



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: October 21, 2014

Agenda Item 7A

Approvals:

City Manager MM
Dept. Head [Signature]
Attorney SB
Finance JV

Department: Community Development\Planning Division
Prepared By: Christopher Wright, Associate Planner CSW

Subject: *CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS*

Fiscal Impact: None.

Summary: Planning Commission recommends the City Council approve Conditional Use Permit (CUP) 14-261 that would allow a commercial recreation use at 232 Avenida Fabricante, Suite 106.

Background: This is an appeal of the Planning Commission's approval of CUP 14-261 on September 3rd. The CUP is a request to allow a commercial recreation use in the Rancho San Clemente Industrial Park at 232 Avenida Fabricante, Suite 106. There are three industrial buildings on-site with 54,989 square feet of floor area in 12 suites. Existing businesses include office and warehousing uses. The appellant is Steven Yates; owner of Suite 105. Mr. Yates has parking and noise concerns. His letter is Attachment 5. See Attachment 6 for staff's responses.

Discussion: Foundation Fitness proposes indoor group fitness classes within a 4,060 square foot suite. Classes would have a maximum of 20 students at one time. Operating hours would be 5:00 a.m. to 5:00 p.m. Monday through Saturday. The largest classes would occur in the early morning on weekdays (start times of 5:00 a.m. to 7:00 a.m.) and on Saturday mornings (9:00 a.m.). Classes would last approximately 50 minutes. Private one-on-one personal training would occur between scheduled classes and on Saturdays (allowed without a CUP). Amplified music would play at a low-level during classes. The applicant plans to test noise levels in adjoining suites and install soundproofing materials if needed. No exterior building changes are proposed.

Parking

There are 162 parking spaces on the site. There is no parking requirement in the Zoning Ordinance for commercial recreation uses. As a result, the City Planner applied a requirement for the most similar use: group instruction. This requires one parking space per instructor and one space per two students, which is 12 spaces for the proposed classes. This requirement has been applied to several CUPs (over 21 since 1992) for various group classes, such as yoga, cross-fit, and pilates studios; martial art dojos, etc. With this proposed use plus all the existing businesses, 125 parking spaces are required for the facility. With 162 spaces provided, there would be a surplus of 37 parking spaces. To calculate the required parking, staff assumed five

vacant suites are occupied by office and warehousing uses. Refer to Attachment 4 for a parking analysis.

Analysis and Commission conclusions

The Planning Commission determined the CUP meets required findings in the following ways:

1. The group classes would primarily occur in the early mornings and Saturdays which are off peak hours for other businesses in the center.
2. The site has a surplus of 37 parking spaces for existing businesses and the proposed fitness classes.
3. In addition to there being a parking surplus, 10 minute breaks would be required between classes to facilitate flow of traffic and access to parking when one class leaves and another arrives (Condition of Approval No. 8).
4. The classes occur indoors (Condition No. 18) and noise soundproofing is required if a noise issue emerge (Condition No. 9).

Recommended

Action:

The PLANNING COMMISSION RECOMMENDS THAT the City Council adopt Resolution No. _____ entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS, ALLOWING A COMMERCIAL RECREATION USE, GROUP INSTRUCTION OF FITNESS CLASSES, IN AN INDUSTRIAL BUILDING LOCATED AT 232 AVENIDA FABRICANTE, SUITE 106"

Attachments:

1. Resolution No.
Exhibit A - Conditions of Approval
2. Location map and site photographs
3. Planning Commission September 3rd meeting minutes and public comments
4. Parking analysis
5. Appellant's letter
6. Summary of appellant's letter and staff responses
7. Applicant's correspondence
8. Plans

Notification: Standard notification per City and State requirements.

ATTACHMENT 1

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS, A REQUEST TO ALLOW A COMMERCIAL RECREATION USE, GROUP INSTRUCTION OF FITNESS CLASSES, IN AN INDUSTRIAL BUILDING LOCATED AT 232 AVENIDA FABRICANTE, SUITE 106

WHEREAS, on June 26, 2014, an application was submitted, and on July 26, 2014 completed, by Ry Steinhoff, Foundation Fitness, P.O. BOX 75221, San Clemente, CA 92673, to allow a commercial recreation use, group instruction, in an industrial building located in the Industrial Park zone of the Rancho San Clemente Specific Plan at 232 Avenida Fabricante, Suite 106, San Clemente, CA 92673. The legal description being Parcel Map 346-16 of Lot 3, Tract 14609, and Assessor's Parcel Number 933-57-307; and

WHEREAS, the City's Development Management Team reviewed the subject application on July 17, 2014, and determined its compliance with the General Plan, Rancho San Clemente Specific Plan, Zoning Ordinance, and other applicable City ordinances and codes; 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 City Council determine this project categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project consists of the operation of an existing private structure with a negligible expansion of an existing commercial use; and

WHEREAS, on September 3, 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; and approved CUP 14-261; and

WHEREAS, on September 15, 2014, a member of the public, Mr. Steven Yates, appealed the Planning Commission's approval of CUP 14-261; and

WHEREAS, on October 21, 2014, the City Council 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 City Council of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project consists of the operation of an existing private structure with a negligible expansion of an existing commercial use.

Section 2: In regards to CUP 14-261, the City Council finds that:

- 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 the Zoning Ordinance, the San Clemente General Plan, and Rancho San Clemente Specific Plan, in that the proposed use is consistent with a goal for industrial parks to allow a mix of uses that meet needs of the City and Rancho San Clemente.
- B. The site is suitable for the type and intensity of development that is proposed in that the site has parking to support the various uses on the site according the zoning standards;
- C. The proposed use 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:
 - 1. the site has parking to support the various uses on the site, according the zoning standards;
 - 2. the proposed use is in an area intended for a range of uses and the group classes would primarily occur in early weekday mornings and Saturday mornings, not during the typical operating hours of businesses in the surrounding area, such as office, warehousing, and light industrial uses. The closest residence is located over 1,000 feet from the subject site across from a ridgeline so the use is buffered from residential uses;
 - 3. the largest classes are to occur in the early morning and on Saturdays, when other businesses are typically closed. Also, the parking standard is set to account for parking and traffic demand of land uses and the proposed fitness classes meet this standard; and
 - 4. classes are to occur indoors with low-level amplified sound that is conditioned to ensure compliance with the City Noise Ordinance.
- B. The proposed use will not negatively impact surrounding land uses for the reasons specified in Section 2(C).

Section 3: The City Council hereby approves CUP 14-261, Foundation Fitness, subject to the above Findings, and the conditions of approval attached hereto as Exhibit A.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

EXHIBIT A

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 City Attorney

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS**

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/City Council Approval June 1, 2010]* (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 (CUP) 14-261 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]* (PIng.)_____

A use shall be deemed to have lapsed, and CUP 14-261 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 CUP 14-261 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. 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 the applicable sign permit in accordance with the City's Sign Ordinance. *[Citation - Section 17.16.240.D& 17.16.250.D of the SCMC]*
(PIng.)_____
- 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 Assurance Program]*
(PIng.)_____(Bldg.)_____
- 7. The commercial suite shall be occupied by a maximum number of people that requires 12 or fewer parking spaces per the parking requirement: 1 space per instructor/employee and 1 space per 2 students. For example, a maximum of 20 students and 2 instructors/employees would be allowed because that would require 12 parking spaces. Also, there can be 18 students and 3 instructors/employees. ■■(PIng.)_____
- 8. There shall be a minimum 10 minute break between group classes during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday when suite occupancy exceeds 12 people. ■■(PIng.)_____
- 9. In the event noise impacts neighboring properties and uses, 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.)_____
- 10. 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 City Council on September 3, 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]*
(PIng.)_____

11. Window and banner signage is not part of this review. Window or banner signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. [*Citation - Section 17.16.240.D of the SCMC*] (Code Enforce.)_____ (PIng.)_____
12. 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.)_____
13. 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.)_____
14. 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.)_____
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. [*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*] (Bldg.)_____
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. [*S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72*] (Bldg.)_____
17. 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. [*S.C.M.C – Title 15 – Chapter 15.08*] (Bldg.)_____

18. The proposed use shall occur indoors only. ■■(Ping.)_____

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 14-261, Foundation Fitness
232 Avenida Fabricante, Suite 106





ATTACHMENT 3

These minutes will be considered for approval at the Planning Commission meeting of 09-17-14.

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
September 3, 2014 @ 7:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA**

1. CALL TO ORDER

Chair Darden called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 7:02 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Ward led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Wayne Eggleston, Barton Crandell, Michael Smith, and Kathleen Ward; Chair pro tem Jim Ruehlin, Vice Chair Donald Brown, and Chair Julia Darden

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Amber Gregg, Associate Planner
Christopher Wright, Associate Planner
Adam Atamian, Assistant Planner
Thomas Frank, Transportation Engineering Manager
Jennifer Rosales, Senior Traffic Engineer
Zachary Ponsen, Senior Civil Engineer
Ajit Thind, Assistant City Attorney
Eileen White, Recording Secretary

8. PUBLIC HEARING

B. 232 Avenida Fabricante – Conditional Use Permit 14-261 – Foundation Fitness (Wright)

A request to consider a commercial recreation use, group instruction, within an industrial building. The applicant proposes to conduct group fitness classes. The subject site is located in the Industrial Park zone of the Rancho San Clemente Specific Plan at 232 Avenida Fabricante, Suite

106, San Clemente, CA 92673. The legal description is Parcel Map 346-16 of Lot 3, Tract 14609, and Assessor's Parcel Number 933-57-307.

Christopher Wright, Associate Planner, narrated a PowerPoint Presentation entitled, "Foundation Fitness, CUP 14-261, dated September 3, 2014;" recommended approval of the request as conditioned.

In response to questions, Mr. Wright advised the classes are spaced with a 10 minute enter/exit break; displayed a table indicating parking allocation for each unit on site and assuming full occupancy when calculated; noted an excess of available parking on site; advised a previous, similar use on site was established without obtaining a CUP and therefore illegal; noted one existing tenant's opposition to the proposed use.

Debbie Drasler, representing Foundation Fitness, advised her goal is a small activity type facility rather than a gym, featuring personal training in small group settings. All classes will be held inside, with the largest classes being held on Saturdays and early weekday mornings before the workday begins. Most people leave directly after class ends.

Ry Steinhoff, personal trainer and co-owner, was originally with So-Cal Boot Camp before he became an independent trainer. The facility is different from gyms in that there are no mirrors or mandatory measurements. Workouts are fun and playful and similar to adult physical education classes. In response to questions, he noted that no classes will be held in the parking lot; advised they want to be good neighbors and will turn down music if asked; stated the upstairs area will only be used for offices. The soundproofing materials will be installed if there is an issue with music spillage to adjacent units.

Chair Darden opened the public hearing.

Steve Yates, resident and adjacent business owner, questioned whether there is adequate parking if/when all units are occupied; advised currently each unit is allocated a certain number of parking spaces; noted in the past he has had problems finding parking in the lot. In addition, he is concerned about noise generated by the proposed use.

Alfred Gallegos, Placentia resident, business manager for Foundation Fitness, and client of Ry's, reiterated that the largest classes will occur on Saturdays and early weekdays before the regular workday begins. They have already purchased soundproofing materials to soundproof both sides of the building, and will install if there is an issue. Additionally, they will position the speakers away from other tenants and ensure there are no problems. The real focus of the facility is individualized personal training.

Chair Darden closed the public hearing.

Commissioner Ruehlin thanked Mr. Yates for airing his concerns; noted he is satisfied that there are actions that can be taken in the event noise issues occur. Although the proposed parking complies with existing code, he questioned whether any of the clients share rides to the site, and commented that although the use is in compliance, it still may be under-parked.

IT WAS MOVED BY VICE CHAIR BROWN, SECONDED BY CHAIR PRO TEM RUEHLIN, AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 14-033, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS, A REQUEST TO ALLOW A COMMERCIAL RECREATION USE, GROUP INSTRUCTION OF FITNESS CLASSES, IN AN INDUSTRIAL BUILDING LOCATED AT 232 AVENIDA FABRICANTE, SUITE 106, with the following revision:

Page 6, add condition no. 18 as follows, "The proposed use shall occur indoors only."

[DECISION FINAL. SUBJECT TO APPEAL OR CALL UP BY COUNCIL]

DRAFT

Wright, Christopher

From: Peter Scharer <pscharer@me.com>
Sent: Monday, September 01, 2014 8:05 AM
To: Wright, Christopher
Cc: Planning Mail; Danielle Mancini
Subject: Conditional use permit 14-261

Chris,

It was nice speaking with you the other day about the above subject issue. Being a board member and owner since 232 Avenida Fabricante was first built I have a good first hand knowledge of what is happening on this property. Commercial real estate is finally on an up tick after the recession which effected market values dramatically in the past 4-5 years. One of the first items we addressed as a board was parking and decided to assign parking spaces to individual units and mark them as such. Currently I believe 232 Avenida Fabricante # 106 has 11 spaces assigned to the unit. This doesn't include handicap spaces or the 2 visitor spaces (which are basically for maintenance personnel working on the property). A couple years back a "Gracie Barra" studio was in this unit (#106). While their classes were mainly in the late afternoon and evening the parking lot was inundated with cars and traffic coming and going. For owners like myself who work into the evening it was an issue with patrons of Gracie Barra parking in our assigned spots and leaving trash. I had spoken with the owners of Gracie Barra about this problem on numerous occasions. They said they would talk to their students but the issue was never resolved and finally they moved out.

232 Avenida Fabricante is set up mainly for office and industrial use and not for a fitness gym. Just so we are clear I do believe in fitness with completing over 15 Ironmans and 20 marathons besides numerous other activities. I say this because I have been a member of many of these "boutique fitness clubs" and see what happens at these fitness gyms. Just because parking spaces are available in the lot that aren't assigned to the unit being patronized doesn't give that person the right to use them. This then becomes a problem for the person's unit space that is being violated. Then a tow truck needs to be called so the car in violation can be removed. Obviously this isn't the situation we want to create. Having a 11 or 12 spaces isn't enough for this type of business. With a staff of a least 2-3 people at any given time coupled with classes and people leaving late from class and other people arriving early there is no possible way that the remaining 8-9 parking spots can support a successful fitness gym. We also had a discussion about students carpooling but please remember we live in Southern California where people love their cars and the idea of carpooling to the gym verges on ridiculous. I looked at the companies website to see if they were only a private instruction gym with one on one instruction which may have worked with the parking situation but they were not.

Other potential issues that come to mind as experienced with similar gyms is the use of outdoor space to complete activities. Obviously using the parking lot to complete fitness activities will not be tolerated and further creates a major safety issue with cars and delivery trucks. The last thing we want is for someone to get hit by a car. I never asked if this gym was going to install showers. If they are this would be another issue with the Board of Directors/Management since water is paid by the association and currently water represents about 20% of our budget.

For the above reasons and experiences I believe this conditional use permit 14-261 should be denied.

Thank you for your time and consideration.

Sincerely,

Peter Scharer

Wright, Christopher

From: Danielle Mancini <daniellem@transconmgt.com>
Sent: Friday, September 05, 2014 11:54 AM
To: Wright, Christopher
Cc: 'Peter Scharer'
Subject: Conditional Use permit

Dear Mr. Wright - I know you have been in contact with one of the board members, Peter Scharer of the Fabricante Professional Center about the possibility of a fitness gym utilizing one of the suites in the Association. Besides all the reasons that Peter has reservations about this kind of business in the Center, as the association's manager I am concerned about the liability issue for the association if activities were to extend into the parking areas as well as creating excessive vehicle activity from their clients and vendors, not to mention parking in another suite's spots. That opens up another can of worms that could include vehicle towing and very hot tempers.

Please consider my comments with regard to the issuance of a conditional use permit.

Thank you for your kind attention to this matter.

Sincerely,

Danielle Mancini, Association Manager
On Behalf of the Board of Directors
Fabricante Professional Center
760/439-8611 ext 212

Wright, Christopher

From: Pechous, Jim
Sent: Wednesday, September 03, 2014 3:11 PM
To: Planning Commission
Cc: Wright, Christopher
Subject: FW: Planning Mtg

Regarding item 8b on tonight's agenda.

-----Original Message-----

From: Tiffany O'Brien [mailto:tiffany.obrien@att.net]
Sent: Wednesday, September 3, 2014 12:58 PM
To: Pechous, Jim
Subject: Planning Mtg

Hi Jim,

I left you a couple voicemails but I wanted to shoot you a quick email on behalf of our good friend Ryan Steinhoff. He is going before the city tonight for a conditional use permit for his business Foundation Fitness and I wanted to put in a good word for him. He's a great guy, a really hard worker and a supporter of other local businesses and our schools. John and I are big fans of his and I know he has a lot of support in Jrs and the San Clemente women's club as well. I just wanted to put in a good word for him. If there's anything we can do to help him out, please let us know.

Thank you!
Tiffany
948.468.6084

Sent from my iPhone

Wright, Christopher

From: Pechous, Jim
Sent: Wednesday, September 03, 2014 10:06 AM
To: Planning Commission
Cc: Wright, Christopher; Maune, Kimberly
Subject: FW: Foundation Fitness

For tonight's meeting

From: Ann Bailey [<mailto:Ann@pranix.com>]
Sent: Wednesday, September 03, 2014 5:31 AM
To: CityCouncil Mail
Subject: Foundation Fitness

Dear City Council Members:

I moved to San Clemente nine years ago and I love it here. It is the best place I have ever lived. Foundation Fitness is applying for the Use Permit (CUP #14-261) necessary to operate in San Clemente.

Foundation Fitness is the most unique fun incredible workout I have ever come across. I hate to workout—or at least I did. Now I have a smile on my face before, during and after.

This is a great asset to the community and attracts San Clemente residents to a healthier lifestyle. I urge you to approve the CUP.

If you would like to talk with me, my phone number is below. I live at 405 Avenida Granada Unit 502, San Clemente, CA 92672

Thanks, Ann

Ann Hale Bailey
Pranix, Inc.
949 361-9016

ATTACHMENT 4

Parking analysis

Based on property records, the following parking analysis was done of existing uses and the proposed use. Staff's analysis assumes full occupancy of vacant suite with office and warehousing uses which is the precedent and original intended use of the vacant suites. The group instruction parking requirement was used to evaluate the proposed use. Table 1 shows there would be a surplus of 37 parking spaces according to parking requirements in the Zoning Ordinance. If a fitness studio parking requirement were used instead, there would be a parking surplus of 27 spaces. Either way, there is sufficient parking on the property to meet and exceed zoning requirements.

Table 1- Existing Site/Parking Analysis

| Bldg | Unit # | Business Name | Use* | Sq. Ft. | Parking Ratio | Required Parking |
|-----------------------|--------------|---------------------------|---------------------------------------|--------------|-----------------------------------------------|---------------------------|
| D | 100 | A.B.O | Warehousing | 1,786 | 1/2000 | .9 |
| | | | Office | 5,033 | 1/300 | 16.8 |
| D | 101 | <i>Vacant</i> | Warehousing | 2,638 | 1/2000 | 1.3 |
| | | | Office | 3,621 | 1/300 | 12.1 |
| E | 102 | Azunia Tequila | Warehousing | 1,504 | 1/2000 | .8 |
| | | | Office | 2,115 | 1/300 | 7.1 |
| E | 103 | Code-In-Motion | Warehousing | 2,017 | 1/2000 | 1.0 |
| | | | Office | 2,040 | 1/300 | 6.8 |
| E | 104 | <i>Vacant</i> | Warehousing | 1,990 | 1/2000 | 1.0 |
| | | | Office | 2,104 | 1/300 | 7.0 |
| E | 105 | Earth Products | Warehouse | 1,990 | 1/2000 | 1.0 |
| | | | Office | 2,104 | 1/300 | 7.0 |
| E | **106 | FOUNDATION FITNESS | Proposed Commercial Recreation | 4,057 | 1 per 2 students plus 1 per instructor | 10.0 2.0 |
| E | 107 | JRN Civil Eng. | Warehousing | 2,125 | 1/2000 | 7.1 |
| | | | Office | 1,290 | 1/300 | .6 |
| F | 108 | <i>Vacant</i> | Warehousing | 2,080 | 1/2000 | .7 |
| | | | Office | 1,380 | 1/300 | 6.9 |
| F | 109 | <i>Vacant</i> | Warehousing | 1,990 | 1/2000 | 1.0 |
| | | | Office | 2,034 | 1/300 | 6.8 |
| F | 110 | Wavetech Industries | Warehousing | 2,009 | 1/2000 | 1.0 |
| | | | Office | 2,097 | 1/300 | 7.0 |
| F | 111 | <i>Vacant</i> | Warehousing | 2,021 | 1/2000 | 1.0 |
| | | | Office | 2,049 | 1/300 | 6.8 |
| F | 112 | RRM Design Group | Office | 3,112 | 1/300 | 10.4 |
| TOTAL REQUIRED | | | | | | |
| Existing | | | | | | 120 |
| With Proposal | | | | | | 125 |
| TOTAL PROVIDED | | | | | | 162 |

*Mezzanine space is treated as office area for calculations. Less parking is required if suites use mezzanine space for warehousing purposes.

**Per Danielle Mancini with Transcontinental Management Inc., 12 dedicated parking spaces are available for Unit 106.



City of San Clemente

NOTICE OF APPEAL CITY OF SAN CLEMENTE

Appellant's Name: STEVEN YATES

Appellant's Address: 232 AVENIDA ESPERANZA #105

Appellant's Phone Number: 800-969-5131

Decision Being Appealed: CONDITIONAL USE PERMIT 14-261
FOUNDATION FITNESS

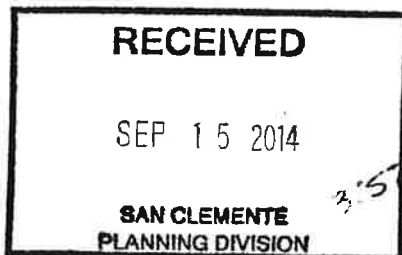
Decision Made By: SAN CLEMENTE PLANNING COMMISSION

Date of Decision: SEPT 3, 2014

State basis for the appeal. (Note: only grounds for appeal noted here will be permitted to be raised before the appellate body. Failure to state grounds for appeal will waive the Appellant's ability to raise that issue at the appellate hearing.)

SEE ATTACHED APPENDIX (A), EXHIBIT 1
AND YATES DECLARATION.

Appellant's signature: Steven Yates



APPENDIX A

Appendix A

Steve Yates (“Appellant”) respectfully appeals the approval of Foundation Fitness Conditional Use Permit 14-261 (“Foundation CUP”), on the following grounds which constitute error and a basis for reversal :

1. The Planning Commission erred when it failed to define a commercial classification for parking in the Foundation CUP. The City Code unambiguously and clearly provides for a proper parking commercial use classification as a “Fitness Facility” which required 34 parking spots. The Planning Commission only required 12 parking spots. Failure to provide (i) a parking commercial use classification and (ii) a basis for nonconformity where the City Code provided for a clear and ambiguous classification is contrary to all legal standards. **Arbitrary** classification is improper.
2. The Planning Commission’s parking calculation can only erroneously apply for Art/Dance Studios because it allows for 1 spot for 2 participants. The Planning Commission therefore erred when it incorrectly categorized the Commercial Use classification Section 17.64.050 The Code of the City of San Clemente, California, 1996 (hereinafter “City Code Section”), Table 17.64.050 as an “Art/Dance Studio” when the facts and the unambiguous reading of the statute clearly shows it is a “Fitness Facility” relies on one on one instruction.
3. The Planning Commission erred when it failed to require as a condition to the Foundation CUP the soundproofing of the facility in advance when it was aware of the significant noise produced by Foundation.

4. The Planning Commission erred when it relied on inaccurate and contradictory evidence that provided (i) unsound and unsustainable financial projections, (ii) incorrect parking projections and (iii) inadequate facility use ignoring one on one instruction.
5. The Planning Commission erred when it acknowledged and disregarded prior evidence of parking problems with fitness facilities at the location.
6. The Planning Commission erred when it failed to address the appearance of bias and impropriety from a member(s) on the commission receiving direct or indirect benefits due to a relationship with Foundation.

Taken individually each of these errors form the basis for reversing the approval of the CUP for Foundation Fitness; taken together they require that the City Council reverse the approval of the CUP which was granted based on significant errors of law and fact.

Introduction

The commercial facility (the "Facility") in question consists of 3 buildings that contain multiple office and warehouse units that are adjoining and contiguous. Appellant owns Unit 105, the adjoining unit to Unit 106 which is the subject of the Foundation CUP. [Declaration of Steve Yates, ("Yates Dec."), §3.] Appellant operates a warehouse and office facility which includes a call center that is responsive to customers calling in during the day to discuss orders and other issues relating to products Appellant sales. [Yates Dec., §5.] In addition, there is an office tenant. [Yates Dec., §5.] Noise and parking are significant issues because they are on the phone for most of the day. [Yates Dec., §6.]

The Facility is presently partially vacant; however it has been completed utilized in the past and will undoubtedly be fully utilized in the future. [Yates Dec., §7.] Parking was an issue in the past when fully utilized. [Yates Dec., §8.] Prior “fitness” uses resulted in significant parking and noise issues that were not resolved until the “fitness” use in question left the Facility. [Yates Dec., §8.]

Foundation Fitness is based in San Clemente presently and is a fitness facility that **relies** on one to one training for its primary revenue base. [Testimony at Planning Commission Hearing Video (“Hearing Video”), Minutes 1:50-51, 2:06-07; Exhibit 1 to this Appeal (“Exhibit 1”), p. 1-13.]

The issues raised on appeal form the basis for requesting reversal of the Foundation CUP approval.

Argument

I. Appeal

The appeal in this matter is timely and proper. The CUP was approved by the Planning commission on September 3, 2014 and the last day to appeal is September 15, 2014. [City Code Section 17.12.140 A.2.]

II. The Planning Commission Erred When It Granted the Foundation CUP on Incorrect and Flawed Testimony, Evidence and Conclusions

a. The Planning Commission Erred When it Failed to Designate the Any Commercial Use

The Planning Commission erred when it did not designate Foundation as a “Fitness Facility” or any commercial use at all for purposes of parking. The City Code defines Foundation Fitness is a “fitness facility” for commercial parking

purposes and provides for a clear parking requirement. In addition to fitness classes, by its own admission at the hearing Foundation Fitness admitted it primarily offers one on one instruction. [Hearing Video, Minute 1:50-51; Exhibit 1, p. 1-13.] City Code Section 17.64.050, Table 17.64.050 Section 9, requires that “Fitness Facilities **With Instruction**” (emphasis added) must have 1 parking spot per 125 square feet of use. Foundation Unit 106 has 4,057 square feet that require (4,057 square feet/125 square feet) **34 parking spots**. The plain reading of the statute is undeniable. It is well known that where a statute can be interpreted by its plain meaning, a governmental body or court of law need not go any further. In this case the commercial use is clearly “Fitness Facility”. The Planning Commission has already conceded that its own figures have only 24 available spots and therefore they are 8 spots short.¹

The Planning Commission’s clear error in failing to define the proper commercial classification and utilizing an improper unknown commercial use results in not having enough available parking. The Foundation CUP should be reversed on those grounds alone.

b. The Planning Commission Erred When it Appears to Have Labeled Foundation Fitness as a Art/Dance Studio

The Planning Commissions’ error in not providing any classification for the commercial use precludes Appellant and the residents of San Clemente from determining what was utilized as the basis for parking. Utilization of “underground regulations” that are only known to a select few in the City are strictly forbidden and

¹ Appellant contends that the Planning Commission calculation of 24 spots is erroneous and addresses that below.

run contrary to open government. The failure to provide any commercial use classification much less an incorrect use precludes Appellant and the residents from understanding what if any basis the Planning Commission has for deviating from the plain language of the City Code requiring that Foundation Fitness have 34 spots. There is no basis for the Planning Commission's unknown commercial classification for parking and there is no basis for deviating from the proper and clear statutory requirement for "Fitness Facilities." That alone provides ample justification for reversing the approval of the Foundation CUP.

In the absence of any factual and legal position by the Planning Commission, it is difficult to ascertain what if any plausible basis allows for the mischaracterization of acceptable parking that equals 1 parking spot for 2 participants. Particularly where that conclusion runs contrary to the City Code cited above requiring 34 parking spots. A possible but erroneous argument that may be advanced is that Foundation Fitness is not a "Fitness Facility" relying on classes and not one on one instruction. That argument is disingenuous and pointedly contradicted by Foundation Fitness' own evidence. At the hearing, Foundation ownership **emphasized** that the primary revenue driver was one on one instruction. [Hearing Video, Minutes 1:50-51, 2:06-07.] Foundation ownership pointedly stated it is a fitness facility and "***our biggest money maker is one on one classes.***" [Video Hearing, Minutes 2:06-07; Exhibit 1, p. 1-13.] Moreover, as set forth in Section II.d.i. below, Foundation Fitness is not financially viable as a group fitness facility and must rely on significant one on one participants.

Remarkably, the Planning Commission Staff conceded that as many as 20 cars would be coming and going at the same time when classes were ending and starting. [Video Hearing, Minutes 1:45-47.] This would lead to as many as **40 cars** looking for parking in the Facility. The proposed remedy was requiring 10 minutes between classes – a wholly inadequate remedy because the Facility does not have 40 extra spots and one that is less than the 15 minute standard generally employed.

There is no reasonable alternative commercial classification use that could apply. Utilization of an alternative commercial use classification such as an Art/Dance Studio flies in the face of common sense indicates that the Planning Commission is not applying the rules consistently . Clearly Foundation is a “Fitness Facility” and there is no statutory or legal basis to support any other classification.

There is no basis for changing the commercial use classification for Foundation. Foundation is required to have 34 parking spots. Failure to do requires that the City reverse approval of the Foundation CUP.

c. The Planning Commission Erred When it Failed to Mandate Soundproofing as an Actual Condition to the Foundation CUP

The Planning Commission erred when it failed to mandate soundproofing as a condition to the Foundation CUP when Foundation **conceded** that it would be an issue. Foundation concedes that loud noise is inherent in its business while seeking to operate in a business park that has office space as a significant use. The two uses will conflict. In anticipation of addressing the noise issue, Foundation represented at the hearing that it has already purchased unknown soundproofing material.

Foundation represented that it consulted and developed a plan (unknown and unproven) to drive noise into the ground to lessen the impact.

Based on these admissions, it was an error for the Planning Commission to approve the Foundation CUP without mandating soundproofing as a condition.

- d. The Planning Commission erred when it relied on Evidence of (i) unsound and unsustainable financial projections, (ii) incorrect parking projections and (iii) inadequate facility use to Support Approval of the Foundation CUP

- i. Unsound and Unsustainable Financial Projections Cannot Be Relied Upon and Form the Basis For Approval

The Planning Commission erred when they relied on unsound and unsustainable financial use projections to approve the Foundation CUP. The Planning Commission relied on projections that erroneously reflect a limited use of the facilities by Foundation – based on the numbers provided by Foundation it can be assumed that the actual use number is at least 370% higher in order to meet their financial obligations. In support of limited use, Foundation provided one week of use (June 2-7, 2014). Exhibit 1, p. 1-13.] Appellant contends the information is a gross oversimplification and omits any mention of one on one instruction which provides the bulk of revenue. Likewise, the data submitted is flawed as it provides one random week of data during a slow summer month when many people are on vacation. As a matter of law the data is not credible and cannot form the basis for any approval.

Nevertheless, by extrapolating the minimum actual use based on flawed data it can be assumed that Foundation will actually have activity that is at least **370%** greater than relied upon by the Planning Commission in order to begin to meet expenses, rent and profit. In fact, that figure will be greater because the additional usage will be primarily one on one instruction that will add significant greater individual parkers and require significantly greater parking spaces. Utilizing Foundations' figures demonstrate that only one on one classes can form the basis for potentially increasing revenue.

Foundation submits an average of 59 participants in the weekly classes – there is no mention of individual one on one instruction. Nevertheless, using those figures one can assume the following:

| | |
|----------------------------------------------------------|----------------|
| <i>Weekly group participants:</i> | 59 |
| <i>Estimated monthly participants:</i> | 236 |
| <i>Estimated Gross Revenue (\$20 per person):</i> | \$4,720 |

Foundation boasts 7 instructors, 3 principals, equipment/overhead and rent.

| | |
|----------------------------------------------------------------------------------------------|----------------------|
| <i>Estimated monthly rent:</i> | \$5,000 |
| <i>Estimated monthly equipment/overhead:</i> | \$5,000 |
| <i>Estimated monthly wages:</i> | \$5,000 |
| <i>Estimated monthly profit:</i> | \$2,500 |
| <i>Total Estimated Required Gross Revenue:</i> | \$17,500 |
| <i>Estimated shortfall:</i> | (\$12,780) |
| It is estimated that Foundation can make up its shortfall by increasing participants: | |
| <i>Increased number of monthly participants:</i> | 639 |
| | 370% increase |

Even if the 2 users per parking spot conclusion was correct (which it is not), the additional amount of parking and noise activity would overwhelm the Facility.

\$4,720 a month in gross revenue is unreasonable to rely on and **NOT** sustainable. It does not cover the rent, operating expenses, salaries or any profit.

In addition, as noted in Section II.b. above, the Planning Commission analysis completely fails to address any of the individual use which is the focus of Foundation. The Planning Commission's reliance on this information to develop use and approve the Foundation CUP is erroneous and improper.

The Foundation CUP must be reversed.

ii. Incorrect Parking Projections Cannot Be Relied Upon and Form the Basis for Approval

The Planning Commission erred when it relied upon incorrect parking breakdowns projections to approve the Foundation CUP. The application provides a breakdown of parking which on its face is incorrect. Appellant's parking designation is for 2 spots. [Exhibit 1, p. 1-15; Yates Dec., §8.] The projections erroneously apply the entire usage of Unit 105 to warehouse space although approximately 1,300 square feet, a significant portion, is office space. Moreover, the other parking projections are wildly arbitrary. The projection for Foundation is incorrect – by its own admission at the hearing, Foundation has office space that should have been calculated as 1 for 300 square feet under the improper classification. [Exhibit 1, p. 1-15.] Rather, the calculation is entirely based on commercial recreational although the very next page shows office. Moreover, documentary evidence and testimony at the hearing stated there was office space. [Video Hearing, Minutes 2:03-04; Exhibit 1, p. 1-16.] The Planning Commission reaches inconsistent conclusions in its own Staff Report. Relying on incorrect

parking allotments to reach the figure of 24 extra parking spots by the Planning Commission renders the entire analysis and assumption incorrect. It cannot sustain the approval.

Reliance on these unsupported and incorrect parking projections to approve the Foundation CUP supports a reversal of the Foundation CUP.

iii. Incorrect Facility Use Cannot Be Relied Upon and Form the Basis for Approval

The Planning Commission erred when it relied upon the incorrect assumption that only small classes would use the facility arriving in groups to lessen impact on parking. First, the Planning Commission conceded that members arriving for training did not arrive in groups, rather that “was the exception, not the rule.” [Video Hearing, Minutes 2:09-10.] Secondly, the Planning Commission staff conceded that some classes as large as 20 participants could arrive **individually** in their cars [Video Hearing, Minutes 1:47-48.] Third, the owners of Foundation emphasized that individual one on one training was the bulk of the business. Nevertheless, the only parking analysis conducted by the Planning Commission erroneously focused on group classes. [Video Hearing, Minutes 1:45-7.] That is incorrect.

Consistent with the Planning Commission’s own testimony, public testimony by the owner [Video Hearing, Minutes 1:50-51] and the submission documents [Exhibit 1, p. 1-13] directly contradict the group class and group attendance and state that the primary usage and driver for revenue is one on one instruction. This dramatically increases the usage, parking requirements and noise level. Relying on

incorrect usage to set parking and noise levels mandates that the approval of the Foundation CUP must be reversed.

e. The Planning Commission Erred when it Disregarded Prior Evidence of Parking Problems with Fitness Facilities at the Facility

As raised by one of the Planning Commissioner's it is undisputed that a prior fitness facility in the Facility caused undue parking and noise hardship on the other owners/tenants. [Video Hearing, Minutes 1:48-50; Yates Declaration §9.] Although that fitness facility apparently did not have permits, the resulting parking and noise issues were valid. The noise and parking were not due to the prior fitness facility lacking permits, rather they were due to use that overwhelmed the Facility. Rather than address the issues, the Planning Commission erred by "kicking the can down the road" when it acknowledged there were significant risks and issues but chose to ignore them. Arbitrary and unsupported decision making by public bodies which glosses over existing issues and leaves them for another business owner is erroneous and unacceptable.

The Planning Commission relied on incorrect information and ignored real concerns to grant the Foundation CUP. That is unacceptable. The issue must be addressed in detail and applied to the current request. The Foundation CUP should be reversed while those issues are brought up, discussed and resolved in positive way for existing owners and tenants.

///

///

Conclusion

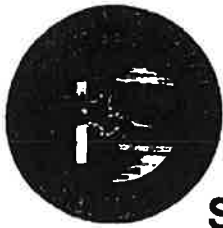
Appellant Steve Yates respectfully requests that the approval of the Foundation CUP is reversed in its entirety.

Appellant Steve Yates

Date: 9-15-14

Steve Yates

EXHIBIT 1



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: September 3, 2014

PLANNER: Christopher Wright, Associate Planner *CSW*

SUBJECT: Conditional Use Permit 14-261, Foundation Fitness, a request to allow group instruction of fitness classes. The commercial recreation use is proposed on a site located at 232 Avenida Fabricante, Suite 106.

REQUIRED FINDINGS

The following findings shall be met to approve the proposed project. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

Conditional Use Permit (CUP), Section 504(II) of the Rancho San Clemente Specific Plan, is required to allow a commercial recreation use

- 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 the Zoning Ordinance, Rancho San Clemente Specific Plan, 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

This is a request to allow group instruction of fitness classes at 232 Avenida Fabricante in Suite 106. The site is located in the Industrial Park zone of the Rancho San Clemente Specific Plan (RSCP). There are three industrial buildings on the site with a total of 54,989 square feet occupied by a mix of office and warehousing uses.

Definitions and Section 504(II) of the RSCSP state the proposed classes are a "Commercial Recreation" land use allowed with a CUP.

Development Management Team Meeting

The City's Development Management Team (DMT) reviewed the project on July 17, 2014. The DMT supports the request with 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

Foundation Fitness, the applicant, proposes to hold group fitness classes in a 4,060 square foot suite. Classes are proposed between 5:00 a.m. to 5:00 p.m. Monday through Saturday. The largest classes would occur in the early morning on weekdays (start times of 5:00 a.m. to 7:00 a.m.) and on Saturday mornings (9:00 a.m.). Classes would be approximately 50 minutes with 10 minutes between classes. Private one-on-one personal training would occur between scheduled classes and on Saturdays (private instruction does not require a CUP).

Amplified music would play during classes but kept at a low-level. No microphones are planned for use by instructors. No exterior building improvements are proposed.

Parking

Table 1 shows the parking requirement for the proposed use and the request's consistency with requirements.

Table 1 – Parking requirement for proposed use

| | Parking standard | Required spaces |
|--------------------------|-------------------------|-----------------------------|
| Students | 1 space per 2 students | 10 spaces (20 students max) |
| Instructors and/or staff | 1 space per employee | 2 spaces (2 instructors) |
| | | 12 total spaces required |

There are 162 parking spaces on the subject site. Several suites are currently vacant in the building. To complete a parking analysis, staff assumed vacant suites will be occupied by office and warehousing uses based on how the building has been configured and previously occupied. If the CUP is approved, 138 parking spaces would be required with full building occupancy. This means there would be surplus of 24 parking spaces on-site according to zoning standards. In conclusion, the proposed use complies with parking requirements. Refer to Attachment 3 for a detailed parking analysis of existing and proposed uses.

PROJECT ANALYSIS

Conditional Use Permit

The Rancho San Clemente Specific Plan requires a CUP to ensure that the proposed use is compatible with surrounding properties and land uses. There are a mixture of typical business park and industrial land uses on the subject site and on properties to the north, south, and east, such as professional offices, warehousing, research and development, and manufacturing. The City animal shelter is located two properties to the north of the subject

site. There is a private open space area to the west. Staff has concluded the request meets required findings in the following ways:

1. The proposed use is in an area intended for a range of uses and the group classes would primarily occur in early mornings and Saturdays, not during the typical operating hours of businesses in the surrounding area, such as office, warehousing, and light industrial uses. The closest residence is located over 1,000 feet from the subject site across from a ridgeline so the use is buffered from residential uses;
2. The site has the required parking to support uses on the site;
3. While not required, the applicant proposes a 10 minute break between classes to allow for students to drive to-and-from the site. There is a surplus of 24 parking spaces on-site so 10 minutes between classes is enough to spread the timing of traffic trips to-and-from the site and improve access to parking during peak business hours. Condition of approval No. 8 requires at least 10 minutes between group classes, when occupancy exceeds 12 people, during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. This is to ensure there is adequate parking when instructors use parking spaces and students travel to classes in their own vehicles at the same time while other businesses are operating.
4. The largest classes are to occur on weekday and Saturday mornings when other businesses are typically closed. Also, the parking standard is set to account for parking and peak traffic demand of land uses and the proposed use meets this standard; and
5. Classes are to occur indoors with low-level amplified sound that must comply with the noise ordinance so that nearby tenants are not affected. Condition of approval No. 9 requires the installation of soundproofing if a noise issue were to arise.

GENERAL PLAN CONSISTENCY

Table 2 summarizes how the proposed use is consistent with adopted policies outlined in the City of San Clemente General Plan.

Table 2 - General Plan Consistency

| Policies and Objectives | Consistency Finding |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Provide a "distinct and vibrant commercial and industrial areas offering a range of retail, service and employment uses that complement rather than compete with one another." Land Use Element (LUE) Primary Goal No. 2 | Consistent. The use proposed provides employment, entertainment and personal recreation services and is in keeping with this policy. |

Table 2 - Continued

| Policies and Objectives | Consistency Finding |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "Maintain and promote the Rancho San Clemente and Talega Business Parks as a premier office and industrial location for start-up businesses, expanding businesses, and for businesses relocating to San Clemente." LUE Rancho San Clemente Focus Area Goal | Consistent. This use is allowed in the Specific Plan with a Conditional Use Permit and meets community needs for commercial recreation uses in the City and area of Rancho San Clemente. Therefore, the use is consistent with the goal. |

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

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 consists of the operation of an existing private structure with no expansion of an existing commercial use.

CALIFORNIA COASTAL COMMISSION REVIEW

The project is not located in the Coastal Zone, and therefore it is exempt from California Coastal Commission review.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve CUP 14-261

This action would allow the owner to operate the proposed use subject to the Conditions of Approval. The Commission can take this action if they determine that the request meets all required findings shown in Attachment 1.

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

This action would result in any modifications to the conditions of approval such as changes to hours of operation or the number of students allowed at one time.

3. The Planning Commission can recommend deny CUP 14-261.

This action would result in the proposed use not being allowed. The Commission should cite findings that can not be met if a decision is made to deny the proposed use. This action is subject to appeal by the Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve CUP 14-261, Foundation Fitness, subject to the attached Conditions of Approval.

Attachments:

1. Resolution No. PC14-033
Exhibit A - Conditions of Approval
2. Location Map
3. Applicant's correspondence – parking and use analysis
4. Plans

ATTACHMENT 1

RESOLUTION NO. PC 14-033

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS, A REQUEST TO ALLOW A COMMERCIAL RECREATION USE, GROUP INSTRUCTION OF FITNESS CLASSES, IN AN INDUSTRIAL BUILDING LOCATED AT 232 AVENIDA FABRICANTE, SUITE 106

WHEREAS, on June 26, 2014, an application was submitted, and on July 26, 2014 completed, by Ry Steinhoff, Foundation Fitness, P.O. BOX 75221, San Clemente, CA 92673, to allow a commercial recreation use, group instruction, in an industrial building located in the Industrial Park zone of the Rancho San Clemente Specific Plan at 232 Avenida Fabricante, Suite 106, San Clemente, CA 92673. The legal description being Parcel Map 346-16 of Lot 3, Tract 14609, and Assessor's Parcel Number 933-57-307; and

WHEREAS, the City's Development Management Team reviewed the subject application on July 17, 2014, and determined its compliance with the General Plan, Rancho San Clemente Specific Plan, Zoning Ordinance, and other applicable City ordinances and codes; 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 consists of the operation of an existing private structure with a negligible expansion of an existing commercial use; and

WHEREAS, on September 3, 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:

Section 1: This project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301, because the project consists of the operation of an existing private structure with a negligible expansion of an existing commercial use.

Section 2: In regards to CUP 14-261, the Planning Commission finds that:

- 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 the Zoning Ordinance, the San Clemente General Plan, and Rancho San Clemente Specific Plan, in that the proposed use is consistent with a goal for industrial parks to allow a mix of uses that meet needs of the City and Rancho San Clemente.

- B. The site is suitable for the type and intensity of development that is proposed in that the site has parking to support the various uses on the site according the zoning standards;
- C. The proposed use 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:
1. the site has parking to support the various uses on the site, according the zoning standards;
 2. the proposed use is in an area intended for a range of uses and the group classes would primarily occur in early weekday mornings and Saturday mornings, not during the typical operating hours of businesses in the surrounding area, such as office, warehousing, and light industrial uses. The closest residence is located over 1,000 feet from the subject site across from a ridgeline so the use is buffered from residential uses;
 3. the largest classes are to occur in the early morning and on Saturdays, when other businesses are typically closed. Also, the parking standard is set to account for parking and traffic demand of land uses and the proposed fitness classes meet this standard; and
 4. classes are to occur indoors with low-level amplified sound that is conditioned to ensure compliance with the City Noise Ordinance.
- D. The proposed use will not negatively impact surrounding land uses for the reasons specified in Section 2(C).

Section 3: The Planning Commission hereby approves CUP 14-261, Foundation Fitness, 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 3, 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 3, 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 14-261, FOUNDATION FITNESS**

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/City Council Approval June 1, 2010]* (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 (CUP) 14-261 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]* (PIng.)_____

A use shall be deemed to have lapsed, and CUP 14-261 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 CUP 14-261 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. 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 the applicable sign permit in accordance with the City's Sign Ordinance. [Citation - Section 17.16.240.D& 17.16.250.D of the SCMC] (PIng.)_____

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 Assurance Program] (PIng.)_____ (Bldg.)_____

7. The commercial suite shall be occupied by a maximum number of people that requires 12 or fewer parking spaces per the parking requirement: 1 space per instructor and 1 space per 2 students. For example, a maximum of 20 students and 2 instructors would be allowed because that would require 12 parking spaces. Also, there can be 18 students and 3 instructors. ■■(PIng.)_____

8. There shall be a minimum 10 minute break between group classes during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday when suite occupancy exceeds 12 people. ■■(PIng.)_____

9. In the event noise impacts neighboring properties and uses, 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.)_____

10. 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 September 3, 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] (PIng.)_____

11. Window and banner signage is not part of this review. Window or banner signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. *[Citation - Section 17.16.240.D of the SCMC]* (Code Enforce.)_____ (Plng.)_____
12. 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.)_____
13. 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.)_____
14. 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.)_____
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. *[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]* (Bldg.)_____
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. *[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (Bldg.)_____
17. 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. *[S.C.M.C – Title 15 – Chapter 15.08]* (Bldg.)_____

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

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

Existing Site/Parking Analysis

| Bldg | Unit # | Business Name | Use | Sq. Ft. | Parking Ratio | Required Parking |
|-----------------------|---------------|---------------------------|---------------------------------------|----------------|-----------------------------------------------|-------------------------|
| D | 100 | A.B.O | Business Office | 5,435 | 1/300 | 18.1 |
| D | 101 | <i>Vacant</i> | Warehousing Office | 2,638 3,621 | 1/2000 1/300 | 1.3 12.1 |
| E | 102 | Azunia Tequila | Warehousing Office | 1,810 1,809 | 1/2000 1/300 | .9 6.0 |
| E | 103 | Code-In-Motion | Business Office | 4,057 | 1/300 | 13.5 |
| E | 104 | <i>Vacant</i> | Warehousing Office | 1,990 2,104 | 1/2000 1/300 | 1.0 7.0 |
| E | 105 | Earth Products | Warehouse | 4,094 | 1/2000 | 2.0 |
| E | *106 | FOUNDATION FITNESS | Proposed Commercial Recreation | 4,057 | 1 per 2 students plus 1 per instructor | 10.0 2.0 |
| E | 107 | JRN Civil Eng. | Business Office | 3,415 | 1/300 | 11.4 |
| F | 108 | <i>Vacant</i> | Warehousing Office | 2,080 1,380 | 1/2000 1/300 | 1.0 4.6 |
| F | 109 | <i>Vacant</i> | Warehousing Office | 1,058 2,966 | 1/2000 1/300 | .5 9.9 |
| F | 110 | Wavetech Industries | Business Office | 4,106 | 1/300 | 13.7 |
| F | 111 | <i>Vacant</i> | Warehousing Office | 2,021 2,049 | 1/2000 1/300 | 1.0 6.8 |
| F | 112 | RRM Design Group | Business Office | 4,299 | 1/300 | 14.3 |
| TOTAL REQUIRED | | | | | | |
| Existing | | | | | | 136 |
| With Proposal | | | | | | 138 |
| TOTAL PROVIDED | | | | | | 162 |

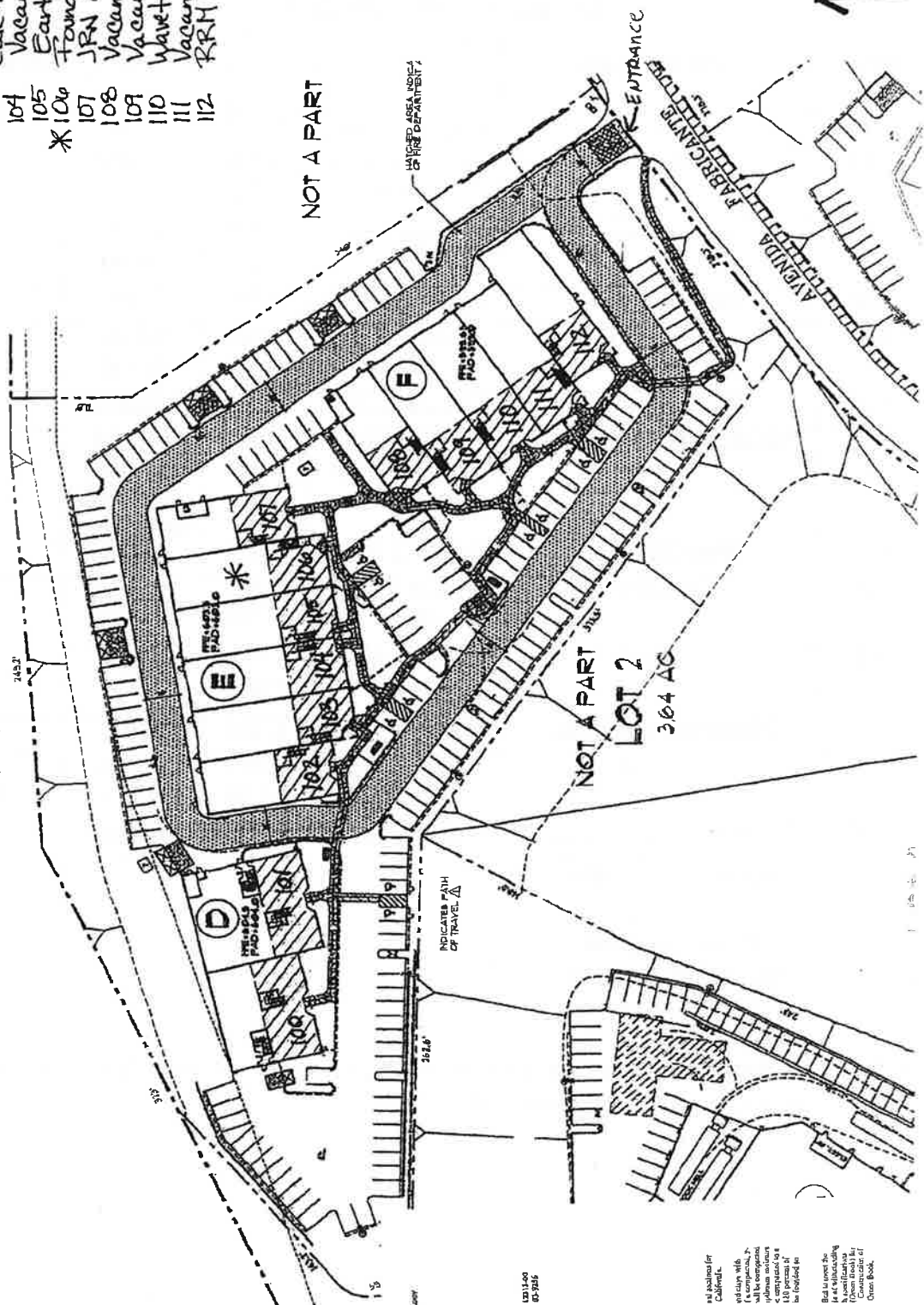
*Per Danielle Mancini with Transcontinental Management Inc., 12 dedicated parking spaces are available for Unit 106.

- Unit No. 100 A. B. D
- 101 Vacant
- 102 Azunia Tequila
- 103 Code - In-Motion
- 104 Vacant
- 105 Earth Products
- * 106 Foundation Fitness
- 107 JRN Civil Eng.
- 108 Vacant
- 109 Vacant
- 110 WaveTech Industries
- 111 Vacant
- 112 RRH Design Group

LOT 3
3.97 AC

NOT A PART

NOT A PART
LOT 2
3.64 AC



not available for
Cultural
and other, with
a minimum of
100,000 sq. ft.
of space for
the purpose of
the program.
Not to exceed the
total area of the
site. The site is
located in the
City of Orange, CA.
City of Orange, CA
City of Orange, CA
City of Orange, CA

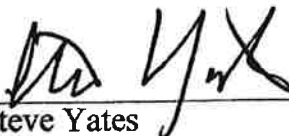
YATES DECLARATION

DECLARATION OF STEVE YATES

I, Steve Yates, declare as follows:

1. I am the appellant in this matter. Except where noted to be otherwise, I state the following of my own knowledge and if called upon to do so, could and would testify competently to the following.
2. I make this declaration in support of my appeal of the approval of Foundation Fitness Conditional Use Permit 14-261 ("Foundation CUP").
3. The commercial facility (the "Facility") which is the subject of the appeal consists of 3 buildings that contain multiple office and warehouse units that are adjoining and contiguous.
4. I own Unit 105, the adjoining unit to Unit 106 which is the subject of the Foundation CUP.
5. I operate a warehouse and office facility which includes a call center that is responsive to my customers who call in during the day to discuss orders and other issues relating to products I sell. I also have a tenant in the office space who is sensitive to noise issues, requires parking and has guests.
6. Noise and parking are significant issues for my business because we spend most of our day on the phone.
7. The Facility is presently partially vacant; however I have been here when it has been completed utilized in the past and will undoubtedly be fully utilized in the future.
8. I require significantly more parking spaces than the 2 assigned to me in the Staff Report. I have an employee, periodic walk in traffic and temporary help for my warehouse in addition to a tenant.
9. Prior "fitness" uses resulted in significant parking and noise issues that were not resolved until the "fitness" use in question left the Facility.

Executed this 15th day of September, 2014, at San Clemente, California.



Steve Yates

ATTACHMENT 6

Table 1 is a summary of the appellant's reasons for appealing the Commission's decision and staff's responses.

Table 1 – Basis for appeal

| Appellant's Grounds for appeal | Staff's response |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The wrong parking requirement is being used to evaluate the CUP. The proposed use is a "fitness facility" and that requirement should be used (which is one required parking space per 150 square feet of floor area) | Consistent with precedent, the group instruction parking requirement was used to establish how many parking spaces are required to allow the proposed use. The parking demand and traffic patterns for group instruction is more consistent with group classes than a fitness studio. Group instruction of classes generates parking demand based on the number of students and instructors of a class and traffic trips vary most when classes begin and end according to a schedule. In comparison, at a fitness studio people exercise independently and parking demand is based on the size of a facility and the number of exercise machines. A fitness studio use typically has higher parking demand and more traffic trips that can be spread out over the work day but is at its peak prior to and just after businesses usually operate (8 a.m. to 5 p.m.). In the case of the proposed use, the largest classes are proposed before 8 a.m. on weekdays and on Saturday mornings when other businesses are typically closed. |
| The art studio parking requirement should not be used to evaluate parking. | In 2013, the Council renamed the "art studio" parking requirement to "group instruction" in order to clarify that the parking standard applies to a variety of group classes, not just art studio classes. This was done to reflect the precedent of requiring one parking space per instructor/employee and one space per two students for group classes on various subjects. This code change was completed in the 2013 Zoning Amendment (ZA 13-313, Ordinance 1575). |
| Soundproofing should be required before classes can be offered, not if a noise issue emerges as shown in the Conditions of Approval. | There is no guarantee there would be a noise issue, especially if the applicant tests noise and installs soundproofing if appropriate. Rather than assume an issue would occur, the Commission took a "business friendly" approach of requiring tenant improvements based on need, confirmed through testing or initial business operations. The applicant must comply with the noise ordinance and Conditions of Approval are considered sufficient to ensure compliance. |

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>To meet findings, an incorrect assumption was made that only small classes would occur and students would arrive in groups to lessen impacts on parking. Individual one on one training was the bulk of business but parking was based on group classes.</p> | <p>The Zoning Ordinance parking requirements and property records were used to evaluate parking. Staff determined there is sufficient parking to meet or exceed demand based on those requirements. Conditions of Approval are included to restrict the use to small groups (20 students or less) and to require 10 minute breaks when other businesses typically operate. Further, the largest fitness classes are to occur in the early morning during weekdays and on Saturday mornings when other businesses are often closed. In conclusion, the Commission and staff conclude that parking is not an issue and the use meets required findings for the approval of a CUP. Private instruction (one instructor for up to two students) is allowed without a CUP and it is a use that generates less parking demand and traffic trips than the proposed use.</p> |
| <p>Unsound financial projections were used to meet required findings.</p> | <p>Financial projections are not used to evaluate applications so this is not a valid grounds for appeal. Parking projections are addressed in this table above.</p> |
| <p>Office space should be regulated separately at one space per 300 square feet</p> | <p>The office space is an ancillary use to the group classes, considering that instructors are also typically the employees that operate a group instruction business. This has been the interpretation and precedent for some time. However, for clarification, Condition of Approval No. 7 is revised to clarify that parking is required at one parking space per <u>instructor/employee</u>.</p> |
| <p>Parking analysis calculations are incorrect. Suite 105 (appellant's suite) contains office space, not just warehousing as shown in the analysis provided to the Planning Commission.</p> | <p>Staff did further analysis on property records and found new information for the development and permitted uses of the suites. Based on that new data, there would be 37 surplus parking spaces based on zoning parking requirements for the various existing uses and proposed use on the site (see Attachment 4 for parking analysis).</p> |
| <p>Prior evidence of parking problems with fitness facilities on the property were disregarded as evidence.</p> | <p>Each application is reviewed on its own merits. Staff was informed that a Gracie Barra studio operated on the site at one time. No evidence was presented to confirm the existence of such a facility. No Conditional Use Permit was issued for a Gracie Barra studio or similar use. As a result, there were no conditions of approval like the requirements that would be applied to the proposed use. The appellant has mentioned that the illegal use interfered with assigned parking. The City does not enforce assigned parking. This is a civil, private matter. The parking complies with City requirements so the Commission and staff supports the CUP.</p> |



September 29, 2014

To: Whom It May Concern

From: Kagan Publishing & Professional Development

Our business is across the parking lot from the Foundation. We have not experienced any negative issues by having them as a close neighbor. On the contrary, employees working for our company have taken advantage of the convenience of working out at the facility during their lunch break. The atmosphere at the Foundation is positive and the break it gives employees that have to sit at their desks all day is productive in more ways than I can mention. The teambuilding between our employees that work out together is an added benefit we did not expect. The reason this occurs is because of the personal attention and small class size. There are other businesses in the area that have also joined the Foundation and the friendship with our neighbors in such a positive environment is an added plus.

Foundation is changing the way you may view fitness. It takes an activity that you think you should do (working out) into something to look forward to each day. It is not a 24 HR Fitness or LA Fitness. It is a small group fitness and personal training studio that brings fitness with a smile and puts so much positivity into your life. I know because I work out there and it has changed my life along with so many others. I only wish them success and count my blessings that they are located in such close proximity to where I work out.

Rebecca Shockney

A handwritten signature in black ink that reads "Rebecca Shockney". The signature is written in a cursive, flowing style.

Human Resources Manager

Kagan Publishing and Professional Development



September 29, 2014

To Whom It May Concern:

I am writing this letter on behalf of Dragon Alliance's personal Athletic Trainers, Ryan Steinhoff, Blake Zerboni, Matthew Smith, Alyssa McMannes and the rest of the team at Foundation Fitness San Clemente. As of June 1, 2014, we have been members of Foundation Fitness in order to continue our company F.I.T goal of being healthy, athletic individuals. Having Foundation Fitness a simple walk across the parking lot has been a positive addition to our new office and move to San Clemente. The hour break provides a chance for our co-workers to use their lunch hour for a physical activity and a mental break from the daily grind. Fun and challenging, exercises allow us to compete with our own co-workers and bosses, which in turn has proved to help the moral and cohesiveness within our company.

I highly suggest companies in the surrounding areas of Foundation Fitness' locations to allow their employees the opportunity to join this lively team at any one of their daily classes.

Thank you for your time and consideration in reading this.

Sincerely,

Jessica Yearton & others

Dragon Alliance

HR

To whom it may concern:

Please accept this letter of recommendation for Foundation Fitness and their upstanding, supportive, incredible fitness program. I have been a member of this intimate and unique fitness facility for a year and enjoy the level of personal attention I receive due to the small class sizes. I receive one on one expert training in a small group setting that allows me to reach my fitness goals.

Allowing this incredible group to move into this new facility will be the best decision for the city and all those involved. The owners are incredibly gracious and respectful and strive to constantly be an influence of positivity.

Respectfully,
Lisa Burke

To whom it may concern,

I am writing this letter on behalf of my personal Athletic Trainers, Ryan Steinhoff, Blake Zerboni, Matthew Smith, and the whole team at Foundation Fitness San Clemente.

Since the latter part of 2013, I have been a member of Foundation Fitness in order to assist me in achieving my goals as a Professional Ocean Athlete. The passion and drive displayed by the team at Foundation Fitness is incredible. Not only are they good at what they do, they are extremely knowledgeable in the area of exercise physiology as well as the psychological aspects of athletics.

I have been a watersports athlete for over three decades now with my first endeavors involving the sport of swimming that took me on a scholarship to The University of Virginia. That led to my eventual career as a Professional Stand Up Paddle Athlete where I have competed all over the globe.

During the past three decades, I have never seen anything like Foundation in terms of the positive impacts they have had on so many lives. The main reason I go to Foundation is their relatively small class size, their intimate, one on one training, and the personal feeling I get when I walk through those doors. Its not another "gym". It's a place where people from all walks of life and all ages can go to fulfill their own exercise goals. It is a place of refuge from the day to day pressures of life that so many people face.

I cannot stress enough the positive impact The Foundation has on the community and it is a fine addition to the City of San Clemente, where I have lived since the early 70's. I invite you to come train with me and see for yourself what The Foundation has to offer.

Thank you for your time and consideration in reading this.

Sincerely,

Rob Rojas

September 29, 2014

To Whom It May Concern:

My name is Jennifer Lyons and I am writing this letter on behalf of my personal trainers, Ryan Steinhoff, Blake Zerboni and the entire Foundation team. I am not only a client at Foundation Fitness but also their wall-sharing neighbor at their current facility. They've been amazingly respectful and have even gone out of their way to help myself and my team with gaining clientele.

Foundation Fitness and its philosophy have truly re-defined my attitude towards feeling good about me without judgment from myself or others. The traditional language of going to the "gym", jumping on the scale, counting calories and "working out" don't even fit my lexicon anymore thanks to Foundation. At Foundation Fitness, I've lost over 7 pounds simply by playing, acting goofy, and enjoying exercise. I feel like I am part of a family; that's probably the most important to me. I feel welcome every time I enter the doors. I hear my name at least 5 times during a session. My trainers "know me" because they care about me and my well-being. What a great concept. We hug. We laugh. We smile. We sing. We dance. It is rejuvenating, motivating and inspiring to me. The owners are rad. The trainers are rad. The P.E. classes are so full of life, spunk and creativity. I'm always left with wanting more. I truly am "in love" with this place and the staff.

As the entrepreneurial owner of my company L3 ("Motivating Girls to Shine") here in San Clemente I cannot begin to stress the positive impact Foundation Fitness has on the community. The City of San Clemente is so lucky to have a facility like this at their fingertips. I invite you to come train with me and see for yourself what The Foundation has to offer.

Thank you in advance for your time and consideration.

**Sincerely,
Jennifer Lyons**

**I am writing this as a true testament to Foundation Fitness.
Becoming a part of Foundation is one of the best things I have ever
done for myself.**

**After belonging to over a dozen different exercise institutions over
the past 10 years I have finally found the perfect place.
What separates Foundation Fitness from all the others is its "non-gym"
mentality. It is and has become a family of friends
and upstanding members of society all coming together in the interest
of bettering themselves and helping others do the same.**

**Being in a quiet place where you know everyone's name, can focus in a
serene environment and actually have fun while exercising is a
unique experience; one that I cherish and look forward to being a part
of every day.**

**What really makes Foundation a unique place is the incredibly
dedicated owners/staff that run it, as they run it with their hearts
and their passion.
They help all of their members grow as individuals, learn respect for
fellow members and respect for our surrounding neighbors and businesses.
This is not a gym with sports channels blaring and barbells
clanking...this is one filled with laughter and innocent fun.
The friends I have made here are mothers, professionals and upstanding
members of society all there for a common purpose.**

I am proud to be a part of this establishment.

Kelly Forte

September 29, 2014

To whom it may concern;

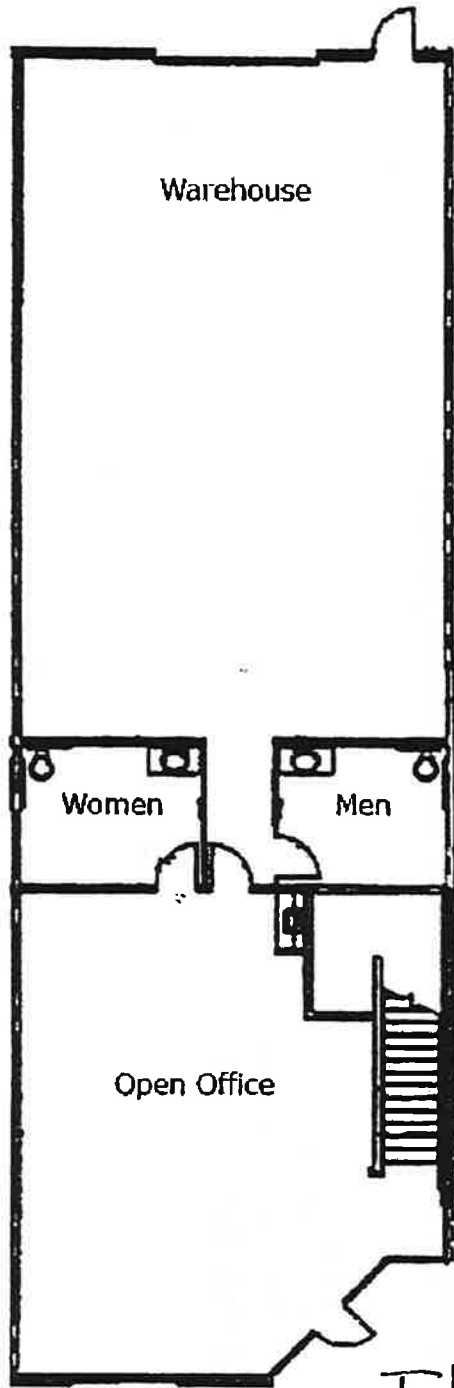
As a lifetime resident of 50 years and a business owner on Avenida Del Mar for almost 30 years, I have had the privileged to be involved with some amazing programs and businesses in our Beautiful City. San Clemente is cherished by so many and we only want businesses that both enhance and compliment what we stand for as a community. With that said, for the last year I have been working out with "Foundation Fitness". It has truly changed my life in regards to fitness and overall well-being. I had given up on any type of workout program until someone introduced me to Ryan Steinhoff and his unique and wonderful way to health and fitness. Over the past year I have enjoyed the "Boutique" style facility that allows small class sizes and a more intimate workout, that promotes a more focused and productive program. Their class schedules offer a variety of days and times that fit into almost any one's life. I needed a more personal approach to fitness, where I could grow in my knowledge and physical ability, and continue to progress in my overall health, and they covered all of that and more. They have made it personal, by caring about their clientele, they are community minded and involved, with Mud Runs and Fiesta's, Street Fairs as well as children's programs. And in the middle of all this they are continuing to look for ways to touch more lives and be more involved. I will forever be a member and I will continue to promote "Foundation Fitness" through networking in my business as well as my personal life, because I believe in what they represent, and for the purpose they have built such a wonderful program.

Sincerely,

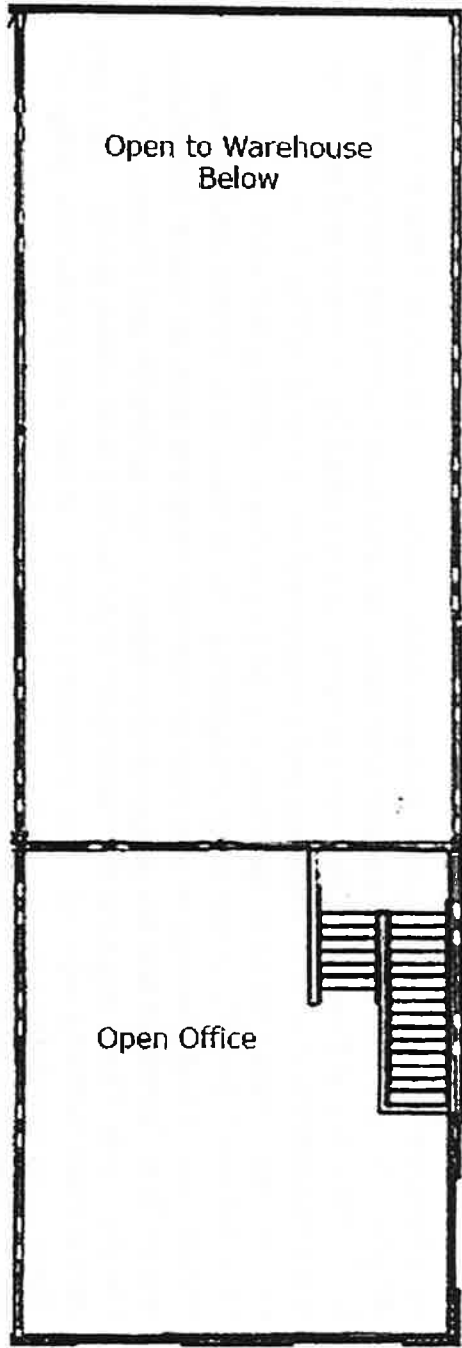


Darcy Hall-Scott

FIRST FLOOR



SECOND FLOOR



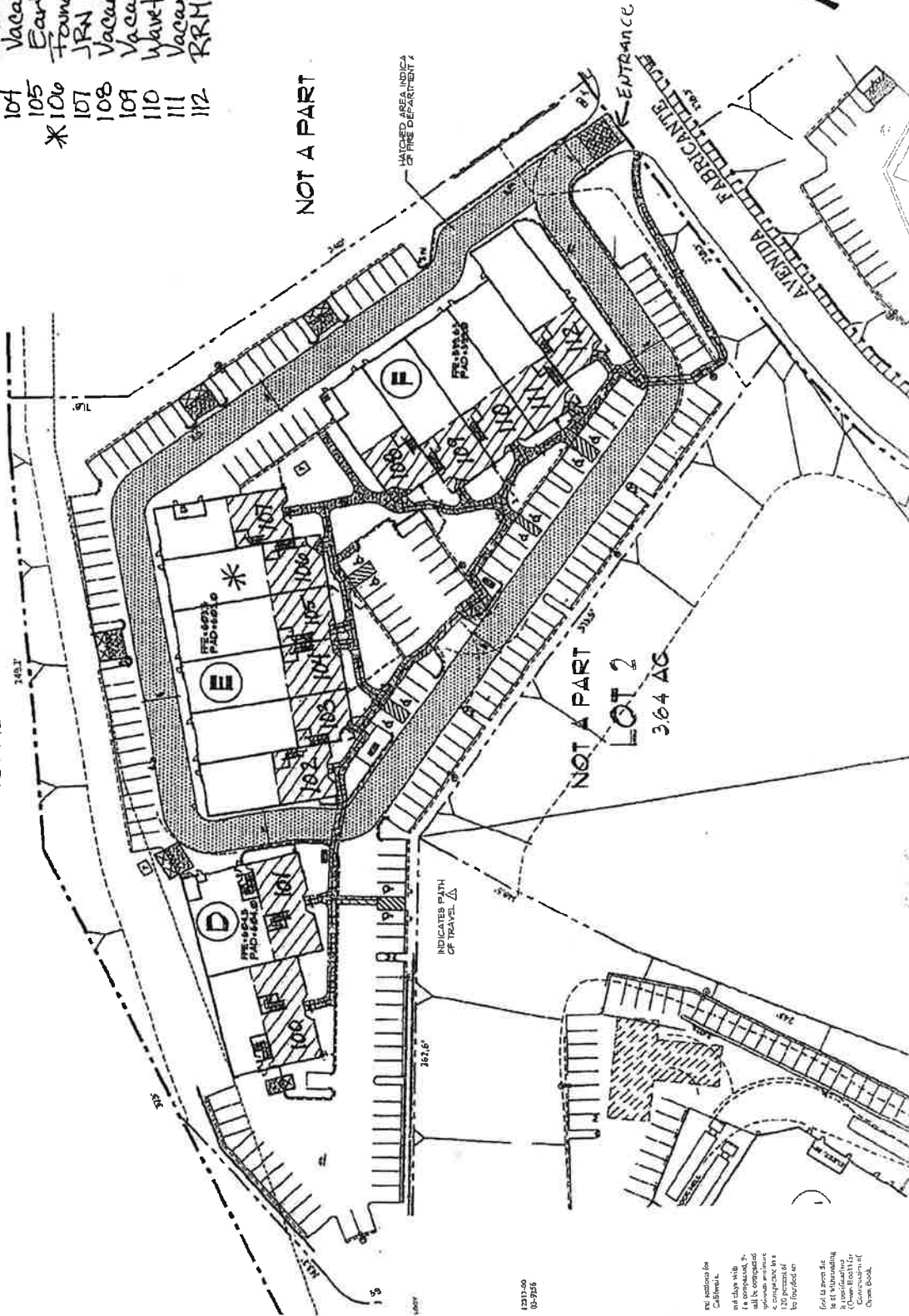
4,057 sq. ft.

Unit #106
Floor Plan

ATTACHMENT 8

Unit No. 100 A.B.D
 101 Vacant
 102 Azunia Tequila
 103 Code-In-Motion
 104 Vacant
 105 Earth Products
 * 106 Foundation Fitness
 107 JRM Civil Eng.
 108 Vacant
 109 Vacant
 110 WaveTech Industries
 111 Vacant
 112 RRM Design Group

LOT 3
397 AC



NOT A PART

NOT A PART
LOT 2
364 AC

100% AS BUILT
01/25/16

NOT VALID FOR CALIFORNIA. THIS PLAN, WHEN COMPLETED, SHALL BE COMPARED TO THE RECORD DRAWINGS TO VERIFY THAT THE 100% PORTION IS ACCURATE AND CORRECTLY LOCATED ON THE GROUND.

THIS IS NOT A PROFESSIONAL ENGINEERING DRAWING AND SHALL NOT BE USED FOR ANY PURPOSES REQUIRING A LICENSED PROFESSIONAL ENGINEER.

