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**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
September 17, 2014, 7:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, California**

1. CALL TO ORDER

Chair Darden called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 7:03 p.m.

2. PLEDGE OF ALLEGIANCE

Chair pro tem Jim Ruehlin led the Pledge of Allegiance.

3. ROLL CALL

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

Commissioners Absent: Michael Smith

Staff Present: Jim Pechous, City Planner
Clifford Jones, Associate Planner
Amber Gregg, Associate Planner
Adam Atamian, Associate Planer
Thomas Frank, Transportation Engineering Manager
Zachary Ponsen, Senior Civil Engineer
Ajit Thind, Assistant City Attorney
Mary Colletti, Recording Secretary

4. SPECIAL ORDERS OF BUSINESS

None

5. MINUTES

- A. Minutes from the Study Session of September 3, 2014
- B. Minutes from the Planning Commission Meeting of September 3, 2014

IT WAS MOVED BY VICE CHAIR BROWN, SECONDED BY COMMISSIONER CRANDELL, AND CARRIED 6-0-0, to receive and file the minutes of the Regular Study Session of September 3, 2014 and the Regular Planning Commission Meeting of September 3, 2014, with the following revisions:

Item 7B, Consent Calendar, No Stopping on Calle Frontera:

Insert the following sentence directly following paragraph 3 (Vice Chair Brown's comments), on page 3:

"Chair Darden agreed with Vice Chair Brown, and also said she felt that using Frontera as a drop-off area was dangerous, due to the narrow shoulder."

Item 8A, Public Hearing, 176 Avenida Cabrillo – Cabrillo Mixed Use:

On page 8, paragraph 1, sentence 7, replace "She also questioned the ability to round down the required parking space, but noted the ordinance allows the development as proposed." with the following:

"While she felt that we need to look carefully at all parking strategies in the Downtown, Chair Darden did not have a concern at this time about the ability to round-down the number of parking places, as it is a useful tool that enabled the applicant to propose a smaller structure that better fits the vision for the area."

6. ORAL AND WRITTEN COMMUNICATION

None.

7. CONSENT CALENDAR

None

8. PUBLIC HEARING

A. 1041 Avenida Pico, Suite A – Conditional Use Permit 14-303 – Pure Barre Fitness (Gregg)

A request to consider a group instruction fitness studio, Pure Barre, located at 1041 Avenida Pico, Suite A, in the Talega Courtyards Shopping Center within the Talega Specific Plan. The legal description is Lot 4 of Tract 16253, and Assessor's Parcel Number 701-321-13.

Amber Gregg, Associate Planner, summarized the proposed project, discussing the Conditions of Approval as related to hours of operation, noise control (the business plans to play only ambient low level music and have a soundproof shared wall), number of parking spaces (11), and the

requirement of 15 minute recesses between each class. She said that staff believes this business is compatible with the location, the General Plan and the Talega Specific Plan. Staff has noted on site visits that the peak hours for the Talega Courtyard II center are during lunchtime which, she feels, would not conflict with Pure Barre's traffic.

Applicant Erica McGinley (together with Anne Sanders), spoke of the health benefits and camaraderie Pure Barre offers. She distributed a brochure entitled "Pure Barre Real Estate" to the Commissioners.

Chair Darden opened the public hearing, and, since no public comments were forthcoming, she closed the public hearing.

IT WAS MOVED BY CHAIR PRO TEM RUEHLIN, SECONDED BY VICE CHAIR DONALD BROWN, AND UNANIMOUSLY CARRIED 6-0-0, TO ADOPT RESOLUTION NO. PC14-039, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-303, PURE BARRE FITNESS STUDIO, A REQUEST TO ALLOW A GROUP INSTRUCTION FITNESS STUDIO AT 1041 AVENIDA PICO, SUITE A.

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

B. 92 Avenida La Pata – Conditional Use Permit 14-266/Minor Architectural Permit 14-267 – Gratitude Garden Preschool (Atamian)

A request to consider a new preschool located at 92 Avenida La Pata in the Neighborhood Commercial zone of the Rancho San Clemente Specific Plan with a playground located on an adjacent 2,883 square foot portion of City-owned property zoned Open Space in the Forster Ranch Specific Plan. The legal descriptions are Parcel 2 on Page 4 of Assessor's Parcel Book 331, Assessor's Parcel Number 688-132-02, and a portion of Parcel 1 of Lot Line Adjustment Number LL 98-83 in the City of San Clemente located to the south of Avenida Vista Hermosa and east of Avenida La Pata, Assessor's Parcel Number 678-164-01.

Adam Atamian, Associate Planner, showed a PowerPoint Presentation and gave the background on the project, which is located on two separate lots and which is proposed to move into a previously vacant building on one of the lots. He said that the City owns the other lot proposed for the use of the project. The applicants are requesting 2,883 square feet of the City-owned lot, and that part of the site contains an easement for a City storm drain and is part of a fuel modification zone for the Orange County Fire Department. He discussed the surrounding land uses and the adjacent open space, as well as the proposed current use as a preschool for children aged 3-5 years. He discussed the proposed drop-off times and pick-up times which are each a minimum of 2.5 hour periods. He said

the project includes a playground, some smaller structures, fencing and landscaping and relocation of trees (to comply with scenic corridor landscaping). He said that Engineering Staff does not favor burming/mounding or grading at the site. He also spoke of the project's compliance with the usage (with a Conditional Use Permit), parking and setback requirements, and how it won't impact neighboring properties, as the abutting land uses are similar compatible commercial uses or open space. He discussed the applicant's intent to comply with Conditions of Approval, including #8, #13, #14 and #15, which address the land lease, occupancy limit, limit on number of students dropped off or picked up within a 30 minute time period (no more than 24 at a time). He added that the children will be walked in by their parents after their cars are parked.

He stated that Condition of Approval #15 in regard to parking/traffic can be reviewed if it is not upheld. He finished by saying that Staff recommends approval for this application.

In regard to the photos/plans included in their packets, Chair Darden asked why the metal fence was not required to be painted black (Associate Planner Atamian said the current taupe color was more in keeping with surrounding fencing; and Commissioner Brown requested that future drawings/plans enclosed in packets be more enlarged.

Applicant Dr. Dustine Rey, Executive Director and Founder of Gratitude Garden Preschool, and Professor of Education at Pepperdine University, spoke of the excellent public response to the proposed preschool (30 parents are wait-listed for the proposed spring opening). She said the preschool will offer science, math, technology, and engineering in a nature-based environment, while teaching the value of gratitude and instilling a love of learning.

Chair Darden opened the public hearing, and, since no public comments were forthcoming, she closed the public hearing.

Commissioner Crandell is very concerned about the prospect of children being walked through a busy parking lot to the school entrance, without there being a proper sidewalk or turnaround at the "hammerhead" area of the parking lot, for cars to drop-off and pick-up children. He said that Avenida La Pata will be even busier within the next 5 years. He wants to add a condition that a sidewalk be constructed from the parking lot to the door and he suggested the possibility of reducing the landscaped area or removing a parking space to add a turnaround. He said with these conditions met, he would be in favor of the project.

Chair pro tem Ruehlin cited the red curb to the left front of the building as an alternative to a turnaround area. Commissioner Crandell responded that if a driver pulled in and could not find a parking spot, he would still need a dedicated place to properly turn around.

Thomas Frank, Transportation Engineering Manager, spoke of the same concerns. He said the parking lot configuration is not deemed ideal for a school drop off zone and a through drive is a possibility (but likely expensive). He said staff is concerned about how many people will pick up at one time, and cars should not be allowed to stack up on La Pata which will eventually be built through to San Juan Capistrano. City Planner Pechous explained that if this occurs, staff will work with applicant to resolve the issue.

Chair Darden suggested making a condition to revisit this issue in 6 months. Commissioner Crandell would reconsider having a dedicated turnaround, but insists on a sidewalk-type access for the children.

Transportation Engineering Manager Frank said the parking lot would have low usage (unlike a busy mall parking lot). Commissioner Crandell has worked with KinderCare facilities where sidewalks were considered a necessity. Assistant City Attorney Thind was not concerned about City liability, because the open space lease will include liability coverage to protect the City from any liability associated with the parking lot.

City Planner Pechous cited his personal experience as a parent of preschoolers and said that perhaps the applicant could stagger drop off times during the 2.5 hour drop-off period.

The Commissioners and staff discussed possible sidewalk placement and the pros and cons.

The applicant pointed out a steep drop-off area in the plans in the spot the Commissioners were now considering for a possible pathway. Commissioner Crandell said if it is a 3 foot (2:1) drop-off that would still be acceptable, with a possible retaining curb. Applicant Rey explained that the concern about the parking lot turnaround and sidewalk had never come up before, and that her short-term lease on this property would make a sidewalk requirement a possible deal-breaker. When Commissioner Crandell suggested it might be in the best interests of the owner to help provide a sidewalk in order to ensure the applicant would lease the property, applicant Rey said the owner is *not* particularly motivated to sell or even rent the property. She said not having a sidewalk has never been a problem at any facility where she has taught. Commissioner Crandell responded that he does not favor taking that responsibility, and he stressed that he wants the children "off" of the parking lot. Commissioner Ward explained to the applicant that the safety concern is because the children would be walking along the parking lot entrance on the very busy La Pata street side. Commissioner Eggleston agreed with Commissioner Crandell that this Commission's first concern is safety.

City Planner Pechous suggested more cost effective sidewalk material such as decking and decomposed granite.

Chair pro tem Ruehlin, said that, "playing devil's advocate", he wondered if adding striping to indicate a walkway through the parking lot to the entrance might be more cost effective.

Chair Darden suggested a condition that the applicant must work with staff to add an improved pathway from the parking lot to the entrance. City Planner Pechous mentioned that parents would be more careful backing up their cars in a preschool parking lot than would most people; Commissioner Ward cited a school parking lot with "uncareful" parents that had to add a crossing guard.

Assistant City Attorney Thind discussed the possible liability to the City if this Commission offers a condition that the applicant "work with staff to find a solution" to the pathway, rather than outright requiring a specific solution. Mr. Thind thinks there would be no monetary liability if this Commission approves the proposed Conditional Use Permit, because the Government provides monetary immunity for permits, the same as any other permit this Commission has approved in the past.

After additional discussion with staff, the Commissioners decided that a requirement for the applicant to provide parents with an educational brochure about following a designated drop-off area and improved pathway to walk their children from the parking lot to the entrance, and with the addition of Condition of Approval No. 39 requiring a path, they would approve this resolution.

IT WAS MOVED BY VICE CHAIR BROWN, SECONDED BY CHAIR PRO TEM RUEHLIN, AND UNANIMOUSLY CARRIED 6-0-0, TO APPROVE RESOLUTION NO. PC14-038, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-266/MINOR ARCHITECTURAL PERMIT 14-267, GRATITUDE GARDEN PRESCHOOLS, ALLOWING A NEW PRESCHOOL WITH A PLAYGROUND LOCATED ON AN ADJACENT CITY-OWNED PROPERTY LOCATED AT 92 AVENIDA LA PATA, WITH THE ADDITION OF CONDITION OF APPROVAL NO. 39, THAT THE APPLICANT WILL PROVIDE AN IMPROVED PATH OF TRAVEL ON THE NORTHEAST SIDE OF THE PARKING LOT, EXTERNAL TO THE PARKING LOT, TO THE SCHOOL ENTRANCE, UTILIZING THE EXISTING HANDICAPPED PARKING LOT. THE PATH OF TRAVEL WILL BE SUBJECT TO APPROVAL BY THE CITY PLANNER, AND, IN ADDITION, THE APPLICANT IS TO PROVIDE EDUCATION TO THE PARENTS OF THE STUDENTS IN REGARD TO DROP-OFF AND PICK-UP REQUIREMENTS OF THE SCHOOL.

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

C. Nonconforming Use Ordinance Amendment (Nicholas)

A request to consider an amendment to the Nonconforming Use section of the Nonconforming Ordinance of the Municipal Code related to existing nonconforming mobile home uses and associated accessory structures and improvements.

Per City Planner Pechous, staff needs additional time for issues in regard to this item, and recommends the item be tabled and re-noticed for any future consideration.

Chair Darden opened the public hearing.

Mr. Alexander Maniscalco, Esq., attorney representing Capistrano Shores, is concerned that City staff may be holding up approvals pending the proposed above amendment. He discussed the state's Mobile Home Parks Act requiring uniform regulations for all mobile homes across the state (see title 25 of said Act for more details). He said that title 25 allows for a 10 day period of approval for replacement of mobile homes and he thinks staff is holding up approval while they work on the proposed Nonconforming Use Ordinance amendment. He asked the City attorney to assure staff that they can continue to issue permits without waiting for the above proposed amendment.

Eric Anderson, Manager of Capistrano Shores, asked that applications continue to be approved. He said many owners are prevented from replacing their homes, causing them injury and delays. He said he expects the City to process these pending applications disregarding said ordinance, because it does not affect the replacement of mobile homes.

IT WAS MOVED BY CHAIR PRO TEM RUEHLIN, SECONDED BY VICE CHAIR DONALD BROWN, AND UNANIMOUSLY CARRIED 6-0-0 TO TABLE THIS ITEM.

[ITEM TABLED - PENDING].

9. NEW BUSINESS

None

10. OLD BUSINESS

None

11. REPORTS OF COMMISSIONERS AND STAFF

- A. Tentative Future Agenda
- B. Minutes from the Zoning Administrator meeting of September 3, 2014
- C. Staff Waiver 14-337, 104 Avenida Barcelona
- D. Staff Waiver 14-338, 3515 Calle La Quinta

12. ADJOURNMENT

IT WAS MOVED BY CHAIR PRO TEM JIM RUEHLIN, SECONDED BY COMMISSIONER WAYNE EGGLESTON, AND UNANIMOUSLY CARRIED 6-0-0, to adjourn at 8:22 p.m. to the Study Session to be held at 6:00 p.m. on October 8, 2014 in Council Chambers at City Hall located at 100 Avenida Presidio, San Clemente, CA.

Respectfully submitted,

Julia Darden, Chair

Attest:



Jim Pechous, City Planner