



STAFF REPORT

SAN CLEMENTE PLANNING COMMISSION

Date: December 6, 2023

PLANNER: Karla Morales, Community Development Technician

SUBJECT: Interpretation (INT) 23-352, Smart Fit Method and Pedestrian-Oriented Uses

CONTINUATION:

The Planning Commission previously reviewed this item at its November 8, 2023 meeting, but did not have sufficient time to fully discuss and make a determination. The Commission unanimously voted to continue discussion on this item to its December 6, 2023 meeting. Commissioners also recommended (without a specific motion) that the Smart Fit Method applicants pursue the Minor Conditional Use Permit required for non-pedestrian oriented uses within the Pedestrian Overlay. The applicant team has submitted for that permit, which will require a public hearing with the Zoning Administrator. Please reference Attachment 6 for the draft minutes from the November 8, 2023 Planning Commission meeting.

This report remains unchanged from the version reviewed by the Commission on 11/8/2023, with the following minor revisions:

- The Alternatives section has been expanded and bifurcated so that the Commission could take action on the individual business request separately from any action on broader use classifications for the Pedestrian Overlay;
- The Resolution was updated to reference both dates of review by the Planning Commission; and
- Staff provided Attachment 5 to clarify the Pedestrian Overlay area and Attachment 6 to include the draft minutes related to this item from November 8, 2023.

PURPOSE:

Zoning Ordinance Section 17.04.040 allows applicants to request an interpretation if they believe there are ambiguities in the Zoning Ordinance concerning the appropriate classification of a particular use or applicability of any standards. This item considers the appropriate use classification of a unique health-oriented business and whether that business can be considered "pedestrian-oriented" within the Central Business Overlay. In addition to a specific determination on this business, staff seeks guidance on additional business types that can be considered pedestrian-oriented.

REQUIRED FINDINGS:

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

Interpretation, 17.04.040.G., to determine that a proposed use is similar to a permitted or conditionally permitted use.

1. The proposed use is similar in nature to the listed use in terms of its function; and
2. The proposed use is as restrictive as the use to which it is being compared in terms of impacts to traffic, parking, dust, noise, or other negative impacts.

BACKGROUND:

The Smart Fit Method incorporates personal training/fitness, medical and nutritional consultations, and retail activity into one business. The Smart Fit Method is located at 223 Avenida del Mar Unit C in the Del Mar Mixed-Use 3.0 Zone within the Central Business Overlay and Architectural Overlay Districts (MU 3.0-CB-A). The business applied for a business license after moving into this suite at which time staff identified a potential issue that the business may not meet the pedestrian-orientation requirement for businesses in the Central Business Overlay, depending on the interpretation of the Zoning Ordinance.

The applicant has requested that the Zoning Code be interpreted so that the proposed business is a group instruction use and that group instruction is a pedestrian-oriented use. The City Planner is authorized to determine whether an interpretation of the Zoning Code is "major" or "minor" in nature. "Major" interpretations are subject to Planning Commission review while the City Planner issues minor interpretations. The City Planner determined this is a "major" interpretation. While the singular business use is unlikely to have substantial public impact or concern, there is potential for precedent that would affect other business license applications in the future.

The Smart Fit Method has on-site doctors, nutritionists, and fitness/medical coaches, according to the applicant's justification letter (Attachment 2). On-site staff provide health screenings, including imaging, bloodwork, and other diagnostics to create a health plan for clients. Clients of the Smart Fit Method have access to on-site cardio, resistance, and exercise machines with coaches to provide instruction and monitoring through 20-minute interval workouts. Retail activity includes the sale of nutritional supplements, books, clothing, water bottles, and other fitness-related merchandise.

Figure 1: Project Location



Figure 2: Site Photo from Avenida del Mar



The business is subject to the permitted and conditionally permitted uses in the Central Business Overlay District, which is outlined in Zoning Ordinance Section 17.56.030 as follows:

C. Permitted and Conditionally Permitted Uses.
<p>Within the CB Overlay, the appropriateness of the location of nonpedestrian-oriented uses, as defined below, in pedestrian-oriented space, as defined below, shall be considered as part of the discretionary review process for the use, as indicated in the use table in Chapter 17.40, Mixed-Use Zones and Standards, of this title.</p> <p>1. Definitions.</p> <p>a. Pedestrian-oriented uses. Pedestrian-oriented uses facilitate a relatively high level of pedestrian activity. Examples of pedestrian-oriented uses include retail shops; restaurants; entertainment; commercial services such as banks, cleaners, electronic repair shops; offices such as optometrists with retail space and realtors; the common areas of lodging facilities such as lobbies, restaurants, and shops; public uses such as postal offices and parks; and other similar uses.</p> <p>b. Nonpedestrian-oriented uses. Nonpedestrian-oriented uses facilitate relatively little pedestrian activity. Examples of nonpedestrian-oriented uses include most professional offices, such as insurance agencies, secretarial services and telemarketing services; medical uses such as doctor's, dentist's and veterinary offices and optometrists without retail space; guest rooms in lodging facilities; and other similar uses.</p> <p>c. Pedestrian-oriented space shall be commercial space on the street level of a project which meets either of the following criteria:</p> <p style="padding-left: 40px;">i. Individual commercial space with a wall which is contiguous with the front property line; or</p> <p style="padding-left: 40px;">ii. Individual commercial space with an entrance located within 15 feet of the front property line.</p>

REQUEST:

The applicant requests the following Planning Commission interpretations:

- Determine that the proposed business is a group instruction use, defined under Zoning Ordinance Section 17.88.030 as, “non-counseling, non-therapy instructional services that are provided to groups of five (5) or more persons at a time”.

- Determine that group instruction is a pedestrian-oriented use.

In the attached letter, the Smart Fit Method provides their justification for the request. The business will provide 20-minute interval workouts on exercise machines instructed by on-site staff in conjunction with their health plan. The Smart Fit Method accommodates scheduled customers as well as walk-in customers. There will be a maximum of four clients and three staff members at one time. The proposed use will have dedicated retail space at the front of the tenant space to generate pedestrian activity, as illustrated on the floor plan (Attachment 3). The business will also provide walk-in demonstrations of the exercise equipment.

Planning staff considers “group instruction” uses of four or less persons to be similar to a general office for the purpose of use classification and parking considerations. “Group instruction” uses of four or fewer persons do not require any additional use permits.

“Group instruction” is not explicitly defined as a pedestrian-oriented use in the Zoning Ordinance. City staff request Planning Commission direction on this use type.

ANALYSIS:

The request meets required findings and staff supports the proposed request based on the following:

- The Smart Fit Method has fitness and nutrition coaches that provide instruction and monitor client progress and use of the on-site exercise equipment with no appointments required. Other accessory uses occur on-site, such as retail sales and diagnostic screenings, but are not the primary use of the tenant space.
- The Smart Fit Method proposes a maximum number of four persons, which does not require a use permit. Planning staff classifies group instruction of under five persons to be similar to a general office in terms of use classification, impacts, and parking due to the smaller group size.
- Four parking spaces are required and four are provided and no amplified noise or entertainment is requested as part of this use.

ENVIRONMENTAL REVIEW/ANALYSIS (CEQA):

The interpretation request does not constitute a “project” as defined by the California Environmental Quality Act (CEQA) Guidelines Sections 15378(b)(2) and 15378(b)(5) because the interpretation decision involves continuing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

SUMMARY:

If the Planning Commission supports the requests, this Code interpretation would not be limited to the Smart Fit Method; it would apply to other similar uses. Specifically, if approved, other group instruction uses, such as yoga studios, would be considered a pedestrian-oriented use and would be permitted in the Central Business Overlay District in a pedestrian-oriented space

Group instruction of five or more persons at a time still requires approval of a Minor Conditional Use Permit. If the Smart Fit Method is deemed a “group instruction” use with five or more persons at a time, a separate Minor Conditional Use Permit will still be required.

If the Planning Commission denies the request to be classified as “group instruction”, then the Commission should classify the business as a categorized use in the Mixed Use 3.0 Zone and determine whether or not it is a pedestrian-oriented use. A copy of the permitted uses table is included as Attachment 4.

If the Planning Commission denies the request for “group instruction” to be classified as a pedestrian-oriented use, then the applicants may apply for a Minor Conditional Use Permit to allow a nonpedestrian-oriented use in a pedestrian-oriented space or be permitted in a space outside of the Central Business Overlay District. “Group instruction” of five or more persons will still require approval of a Minor Conditional Use Permit.

In addition to the specific interpretation on the Smart Fit business model, staff recognizes that other business types would benefit from a clear determination on whether they can be classified as pedestrian-oriented. Staff seeks Planning Commission direction on the following use/business types and welcomes additional input beyond this list – which is similarly referenced within the attached Resolution.

- Additional examples of pedestrian-oriented uses:
 - Group instruction: such as yoga studios, cooking classes
 - Gym/fitness uses
 - Personal services: such as barbers, beauty salons, nail salons
- Additional examples of non-pedestrian-oriented uses:
 - Chiropractor and Physical Therapy offices
 - Massage businesses
 - Catering kitchens (no on-site meal service)

ALTERNATIVES:

The Planning Commission may take any of the following actions related to the Smart Fit business specifically:

1. Approve the applicant’s request for an interpretation that defines the use as pedestrian-oriented; or
2. Deny the applicant’s request for this interpretation. If the Commission wishes to pursue this option, the item will need to be continued to allow the appropriate resolution to be prepared and the Commission should state the reasons why it cannot meet one or more of the required findings.

The Planning Commission may also take one of the following actions to apply more clarity to allowable pedestrian-oriented uses more broadly. This direction will be taken into account by staff during review of business licenses for uses within the Pedestrian Overlay.

3. Agree with staff's preliminary list of pedestrian uses (including group instruction, gym, and personal service uses) and nonpedestrian uses (including offices for chiropractors and physical therapists, catering kitchens). These examples are referenced in the staff report and draft resolution; or
4. Modify the list of pedestrian and non-pedestrian oriented uses within the draft resolution; or
5. Decline to take action on defining additional use classifications within the Pedestrian Overlay; or
6. Table this item with specific direction to staff on considerations to incorporate. This direction would be subject to availability of staff resources within the long range planning team, subsequent to completion of other state and council mandated tasks, such as the Housing Action Plan of the Housing Element.

RECOMMENDATION:

Based on the information in the staff report and subject to the required Findings, staff recommends the Planning Commission adopt Resolution PC 23-015 approving Interpretation 23-352, Smart Fit Method and Pedestrian-Oriented Uses.

Attachments:

1. Resolution
2. Applicant Justification
Exhibit A – Business Activities Description
3. Floor Plan
4. Mixed Use 3.0 Permitted Uses
5. Pedestrian Overlay Map
6. Draft Planning Commission Minutes dated November 8, 2023