




## STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Meeting Date: October 16, 2013

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**PLANNER:** Cliff Jones, Associate Planner 

**SUBJECT:** Conditional Use Permit (CUP) 13-296, Club Pilates, a request to consider a fitness studio involving private classes and an accessory physical therapy operation in an existing building located at 302 North El Camino Real, Suite 106, within the Mixed Use Zoning District, and within the Architectural and Central Business Overlay Districts (MU3-CB-A).

### REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolution, provided as Attachment 1, and analysis section of this report provide an assessment of the project's compliance with these findings.

#### ***Conditional Use Permit, Section 17.16.060***

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
- b. The site is suitable for the type and intensity of use that is proposed.
- c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
- d. The proposed use will not negatively impact surrounding land uses.

### BACKGROUND

The applicant proposes to operate a pilates fitness studio involving private classes within an existing commercial building. The applicant also proposes to offer physical therapy to clients as an accessory use to the group instruction/fitness operations. The proposed location is 302 North El Camino Real, Suite 106 within the Kehoe Plaza. Zoning Ordinance Section 17.40.030 permits group instruction and fitness facilities in the Mixed-Use Zone, with the approval of a Conditional Use Permit.

#### ***Site***

The subject property is a 23,944 square foot commercial building located in the Mixed Use Zoning designation. The building is primarily occupied by general office and medical office uses. Surrounding land uses are commercial with the closest residence located approximately 120 feet from the lease space.

***DMT***

The City's Development Management Team (DMT) reviewed the project on August 15, 2013 and August 29, 2013, and supports the request, subject to the proposed conditions of approval.

***Noticing***

Public notification was completed in accordance with State Law and Municipal Code regulations. To date, staff has received no input from the public on this request.

**PROJECT DESCRIPTION**

The proposal is for a group instruction pilates studio, with classes of 10 people with one instructor offered multiple times throughout the day. The classes will run for 50 minutes each. The operations are limited to Monday through Friday, 7:00 a.m. to 9:00 p.m. and Saturday and Sunday from 7:00 a.m. to 7:00 p.m. The applicant also proposes to offer physical therapy to clients as an accessory use to the group instruction/fitness operations. The physical therapy portion of the business located towards the rear of the suite away from the public. The applicant does not propose any exterior modifications as part of this project.

***Parking***

Zoning Ordinance Section 17.64.050, Off-Street Parking Requirements by Land use, requires: 1) the group instruction fitness studio use to have one parking space per employee plus one parking space per every two students; and 2) the physical therapy operations to have one parking space per 200 square feet of physical therapy area. The applicant's fitness studio operations consist of a maximum of one employee and 10 students, which requires six spaces, and the physical therapy operations totals 473 square feet of area, requiring three additional parking spaces. Based upon the parking requirements of the Zoning Ordinance, a total of nine parking spaces are required.

As part of the CUP application for the commercial recreation use, a parking analysis was conducted of the buildings' existing and proposed uses. As shown in Table 1, the addition of the proposed uses results in a parking surplus of two parking stalls.

**Table 1**  
**Parking Requirements for 302 N. El Camino Real**

<b>Suite #</b>	<b>Uses</b>	<b>Parking rate</b>	<b>Square footage or Students/Instructors</b>	<b>Parking Required</b>
100	General Office	1/350 sq. ft.	1,380 sq. ft.	4
102	General Office	1/350 sq. ft.	650 sq. ft.	2
106	Proposed Pilates	1 space per 2 students/ 1 space per employee	10 students max/ 1 employees max	6
106	Pilates Physical Therapy	1/200 sq. ft.	473 sq. ft.	3
107	General Office	1/350 sq. ft.	594 sq. ft.	2
108	General Office	1/350 sq. ft.	1,164 sq. ft.	4
110	Massage	1/200 sq. ft.	1,305 sq. ft.	7
112	Medical Office	1/200 sq. ft.	795 sq. ft.	4
114	General Office	1/350 sq. ft.	1,265 sq. ft.	4
116	General Office	1/350 sq. ft.	1,175 sq. ft.	4
118	General Office	1/350 sq. ft.	1,464 sq. ft.	5
202	General Office	1/350 sq. ft.	1,097 sq. ft.	4
206	General Office	1/350 sq. ft.	4,810 sq. ft.	15
210	General Office	1/350 sq. ft.	602 sq. ft.	2
212-A	General Office	1/350 sq. ft.	241 sq. ft.	1
212-B	General Office	1/350 sq. ft.	140 sq. ft.	1
212-C	General Office	1/350 sq. ft.	152 sq. ft.	1
212-D	General Office	1/350 sq. ft.	240 sq. ft.	1
214	General Office	1/350 sq. ft.	1,324 sq. ft.	4
216	General Office	1/350 sq. ft.	1,327 sq. ft.	4
<b>Total Required</b>				<b>78 Spaces</b>
<b>Total On-Site</b>				<b>80 Spaces</b>

Based upon the parking analysis outlined above, the project meets the parking requirements of the Zoning Ordinance with excess parking spaces during all hours of operation.

### ***Parking Survey***

Staff reviewed the T-Zone parking counts conducted during July of 2013, peak summer parking demand, and the subject lot was found to have a maximum occupancy of 56%, which occurred on a Wednesday at 9am, and occupancy of 44% at peak parking demand for the downtown, which is at 1pm on Thursday. Based upon the parking counts, it is unlikely that the proposed use will result in a parking conflict.

## **PROJECT ANALYSIS**

### ***Conditional Use Permit***

The proposed project requires a CUP to ensure the proposed use would be compatible with surrounding properties. The surrounding neighborhood has a mix of office, retail, and residential uses. There are a number of fitness uses within the Mixed Use zone, all of which involve group instruction classes and are similar in operation to the proposed project. The fitness uses have proved to be compatible within the Mixed Use zone. The proposed commercial recreation use would be conducted entirely indoors and has adequate on-site parking as conditioned. The proposed location is approximately 120 feet from the closest residence.

The following conditions of approval have been added to ensure that the proposed use does not impact nearby uses: 1) the group instruction/fitness use shall occur entirely within the building and the doors and/or windows to the building will remain closed at all times (Condition # 7); and 2) if noise issues arise the owner will be required to soundproof the facility to the satisfaction of the City Planner (Condition # 8); and 3) The fitness operations are limited to a maximum of 10 students and one employee/instructor. The hours of operation are limited to Monday through Friday, 5:30 a.m. to 9:00 p.m. and Saturday and Sunday hours from 7:00 a.m. to 7:00 p.m. (Condition # 9). The applicant is aware of the recommended conditions of approval and is amenable to making any improvements that might be necessary to mitigate potential impacts.

## **GENERAL PLAN CONSISTENCY**

The proposed use is consistent with the Land Use Element of the City's General Plan. General Plan Policy 1.0(IV)(A)(1) states as the intent "*To accommodate a range of land uses which provide for the basic needs of existing and future residents, including housing, commercial services, employment, entertainment, recreation, personal services, and similar uses.*" The use proposed provides physical training services and is in keeping with this policy.

## **ENVIRONMENTAL REVIEW**

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project consists of the conversion of an existing structure from one use to another.

## **ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES**

1. The Planning Commission can concur with staff and approve CUP 13-296.  
*This action would allow the owner to operate the proposed use subject to the Conditions of Approval.*

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.

*The Planning Commission can require additional conditions addressing potential noise concerns. This action would result in any modifications being incorporated accordingly.*

3. The Planning Commission can deny CUP 13-296.

*This action would not allow the applicant to establish a fitness training at the proposed location and could result in the applicant filing an appeal with the City Council.*

### **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission approve CUP 13-296, Club Pilates, a request to consider a fitness studio involving private classes and an accessory physical therapy operation in an existing building located at 302 North El Camino Real, Suite 106, subject to the attached Resolution and Conditions of Approval.

*Attachments:*

1. Resolution
2. Location Map  
Plans

RESOLUTION NO. PC 13-037

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 13-296, CLUB PILATES, A REQUEST TO ALLOW A FITNESS STUDIO INVOLVING PRIVATE CLASSES AND AN ACCESSORY PHYSICAL THERAPY OPERATION AT 302 NORTH EL CAMINO REAL, SUITE 106**

**WHEREAS**, on July 31, 2013 an application was submitted, and on September 16, 2013 completed, by Core Momentum, LLC, 841 Avocado Lane, Carlsbad CA 92008, for Conditional use Permit (CUP) 13-296, to allow a fitness studio involving private classes and an accessory physical therapy operation in an existing building located at 302 North El Camino Real, Suite 106, the legal description being Lot 1, Block 3 of Tract 779, and Assessor's Parcel Number 058-072-47; and

**WHEREAS**, on August 15, 2013 and August 29, 2013, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

**WHEREAS**, the Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has recommended the Planning Commission determine that the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the conversion of an existing structure from one use to another; and

**WHEREAS**, on October 16, 2013, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

**NOW, THEREFORE**, the Planning Commission of the City of San Clemente hereby resolves as follows:

**Section 1:** The Planning Commission finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the conversion of an existing structure from one use to another.

**Section 2:** With respect to Conditional Use Permit 13-296, the Planning Commission finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed, in that this business will promote the high

quality nature of the Mixed Use Zone and will help serve the needs of area employees, as well as residents.

- B. The site is suitable for the type and intensity of use that is proposed, in that adequate parking is provided, as conditioned. Additionally, the existing building construction is anticipated to attenuate noise. Furthermore, a condition of approval requires the doors and windows be shut during group instruction operations to reduce potential noise impacts.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that there is ample parking and vehicular access available to accommodate all uses on the site.
- D. The proposed use will not negatively impact surrounding land uses in that the site has adequate parking for the use and the use is conditioned to limit potential noise impacts.

**Section 3:** The Planning Commission hereby approves Conditional Use Permit 13-296, Club Pilates, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of San Clemente on October 16, 2013.

\_\_\_\_\_  
Chair

**TO WIT:**

**I HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on October 16, 2013, and carried by the following roll call vote:

<b>AYES:</b>	<b>COMMISSIONERS:</b>
<b>NOES:</b>	<b>COMMISSIONERS:</b>
<b>ABSTAIN:</b>	<b>COMMISSIONERS:</b>
<b>ABSENT:</b>	<b>COMMISSIONERS:</b>

\_\_\_\_\_  
Secretary of the Planning Commission

# EXHIBIT 1

## CONDITIONS OF APPROVAL\* Conditional Use Permit 13-296 Club Pilates

### GENERAL CONDITIONS

#### Planning Division

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive]* (PIng.)\_\_\_\_\_
  
2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)\_\_\_\_\_
  
3. Conditional Use Permit 13-296 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. The use



shall be deemed to have commenced on the date the use becomes legally operational, including issuance of a Certificate of Occupancy from the City of San Clemente. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)\_\_\_\_\_

A use shall be deemed to have lapsed, and Conditional Use Permit 13-296 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)\_\_\_\_\_

4. The owner or designee shall have the right to request an extension of Conditional Use Permit 13-296 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)\_\_\_\_\_
5. Prior to the issuance of building permits, the owner or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation - City Quality Insurance Program]* (PIng.)\_\_\_\_\_(Bldg.)\_\_\_\_\_
6. Prior to the issuance of a certificate of occupancy, the project shall be developed in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Planning Commission on October 16, 2013, subject to the Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator. *[Citation - Section 17.12.180 of the SCMC]* (PIng.)\_\_\_\_\_

7. All fitness activities are to occur indoors. Doors and windows shall remain closed at all times during the operating hours of the commercial recreation use. ■■ (PIng.) \_\_\_\_\_
8. In the event that noise impacts neighboring properties, the tenant must soundproof the facility, or use other best management practices as determined by the City Planner, to eliminate the problem and comply with the City's noise ordinances. ■■ (PIng.) \_\_\_\_\_

9. The hours of operation and maximum occupancy for the fitness use shall be limited to the following:
- A. The operations are limited to a maximum of 10 students and one employee/instructor. The hours of operation are limited to Monday through Friday, 5:30 a.m. to 9:00 p.m. and Saturday and Sunday hours from 7:00 a.m. to 7:00 p.m. ■■ (PIng.) \_\_\_\_\_
10. Signage is not part of this review. Any signage for this proposed development shall require the owner or designee to submit for review and obtain approval of a Sign Permit or Master Sign Program in accordance with the City's Sign Ordinance. *[Citation - Section 17.16.240.D& 17.16.250.D of the SCMC]*  
(PIng.) \_\_\_\_\_

### **Building Division**

11. A separate Building Permit is required. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process.  
(Bldg.) \_\_\_\_\_  
*[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
12. Prior to the issuance of building permits, the owner or designee shall submit plans that identify the intended use of each building or portion of building and obtain approval of the Building Official.  
(Bldg.) \_\_\_\_\_  
*[S.C.M.C – Title 15 – Chapter 15.08]*
13. Prior to issuance of building permits, code compliance will be reviewed during building plan check, including but not limited to, existing building accessibility requirements in accordance with CBC 1134B for the existing centrally located toilet facilities used by this tenant space.  
(Bldg.) \_\_\_\_\_  
*[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
14. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project.  
(Bldg.) \_\_\_\_\_  
*[S.C.M.C – Title 15 Building Construction]*
15. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes.  
(Bldg.) \_\_\_\_\_

*[S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]*

16. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction, transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. (Bldg.)\_\_\_\_\_

*[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]  
15.64, 15.68, 15.72]*

\* All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- ■ Denotes project specific Condition of Approval





# LOCATION MAP

CUP 13-296, Club Pilates  
302 North El Camino Real, Suite 106



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