



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: September 17, 2014

PLANNER:

Amber Gregg, Associate Planner

SUBJECT:

Conditional Use Permit No. CUP 14-303, Pure Barre Fitness Facility, request to allow a group instruction fitness studio in an existing multi-tenant commercial building located within the Talega Specific Plan, the land use designation is Commercial (C). The legal description is Tract 16253, Lot 4

and Assessor's Parcel Number 701-321-13.

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

On August 6, 2014 the applicants, Anne Guy-Sanders and Erica McGinley, submitted an application for a Conditional Use Permit (CUP) to locate a fitness studio at 1041 Avenida Pico, Suite A. The project is located within an existing multi-tenant commercial development Knows as the Talega Courtyards.

Zoning Ordinance Section 17.36.020 permits group instruction and fitness facilities with amplified sound in the Commercial zoning district, with the approval of a Conditional Use Permit.

The City's Development Management Team (DMT) reviewed the project and supports the request, subject to the proposed conditions of approval. Public notices for this request were posted at the subject property, printed in the San Clemente Sun Post, and mailed to the owners of properties located within 300 feet of the project site. To date, staff has received no input from the public on this request.

PROJECT DESCRIPTION

The proposed project is a group instruction fitness studio. Classes of up to 20 people with one instructor will be offered in the early morning and evening. Classes will be offered Monday through Friday, 6:30 a.m.-11 a.m. and 4 p.m.-8 p.m. Saturday and Sunday hours would be from 6 a.m. to 4:00 p.m. There will be a minimum of 15 minutes between sessions for transition

PROJECT ANALYSIS

Conditional Use Permit

The proposed project requires a Conditional Use Permit (CUP) to ensure there are no adverse impacts to the surrounding businesses. The fitness studio use complies with the required development standards for properties within the subject zone as detailed in the discussion that follows.

Compatibility with existing land uses is an important consideration in the approval of a CUP. The surrounding neighborhood currently has a mix of commercial, medical office and restaurants. The development is located within a commercial area with the closest residence located more than 400 feet away.

Noise generated is a concern with any fitness studio. The applicant is proposing to have amplified sound in the form of ambient music. Ambient music will be playing during the classes at a low level so the participants can clearly hear the instructor. The music is not anticipated to exceed permitted levels per the City's Noise Control Ordinance. However, a condition of approval has been included to ensure the proposed use complies with the ordinance (Condition No. 9). In addition, the applicant is installing a sound wall between the two sweets as well as between the studio and their reception area.

Parking

The shopping center has 199 parking spaces; please see *Attachment 3* for a parking breakdown. The businesses, without the proposed use, require 188 spaces; leaving 11 spaces available for the fitness studio. Per the Zoning Ordinance, group instruction has a parking requirement of one space per two students, plus one space per instructor. The applicant would like to utilize all 11 of the available spaces. Per the applicant's business plan, the parking requirements are as follows:

<u>Table 1</u> Parking <u>Breakdown</u>

Use	Parking Requirements	Parking Proposed
Students	1 space per 2 students	10 spaces (20 students max)
Employees	1 space per employee	1 space (one employee)
		TOTAL: 11 spaces

Based on the available 11 parking spaces, the applicant may have a maximum of 20 students and one instructor at anytime, or a combination not exceeding a total of 11 parking spaces. These occupancy restrictions are included as a condition of approval (Condition No. 7). The classes will have 15 minutes between classes to allow transitions. Staff did a site inspection to observe the parking occupancy and found that lunch hours are typically the business for the center. However, there is still ample parking available in the lot directly in front of the business suite.

Assuming the CUP is approved for Pure Barre, there would still be several vacant suites in the center. These vacancy has been accounted for in the parking analysis to ensure that once it's filled the center does not exceed their allotted parking. The property manager is aware of this and has submitted a letter stating this (attachment 4).

General Plan Consistency

The proposed use is consistent with the Land Use Element of the City's General Plan. General Plan Policy LU-2.03 requires projects to be compatible with the neighborhood states "We require that commercial projects abutting residential neighborhoods be designed and operated to protect residents from the effects of noise, light, odors, vibration traffic, parking and other operational impacts." Given the distance from the proposed project to residences it is not anticipated that the fitness studio would have negative effect on the adjacent residences. In addition, it is not anticipated that there will be negative effects on the surrounding commercial uses as the project complies with development standards and meets parking requirements.

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 1 exemption pursuant to CEQA Guidelines Section 15301, because the project involves only a negligible expansion of a use in an existing commercial development.

CONCLUSION

It is staff's position that Pure Barre, as conditioned, would be compatible with the existing surrounding uses in that the site is suitable for the type and intensity of the proposed use. The subject request complies with the General Plan and meets all applicable provisions of the West Pico Corridor Specific Plan and Zoning Ordinance. For these reasons, staff is recommending approval of the project.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

- 1. The Planning Commission can concur with staff and approve CUP 14-303. 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 14-303.

 This action would not allow the applicant to establish a fitness studio 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 14-303, Pure Barre Fitness, a request to establish a fitness studio at 1041 Avenida Pico, Suite A, subject to the attached Resolution and Conditions of Approval.

Attachments:

- 1. Resolution
 - Exhibit A- Conditions of Approval
- 2. Location Map
- 3. Parking Analysis
- 4. Letter from Property Management Company
- 5. Photographs
- 6. Plans

RESOLUTION NO. PC 14-039

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-303, PURE BARRE FITNESS STUDIO, A REQUEST TO ALLOW A GROUP INSTRUCTION FITNESS STUDIO AT 1041 AVENIDA PICO, SUITE A

WHEREAS, on August 6, 2014, an application was submitted and completed on August 15, 2014, by Anne Guy-Sanders and Erica McGinley, 21731 Rushford, Lake Forest, CA 02630, to allow a group instruction fitness studio in an existing multi-tenant commercial building within the Talega Specific Plan at 1041 Avenida Pico, Suite A, the legal description is Tract 16253, Lot 4 and Assessor's Parcel Number 701-321-13; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project involves only a negligible expansion of a use in an existing commercial development; and

WHEREAS, on September 17, 2014, 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:

- <u>Section 1:</u> This project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301 because the project involves only a negligible expansion of a use in an existing commercial development.
- Section 2: Group instruction and fitness facilities are permitted within the subject zone pursuant to the approval of a Conditional Use Permit. The project complies with all the applicable provisions of the City of San Clemente General Plan, Talega Specific Plan, and the Zoning Ordinance. The proposed project also complies with the intent of the Commercial land use designation to provide a mix of retail and office uses including personal services. The project meets all applicable development standards.
- <u>Section 3:</u> The site is suitable for the type and intensity of development that is proposed, in that the project complies with applicable development standards, including parking, and is not anticipated to have any adverse negative impacts to the surrounding area.
- <u>Section 4:</u> The proposed project will not be detrimental to the public health, safety, or welfare, or be materially injurious to the properties and improvements in the vicinity, in that the applicant shall comply with all conditions of approval and all applicable codes regulations including the California Building Code and the City's Noise Ordinance.

<u>Section 5:</u> The proposed project will not negatively impact surrounding land uses, in that the fitness studio shall not have more then one employee and 20 students, or any combination thereof requiring more than 11 parking spaces.

<u>Section 6:</u> The Planning Commission hereby approves CUP 14-303, Pure Barre Fitness Studio, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on September 17, 2014.

	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 September 17, 2014, and carried by the following roll call vote:

AYES:

COMMISSIONERS:

NOES:

COMMISSIONERS:

ABSTAIN:

COMMISSIONERS:

ABSENT:

COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT A

CONDITIONS OF APPROVAL Conditional Use Permit No. 14-303 Pure Barre Fitness Studio

- The applicant or the property owner or other holder of the right to the development 1. 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 (Plng.) Legal Directive/City Council Approval June 1, 2010]
- 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. CUP 14-303 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. [Citation Section 17.12.150.A.1 of the SCMC] (Plng.)

A use shall be deemed to have lapsed, and CUP	14-303 shall be deemed to have
expired, when a building permit has been issued	d and construction has not been
completed and the building permit has expired	d in accordance with applicable
sections of the California Building Code, as	amended. [Citation - Section
17.12.150.C.1 of the SCMC]	(Plng.)

- 4. The owner or designee shall have the right to request an extension of CUP 14-303 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] (Plng.)
- 5. 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] (Plng.)
- 6. 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] (Plng.) (Bldg.)
- 7. To ensure compliance with the parking requirements and to not have an adverse impact to the surrounding businesses, the applicant shall have a maximum of 20 students and one (1) employee, or any combination at any given time which would exceed a total of 11 parking spaces. In addition there shall be a minimum break of 15 minutes between classes for transition purposes.
- 8. Prior to issuance of certificate of occupancy, the project shall be develop in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Planning Commission on September 17, 2014, 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]

9. In the event that noise impacts neighboring businesses, 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 Noise Ordinance.

Building

- 10. 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. [S.C.M.C Title 8 Chapter 8.16-Fire Code, Title 15 Building Construction Chapters 15.08, 15.12, 15.16, 15.20] (Bldg.)
- 11. Project has not been reviewed for Building Code compliance. Prior to issuance of building permits, code compliance will be reviewed during building plan check. [S.C.M.C Title 8 Chapter 8.16- Fire Code, Title 15 Building Construction Chapters 15.08, 15.12, 15.16, 15.20] (Bldg.)_____
- 12. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project.

 [S.C.M.C Title 15 Building Construction] [Bldg.]
- 13. 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]
- 14. 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.

 [S.C.M.C. Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 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 14-303, Pure Barre Fitness Studio 1041 Avenida Pico, Suite A



		Talega	Courtyard Phase 2, 1011 Avenida Pico, updated 7/8/14	1 Avenida F	ico, updated 7/8/14		
Unit	Tenant	Building	Business Type (or Last	Sq. Ft.	Parking Requirements Space/FT		Parking Required
1011A	Gracie Barra Ju Jitsu	U	Fitness	1561	1/2 students		
1011B	Gracie Barra Ju Jitsu	U	Fitness	1343	1/1 Employee	Total for Gracie Barra	11
1011C	Waba Teriaky	U	Restaurant	1239	1/120		10.33
			Total Sq Ft	4143	Total Space Required		21.33
1021 A	Thai Palace	О	Restaurant	1368	1/120		11.4
1021 B	Bamboo Bamboo	O	Restaurant	1070	1/120		8.92
1021 C	Z Pizza	۵	Restaurant	906	1/120		7.55
			Total Sq Ft	3344	Total Space Required		27.87
1031 Unit 100	Mission Hospital	ш	Medical Office	10560	1/200		52.8
1033 Unit 103	Vacant	Э	Medical Office	1950	1/200		9.75
1031 Unit 201	Body Awareness PT	ш	Medical Office	2503	1/200		12.52
1031 Unitl 202	E. John Moreno, DMD	ш	Medical Office	2503	1/200		12.52
1301 Unit 203	R.W. Stalcup, Inc.	ш	Medical Office	2501	1/200		12.51
1031 Unit 204	Vacant	ш	Medical Office	1375	1/200		6.88
1031 Unit 206	Vacant	ш	Medical Office	1376	1/200		6.88
			Total Sq Ft	22768	Total Space Required		113.86
1041 A	PURE BARRE (applicant)	4	Expired CUP for Fitnes	1798			
1041 B	Vacant	Ь	Salon	1752	1/300		5.84
1041 C	Mingee's Nail & Spa	F	Salon	1526	1/300		5.09
			Total Sq Ft	5076	Total Space Required		10.93
1051 A	Mathnasium	G	Office	1226	1/300		4.09
1051 B	US Bank	G	Office	1460	1/300		4.87
1051 C	US BAnk	5	Office	1499	1/300		5
			Total Sq Ft	4185	Total Space Required		13.96
				2			10101
				lotal Kequ	lotal Kequired for Center		187.95
				Total Requ	Total Required for Center		199
Note: Results b	Note: Results based upon information provided by managem	by managen	ient company and AM SPP 01-167 & CUP 11-375.	PP 01-167 &	, CUP 11-375.		

ATTACHMENT 4

Gregg, Amber

From:

John Goodrich < John.Goodrich@sperrycre.com>

Sent:

Monday, September 08, 2014 12:24 PM

To:

Gregg, Amber

Cc:

Jeremy Newman; Dave Bueche; Daniel Bonte

Subject:

Courtyard at Talega Phase II - Pure Barra, 1041 Ave. Pico, Ste A

Amber,

Thank you for your phone call today and notifying us that the parking for the Center will comply with our new tenant, Pure Barra. The Landlord understands that any future tenants for the vacant space located at 1041 Avenida Pico, Suite B, will be restricted to only retail and office tenants.

Thank you again.

John Goodrich Sr. Portfolio Manager Sperry Commercial Real Estate, LLC 18881 Von Karman Ave., Suite 800 Irvine, CA 92612

E-mail: john.goodrich@sperrycre.com

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PHOTOGRAPHS









