



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: August 16, 2017

PLANNER: Liane Schuller, Contract Planner 

SUBJECT: **Minor Conditional Use Permit 17-102, Conservatory of Performing Arts**, a request to establish a business specializing in children's music, dance and acting lessons.

LOCATION: 1062 Calle Negocio, Suite E

ZONING/GENERAL PLAN: Business Park District of the Rancho San Clemente Specific Plan area

BACKGROUND:

- The project site is located at 1062 Calle Negocio, Suite E, in a previously subdivided space in an existing multi-tenant commercial building.
- The applicant proposes to conduct one or two classes concurrently, with a maximum of five students and one instructor per class. A thirty (30) minute transition time is proposed between class times to allow for student drop-off and pick-up. Summer hours of operation are 9:00 a.m. to 3:00 p.m.; operational hours during the schoolyear are yet to be determined.
- There are a total of 280 parking spaces located onsite; based upon prior use, 26 parking spaces are allotted to this tenant space. Based upon the business narrative and zoning code standards, a minimum of seven (7) parking spaces are required for the proposed use.
- A condition of approval has been included in the attached Resolution (Condition 12) so that in the event that noise from the proposed business impacts neighboring properties, the applicant will be required to soundproof the facility or to use other best management practices as determined by the City Planner to eliminate the problem and to comply with City noise ordinances.
- The Rancho San Clemente Specific Plan allows Zoning Administrator approval of a Minor Conditional Use Permit (MCUP) to allow the establishment of the proposed business in an existing multi-tenant commercial structure within the Business Park District of the RSC Specific Plan area.
- Other similar business previously approved and operating in this vicinity and zone include a children's gymnastics business and a martial arts school.
- On April 20 and June 15, 2017, the Development Management Team (DMT) reviewed the project and supports it.

- This request satisfies the intent and required findings for a Minor Conditional Use Permit, based on the following:
 - The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the Rancho San Clemente Specific Plan to promote and support a diverse range of retail and service uses for the community.
 - The site is suitable for the type and intensity of use that is proposed in that the site is located in a commercial area that is well-buffered from residential zones, with adequate access and parking provided onsite.
 - The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that all classes and business activities will be conducted indoors.
 - The proposed use will not negatively impact surrounding land uses in that the location is well-buffered from residential zones, no outside activities are proposed and greater than required parking is provided onsite.
- The project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(a) because the project involves the leasing and interior tenant improvements to a previously subdivided tenant space within an existing commercial structure.
- To date, staff has not received public comments on this application.

RECOMMENDATION

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(a) because the project involves the leasing and interior tenant improvements to a previously subdivided tenant space within an existing commercial structure.
2. Adopt Resolution ZA 17-024, approving MCUP 17-102, Conservatory of Performing Arts, subject to the attached Resolution and conditions of approval.

Attachments:

1. Resolution ZA 17-024
Exhibit A - Conditions of Approval
2. Location Map
Plans

RESOLUTION NO. ZA 17-024

A RESOLUTION OF THE ZONING ADMINISTRATOR OF
THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING
MCUP 17-102, CONSERVATORY OF PERFORMING ARTS,
AT 1062 CALLE NEGOCIO, SUITE E

WHEREAS, on April 5, 2017, an application was submitted, and completed on July 7, 2017, by the City of San Clemente, 100 Avenida Presidio, San Clemente, CA 92672, for Minor Conditional Use Permit (MCUP) 17-102 to allow the establishment of a business specializing in children's music, dance, and acting lessons at 1062 Calle Negocio, Suite E, in the Business Park district of the Rancho San Clemente Specific Plan area. The site's legal description is Lot 13, Tract 12402, Assessor's Parcel Number 688-142-11; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301(a). This is recommended because the project involves the leasing and interior tenant improvements to a previously subdivided tenant space within an existing commercial structure; and

WHEREAS, on April 20, and on June 15, 2017, the City's Development Management Team (DMT) reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on August 16, 2017, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(a) because the project involves the leasing and interior tenant improvements to a previously subdivided tenant space within an existing commercial structure and will not have an adverse impact

on the environment.

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Here, the project involves the establishment of a business in an existing commercial tenant space, and minor interior tenant improvements which will be constructed and installed in compliance with all City development and safety standards.

Section 3. With regard to Minor Conditional Use Permit 17-102, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the Rancho San Clemente Specific Plan to promote and support a diverse range of retail and service uses for the community.
- B. The site is suitable for the type and intensity of use that is proposed in that the site is located in a commercial area that is well-buffered from residential zones, with adequate access and parking provided onsite.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that all classes and business activities will be conducted indoors.
- D. The proposed use will not negatively impact surrounding land uses in that the location is well-buffered from residential zones, no outside activities are proposed and greater than required parking is provided onsite.

Section 4. Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Conditional Use Permit 17-102, Conservatory of Performing Arts, subject to the above Findings, and the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on August 16, 2017.

Cecilia Gallardo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL
MINOR CONDITIONAL USE PERMIT 17-102
CONSERVATORY OF PERFORMING ARTS

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive]* (PIng.)_____
2. Thirty days after project approval, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City. *[Citation – City Attorney Legal Directive]* (PIng.)_____
3. MCUP 17-102 shall become null and void if the use is not commenced within two (2) years from the date of the approval thereof. Since the use does not require the issuance of a building permit, the use shall not be deemed to have commenced until the date the use becomes operational. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____
4. The owner or designee shall have the right to request an extension of MCUP 17-102 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 in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____
5. 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.)_____
 6. 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.)_____
 7. 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.)_____
 8. 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.)_____
 9. 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.)_____
 10. 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.)_____
 11. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the

approved plans. *[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]*
(Bldg.)_____

12. In the event that noise impacts neighboring properties, the tenant must soundproof the facility, or use other best management practices as determined by the City Planner, to eliminate the problem and comply with the City's noise ordinances. ■■ (PIng.) _____

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

- Denotes a modified standard Condition of Approval.
- Denotes a project specific Condition of Approval



LOCATION MAP

ATTACHMENT 2

Conservatory of Performing Arts
1062 Calle Negocio, Suite E

