have the necessary information prior to the Commission reviewing the plans for McDonald's.

Bill Fox, 3333 E. Concours, Suite 7200, Ontario, president of The William Fox Group (owner of the property), stated that until 5:00 p.m. the day of the meeting, McDonald's had an opportunity to rescind their decision to come to the property. The good news is that McDonald's has chosen to move forward. They had been talking to quite a few tenants and everything was pending McDonald's coming to the site and now that McDonald's is moving forward, they can move full swing into their marketing campaign. They have talked to a number of tenants, including Starbucks, Little Caesars, Dominos, many national tenants, and a local flower shop. He agreed that the scale on the site plan is unusual. They have architects on staff and he did not know why they came up with that scale. He added that he believed that the plans for McDonald's would be forthcoming very quickly.

Vice Chairman Flores asked if the McDonald's plans could alter the remainder of the site plan. Mr. Fox responded that McDonald's has prototypes that will work within the approximately 80' x 100' pad indicated on the plans. He has seen some of the drawings and, without making any commitments; he believed that the Commission would see something very soon from McDonalds. He thanked the Commission and staff for working so diligently on the proposal.

Commissioner Sahagun commented that he wants to be assured that there will be adequate parking and asked if staff has looked at it closely. City Planner Lustro stated that since the 6,800 square-foot retail building is being reviewed first, it will drive the maximum number of seats that McDonald's will be permitted to have, since the Municipal Code bases restaurant parking on the number of seats in the restaurant. Staff expects that the property will be over-parked. Staff will, however, condition the McDonald's approval so that the site will park itself pursuant to the Municipal Code.

Commissioner Sahagun stated that he did not want to take away from a national retailer, such as Starbucks, or a local flower shop, but felt McDonald's would attract people and businesses to the area more than any other proposed tenant.

Mr. Fox clarified that the 80' x 100' McDonald's pad also includes additional parking that is not shown on the site plan being considered by the Commission. He added that McDonald's originally intended to commence construction in 2006, but it now looks like they may begin sooner.

Vice Chairman Flores moved that, based upon evidence submitted, there will be no significant impact on the environment as a result of the proposed retail development, and that a DeMinimis finding of no impact on fish and wildlife and Negative Declaration have been prepared, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Commissioner Vodvarka moved to grant a Variance for a front yard building setback of 23'-7" rather than the Code-required 75 feet, an interior side yard setback of 10'-0" rather than the Code-required 20 feet, and a rear yard setback of 10'-0" rather than the Code-required 20 feet in order to achieve optimum building design and layout, by adopting Resolution No. 05-1597, subject to making the four required findings and subject to the 46 conditions of approval, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

Commissioner Johnson moved to approve the Precise Plan of Design request under Case No. 2005-3 for the site plan, elevations, colors, and materials associated with the proposed retail building per the submitted plans and as described in the staff report, subject to the 46 conditions of approval, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

1. This approval is for the following:
 - a. A Variance to allow a 23'-7" front yard building setback, a 10'-0" interior side yard building setback along the easterly property line, and a 10'-0" rear yard building setback along the southerly property line.
 - b. A Precise Plan of Design (PPD) for the construction of a 6,800 square-foot retail building at 4545 Mission Boulevard as depicted on the submitted plans and described in the staff report. All uses located within the building shall be in compliance with the Montclair Municipal Code. All business operations shall be conducted entirely within the enclosed building unless otherwise approved through the Conditional Use Permit (CUP) process.
2. Precise Plan of Design (PPD) approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant is diligently pursuing building plan check toward eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.

3. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
4. Prior to submittal of grading plans or other improvement plans, the applicant shall prepare and submit for review and approval a Water Quality Management Plan (WQMP) in accordance with the State of California Santa Ana Regional Water Quality Control Board Guidelines for San Bernardino County to Joe Rosales, NPDES Coordinator. WQMP Guidelines may be purchased from the City of Montclair or are available for review on-line at: www.swrcb.ca.gov/rwqcb8/html/san_bernardino_permit.html. The Water Quality Management Plan shall be prepared by a Registered Civil Engineer or other qualified professional as may be authorized in the guidelines.
5. Prior to issuance of building permits, the applicant shall submit the following documents for review and approval by the City Engineer:
 - a. A preliminary soils report, addressing the geology, stability of the site, and grading requirements.
 - b. A comprehensive grading and drainage plan prepared by a registered civil engineer in conformance with Chapter 70 of the Uniform Building Code and the requirements of the City. An advance plan check fee, in an amount to be determined by the City Engineer, shall be required at the time of plan submittal. Prior to the commencement of grading or any clearing of the site, a grading permit shall be obtained from the Building Division.
 - c. Dedication to the City of Montclair and/or other public agencies easements for water, storm drains, sanitary sewers and other utilities, if applicable.
 - d. Street improvement plans for Mission Boulevard and Ramona Avenue to the satisfaction of the City Engineer. Plans shall comply with State and/or City disabled-accessible requirements for ramps, street access, and parking. Street improvement plans shall include, but not be limited to, removal and replacement of P.C.C. curb, gutter and sidewalk and A.C. pavement. Disabled-accessible path-of-travel shall be maintained through drive approaches.
 - e. Plans for erosion control and stormwater pollution prevention. A general construction permit may be required. Contact Joe Rosales, NPDES Coordinator, at 909/625-9470 for requirements.
 - f. A letter of non-interference from any utility company that may have rights of easement within the property boundaries.

- f. Exposed raceways shall be prohibited on all building-mounted and freestanding signs.
 - g. Submit four (4) complete sets of plans for an approved, automatic fire sprinkler system directly to the Fire Marshal's office for review and approval, including two sets to be microfilmed/digitally imaged. The system shall conform to national standards. The system shall be equipped so to provide a signal to an UL-listed monitoring station in the event of a water flow or tampering.
 - h. Pay all required Montclair Fire Department fees.
 - i. Pay all required school fees directly to the Ontario-Montclair School District and the Chaffey Joint Union High School District.
7. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to the following:
- a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
 - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 - c. At no time shall pennants, inflatable signs, "human" signs, other similar advertising devices be utilized on the property or off-site.
8. The applicant/developer shall install all ADA-required disabled-accessible parking signs at parking lot entrances and parking spaces.
9. All decorative exterior lighting shall incorporate illumination sources of an appropriate wattage so as to not create any nuisance glare to the adjacent parking areas, private roadways, public rights-of-way, or neighboring properties. Should the applicant desire to install any building-mounted wide area lighting, it shall consist of fixtures set at 90 degrees to the building wall and incorporating fully cut-off lenses so as to direct illumination down to the surface to be illuminated. All soffit lighting installed within the building or drive-thru canopy shall be flush-mounted so that the lens or bottom of the fixture is flush with the underside of the soffit. The use of wall packs, barnlighters, or other similar unshielded luminaires on the property shall be prohibited.
10. All utility services to the building shall be installed underground.
11. All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, vents, transformers, or similar equipment, whether located on the ground or on the roof of the structure, shall be concealed on all sides from public view in a manner that is compatible with the

architectural design of the building and to the satisfaction of the Planning Division.

12. All building downspouts shall drain directly into landscape areas.
13. No public telephones, vending machines, children's rides or other coin-operated machines shall be located on the exterior of the building.
14. All satellite dish antennas, microwave receivers and transmitters, and other forms of communication equipment shall be located in a manner in accordance with the provisions of Chapter 11.46 of the Montclair Municipal Code.
15. Mechanical equipment including, but not limited to, utility meters, air conditioners, and repair equipment shall be located within the building or in a manner compatible with the architectural design of the building to the satisfaction of the Planning Division.
16. All trash enclosures shall be constructed of masonry consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City Development Standard #106 and shall have a solid roof matching that of the main building(s).
17. Above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be enhanced with a decorative building material consistent with that used on the main building(s).
18. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
19. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
20. Landscape maintenance shall be subject to immediate and periodic inspections by the City. The property owner shall be required to remedy any defects in grounds maintenance and replace any trees, shrubs, vines, or groundcover with a similar species, size, and quantity that are lost due to unauthorized removal, disease, windstorm, or other natural disaster as indicated by the City inspector, within two weeks after notification. Inspections shall be based on automatic landscape irrigation schedule, plant maintenance, weed and rubbish control, landscape plan approval, and any other area that is incidental to grounds maintenance.
21. Final architectural details, including but not limited to, the colors to be used on the building, shall be subject to Planning Division/Building Official review and approval. Building permits are required for all work.
22. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working

order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.

23. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357, including, but not limited to, adherence to the following standards:
 - a. The numerical address of the building shall be displayed in the upper right corner of the north-facing elevation of the "tower" element at the northwest corner of the building. Numerals shall be Helvetica font, 10 inches in height, minimum 1½ inches in depth, and in a color that adequately contrasts with the background to which they are attached.
 - b. The facility shall be provided with a minimum maintained illumination level of one (1) foot-candle from dusk until termination of business every business day. During all other hours of darkness, a minimum of one-quarter (.25) foot-candles of illumination shall be maintained at grade.
24. The applicant shall be required to install traffic regulatory signs at both driveways to the satisfaction of the City Engineer.
25. The applicant shall obtain an encroachment license agreement from the Public Works Department for any freestanding monument sign(s) located within the public right-of-way subsequent to approval of said sign(s) by the Planning Division.
26. Prior to issuance of a Certificate of Occupancy for the pad building at the intersection of Mission Boulevard and Ramona Avenue, the applicant shall construct a raised landscape median on Ramona Avenue from its intersection with Mission Boulevard south to its intersection with Mane Street. Irrigation for said median shall be connected to the City irrigation system and meter serving the landscape area along the east side of Ramona Avenue. Median design shall be to the satisfaction of the City Engineer and City Planner.
27. A 20-foot wide, unobstructed roadway capable of supporting firefighting apparatus shall be maintained within 150 feet of the structure prior to and for the duration of construction. Roadway is subject to Fire Department approval prior to commencement of construction.
28. The applicant/developer is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.
29. Landscaping adjacent to the entrance drives should be of low profile types not to exceed 8'-0" in height when mature (except trees).

30. All Fire Department access and fire lanes shall be clearly posted as "No Parking, Fire Lane." Signs shall be designed and mounted in accordance with Montclair Fire Department standards.
31. A fire hydrant system shall be required to provide the necessary water flow to the proposed structure. Exact number, location, and design of hydrants shall be determined by the Fire Marshal's office when building plans are received. Hydrants shall be operational prior to commencement of the framing stage of construction.
32. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
33. Commercial occupancies with cooking areas require an approved fixed fire extinguishing system for protection of the hood and duct system and overall cooking areas. This system shall be equipped with an automatic fuel shutoff to all equipment protected by this system. Four complete sets of drawings of this system shall be submitted to the Fire Marshal's Office prior to issuance of a permit.
34. In the event that a portion of the structure is to be used for the purpose of a public assembly, the developer/architect shall contact the Fire Marshal's Office for requirements prior to submission of building plans.
35. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
36. In those structures covered by CAC Title 19, all drapes, hangings, curtains, drops, and all other decorative material shall be made from nonflammable material, or shall be treated and maintained in a flame retardant condition, by means of a flame retardant solution or process approved by the State Fire Marshal.
37. An approved, emergency keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
38. All off-site and on-site trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
39. No soil shall be imported or exported without first obtaining approval from the City Engineer. A plan satisfactory to the City Engineer shall be prepared showing the proposed haul route within the City. Subject plan shall include provisions for street sweeping and cleanup.

40. Underground Service Alert shall be notified 48 hours prior to any excavation at 800/422-4133.
41. Discharge of wastewater into the sewer collection system shall comply with Chapter 9.20 of the Montclair Municipal Code.
42. Regional Sewerage Supplemental Capital Outlay fees are required in accordance with Section 9.20.440 of the Montclair Municipal Code and the Inland Empire Utilities Agency (IEUA). Contact Clay Jarvinen, Environmental Control Specialist, at 909/625-9446 for fees.
43. A Certificate of Occupancy is required prior to occupancy of the subject building. Issuance of a Certificate of Occupancy by the Building Official shall be contingent upon Fire Department inspection and approval of all conditions.
44. Prior to issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Building Division electronic images of all plans and records, which are submitted for the purpose of obtaining a building permit. Electronic images shall meet the City's Electronic Archiving Policy.
 - b. Submit to the Engineering Division electronic images of the approved Water Quality Management Plan. Electronic images shall comply with the City's Electronic Archiving Policy.
 - c. Remove and replace all substandard/damaged P.C.C. sidewalk, curb and gutter along both street frontages of the project site.
 - d. Install all approved landscaping and exterior lighting.
 - e. Install all ADA-required parking stalls and parking lot signs.
 - f. Completely fence the freestanding pad at the northwest corner of the property if development of that pad has not commenced.
45. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
46. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

2. PUBLIC HEARING – CASE NUMBER 2005-4
Paul Giannetakis
9617 Central Avenue
Request for a Conditional Use Permit and Precise Plan of Design

City Planner Lustro reviewed the staff report.

Chairman Lenhart asked if the parking lot is full of parked cars, how the trash would be picked up. City Planner Lustro acknowledged that the orientation of the existing trash enclosure is toward one of the parking spaces at the back of the property. It would be up to the applicant to coordinate with the trash hauler to schedule trash pick-up at hours when the restaurant is not busy so that they can get to the trash enclosure.

Commissioner Vodvarka stated that residential trash pick-up is different from commercial trash pick-up and assumed that commercial would be much earlier. City Planner Lustro replied that if there are certain restrictions about being able to get into the parking lot, then they would want the trash hauler to pick-up the trash during non-peak hours so it does not conflict with the restaurant's busiest times. Commissioner Vodvarka asked about the canvas awnings and if they would be designed in a manner to handle heavy rain, etc. City Planner Lustro answered that the awning being proposed is a half-round design that will weather-protect the walk-up window.

Commissioner Sahagun inquired whether the sign museum would be interested in the Tastee Freez sign. City Planner Lustro stated that he did not believe that there is historic value to the sign. The sign was constructed in the early 1960s, is internally illuminated with plex sign faces, a style which staff believes is not historically significant.

Commissioner Johnson commented that it was nice to see businesses already in the community that are trying to improve and appreciated seeing that happen and believed that they will attract more business once the drive-thru is open.

Frank Cervantes, operator of El Zamora's Restaurant, 9617 Central Avenue, representing the applicant, stated that the trash pick-up usually occurs early in the morning, around 7:30 to 8:00 a.m. He expects his business to increase, but does not feel there will be a lot of traffic at that time that would interfere with the trash pick-up. With regard to the canvas awnings, he commented that it would be to his advantage to make sure that they stay looking good, because if they get dirty or deteriorated, customers would wonder how the inside of the restaurant is. He thanked the Commission and staff.

Chairman Lenhart asked if the applicant is building a new trash enclosure, why is it being oriented toward a parking space. City Planner Lustro replied that the trash enclosure already exists and the recommended standard condition is intended only to cover construction of any new trash enclosures.

Commissioner Johnson commented that there is a similar trash enclosure-parking space conflict at 7-11. She does not believe it is a critical issue.

Chairman Lenhert stated that he read Condition No. 16 as a requirement for the applicant to construct a new trash enclosure. City Planner Lustro stated that Condition No. 16 is a standard condition that was included just in the event that they build a new trash enclosure; we are not requiring them to construct a new trash enclosure.

Vice Chairman Flores commented the plot plans that have recently come before the Commission have been lacking and wondered if there were some guidelines when they come in for plan check where the plot plan must have certain items.

Chairman Lenhert commented that he was pleased to see this business trying to make improvements.

Commissioner Johnson moved that, based upon evidence submitted, there will be no significant impact on the environment as a result of the addition of a drive-thru component and outdoor dining to an existing restaurant, and that a DeMinimis finding of no impact on fish and wildlife and Negative Declaration have been prepared, seconded by Commissioner Sahagun, amending Condition No. 16, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Flores moved to grant a Conditional Use Permit for the proposed drive-thru and outdoor dining in the "C-2" zoning district at 9617 Central Avenue by adopting Resolution No. 05-1596, subject to making the four required findings and subject to the 33 conditions of approval, seconded by Commissioner Johnson, there being no opposition to the motion, the motion passed 5-0.

Commissioner Vodvarka moved to approve the Precise Plan of Design (PPD) under Case No. 2005-4 for the site plan, elevations, landscape plan and conceptual sign program associated with the proposed restaurant project at 9617 Central Avenue, and related on-site improvements per the submitted plans and as described in the staff report, subject to the 33 conditions of approval, seconded by Chairman Lenhert, there being no opposition to the motion, the motion passed 5-0.

1. This approval is for the following:
 - a. A Conditional Use Permit (CUP) to allow the addition of a drive-thru facility and outdoor dining area with a maximum seating capacity of 12 to an existing restaurant (El Zamora's) at 9617 Central Avenue per the submitted plans. Any substantial changes to the site plan, operation or business hours shall require prior City approval.
 - b. A Precise Plan of Design for the remodel of the existing building and reconfiguration and upgrading of site improvements at 9617 Central Avenue.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six (6) months from the date of Planning Commission approval unless substantial progress has been made in property improvement or that the store is in operation with City issuance of a Certificate of Occupancy. The applicant and/or property owner shall be responsible to apply for a time extension at least

30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date. Suspension of the approved use for a period of six months or more voids this CUP for the specified use.

3. Precise Plan of Design (PPD) approval shall be valid for a period of one year and shall automatically expire on the anniversary date of Planning Commission approval unless the applicant is diligently pursuing building plan check toward eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
4. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
5. This permit may be modified or revoked for failure to abide by these conditions or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
6. Maximum hours of operation for the drive-thru shall be 7:00 a.m. to 12 midnight daily. The business owner has the option of opening and closing the drive-thru component of the business anytime within these hours. Any extension of the hours of operation requires prior City approval. The volume of the drive-thru speaker at the menu board shall be adjusted to the minimum level necessary to be audible by drive-thru customers.
7. No more than 36 seats aggregate shall be provided for dining purposes within the patio and outdoors.
8. Prior to issuance of building permits, the applicant shall:
 - a. Submit two complete sets of plans, including structural and Title 24 calculations, and three additional sets of architectural plans, including elevations, colors, and materials for review and approval by the Building and Planning Divisions. Contact Rudy Gomez, Senior Building Inspector, at 909/625-9437 for an appointment to submit plans.
 - b. Submit detailed plans for all exterior building-mounted and pole lighting for review and approval by the Planning and Building Divisions. All lighting shall incorporate 90-degree cut-off style luminaires and flat lenses. Submitted plans shall include a photometric analysis of all exterior lighting. Pole lighting, if any, shall be a maximum height of 20'-0" as measured from adjacent grade to top of luminaire.
 - c. Submit a detailed landscape plan for review and approval by the Planning Division that includes the following:

- i. Installation of three (3) *Pinus canariensis* (Canary Island Pine) street trees, minimum 25 feet on center, along the Central Avenue frontage. Street trees shall be minimum 24-inch box size and double-staked per City standards.
 - ii. Installation of a minimum of three trees of a species satisfactory to the City Planner in the landscape planters at the east side of the property.
 - iii. Construction of new landscape planters at the front of the property as shown on the submitted plans.
 - iv. Construction of a new landscape planter, minimum 18 inches in width, along the entire length of the exterior of the south wall of the patio. The drive-thru menu board shall be located at the east end of said landscape planter.
 - d. Submit a detailed sign program to the Planning Division for review and approval. The building-mounted sign shall be limited to the identification of the business name and consist of individual channel letters. If a new freestanding monument sign is constructed, the following criteria shall apply:
 - i. Monument sign shall be a maximum of eight feet (8'-0") in height and contain a maximum of 48 square feet of sign area.
 - ii. Internal illumination of the monument sign is encouraged provided that only the sign copy is illuminated via routed-out or channel letters. The sign face background shall be opaque.

Exposed raceways shall be prohibited on all building-mounted and freestanding signs.
 - e. Pay all required Montclair Fire Department fees.
9. Prior to any future changes to the approved sign program, an application shall be submitted to the Planning Division for review and approval by staff or the Planning Commission.
 10. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including, but not limited to the following:
 - a. Temporary banners for the purpose of advertising promotions shall require banner permits from the Planning Division prior to installation.
 - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
 11. No pay telephones or vending machines shall be located on the exterior of the building.

12. All new utility services to the building shall be installed underground.
13. All inoperable or abandoned roof-mounted mechanical equipment and the existing television antenna shall be removed prior to commencement of drive-thru operation. All remaining mechanical equipment and their component parts shall be painted to significantly match the color of the roof.
14. All satellite dish antennas, microwave receivers and transmitters, and other forms of communication equipment shall be located in a manner in accordance with the provisions of Chapter 11.46 of the Montclair Municipal Code.
15. Mechanical equipment including, but not limited to, utility meters, air conditioners, and repair equipment shall be located within the building or in a manner compatible with the architectural design of the building to the satisfaction of the Planning Division.
16. Any new trash enclosures shall be constructed of masonry consistent with the primary type and color of that used on the building. The construction of such trash enclosure(s) shall conform to City Development Standard #106 and shall include a solid cover roof compatible with the architectural design of the main building.
17. Any new above-grade concrete support pedestals for all proposed freestanding light poles throughout the project site shall be enhanced or "wrapped" with a decorative building material or texture consistent with those used on the main building.
18. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
19. Landscape maintenance shall be subject to immediate and periodic inspections by the City. The property owner shall be required to remedy any defects in grounds maintenance and replace any trees, shrubs, vines, or groundcover with a similar species, size, and quantity that are lost due to unauthorized removal, disease, windstorm, or other natural disaster as indicated by the City inspector, within two weeks after notification. Inspections shall be based on automatic landscape irrigation schedule, plant maintenance, weed and rubbish control, landscape plan approval, and any other area that is incidental to grounds maintenance.
20. All new trees incorporated into the project and all existing trees shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA).
21. The applicant and/or property owner shall be responsible for maintaining the building's signs, lighting, landscaping, and all improvements in good working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the building or associated improvements shall be removed immediately by the applicant/property owner upon notification by the City.

22. Construction drawings submitted to the Building Division for plan check review shall comply with Montclair Security Ordinance No. 357.
23. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
24. Landscaping adjacent to the entrance drives should be of low profile types not to exceed eight feet in height when mature (with the exception of trees).
25. All Fire Department access and fire lanes shall be clearly posted as "No Parking, Fire Lane." Signs shall be designed and mounted in accordance with Montclair Fire Department standards.
26. The applicant/developer shall install approved emergency lighting to provide adequate illumination automatically in the event of any interruption of electrical service.
27. An approved, emergency keyed access system shall be required to facilitate access by Fire Department personnel in the event of an emergency during non-business hours. Forms are available at Montclair Fire Department Headquarters, 8901 Monte Vista Avenue, for those occupancies requiring such a system.
28. All decorative exterior lighting shall incorporate illumination sources of an appropriate wattage so as to not create any nuisance glare to the adjacent parking areas, private roadways, public rights-of-way, or neighboring properties. Should the applicant desire to install any building-mounted wide area lighting, it shall consist of fixtures set at 90 degrees to the building wall and incorporating fully cut-off lenses so as to direct illumination down to the surface to be illuminated. All soffit lighting installed on the exterior of the building shall be flush-mounted so that the lens or bottom of the fixture is flush with the underside of the soffit. The use of wall packs, barnlighters, other similar unshielded luminaires, or decorative lighting installed solely for the purpose of illuminating the building, roof, or other architectural features shall be prohibited.
29. A final inspection of the interior tenant improvements is required prior to occupancy. Final inspection sign-off by the Building Division shall be contingent upon Planning Division and Fire Department inspection and approval of all conditions.
30. Prior to commencement of drive-thru operations, the applicant shall:
 - a. Submit to the Building Division electronic images of all plans and records for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Archiving Policy.
 - b. Complete construction of the disabled-accessible restroom and path-of-travel to the public right-of-way.

- c. Construct the new landscape planter along the patio wall as described in Condition No. 8.c.iv.
 - d. Completely remove the existing vehicle canopy at the front of the property.
 - e. Remove all non-functional roof-mounted equipment and existing television antenna.
 - f. Provide a minimum of one disabled-accessible parking stall and install ADA-required disabled-accessible parking signs at parking lot entrances and parking spaces.
31. Within nine months of commencement of Planning Commission action on this application (no later than November 28, 2005), the applicant shall:
- a. Remove overhead utility runs to building and place underground.
 - b. Completely remove the existing, non-conforming pole sign at the front of the property.
 - c. Complete all exterior building renovations per the submitted plans.
 - d. Complete all parking lot improvements, including planter curbs, landscaping and irrigation system, exterior lighting, new disabled-accessible parking and signs in compliance with ADA and Title 24 requirements, and provision of public sidewalk disabled-accessibility through both driveways.
 - e. Repair, reseal and re-stripe the entire parking lot per the approved site plan as well as all ADA and Title 24 requirements.
 - f. Remove the mercury vapor "barnlighter" on the east elevation and replace, if desired, with 90-degree, fully-cutoff style luminaires with flat lenses.
 - g. Remove the abandoned chain-link fence posts along the south property line.
 - h. Complete all architectural improvements to the exterior of the building and repaint the exterior walls of the entire building in neutral colors, subject to City review and approval.
32. To ensure compliance with the provisions of this Planning Commission approval, a final inspection is required from the Planning Division when work has been completed. The applicant shall inform the Planning Division and schedule an appointment for such an inspection.
33. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of

this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay because of such action. At its sole discretion, the city may participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

INFORMATION ITEMS

Commissioner Sahagun asked about the status of the bus shelter outside the Richmond American tract. City Planner Lustro stated that the last he heard was they were waiting to have a street light relocated. Edison has pulled the power to the new streetlight location but the streetlight has not yet been set. Commissioner Sahagun asked if there was a retention bond that would not be released until the work was completed. City Planner Lustro stated that is correct and that there is still a significant amount of work that needed to be completed by the developer.

Commissioner Vodvarka noticed several items in his neighborhood that have been reported to Code Enforcement, but nothing has happened yet. At 10246 Saratoga Avenue, there are weeds and junk in the front yard. Over the weekend, a wall was constructed at the sidewalk at 10258 Saratoga Avenue. At 10245 Columbine Avenue, the property owner is bringing in more junk. Director Clark advised that staff would report it to Code Enforcement again.

ADJOURNMENT

Chairman Lenhert adjourned the meeting at 7:44 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary