

RESOLUTION NO. 993

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA APPROVING USE PERMIT UP-091-17 AND PARKING EXCEPTION PE-181-18 (FILE NO. 2017-039), SUBJECT TO CONDITIONS, TO RENOVATE AN EXISTING 4,050 SQUARE FOOT TENANT SPACE FOR AN “I LOVE KICKBOXING FRANCHISE” AT THE FAIRMONT SHOPPING CENTER AT 709 HICKEY BLVD. (APN 009-440-120), AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

Initiated by: Chi Wah Yan (“Applicant”)

WHEREAS, Applicant has submitted an application on behalf of the property owner, PK III Fairmont SC LP, to renovate an existing 4,050 square feet (sf) tenant space and to deviate from off-street parking standards for an “I Love Kickboxing” franchise (“Project”); and

WHEREAS, the Project requires Planning Commission approval of a use permit because the proposed renovations will allow for a commercial use in the existing tenant space in the nature of an instructional dance studio, which is deemed a conditional use in the C-2 (Community Commercial) zoning district per PMC Sec. 9-4.1101(b)(7), and a parking exception because the Applicant experienced a practical difficulty and unusual hardship in providing the required number of parking spaces required for the project; and

WHEREAS, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on June 5, 2017, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pacifica as follows:

- A. The above recitals are true and correct and material to this Resolution.
- B. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the finding that the project qualifies for Class 1 and Class 3 exemptions under CEQA Guidelines Sections 15301 and 15303, as described below:

Class 1 exemption provided in Section 15301 [Existing Facilities] of the CEQA Guidelines states in part:

Class 1 consists of 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 key consideration is whether the project involves

negligible or no expansion of an existing use. Examples of this exemption include but are not limited to:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

The proposed project fits into the scope of the Class 1 exemption in that it includes the location of the proposed instructional facility in an existing, developed shopping center, which includes several businesses. Location of the proposed facility in an existing tenant space that is currently vacant but was previously occupied by an acupuncture clinic until 2007 would be negligible expansion of use though interior alterations to an existing space.

Class 3 exemption provided in Section 15303 [New Construction or Conversion of Small Structures] of the CEQA Guidelines states in part:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure...

The proposed project fits within the scope of a Class 3 categorical exemption in that it includes interior renovation of an existing, vacant tenant space for use as a kickboxing training facility. Specifically, the renovation would include removal and reconfiguration of internal partition walls for the creation of a training area, a reception counter at the entry, two restrooms, two locker rooms, a storage room and private office. No significant modifications are proposed to the exterior of the structure in which the proposed facility is located and would only include directional signage and bicycle parking racks.

Additionally, none of the exceptions to application of an exemption contained in Section 15300.2 of the CEQA Guidelines apply to the project, as described below:

Sec. 15300.2(a): There is no evidence in the record that the project will impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies. The project site is located within a substantially developed shopping center and is bounded by roadways, namely Hickey Blvd. and Gateway Dr.

Sec. 15300.2(b): There is no evidence in the record that successive projects of the same type in the area would have a significant environmental impact. Though two shopping center renovations have been permitted since 2014, the renovations were limited to minor façade improvements, minor landscaping and parking area improvements, and a small addition to the Safeway. Therefore, there is no foreseeable cumulative impact from these minor projects which could have a significant environmental impact.

Sec. 15300.2(c): There is no evidence in the record of any possibility that the project would have a significant effect on the environment due to unusual circumstances. The project site is designated for commercial use and includes renovation of an existing tenant space in an existing, developed shopping center. As such, there are no identifiable unusual circumstances that would have a significant effect on the environment.

Sec. 15300.2(d) through (f): The project is not proposed near a scenic highway, does not involve a current or former hazardous waste site, and, does not affect any historical resources. Therefore, the provisions of subsections (d) through (f) are not applicable to this project.

Because the project is consistent with the requirements of Class 1 and Class 3 exemptions and none of the exceptions to applying an exemption in Section 15300.2 apply; therefore, there is substantial evidence in the record to support a finding that the project is categorically exempt from CEQA.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does make the following findings pertaining to Use Permit UP-091-17:

- i. *That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.*

Discussion

The project proposes interior renovations of an existing, vacant tenant space for accommodation of an instructional kickboxing facility. The project is estimated to generate 14 additional peak hour vehicular trips as calculated in accordance with the Institute of Transportation Engineers (ITE) Trip Generation Manual. The trip calculation was based on an application of the 3.53 trips per unit of measurement (1000 sf) to the area of the tenant space (4,050 sf) proposed for renovation with this project. It is noted that the project proposes classes during peak hours as per the schedule included in Attachment D of the staff report from April 2, 2018. While it is estimated that the facility would have a typical average of 15-20 clients per class, the classes are estimated to attract a maximum of up to 30-40 clients per class, which could potentially generate more than 14 additional peak hour trips. However, the increase in traffic in either case would not be significant and would not change the vehicular circulation pattern in the shopping center and surrounding streets. Automobile circulation patterns in the Fairmont neighborhood are well developed and adequate to meet the needs of the minor traffic increase as a result of this project. The project does not modify pedestrian circulation patterns in the shopping center, which are defined by the sidewalks in front of the buildings.

Overall, the project would generate very limited change from the general character and intensity of the neighborhood as it exists currently. It would generate a use consistent with other uses in the shopping center and the general plan designation for

the site. It would comply with General Plan policies, as described below. A condition of approval allows only for indoor use with this use permit; the lack of outdoor use of the facility would ensure that the use would not generate excessive noise or disturbances for other businesses or residents in the vicinity. Therefore, the project would not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or to the general welfare of the City.

- ii. *That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan.*

Discussion

The General Plan designation for the project site is “Commercial”. As described in Section A.2 of the Staff Report, which is incorporated herein by reference, the project is consistent with the General Plan designation for the site and the existing conditions on the site. The project is consistent with the following General Plan policies:

- Community Design Element Policy No. 2: *Encourage the upgrading and maintenance of existing neighborhoods.*
- Land Use Element Policy No. 8: *Land use and development shall protect and enhance the individual character of each neighborhood.*

The project would occupy a currently vacant tenant space and upgrade it to provide a healthful use of interest to the community. The proposed use would enhance the character of the Fairmont Shopping Center and benefit the Fairmont neighborhood and the larger community.

The local coastal plan is not applicable to the project as the site is not located in the coastal zone.

- iii. *Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.*

Discussion

The City has adopted Design Guidelines which are intended to accomplish the following purposes:

- Ensure at least a minimum standard of design through the application of consistent policies.
- Encourage new construction which exceeds minimum standards and discourage construction which falls short of those standards.
- Provide a framework for review and evaluation of design proposals.

- Implement applicable General Plan and Local Coastal Plan goals and policies.
- Expedite and facilitate the planning permit process.
- Provide direction for design and redesign of projects.

The Design Guidelines are advisory in nature and, unlike zoning, do not contain explicit standards for determining strict compliance. Rather, they address significant elements of project design that, when balanced overall, result in the best possible site layout and building architecture for a project. An applicant may propose a project which complies with some but not all guidelines and the Planning Commission may still find the project consistent with the Design Guidelines. It is up to the Commission's discretion to determine the appropriate balance and relative priority of the guidelines for a particular project when considering whether a project has achieved Design Guidelines consistency.

The project proposes interior renovations to customize an existing space for a kickboxing training facility. With the exception of signage and racks for bicycle parking, it does not include any exterior changes to the building in which it is located. The project also does not propose any changes to the site plan, building design or landscaping of the Fairmont Shopping Center. As such, the Design Guidelines are not applicable in this instance as the proposed use does not impact the site plan or architecture of the site and building where it would be located. The signage would be subject to ministerial review by staff during the building permit review process provided that the signage is consistent with the Fairmont Shopping Center master sign program. The bicycle parking would also be reviewed during the building permit review process to ensure compliance with the provisions of PMC Section 9-4.2822.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does make the following findings pertaining to Parking Exception PE-181-18:

- That the establishment, maintenance, and/or conducting of the off-street parking facilities as proposed are as nearly in compliance with the requirements set forth in this article as are reasonably possible.*

Discussion

A. Background.

The Fairmont Shopping Center has 366 parking spaces including 348 standard and 18 accessible parking spaces. These parking spaces are located primarily in a central parking lot where parking is provided in common to all businesses. The peripheral 40 parking spaces to the rear of the shopping center are not well utilized. These spaces constitute approximately 11 percent of the parking spaces at the shopping center and are located behind the building containing Safeway supermarket, Rite-Aid Pharmacy,

and other tenants. It is likely that limited visibility of this parking area contributes to its underutilization.

Per the parking standards specified in PMC Section 9-4.2818, the shopping center does not provide the required cumulative parking (487 spaces) for the businesses located in the shopping center. There is no space available on the site for the provision of additional off-street parking. Therefore, the applicant is unable to feasibly construct additional off-street parking to satisfy the proposed project's share of the required parking, which would be 20 car spaces, pursuant to the requirements of PMC Section 9-4.2818(e). Per PMC Section 9-4.2822, the project is also required to provide two bicycle spaces.

B. Parking Analysis

To evaluate actual parking demand, the applicant conducted a parking analysis. The parking analysis included a survey of occupied parking spaces hourly on Monday, February 19, Friday, February 23, and Saturday, February 24, 2018, from 6:00 AM to 12:00 AM. This timeframe covers the entire span of operating hours for the shopping center within which operating hours for different businesses vary. The days for the survey were chosen based on highest tenant operating hours during weekdays and weekend.

The survey found peak parking demand during Friday 3:00 PM to 4:00 PM, which timeframe is outside of the class schedule of the proposed kickboxing facility. Within the proposed facility's class schedule the count showed that approximately 32 percent to 78 percent of the parking spaces are unoccupied with minimum availability of car parking (181 spaces) during the 1:00-2:00 pm time frame and maximum availability of car parking (285 spaces) in the morning hours, between 7:00 and 8:00 am. These calculations include the typically underutilized 40 spaces to the rear in the northern area of the shopping center, which constitute 11 percent of the car parking on site. Even with the exclusion of these spaces, the survey indicates that during the class hours of the subject facility the shopping center is not suffering from a parking deficit, although customers might perceive a lack of "convenient" parking.

C. Conclusions

Patrons of the proposed facility are most likely to use a parking area to the south side of the proposed kickboxing facility immediately adjacent to the location of the facility. This parking area is somewhat distant from other businesses, is most accessible from the proposed kickboxing facility, and provides 16 standard spaces, which is four parking spaces short of the required parking for the proposed facility per PMC Section 9-4.2818. Staff estimates that most of the proposed facility's clients will park in these areas, minimizing utilization of spaces elsewhere in the shopping center.

To further encourage use of the underutilized parking spaces on-site, staff has included a condition of approval requiring directional signage on the subject facility's premises to inform and direct customers to the additional parking area at the rear of the shopping center, although this parking area is more likely to be used for overflow for businesses located closer to it. There is existing pedestrian access to the rear parking area from businesses in the shopping center through a gap in the building located to the northern and eastern side of the center that connects this parking area to the sidewalks in front of the businesses facing the central parking lot. Staff has also included a condition requiring two bicycle parking spaces in accordance with PMC Section Sec. 9-4.2822 to ensure convenient non-automobile parking for customers as a transportation alternative.

The Commission finds, therefore, that given the underutilization of parking areas in the shopping center during class hours of the kickboxing facility and the above stated conditions of approval pertaining to directional signage and bicycle parking, the off-street parking facilities are as nearly in compliance with the parking standards as reasonably possible.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica approves Use Permit UP-091-17 and Parking Exception PE-181-18, subject to conditions of approval attached as Exhibit A.

* * * * *

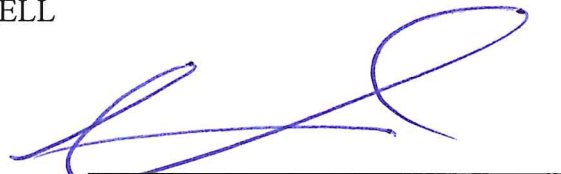
PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 2nd day of April, 2018.

AYES, Commissioners: CLIFFORD, GORDON, KRASKE, NIBBELIN, STEGINK

NOES, Commissioners: N/A

ABSENT, Commissioners: CAMPBELL

ABSTAIN, Commissioners: N/A



John Nibbelin, Chair

ATTEST:


Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:

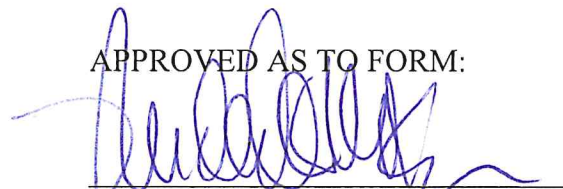

Michelle Kenyon, City Attorney

Exhibit A

Conditions of Approval: Use Permit UP-091-17 and Parking Exception PE-181-18 (File No. 2017-039), to renovate an existing 4,050 square feet (sf) tenant space and deviate from off-street parking standards for an "I Love Kickboxing" franchise at the Fairmont Shopping Center at the northwest corner of Hickey Boulevard and Gateway Drive At 709 Hickey Blvd. (APN 009-440-120)

Planning Commission Meeting of April 2, 2018

Planning Division

1. Development shall be substantially in accord with the plans entitled "I Love Kickboxing Martial Art Studio Tenant Improvement, 709 Hickey Blvd. Pacifica, CA 94044", stamped as received December 5, 2017, and revised January 16, 2018, except as modified by the following conditions.
2. That the approval or approvals is/are valid for a period of two years from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval(s) shall expire unless Applicant submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director or Planning Commission approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, in the Planning Director's sole discretion, the circumstances considered during the initial project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension.
3. The approval letter issued by the City and all conditions of approval attached thereto shall be included as plan sheets within all plan sets submitted to the City as part of any building permit application.
4. Prior to issuance of a building permit, Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction.
5. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
6. Applicant shall install a directional sign in the front window of the "I Love Kickboxing" premises, at the subject site, to inform and direct customers at the shopping center to the additional parking area in the norther portion of the site behind the shopping center buildings.
7. Prior to issuance of a building permit, Applicant shall revise its plan submitted for building permit review to demonstrate the location of two (2) bicycle parking spaces constructed in conformance with PMC Section 9-4.2822 and located in close proximity to its site to provide convenient use for its customers. The precise location and design of

the bicycle parking spaces shall be subject to review and approval by the Planning Director.

8. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
9. All uses and training shall be conducted entirely within the enclosed space of the "I Love Kickboxing" premises. Outdoor uses shall be prohibited unless Applicant obtains City approval of a use permit which explicitly allows for outdoor uses.
10. The applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and/or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

Building Division

11. The project requires review and approval of a building permit by the Building Official. Applicant shall apply for and receive approval of a building permit prior to commencing any construction activity.

Engineering Division

12. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented and the construction BMPs plans sheet from the Countywide program shall be included in the project plans.

Conditions of Approval: UP-091-17, PE-181-18

"I Love Kickboxing" Studio Tenant Improvements, Fairmont Shopping Center

709 Hickey Boulevard (APN 009-440-120)

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13. Roadways shall be maintained clear of construction materials, equipment, storage, and debris, especially mud and dirt tracked onto Hickey Boulevard or Gateway Drive. Dust control and daily road cleanup will be strictly enforced.
14. Existing curb, sidewalk or other street improvements adjacent to the property frontage that are damaged or displaced shall be repaired or replaced as determined by the City Engineer even if damage or displacement occurred prior to any work performed for this project.
15. No private structures, including but not limited to walls, curbs, and fences shall encroach into the public right-of-way.

North County Fire Authority

16. Existing sprinkler/fire alarm system shall be altered/extended. Install per NFPA 13. Submit under separate fire permit.
17. Doors shall be easily openable in one motion without special knowledge, key or effort per CBC. Use of thumb operated deadbolts prohibited unless integrated with latch.
18. Fire safety during construction shall conform to Chapter 33 of the California Fire Code.

END