



CITY OF MONTCLAIR
PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS
5111 Benito Street, Montclair, California 91763

REGULAR ADJOURNED MEETING
Monday, October 8, 2012
7:00 p.m.

It is respectfully requested that you please silence your cell phones and other electronic devices while the meeting is in session. Thank you.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Chair Tenice Johnson, Vice Chair Luis Flores, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

4. APPROVAL OF MINUTES

The minutes of the September 24, 2012 Planning Commission meeting are presented for consideration.

5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS

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

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete a speaker's card and submit it to the City Planner. Speaker's cards are available at the entrance to the Council Chambers.

6. AGENDA ITEMS

- a. PUBLIC HEARING - CASE NUMBER 2012-15
Project Address: 9335 Monte Vista Avenue
Project Applicant: Ferrar-Coleman Corporation
Project Planner: Silvia Gutiérrez, Assistant Planner
Request: Conditional Use Permit to re-establish and allow on-sale of beer and wine and an outdoor dining area

7. INFORMATION ITEMS

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

8. PUBLIC INSPECTION OF MATERIALS

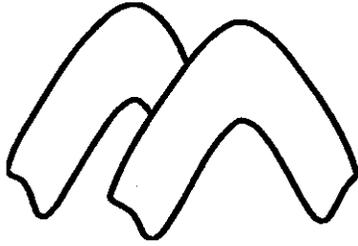
Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of October 22, 2012 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California.

CERTIFICATION OF AGENDA POSTING

I, Laura Berke, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda was posted in the window adjacent to the north door of Montclair City Hall on October 4, 2012.



**CITY OF MONTCLAIR
PLANNING COMMISSION**

MEETING DATE: 10/08/12

AGENDA ITEM 6.a

Case No.: 2012-15

PROJECT ADDRESS: 9335 Monte Vista Avenue

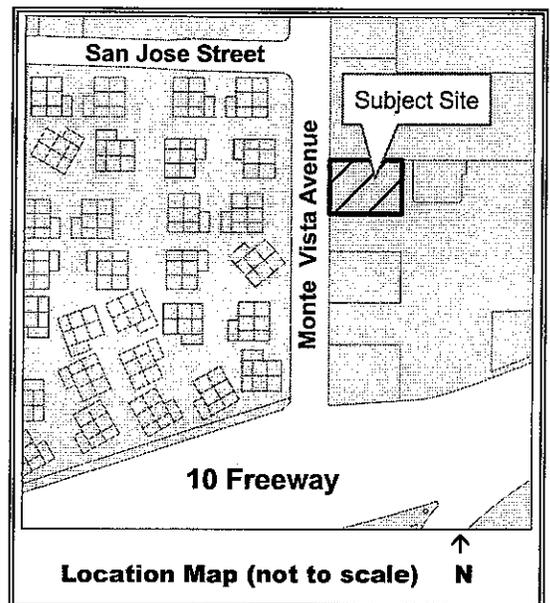
ASSESSOR PARCEL NUMBER: 1008-331-15

APPLICANT: Ferrar-Coleman Development Corporation

PROJECT DESCRIPTION: Conditional Use Permit (CUP) request to re-establish and allow the on-premises sale of beer and wine in conjunction with a bona fide eating establishment.

ZONING: "C-3" (General Commercial)

GENERAL PLAN: Regional Commercial



EXISTING SITE FEATURES/CONDITIONS

Structures: One-story, two-tenant building (subject tenant space is 4,108 square feet)

Parking: Shared parking lot with 32 paved parking spaces immediately adjacent to the proposed use

ADJACENT LAND USE DESIGNATIONS AND USES

	General Plan	Zoning	Use of Property
Site	Regional Commercial	"C-3" (General Commercial)	Two-tenant commercial building (former Rockin' Baja Coastal Cantina and LensCrafters/Eye Exam 2000)
North	Regional Commercial	"C-3" (General Commercial)	Elephant Bar Restaurant
South	Regional Commercial	"C-3" (General Commercial)	Chili's Grill and Bar
East	Regional Commercial	"C-3" (General Commercial)	Red Lobster Restaurant
West	Medium Density Residential (8-14 units/acre)	"R-3" (Multiple Family Residential)	Cimarron Oaks townhomes

Report on Item Number 6.a

PUBLIC HEARING – CASE NUMBER 2012-15

APPLICATION TYPE(S)	Conditional Use Permit
NAME OF APPLICANT	Ferrar-Coleman Development Corporation
LOCATION OF PROPERTY	9335 Monte Vista Avenue
GENERAL PLAN DESIGNATION	Regional Commercial
ZONING DESIGNATION	C-3 (General Commercial)
EXISTING LAND USE	Vacant tenant space
ENVIRONMENTAL DETERMINATION	Categorically Exempt (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez

Project Description

The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the on-premises sale of beer and wine (ABC License Type 41) in conjunction with a bona fide eating establishment in the lease space formerly occupied by Rockin' Baja Coastal Cantina on the east side of Monte Vista Avenue between South Plaza Lane and Interstate 10. The subject lease space is approximately 4,108 square feet in size and is located at the west end of the existing building that also houses LensCrafters and Eye Exam 2000.

The new restaurant specializes in Asian cuisine from China and Japan and would be named Dragon 99. The full-service restaurant would be open from 11:00 a.m. to 10:00 p.m. Monday through Saturday, and 11:00 a.m. to 9:00 p.m. on Sunday.

To accommodate the new restaurant use, a number of interior tenant improvements are proposed that include a re-working of the floor plan to suit the applicant's dining room preferences. No bar counter, dance floor, entertainment or pool tables, or outdoor dining have been proposed. No significant changes to the exterior of the building are proposed. Plans for the project are provided in the Commission packets for reference.

Background

- Dragon 99 is proposed to be a restaurant where customers can purchase food that is more in line with full-service restaurants, coupled with the speed and convenience of fast food. Orders would be taken and customers would be served by trained wait staff.
- Section 11.42.040.A of the Montclair Municipal Code requires approval of a CUP for the on-premises sale of beer and wine in conjunction with a bona fide eating establishment.

- The subject site is located along the western edge of the Montclair Entertainment Plaza on the east side of Monte Vista Avenue. Based on City records, the subject pad building was constructed in 1980 pursuant to approval of a Precise Plan of Design (Case Number 80-25).
- The subject lease space was most recently occupied by the Rockin' Baja Coastal Cantina, which closed in December 2011.

Planning Division Comments

Staff is generally supportive of the proposed request to allow the on-premises sale and service of beer and wine with meals at the new Dragon 99 Restaurant. Restaurant uses that offer the choice of beer and wine with meals are a common practice and generally pose no significant issues or problems. Alcoholic beverages would be stored behind the counter, sold only to food customers (identification is required), and are not allowed to be taken off the premises even for "to go" orders. The owner/manager of the proposed restaurant has experience operating a similar restaurant in Yuma, Arizona, and staff believes that he can manage this restaurant use in a satisfactory manner.

The sale and consumption of beer and wine beverages in conjunction with a bona fide eating establishment at this location is a compatible and consistent land use when compared to the other commercial retail type businesses in the surrounding area. Accordingly, conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained. Moreover, the proposed restaurant does not rely on problematic elements such as a bar counter, dance floor, entertainment, or pool tables as part of their business format.

In regard to parking for the restaurant, staff has calculated that the subject use requires a minimum of 28 parking spaces. The site has 32 parking spaces in close proximity to the use, which it shares with the LensCrafters/Eye Exam 2000 business. Moreover, there is a reciprocal parking agreement with adjacent portions of the Entertainment Plaza where additional parking spaces exist. Lack of available parking in the center has not been major concern at the site. As such, staff finds that there is adequate on-site parking readily available to support the proposed restaurant use as well as the other uses in the center.

Although no changes are proposed for the exterior of the building, the applicant may revise the existing paint palette. The previous restaurant chose the existing colors to provide what they believed to be appropriate for a cantina/tropical look. Staff believes the existing colors should be changed or modified to provide a fresh look for the new restaurant. At a minimum, the property owner or applicant need to repair "spalding" stucco conditions and touch up the appearance of the paint on the building to eliminate ghost outlines and patches from previous signs, faded color conditions, or sun-altered colors such as what has occurred on the columns at the front door. Originally, the columns were painted a burgundy color but a southern sun exposure has caused them to turn brown and inconsistent with the same color used elsewhere on the building. Staff would be available

to work with the property owners or applicant on a new or modified color scheme. A condition of approval directing the applicant to work with staff has been included.

Conditional Use Permit Findings

Staff believes the necessary findings for granting the CUP for on-sale beer and wine can be made, as follows:

- A. That the proposed on-premises sale of beer and wine (ABC Type 41 license) in conjunction with the full menu and food service provided within a bona fide eating establishment (restaurant), is essential or desirable to the public convenience and public welfare, in that the proposed restaurant is located within a commercial center that is intended to be a place for restaurant uses, most of which serve beer and wine with meals.
- B. That granting the CUP for the proposed on-premises sale of beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located in a full service restaurant that permits patrons of all ages. The center where the proposed use would be is fully developed and has adequate parking and lighting. Moreover, the proposed restaurant use is within a center that serves as a major destination point for diners from Montclair and surrounding communities.
- C. That the proposed on-premises sale of beer and wine within the restaurant at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-sale of beer and wine in the "General Commercial" zoning district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use so that it does not detract from the general quality of the center and surrounding area.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area, including full service restaurant uses serving beer and wine with meals.

Department of Alcoholic Beverage Control (ABC) Finding

The project site is located within Census Tract Number 2.01, which allows up to four (4) on-sale ABC licenses. According to ABC records as of October 2012, there are currently 23 licenses existing within the census tract, and therefore ABC requires a finding of public convenience or necessity in order to issue a new license. Of the 23 licenses, eight (8) are Type 41 – beer and wine licenses.

City staff and the Police Department support this request for the on-premises sale of beer and wine in conjunction with the proposed restaurant as desirable to the public convenience and necessity. The proposed restaurant does not propose late closing hours

and would continually serve hot meals made to order for consumption on the premises. The sale of alcoholic beverages is not a major portion of the business but offers customers a choice if desired. Moreover, the proposed restaurant is located within in an existing major shopping center in the primary commercial area of the City where other restaurants are located and offer alcoholic beverages to its customers.

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

Public Notice and Comments from the Public

This item was published as a public hearing in the Inland Valley Daily Bulletin newspaper on September 28, 2012, as prescribed by law for this discretionary land use entitlement. Public hearing notices were mailed to all property owners within 300 feet from the boundaries of the subject property.

Environmental Assessment

The proposed on-sale of beer, wine, and distilled spirits in conjunction with a bona fide eating establishment with outdoor dining and related exterior building and site improvements is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and no changes to the site involving grading.

Planning Division Recommendation

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

- A. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 1 exemption under State CEQA Guidelines Section 15301, because it is on a fully developed site and involves minor exterior and interior improvements and no changes to the site involving grading.
- B. Move to approve a Conditional Use Permit under Case No. 2012-15, approving the on-premises sale of beer and wine (ABC Type 41 license) in conjunction with a bona fide eating establishment and related tenant improvements at 9335 Monte Vista Avenue, per the submitted plans and as described in the staff report, subject to the conditions of approval in attached Resolution 12-1768.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Diaz". The signature is stylized with a large, circular loop at the end of the last name.

Michael Diaz
City Planner

MD/lb

c: Kwan Cheng "Jackie" Cheung (Dragon 99 owner)
Ferrari-Coleman Development Corporation, c/o Morton Gerson (property owner)

Z:\COMMDEV\SG\CASES2012-15\DRAGON99

RESOLUTION NUMBER 12-1768

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT ALLOW THE SALE OF BEER AND WINE (ABC TYPE 41 LICENSE) IN CONJUNCTION WITH A BONA FIDE EATING ESTABLISHMENT UNDER CASE NO. 2012-15, AT 9335 MONTE VISTA AVENUE, IN THE C-3 (GENERAL COMMERCIAL) ZONING DISTRICT (APN 1008-331-15).

A. Recitals.

WHEREAS, on September 28, 2012, Ferrar-Coleman Development Corporation, property owner, filed an application for a Conditional Use Permit (CUP) to allow the on-premises sale and service of beer and wine (ABC Type 41 license) in conjunction with meals at a full service restaurant; and

WHEREAS, said application applies to a lease space of approximately 4,108 square feet at 9335 Monte Vista Avenue; and

WHEREAS, the proposed restaurant is consistent with the use and development standards of the underlying C-3 (General Commercial) zoning district and the intent and requirements of the Montclair Municipal Code; and

WHEREAS, Chapter 11.42.040.A of the Montclair Municipal Code requires a CUP for on-sale beer and wine in conjunction with a bona fide eating establishment (restaurant); and

WHEREAS, staff has determined that the proposed on-premises sale of beer and wine in conjunction with a bona fide eating establishment meets the intent and requirements of the ordinance for such use and the applicable development standards of the C-3 (General Commercial) zoning district and Chapter 11.42 MMC ("Alcoholic Beverages – Regulation of Sale"); and

WHEREAS, the Planning Commission has reviewed the Planning Division's determination that the proposed on-premises sale of beer and wine (ABC Type 41 license) in conjunction with a bona fide eating establishment is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines and based on its own independent judgment, concurs with staff's determination of said exemption and finding of no significant effect on the environment. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading.

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

WHEREAS, on October 8, 2012, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP were heard, and said CUP was fully studied.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all the facts set forth in the Recitals, Part A of this Resolution are true and correct.
2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced public hearing on October 8, 2012 including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
 - a. That the proposed on-premises sale of beer and wine (ABC Type 41 license) in conjunction with the full menu and food service provided within a bona fide eating establishment (restaurant) is essential or desirable to the public convenience and public welfare, in that the proposed restaurant is located within a commercial center that is intended to be a place for restaurant uses, most of which serve beer and wine with meals.
 - b. That granting the CUP for the proposed on-premises sale of beer and wine will not be materially detrimental to the public welfare and to other property in the vicinity, in that the proposed use will be located in a full service restaurant that permits patrons of all ages. The center where the proposed use would be is fully developed and has adequate parking and lighting. Moreover, the proposed restaurant use is within a center that serves as a major destination point for diners from Montclair and surrounding communities.
 - c. That the proposed on-premises sale of beer and wine within the restaurant at the subject site conforms to good zoning practice, in that the Municipal Code permits the on-sale of beer and wine in the "General Commercial" zoning district, subject to CUP approval. The CUP allows the City to place reasonable conditions to govern the overall operation of the use so that it does not detract from the general quality of the center and surrounding area.
 - d. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail

commercial area, including full service restaurant uses serving beer and wine with meals.

- e. The Planning Commission finds the proposed on-sale of beer and wine (ABC Type 41 license) associated with the proposed bona fide eating establishment desirable to the public convenience and necessity in that the proposed restaurant does not propose late closing hours and would continually serve hot meals made to order for consumption on-site. The sale of alcoholic beverages is not a major portion of the business but offers customers a choice if desired. Moreover, the proposed restaurant is located within in an existing major shopping center in the primary commercial area of the City where other restaurants are located and offer alcoholic beverages to their customers. Lastly, local law enforcement indicated that the area in which the restaurant is proposed to be located has not had significant calls for service within the last 12 months. Conditions of approval have been included that would ensure that the safety and general welfare of the surrounding area would be maintained.
3. The Planning Commission has reviewed the Planning Division's determination that the proposed on-sale of beer and wine in conjunction with a bona fide eating establishment is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the State CEQA Guidelines, and based on its own independent judgment, concurs with staff's determination of said exemption and finding of no significant effect on the environment. The project qualifies because it is on a fully developed site and involves minor exterior and interior improvements and limited site changes not involving grading.
4. Based upon the findings and conclusions set forth in paragraphs 1, 2, and 3 above, this Commission hereby approves the application subject to the conditions set forth below:

Planning

1. This Conditional Use Permit (CUP) approval is hereby granted to allow the sale and service of beer and wine (ABC Type 41 license) in conjunction with a bona fide eating establishment at the subject 4,108 square-foot lease space at 9335 Monte Vista Avenue. Live entertainment is not included as part of this approval and shall require separate review and approval from the City.
2. 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.

3. Any substantial changes to the operation, increase in floor area of the demised space, or physical location shall require prior City review and approval.
4. No outdoor seating shall be permitted in conjunction with the operation of this restaurant or the granting of this CUP. Should the applicant desire to add outdoor seating in the future, review and approval by the Planning Commission of an amendment to this CUP shall be required.
5. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar, sports bar, entertainment venue, night club, dance hall or banquet hall operated by either the restaurant owner or outside vendors or promoters. At no time shall private drinking areas be permitted.
6. Prior to the serving of beer and wine on the subject premises, the applicant shall be responsible to obtain the appropriate approval for the Type 41 license from the Department of Alcoholic Beverage Control (ABC), and demonstrate to the Planning Division that all necessary conditions have been met. The City may modify or revoke the approved ABC Type 41 license for failure to abide by the conditions of this approval or in the event the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
7. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
 - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
 - b. A check in the amount of \$436.20, payable to the "City of Montclair," to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law.
8. This CUP approval shall be valid for a period of six months (180 calendar days) from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant has begun operations consistent with this approval or 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.

9. This decision or any aspect of this decision may be appealed to the City Council within 15 days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
10. Approved business hours are 11:00 a.m. to 10:00 p.m. Monday through Saturday and 11:00 a.m. to 9:00 p.m. on Sunday. The applicant may close the restaurant earlier than stated herein. Any extension of the restaurant hours beyond the limits stated herein shall require written notification to the Planning Division and are subject to City approval.
11. No window signs either inside or outside, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase.
12. The applicant shall work with the City Planner to obtain approval of a modified or new exterior color paint scheme that addresses and eliminates ghost outlines and patches from previous signs, faded color conditions, or sun-altered colors on the subject building and lease space. The repair of "spalding" stucco conditions on the building shall also be properly addressed.
13. All graffiti and vandalism and/or damage to the subject site and/or structure shall be removed or repaired within 72 hours of notice from the City.
14. The following mandatory conditions are hereby imposed as part of the CUP approval:
 - 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 alcoholic beverages shall be offered for sale for off-premises consumption. Alcoholic beverages shall not be allowed outside of the permitted premises, which shall consist of the demised lease space described herein as permitted by the Planning Commission. Applicant shall post notification of this limitation within plain view of employees and customers.
 - d. The exterior appearance of the premises shall be maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate area so as to not cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
 - e. The permittee shall comply with all California Department of Alcoholic Beverage Control statutes, rules and regulations relating to the sale,

purchase, display, possession and consumption of alcoholic beverages.

- f. The permittee shall acknowledge and agree 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 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.
- 15. No outdoor storage of any items related to the business or not shall be allowed in the exterior spaces surrounding the subject lease space.
 - 16. Plant materials and associated irrigation system in the planter areas at the front entry and perimeter of the lease space shall be continually maintained in healthy and presentable condition at all times.
 - 17. 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.
 - 18. Mechanical equipment including, but not limited to, utility meters, air conditioners, kitchen vents or hoods, repair equipment, etc., shall be located within the building or screened in a manner that is compatible with the

architectural design of the building to the satisfaction of the Planning Division. Wooden lattice or fence-like screens/covers are not appropriate within the context of a commercial or industrial development and are therefore not allowed.

19. No surface-mounted exposed conduit or electrical lines shall be allowed. Electrical switchgear, meters, etc. must be screened or housed in an enclosure, to the extent allowed by the utilities.
20. No public telephones, vending machines, children's rides or other coin-operated machines shall be located on the exterior of the building or subject lease space.
21. Prior to occupancy and the installation of any signs, the applicant shall submit an application for a Sign Permit to the Planning Division for review and approval, subject to the following:
 - a. All signs shall comply with the approved sign program for the center and City of Montclair Sign Code (Chapter 11.72 MMC).
 - b. Wall signs shall utilize individual channel letters.
 - c. Exposed raceways shall be prohibited on all building-mounted and freestanding signs. An architectural sign backing/raceway may be allowed on the commercial building subject to review and approval by the City Planner.
22. 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, or other similar advertising devices be utilized on the property or off-site.
23. All signs shall be maintained at all times in a safe and secure manner. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.
24. A copy of the CUP approval letter and resolution with all conditions of approval related to the application shall be conspicuously posted alongside the establishment's Business License and Certificate of Occupancy and shall be made available to law enforcement officers, Code Enforcement officers,

and/or fire and building inspectors in the course of conducting inspections of said premises.

25. The applicant/property owner shall submit to the Planning Division a signed copy of the Resolution in which he acknowledges acceptance of the conditions of approval within 10 days from the date of approval by the Planning Commission.
26. 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.

Building

27. Prior to issuance of building permits for tenant improvements, the applicant shall comply with the latest adopted California Building Code and other applicable codes, ordinances and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans.
28. Please submit four complete sets of plans that include the following, if applicable:
 - a. Site plan;
 - b. Floor plan;
 - c. Reflected ceiling plan;
 - d. Electrical plans, which include the size of the main switch, number, and size of service entrance conductors, panel schedules, and single line diagrams;
 - e. Plumbing plans, which include isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, heating and air conditioning.
 - f. An existing floor plan of the building which includes all walls to be demolished.
 - g. Waste recycling plan, which includes recycling of 50% of construction debris.

- h. Submit two sets of structural calculations, if required, and two sets energy conservation calculations.
- 29. Clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible parking lot signs. Sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed two percent (2%).
- 30. Disabled-accessible parking space design shall be 9' X 20' with a loading zone located on the passenger side. The unloading zone shall be 5' x 20' for a standard accessible stall and 8' x 20' for a van-accessible stall. The space and loading zone shall have no more than a 2% slope in any direction. The loading zone cannot include ramps. The space and loading zone shall be striped in blue with the applicable design as specified in the 2010 California Building Code, Section 1129B.
- 31. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
- 32. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
- 33. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number.
- 34. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
- 35. 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. Maintain the existing numerical address on the west-facing elevation of the building 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.
- 36. Plans submitted for approval shall not be approved for permit issuance until evidence of San Bernardino County Health Department approval has been submitted to the Building Division.

37. A Certificate of Occupancy is required prior to occupancy of the building. Issuance of the Certificate of Occupancy shall be contingent upon Fire Department Inspection and final approvals from other departments and agencies.

Fire

38. 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.
39. 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. Three (3) complete sets of drawings of this system shall be submitted to the Fire Marshal's office prior to issuance of a permit.
40. Commercial/industrial occupancies shall install approved emergency lighting to provide adequate illumination in the event of any interruption of electrical service.
41. Fire extinguisher location(s) to be determined by the Montclair Fire Department.
42. Three (3) sets of plans shall be submitted to the Montclair Fire Department for approval prior to the relocation or addition of sprinklers for tenant's improvements.
43. Three (3) sets of plans shall be submitted to the Montclair Fire Department for approval prior to the upgrade of a fire alarm system for a tenant improvement.
44. All Montclair Fire Department fees are due prior to any permit issuance.

Environmental/Engineering

45. Discharge of wastewater into the sanitary sewer system shall conform to Chapter 9.20 of the Montclair Municipal Code.
46. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required. Contact Michael Hudson, City Engineer, at 909/625-9441 for fees.

47. 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 Michael Hudson, City Engineer, at 909/625-9441 for fees.
48. City of Montclair Environmental Manager shall complete inspections for the interior and exterior rough plumbing, grease interceptor rough plumbing, and the grease interceptor rings and covers to grade prior to issuance of a Certificate of Occupancy. The applicant shall contact Nicole Greene, Environmental Manager, at 909/625-9446 to schedule all inspections in advance.

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

APPROVED AND ADOPTED THIS 8TH DAY OF OCTOBER, 2012.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: _____
Tenice Johnson, Chair

ATTEST: _____
Steve Lustro, Secretary

I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 8th day of October, 2012, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\2012-15\DRAGON 99 RESTAURANT\RESO12-1768