

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 02/12/03 3.f.

File Number  
CP02-065

Application Type  
Conditional Use Permit

Council District  
2

Planning Area  
Edenvale

Assessor's Parcel Number(s)  
704-01-009 & 011

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Jeff Roche

Location: Southerly side of Santa Teresa Boulevard, approximately 430 feet easterly of Cottle Road

Gross Acreage: 4.02

Net Acreage: 4.02

Net Density: n/a

Existing Zoning: CP Pedestrian  
Commercial

Existing Use: Fitness/Health Facility

Proposed Zoning: No change

Proposed Use: 24 hour operation for an existing fitness/health facility

### GENERAL PLAN

Completed by: JR

Land Use/Transportation Diagram Designation  
Neighborhood/Community Commercial

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: JR

North: Hospital

A(PD) Planned Development

East: Office

CO Commercial Office

South: Attached Residential

R-M (PD) Planned Development

West: Commercial

CP Pedestrian Commercial

### ENVIRONMENTAL STATUS

Completed by: JR

Environmental Impact Report found complete  
 Negative Declaration  
 Negative Declaration adopted on

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Completed by: JR

Annexation Title: Oak Grove No.14

Date: December 24, 1963

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
 Action  
 Recommendation

### APPLICANT/DEVELOPER

24 Hour Fitness  
Attn: Andras Dallos, Director of Development  
12647 Alcosta Boulevard, #500  
San Ramon, CA 94583

### OWNER

Camino Verde Associates, L.P.  
Attn: Robert S. Wilson  
11150 Santa Monica Boulevard, #760  
Los Angeles, CA 90025

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**PUBLIC AGENCY COMMENTS RECEIVED**Completed by: **Jeff Roche**

Department of Public Works

See attached memo

Other Departments and Agencies

See attached memo from Fire Department and Crime Statistics from the Police Department

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**GENERAL CORRESPONDENCE**

See attached letter from Greenwood &amp; Moore, dated, January 15, 2003.

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**ANALYSIS AND RECOMMENDATIONS****BACKGROUND**

The applicant, 24 Hour Fitness, is requesting a Conditional Use Permit to allow 24-hour operation of the existing 24 Hour Fitness health club located on the southerly side of Santa Teresa Boulevard, approximately 430 feet easterly of Cottle Road. The existing fitness/health facility is not proposed to be modified with this permit. No additions or alterations are proposed to the exterior of the building. Currently, the allowed hours of operation for the fitness/health club are from 6:00 a.m. to 12 midnight (inclusive). Under the CP Pedestrian Commercial Zoning District designation, indoor commercial recreation is a permitted use.

The surrounding land uses are a hospital to the north, office uses to the east, attached residential uses to the south and commercial uses to the west.

The Zoning Code requires businesses within the CP Pedestrian Commercial Zoning District to obtain approval of a Conditional Use Permit to operate between the hours of 12 a.m. midnight and 6 a.m. (inclusive).

**PUBLIC OUTREACH**

Notice of the Planning Commission hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public.

**ENVIRONMENTAL REVIEW**

The Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act, in that there is negligible expansion of the existing use or structures.

## **GENERAL PLAN CONFORMANCE**

The proposed 24-hour use of an existing fitness/health club is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial.

## **ANALYSIS**

The key issues analyzed for the proposed project include: 1) consistency with the City's Policy for Evaluation of 24-hour uses and 2) site location considerations.

### **Consistency with the Policy for Evaluation of 24-hour Uses**

The City Council Policy (6-27) for *Evaluation of 24-hour Uses* (attached) provides guidelines for the appropriate development of commercial businesses that operate on a 24-hour basis. Key policy issues for this project include use separation and police issues.

#### Use Separation

The Policy states that 24-hour uses should not be located within 300 feet (measured from the building entrance and designated parking area to the residential property line), but allows this distance to be reduced based on mitigating site-specific circumstances. The existing fitness/health club is located in a neighborhood shopping center approximately 200 feet from the residential property located to the rear (south) of the shopping center site. The facility is oriented away from the residential uses, is separated from the residential property by a masonry wall, does not provide member access to the club from the rear of the building and proposes no outdoor activities. Aerobics and other group fitness programs that generate the most noise, are not proposed for the extended night-time hours. The applicant will make the name and telephone number of the manager available to both the City and the neighbors in case any concerns arise in the future. Based on this analysis, staff concludes that the proposed use is consistent with the setback provisions of the Council Policy and compatible with the surrounding neighborhood.

#### Police Issues

The Policy states that crime statistics and police safety issues need to be analyzed and considered in determining the appropriateness of 24-hour uses. As shown in the attached information from the Police Department for the time period from 1/01/02 to 12/21/02 (inclusive), there have been no unusual problems at this facility and no calls for service that can be directly attributed to the fitness/health club. These calls for service involved car alarms, a family disturbance, and several auto accidents. The site surveillance and lighting at the existing shopping center are appropriate for a 24-hour use and consistent with the Policy. For these reasons, staff has concluded that proposed use is appropriate for this location and will not result in increased crime or security concerns.

### **Site Location Considerations**

The site landscaping and health club facility are well maintained, giving the site a visually positive appearance. Since the building is located next to a major thoroughfare, Santa Teresa Boulevard, staff has concluded that it is well suited for 24-hour operation and provides good opportunities for direct surveillance from the street. The existing parking meets the City's parking requirements for the

fitness/health club use. The fitness/health club shares parking with all the other commercial uses in the commercial center. Staff has concluded that the parking should be more than adequate for the fitness/health club during the proposed expanded hours of operation from 12 midnight to 6:00 a.m. when other uses in the shopping center are closed.

## **RECOMMENDATION**

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Neighborhood Community Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the CP Pedestrian Commercial Zoning District.
3. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San Jose Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The subject site is surrounded by hospital uses to the north, office uses to the east, attached residential to the south, and commercial uses to the west.
5. The City of San Jose has an adopted Council Policy that addresses the evaluation of 24-hour uses. The Policy states that 24-hour uses should not be located within 300 feet (measured from the building entrance and designated parking area to the residential property line), but allows this distance to be reduced based on mitigating site-specific circumstances. The existing fitness/health club is located in a neighborhood shopping center approximately 200 feet from the residential property located to the rear (south) of the shopping center site. The facility is oriented away from the residential uses, is separated from the residential property by a masonry wall, does not provide member access to the club from the rear of the building and proposes no outdoor activities. Aerobics and other group fitness programs that generate the most noise, are not proposed for the extended night-time hours. The applicant will make the name and telephone number of the manager available to both the City and the neighbors in case any concerns arise in the future. The Policy states that 24-hour uses should not be located within 300 feet (measured from the building entrance and designated parking area to the residential property line).
6. The fitness/health club is proposing to extend its operating hours past midnight (ie, 24-hours/seven days per week). No outdoor uses are proposed. The fitness programs such as aerobics are not proposed during the extended nighttime hours. The fitness areas are located in the front of the building.

7. A masonry wall currently separates the back of the shopping center from the attached residential uses to the south. The primary exits from the fitness/health club are approximately 200 feet from the adjoining residential uses. No exterior changes are proposed to the structure.
8. The fitness/health club shares parking with the rest of the commercial shopping center.
9. The fitness/health club tenant space is located directly adjacent to Santa Teresa Boulevard, an arterial street on the City's General Plan.
10. The principal customer exits to the existing fitness/health club are located on the northerly side of the building and face Santa Teresa Boulevard.
11. The existing fitness/health club building and site landscaping have been recently completed and are well maintained.
12. Crime statistics for this site do not show any unusual problems at this facility.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project will be consistent with the adopted San Jose 2020 General Plan Land Use/Transportation Diagram of the City of San Jose.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with the intent of the Council Policy 6-27 for Evaluation of 24-Hour Uses.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be signed, notarized, and returned to the Department of City Planning within 60 days from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

### CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** The proposed 24 hours use shall apply only to the 24 Hour Fitness facility as shown on the approved plans entitled, "24 Hour Fitness, dated November 18, 2001, last revised on December 16, 2002 on file with the Department of Planning, Building, and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be maintained in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
4. **Exterior Improvements.** No exterior improvements have been approved with this Permit. Any proposed exterior improvements are subject to approval by the Director of Planning.

5. **Roof Equipment.** No new roof equipment is approved with this permit. Installation of new roof equipment is subject to approval by the Director of Planning.
6. **Signs.** No new signs are approved with this permit. New signs are subject to approval by the Director of Planning.
7. **Hours of Operation.** The fitness/health club use is allowed to operate for 24 hours for service within the interiors of the building. No outdoor uses are allowed. The facility shall conform to the project description prepared by the applicant for the project, dated, January 3, 2003, and on file in the City of San Jose, Department of City Planning, Building and Code Enforcement.
8. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property.
9. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Trash and Litter.** Cleaning shall include keeping the publicly used areas free of litter, trash, cigarette butts and garbage.
11. **Restroom Facilities.** Restroom facilities shall remain open during late night business hours.
12. **Exterior Clean Up.** Exterior clean up and maintenance activities including garbage pick up shall not occur later than 10.00 PM or prior to 7:00 AM.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 24 hours of defacement.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

C: Audrey Washington, Greenwood & Moore, 3111 Castro Valley Boulevard, Suite 200, Castro Valley, CA 94546  
Engineering Services

207-10/JR