

**PLANNING COMMISSION MINUTES
OF THE APRIL 11, 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

Vice Chairman Flores led those present in the salute to the flag.

ROLL CALL

Present: Chairman Lenhert, Vice Chairman Flores, Commissioners Johnson, Sahagun and Vodvarka, City Planner Lustro, Associate Planners Frazier-Burton and Lai, and City Attorney Robbins

Excused: Community Development Director Clark

MINUTES

The minutes of the March 28, 2005 Planning Commission meeting were presented for approval. Vice Chairman Flores moved to approve, Commissioner Vodvarka seconded, there being no opposition to the motion, the minutes were approved 5-0.

ORAL AND WRITTEN COMMUNICATIONS

AGENDA ITEMS

1. PUBLIC HEARING – CASE NUMBER 2005-10
Lloyd Wells Trust (United Rentals)
10632 Monte Vista Avenue
Request for a Conditional Use Permit

Associate Planner Lai reviewed the staff report.

Commissioner Johnson asked for clarifications on how tall the silo would be and how far away it would be visible. Associate Planner Lai replied that the silo would be about 19 feet tall and partially visible to Monte Vista Avenue; however, the proposed 10-foot high wall along the south property line, the 10-foot high wall return parallel to Monte Vista, and the existing

United Rentals building with its landscaping and fencing will sufficiently screen the facility in staff's opinion.

Vice Chairman Flores asked about the water drainage. Associate Planner Lai replied that based on the grading plan, the water will flow back onto Monte Vista toward the east. Vice Chairman Flores asked about the V-gutters. Associate Planner Lai stated that there is an existing V-gutter along the south property line, but there is an outlet for drainage to the west towards Brooks Street and deferred the question to the applicant.

Chairman Lenhert asked for clarification regarding Condition No. 12. City Planner Lustro replied that Condition No. 12 is a standard condition of approval that is included in most projects. NPDES stands for National Pollution Discharge Elimination System and WQMP is Water Quality Management Plan. Those are federal and local water quality standards that have to be met by all new projects, including this particular project. The property already has a clarifier on site and will likely not have to do a whole lot in the way of improvements to comply with water quality standards.

Commissioner Vodvarka asked what happens to the wastewater and the extra cement that is left in the hopper.

Chris Kerber, Manager of United Rentals, 10632 Monte Vista Avenue, Montclair, replied that there is a 3-stage clarifier on the property and United Rentals requires that the customer clean the drum before it is returned so that there is minimal amount of waste. The machine they have is a new machine within the marketplace. It pumps everything into the trailer dry and once everything is pumped into the trailer, water is shot into the trailer, and, as the customer hauls it away, the trailer turns and mixes the cement. United Rentals will charge the customer a cleaning deposit if the customer returns the trailer with material left inside, but did not feel that they would have much of a problem. If they do, the trailers will be brought inside their wash rack, which has a 3-stage clarifier, and a minimal amount of waste will be produced. They do have the schematics so they can advise the customer how much cement they will need. This is one of the only units within the local area and that is what interested them in it. Customers will be able to come to Montclair, get ¼ yard of cement, and take it to their home.

Mr. Kerber also advised that the screen wall would be built six feet in front of the V-gutter. Again, there is no water involved until it is shot into the trailer. The stormwater runoff does flow to the southwest corner and out towards the railroad tracks. That is the way the facility was approved and built.

Mr. Kerber stated that he has been with United Rentals for 25 years; the old facility used to have a batch plant and everything was dropped in wet and by the time you got to the project, all the rocks were at the bottom of the trailer and you had to dig everything out. There was a lot of waste involved with the old system, but there is virtually no waste with the new system.

City Planner Lustro stated that City Attorney Robbins made an excellent suggestion to prepare a handout, one that the City's Public Works department could assist in preparing, to give to each customer when they pick up cement, which identifies things they are not supposed to discard. Sometimes there might be excess cement in the drum, and the

temptation might be to hose out the drum into the gutter in front of their house, and ultimately that would get into our storm drain system and become our problem.

Mr. Kerber stated that the consultant for United Rentals already has something in the works to give to customers as they buy cement. City Planner Lustro advised that if United Rentals needs any assistance with additional information or some direction on verbiage, he was positive that Public Works staff would be happy to assist.

Commissioner Vodvarka moved that, based upon evidence submitted, there will be no significant impact on the environment as a result of the proposed industrial project, 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 Johnson moved to approve the Conditional Use Permit amendment under Case No. 2005-10 to allow the outdoor mini-batch facility and related equipment at the United Rentals facility in the M-2 (General Manufacturing) zoning district at 10632 Monte Vista Avenue, by adopting Resolution No. 05-1603, subject to making the four necessary findings, and subject to the 21 conditions of approval, with corrections to Condition No. 18 b, seconded by Commissioner Sahagun, there being no opposition to the motion, the motion passed 5-0.

Vice Chairman Flores moved to approve the Precise Plan of Design request under Case No. 2005-10 for the site plan and elevations associated with the proposed outdoor mini-batch facility and associated screen walls per the submitted plans and as described in the staff report, subject to the 21 conditions of approval, with corrections to Condition No. 18, seconded by Commissioner Vodvarka, there being no opposition to the motion, the motion passed 5-0.

1. This approval is for the following zoning entitlements relating to an industrial parcel known as 10632 Monte Vista Avenue (APN 1012-101-11):
 - a. An amendment to the Conditional Use Permit (CUP) under Case No. 97-22 for the equipment rental yard by adding an outdoor mini batch facility at the southwest corner of the property; and
 - b. A Precise Plan of Design (PPD) for the site plan, elevations, colors, materials, and conceptual landscape plan for the placement of said facility and the construction of masonry screen walls, and associated on-site improvements.
2. CUP approval shall be valid for a period of six months and shall automatically expire on the six-month 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 CUP expiration date.

3. 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. Applicant may be required to prepare and submit a Water Quality Management Plan (WQMP) to the City for review and approval in accordance with the State of California Santa Ana Regional Water Quality Control Board Guidelines for San Bernardino County. Contact Joe Rosales, NPDES Coordinator in the Public Works Department at (909) 625-9470 for details and requirements. 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. An erosion control plan and storm water pollution prevention plan is an integral part of the grading plan. Final decision of such WQMP requirement will be determined at the time a complete review of the proposed mini batch plant operation is completed.
6. Prior to issuance of building permits, the applicant shall:
 - a. Submit two complete sets of plans and specifications for the batch plant, including structural calculations, and three additional sets of plans, including elevations, colors, and materials, electrical, plumbing, mechanical, landscaping, lighting, and accessibility details 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 all necessary documentation, or certificates of exemption from the South Coast Air Quality Management District (SCAQMD) for the batch facility.
 - c. Submit detailed landscaping and irrigation plans for the new landscape areas. Planting plan shall include names, quantity and sizes of all new plant materials to be used on the property.
 - d. Pay all required Montclair Fire Department fees.
7. All utility services to the facility shall be installed underground.

8. 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.
9. All new trees incorporated into the project shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA).
10. All landscape planting areas shall have 100 percent irrigation coverage by an automatic irrigation system.
11. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
12. No soil shall be imported or exported without first obtaining approval from the City Engineer. A plan acceptable 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. Contractors shall comply with all NPDES/WQMP requirements.
13. Underground Service Alert shall be notified 48 hours prior to any excavation at 800/422-4133.
14. 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.
15. A 20-foot wide, unobstructed roadway capable of supporting firefighting apparatus shall be maintained within 150 feet of the structures prior to and for the duration of construction. Roadway is subject to Fire Department approval prior to commencement of construction.
16. The applicant/developer is responsible for reasonable periodic clean-up of the construction site to avoid hazardous accumulation of combustible trash and debris.
17. Final inspection by the Building Division is required prior to occupancy of the subject buildings and shall be contingent upon Fire Department inspection and approval of all conditions.
18. Prior to final inspection for the mini-batch facility, 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. Install all approved landscaping.
19. Prior to a final inspection, the person or corporation responsible for the preparation of the Water Quality Management Plan, if applicable, shall certify in writing to the Building Official that all conditions and requirements of the Water Quality Management Plan have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official that lessee or purchaser has been advised in writing of lessee's or purchaser's on-going maintenance responsibilities with respect to the requirements of the Water Quality Management Plan.
20. 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.
21. 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 2005-12
Allen Tsai
4913 Moreno Street
Request for a Conditional Use Permit

Associate Planner Lai reviewed the staff report.

Commissioner Johnson asked if the new tenant made many changes to the interior because she did not think 86 customers could fit into the tenant space. Associate Planner Lai replied that they have not made many changes and that the 86-person capacity also includes the outside patio dining.

Commissioner Sahagun asked if the higher number of occupancy changed the parking ratio. City Planner Lusto commented that the parking ratio for restaurants is one parking space for every four seats so the restaurant itself would require 22 parking spaces. According to the cover sheet on the staff report, the center currently has 40 parking spaces.

Chairman Lenhert asked for clarification on Condition No. 10.c and whether it meant that alcohol could not be served or consumed in the outdoor patio. Commissioner Vodvarka commented that when the former tenant, Graziano's, was there, he remembered beer being available in the outdoor patio. City Planner Lustro advised that the intention is not to preclude customers from consuming beer and wine on the patio. The condition states "or as otherwise permitted by the Planning Commission," so if the Commission wants to be clear on that, staff can add language that states, "which shall consist of a wholly enclosed building and the existing enclosed patio." The meaning of the standard condition is generally intended for a restaurant that does not have an outdoor dining area or patio. Clearly in this case, the business has an approved patio area that is fully enclosed by ABC standards.

John Davidson, co-owner of Aloha Pizza, 4913 Moreno Street, Montclair, stated that he was available for any questions that the Commission had. He asked for clarification on the condition for the property owner regarding the reciprocal easement and was not sure why it was included in their approval. City Attorney Robbins stated that it is a condition that staff believes is beneficial to both the subject property and the one to the south when it develops. Staff realizes that the reciprocal easement is not within the control of the business owner but staff still wants it placed in the conditions and the owner will be notified of this requirement. City Planner Lustro reminded the Commission that even though it is reviewing a proposal for an individual business on the property, the actual applicant is the property owner so the conditions are ultimately the responsibility of the property owner, even though most of the conditions apply to the business operation. It is incumbent upon the property owner to ensure compliance with any conditions placed upon the project. As was mentioned by Associate Planner Lai, the intention is not to preclude the business owner from moving forward with his operation while staff works with the property owner on the reciprocal easement.

Commissioner Johnson asked if any costs associated with the easement would be the responsibility of the business owner. City Planner Lustro stated that it would be the responsibility of the property owner.

Mr. Davidson commented that it was ABC that requested that they somehow shield the patio from view, so they installed the bamboo fence to comply with ABC's desire to visually shield the drinking area away from the public. That is why they did what they did with the fencing, but they would be happy to move the fencing to the inside so the lattice is still the same lattice that was there before. City Planner Lustro asked Mr. Davidson if the bamboo fencing was the same height as the lattice. Mr. Davidson confirmed that it was. City Planner Lustro replied that if the bamboo is moved to the inside of the lattice fence and the height of the bamboo that is used to wrap the columns is cut down to a similar height that would be satisfactory.

Commissioner Vodvarka asked if the outdoor patio area permitted smoking. Mr. Davidson replied that customers could smoke on the patio. He inquired if the approval was granted by the Commission, would he be delayed by the easement issue. City Attorney Robbins replied no.

Commissioner Johnson moved that, based on the evidence submitted, a finding is made that there will be no significant environmental impact as a result of the granting of a CUP to allow the on-premises sale of beer and wine in conjunction with the operation of a bona fide

restaurant, including a DeMinimis finding of no effect on fish or wildlife, and a Negative Declaration has been prepared, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0, with modifications to Condition 10.c, addition of new Conditions 11 and 12, and the re-numbering of current Condition 11 to 13.

Commissioner Vodvarka moved to approve the CUP under Case No. 2005-12 for the on-premises sale of beer and wine (Type 41) by adopting Resolution No. 05-1602, subject to making the required findings and subject to the 13 conditions of approval, with modifications to Condition 10.c, addition of new Conditions 11 and 12, and the re-numbering of current Condition 11 to 13, seconded by Vice Chairman Flores, there being no opposition to the motion, the motion passed 5-0.

1. Approval is granted for a CUP to allow on-sale beer and wine (Type 41) in conjunction with a bona fide eating establishment, Aloha Pizza Restaurant, at 4913 Moreno Street, based on a finding of public convenience and necessity. Any substantial changes to the operation increase in floor area of the demised space, physical location, or upgrade of license to full alcohol (distilled spirits) sales shall require prior City approval. Any discontinuation or substantial changes to the full service restaurant without City approval shall be a violation of this CUP and may be cause for revocation.
2. Conditional Use Permit (CUP) approval shall be valid for a period of six months from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
3. The restaurant shall be operated, maintained and open to the general public as a full service (bona fide) eating establishment, serving meals at all times that beer and wine are offered for sale and consumption on the premises. Patio dining area may be included provided it is physically fenced-in from the public walkway and is only accessible from inside the restaurant. Approved hours of operation for the restaurant are 9:00 a.m. to 12:00 midnight, seven days per week. Any changes to the hours require prior City approval.
4. No live entertainment, dancing, pool or billiards shall be incorporated as part of the restaurant operation without first obtaining City approval.
5. Seating and building occupancy capacity within this restaurant shall be 85, unless otherwise revised by the Building Official.
6. Take-out, off-sale, or "to go" beer and wine sales shall not be permitted under this approval. Applicant shall post notification of this limitation within plain view of employees and customers.

7. Prior to the serving of beer and wine, the applicant shall obtain the appropriate license from the Department of Alcoholic Beverage Control (ABC), and demonstrate to the Planning and Building Divisions that all necessary conditions have been met.
8. No window signs either inside or outside, patio signs, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase.
9. This CUP for on-sale beer and wine 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.
10. The following mandatory conditions are hereby imposed as part of the CUP approval for on-sale beer and wine:
 - a. The premises shall be maintained at all times in a neat and orderly manner.
 - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.
 - c. No beer and wine shall be sold, dispensed or offered for consumption except within the permitted premises, which shall consist of a wholly enclosed building and existing enclosed patio, except as otherwise permitted by the Planning Commission.
 - d. The exterior appearance of the premises shall be designed and maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as not to cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
 - e. The permittee shall comply with all State statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
 - f. The permittee shall acknowledge and agree that the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e) above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:
 - i. The specific land use requested by the permittee and authorized by the City;

- ii. The compatibility of permittee's authorized land use with adjacent land uses;
- iii. The welfare and safety of the general public within the City.

In view of such deleterious secondary effects, permittee shall acknowledge that the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a State statute, rule or regulation concerning the sale to or consumption of beer and wine by a minor.

- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
11. The applicant shall move the bamboo fencing in the patio area adjacent to the driveway and parking lot to the inside of the existing lattice fence and reduce the height of the bamboo around the columns to the same height as the lattice fence.
 12. Within 90 days of Planning Commission action on this applicant, the property owner shall execute a reciprocal access agreement allowing through vehicular access to the property to the south (APN 1008-171-05) at such time that the adjacent property is developed. Location of said reciprocal access point between properties shall be to the satisfaction of the Director of Community Development. Said agreement shall be to the satisfaction of the City Attorney.
 13. 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.

INFORMATION ITEMS

City Planner Lustro stated that staff will advise the Commission at the next meeting whether the second meeting in May will be cancelled because of staff's attendance at the ICSC conference in Las Vegas.

Vice Chairman Flores commented that the paving at Mission Boulevard and Central Avenue has been completed, but they did something weird; they came in from Central going west

about 600 feet and came in from Monte Vista going back to Central about 300 feet and everything else in the middle was left as it was. City Planner Lustro responded that the paving was a County, not a City project. The County of San Bernardino, contracting with All American Asphalt, administered the project and staff's understanding is that the contract was meant to repair the worst sections of road, but there are still some areas that are not in very good shape. The work was done in a way that will allow the City, when we continue our improvements on Mission Boulevard, to do a reduced amount of demolition and reconstruction, as it blends in with what we will do later on.

Commissioner Johnson commented that the annual Neighborhood Partnership "Dining with Dollars" event was held and she did not see many Montclair residents, but noticed Chairman Lenhart was present.

Chairman Lenhart stated that there is a pothole at Benito and Helena that has been patched, but because of the material used to patch it, it is still a problem.

ADJOURNMENT

Chairman Lenhart adjourned the meeting at 8:02 p.m.

Respectfully submitted,

Laura Berke
Recording Secretary