

**CITY OF NEWPORT BEACH
STAFF ACTION REPORT**

Revised 10-13-08

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Planning Department
Javier Garcia, Zoning Administrator
jgarcia@city.newport-beach.ca.us
SUBJECT: Report of actions taken by the Planning Director, Zoning Administrator and/or Planning Department staff for the week ending October 10, 2008

Item 1: Easyride Bicycle Rental – Planning Director’s Use Permit No. UP2008-050 (PA2008-156)
101 Palm Street

The Planning Director approved the applicant’s request to establish a take-out limited-food-service use. The facility will specialize in frozen dessert products and pre-packaged retail food products and beverages. No on-site food consumption is proposed at this time. No interior seating or stand-up counter is provided or permitted for customer dining purposes.

Approved – October 10, 2008

Council District 1

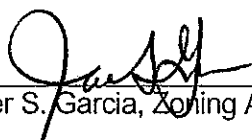
Item 2: B Fit Personal Training – Planning Director’s Use Permit No. UP2008-054 (PA2008-169)
2028 Quail Street

The Planning Director approved the applicant’s request to allow the establishment of a personal fitness facility in a commercial shopping center. Training will be by appointment only at this time. The hours of operation will be between 6:00 a.m. and 8:00 p.m., daily. The tenant space is approximately 2,369 square feet. The facility will operate with the owner as the single training person and will be expanded to include up to two additional trainer/employees in the future. Provisions of this approval allow for the future addition of group training or instruction on a limited basis.

Approved – October 10, 2008

Council District 4

Prepared and submitted by: -



Javier S. Garcia, Zoning Administrator

APPEAL:

The decision of the Planning Director and may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director (*e-mail*)
Sharon Wood, Assistant City Manager (*e-mail*)
David Keely, Public Works Senior Civil Engineer (*e-mail*)
Jim Campbell, Senior Planner (*e-mail*)
Code Enforcement Division (*e-mail*)
Sgt. Ron Vallercamp, Vice/Narcotics (*e-mail*)
Iris Lee, Public Works (*e-mail*)
Evelyn Tseng, Revenue (*e-mail*)

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Item 1: Easyride Bicycle Rental – Planning Director’s Use Permit No. 2008-050 (PA2008-156)

101 Palm Street

The Planning Director approved the applicants request to establish a take-out limited-food-service use. The facility will specialize in frozen dessert products and pre-packaged retail food products and beverages. No on-site food consumption is proposed at this time. No interior seating or stand-up counter is provided or permitted for customer dining purposes.

Approved – October 10, 2008

Council District 1

Item 2: B Fit Personal Training – Planning Director’s Use Permit No. UP2008-054 (PA2008-169)

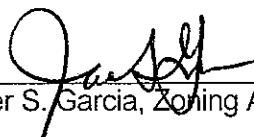
2028 Quail Street

The Planning Director approved the applicants request for a to allow the establishment of a personal fitness facility in a commercial shopping center. Training will be by appointment only at this time. The hours of operation will be between 6:00 a.m. and 8:00 p.m., daily. The tenant space is approximately 2,369 square feet. The facility will operate with the owner as the single training person and will be expanded to include up to two additional trainer/employees in the future. Provisions of this approval allow for the future addition of group training or instruction on a limited basis.

Approved – October 10, 2008

Council District 4

Prepared and submitted by:



Javier S. Garcia, Zoning Administrator

APPEAL:

The decision of the Planning Director may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director (*e-mail*)
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Sgt. Ron Vallercamp, Vice/Narcotics (*e-mail*)
Iris Lee, Public Works (*e-mail*)
Evelyn Tseng, Revenue (*e-mail*)



USE PERMIT NO. UP2008-050
(PA2008-156)

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Staff Person: Javier S. Garcia, 644-3206
Appeal Period: 14 days after approval date

Application: Planning Director's Use Permit No. UP2008-050 (PA2008-156)

Applicant: Easyride Bicycle Rental

Site Address: 101 Palm Street

Legal Description: Lots 15 and 16, Block 6, Balboa Tract

Request as Approved:

To establish a take-out limited-food-service use. The facility will specialize in frozen dessert products and pre-packaged retail food products and beverages. No on-site food consumption is proposed at this time. No interior seating or stand-up counter is provided or permitted for customer dining purposes. The property is located in the SP-8 (Central Balboa Specific Plan Area) District.

DIRECTOR'S ACTION: **APPROVED – OCTOBER 10, 2008**

Application Request

In approving the application, the Planning Director analyzed issues with regard to the parking and seating requirement. Also analyzed, was an establishment of a program for controlling litter, spills and stain removal on-site, on adjacent property and public rights-of-way. The detailed discussion can be found in the attached appendix. In consideration of those aspects in this case, the Planning Director determined that the proposal would not be detrimental to persons, property or improvements in the neighborhood. In addition, the approved use permit would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code based on findings and conditions below:

FINDINGS

1. The property is designated for "Retail and Service Commercial" use by the Land Use Element of the General Plan (and the Local Coastal Program), and is compatible with the surrounding land uses.
2. This project has been reviewed and determined to be categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).

3. The proposed take-out-service limited eating and drinking establishment is retail in nature. It primarily serves persons residing, working or already visiting in the neighborhood and is not a destination point. Based on its limited menu, it is anticipated that the proposed use will have required parking characteristics similar to a general retail use and will not increase the parking demand of the existing commercial tenant space.
4. Under the circumstances of this case, the approval of Use Permit No. **UP2008-050** will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City for the following reasons:
 - The use will neither contribute to a disproportionate number of take-out establishments in the area nor contribute to a land use mix that is inconsistent with the specific purposes of the zoning district in which it is proposed.
 - The site and structure are of sufficient size and design and will accommodate the use and will not cause customer service queues, storage areas, or waste to encroach onto adjacent properties or public rights-of-way.
 - The conditions of approval for this use permit include a practical program for controlling litter, spills, and stains resulting from on-site use and adjacent areas.
 - The proposed use is a visitor-serving use that will serve part-time and full-time residents as well as visitors.

CONDITIONS

1. Except as noted in the following conditions, development shall be in substantial conformance with the approved site plan and floor plan.
2. Prior to the building permit "final" for the proposed use, the applicant shall prepare and submit to the Planning Department for review, a practical program for controlling litter, spills, and stains resulting from the on-site use and adjacent areas. The building permit shall not be "finalized" and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and clean-up of the public sidewalk and right-of-way in front of both the subject property and the adjacent public right-of-way (25 feet north and south of the subject property). Failure to comply with said program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code. The administrative remedy includes the issuance of a citation of violation and monetary fines.
3. Prior to issuance of the building permit for the proposed use, the applicant shall submit revised plans that depict the location of the trash enclosure that is to be utilized for the operation or other storage location for refuse. Or, provide a site plan or vicinity map that depicts the location of the trash dumpster to be utilized and method of conveyance of the trash to the dumpster without creating any trash leakage of the transferred refuse.

4. The "net public area" shall be limited to a maximum of 100 square feet (exclusive of display, aisle and condiment table areas). An exception may be required by the Building Department to satisfy handicap access requirements; this may allow modest deviations from that requirement.
5. Parking within the 10-foot rear setback at the alley or in the alley right-of-way is prohibited. The applicant is directed not to park at the rear of the property since there is not adequate space behind the building to accommodate any vehicle without crossing the property line onto the adjacent property or into the alley right-of-way. The installation of appropriate signs may be required if a problem develops or persists, as determined by the Public Works Department.
6. The operator of the food service establishment shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.;	Between the hours of 10:00 p.m. and 7:00 a.m.
Measured at the property line of commercially zoned property:	65 dBA	60 dBA
Measured at the property line of residentially zoned property:	60 dBA	50 dBA

7. Customer seating and/or stand-up counter space shall be prohibited inside or outside the subject eating and drinking establishment (outdoor dining or seating outside of the facility is prohibited). Any addition of seating and/or stand-up counter space for customers shall be subject to the approval of an amendment to this use permit.
8. The daily hours of operation shall be limited between the hours of 10:00 a.m. and 10:00 p.m. Any increase in the hours of operation shall be subject to the approval of an amendment to this use permit.
9. Trash receptacles for patrons shall be conveniently located both inside and outside of the proposed facility, however, not located on or within any public property or right-of-way.
10. Except when placed for pick-up by refuse collection agencies, all trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a gate), or otherwise screened from neighboring properties' view. The trash dumpsters shall have a top that must remain closed at all times, except when being loaded or while being collected by the refuse collection agency.

11. To control odors, the applicant shall maintain the trash dumpsters or receptacles. This may include the provision of fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department.
12. If cooking is proposed or added at a later date, prior to the issuance of a Certificate of Occupancy or final of building permit, kitchen exhaust fans shall be installed in accordance with the Uniform Mechanical Code and approved by the Building Department. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
13. A covered wash-out area for refuse containers and kitchen equipment with minimum useable area dimensions of 36-inches-wide, 36-inches-deep and 72-inches-high, shall be provided, unless otherwise approved by the Planning Department and the Building Department in accordance with Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal. Also, the area shall drain directly into the sewer system, unless otherwise approved by the Building Director and Public Works Director (in conjunction with the approval of an alternative drainage plan).
14. The facility shall comply with the provisions of Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal. A grease interceptor or other grease collection device shall be installed to the satisfaction of the Building Department, if deemed necessary.
15. No temporary "sandwich" signs, balloons or similar temporary signs shall be permitted on-site or off-site to advertise the proposed use, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department (in conjunction with the issuance of an encroachment permit or encroachment agreement).
16. All mechanical equipment including roof-top-mounted equipment shall be screened from adjacent properties' view and adjacent public streets. Also, the equipment shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. The use of the rear door shall be limited to deliveries and employees use only. Customer use of the rear door entry shall be prohibited. Delivery trucks shall not park in the alley.
19. The use of the rear door is prohibited between the daily hours of 10:00 p.m. and 8:00 a.m., except by employees exiting the facility or depositing trash after the closing of the food service use.

20. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., unless otherwise approved by an amendment to this use permit.
21. The operator of the food-service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
22. The area outside of the food establishment, including the public sidewalks, walkways or common walkways, shall be maintained in a clean and orderly manner in accordance with the practical program for the control of litter, spills and stains on-site and on adjacent properties.
23. If this business is sold or otherwise comes under different ownership, the current business owner, property owner, or leasing company shall notify the future owners/assignees of the conditions of this approval.
24. No outside paging system shall be utilized in conjunction with this food service establishment.
25. Prior to issuance of the Certificate of Occupancy or the "final" of building permits, the applicant shall schedule an inspection by the Planning Department or the Code Enforcement Division to verify compliance with conditions of approval.

STANDARD CITY REQUIREMENTS

1. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code. Multi-tenant commercial buildings are limited to one identification sign per tenant. Awning identification signs or graphics are considered signs and are included in the number of signs. A modification permit to increase the number of permitted signs beyond that allowed by the Zoning Code is required and subject to review and approval through a Zoning Administrator Hearing.
2. As specified by the Uniform Building Code, the facility shall be designed to meet exiting and fire protection requirements and shall be subject to review and approval by the Building Department.
3. The project and related roof overhangs and awnings shall comply with all applicable Building Codes and Council Policy Requirements.
4. The project shall comply with State Disabled Access requirements.
5. No on-sale alcoholic beverage service shall be permitted on the premises.
6. No live entertainment or dancing shall be permitted in conjunction with the permitted use.

7. The Planning Director or the Planning Commission may add to or modify conditions of approval for this use permit, or revoke this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
8. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

APPEAL PERIOD

The decision of the Planning Director may be appealed by the applicant or any interested party to the Planning Commission within 14 days of the decision date. Any appeal filed shall be accompanied by a filing fee of \$600.00.

On behalf of Planning Director David Lepo,



Zoning Administrator Javier S. Garcia, AICP

Attachments: Appendix
Vicinity Map
Applicant's Project Description
Opposition Letter
Site Plan and Floor Plan

APPENDIX

Building Permit Required

Construction improvements for the interior of the food service use were begun without benefit of building permits. The Building Department advised the applicant to cease construction activities until a building permit was obtained. Subsequently, a building permit issued by the Building Department is required before construction can be restarted. The Building Department has indicated that sanitation facilities or access to appropriate facilities is required, as well as handicap access requirements.

Letter of Opposition

A letter in opposition was received by the Planning Department and has been attached for informational purposes. Some of the issues raised relate to use of the surreys on public streets has been forwarded to the Police Department for follow up. Additionally, issues were raised as to the loss of storage space for bikes and four wheel surreys was also identified.

Parking Requirement

In accordance with the provisions of Chapter 20.66 Municipal Code, parking for a take-out limited-food service use is the same as a general retail commercial use. The required parking is based on one space for each 250 square feet. If the building was new construction, 2 parking spaces for the subject facility would be required. The building is currently nonconforming since no parking is provided on-site. Staff believes that the proposed use will not increase the parking demand of the site since the use is visitor serving and the facility is not a destination point. Therefore, based on the recommended restrictions (no patron seating) and the parking characteristics of the use, no additional parking is required, and the nonconforming status of no on-site parking may be maintained.

Staff has reviewed the plan and has determined that there is not adequate space on-site to accommodate a parking space at the rear. Therefore, a condition of approval that prohibits parking within the 10-foot rear yard setback, or in the alley right-of-way, is included. The applicant has been directed not to park at the rear of the property. A violation of this condition shall be enforced by the Code Enforcement Division and shall be subject to citation and fines.

Restroom Facilities

The proposed facility does not provide a restroom for patrons. However, the Building Department may require adequate access to a restroom in another part of the tenant space. The future addition of seating may require the addition of separate sex public sanitation facilities as required by the Newport Beach Municipal Code and in compliance with the provisions of the Health Code (Orange County).

Required Findings for Take-Out Service, Limited

In addition to the findings established in Chapter 20.82, the following additional findings shall be made in order to approve a Take-Out Service, Limited establishment:

Finding 1. *That the use will not contribute to a disproportionate number of take-out establishments in the area nor contribute to a land use mix that is inconsistent with the specific purposes of the zoning district in which it is proposed.*

The proposed use is in a location that is predominantly a visitor-serving retail and/or food service use. Those food uses range from fast or quick-stop food establishments (take-out-service limited including a mix of ice cream, pastry, limited food menu restaurants and similar facilities) to full-service restaurants (including a mix of sit-down restaurants and family-style restaurants) and contribute to a range of food uses that serve visitors as well as part-time and year-round residents. It is staffs opinion that the addition of another food use is consistent with the Central Balboa Specific Plan District and does not contribute to a disproportionate number of take-out establishments in the area. There are no limitations or definitions expressed in the Zoning Code, specifically referencing the Retail and Service Commercial (RSC) or the Central Balboa Specific Plan District that defines or establishes what constitutes a "disproportionate number."

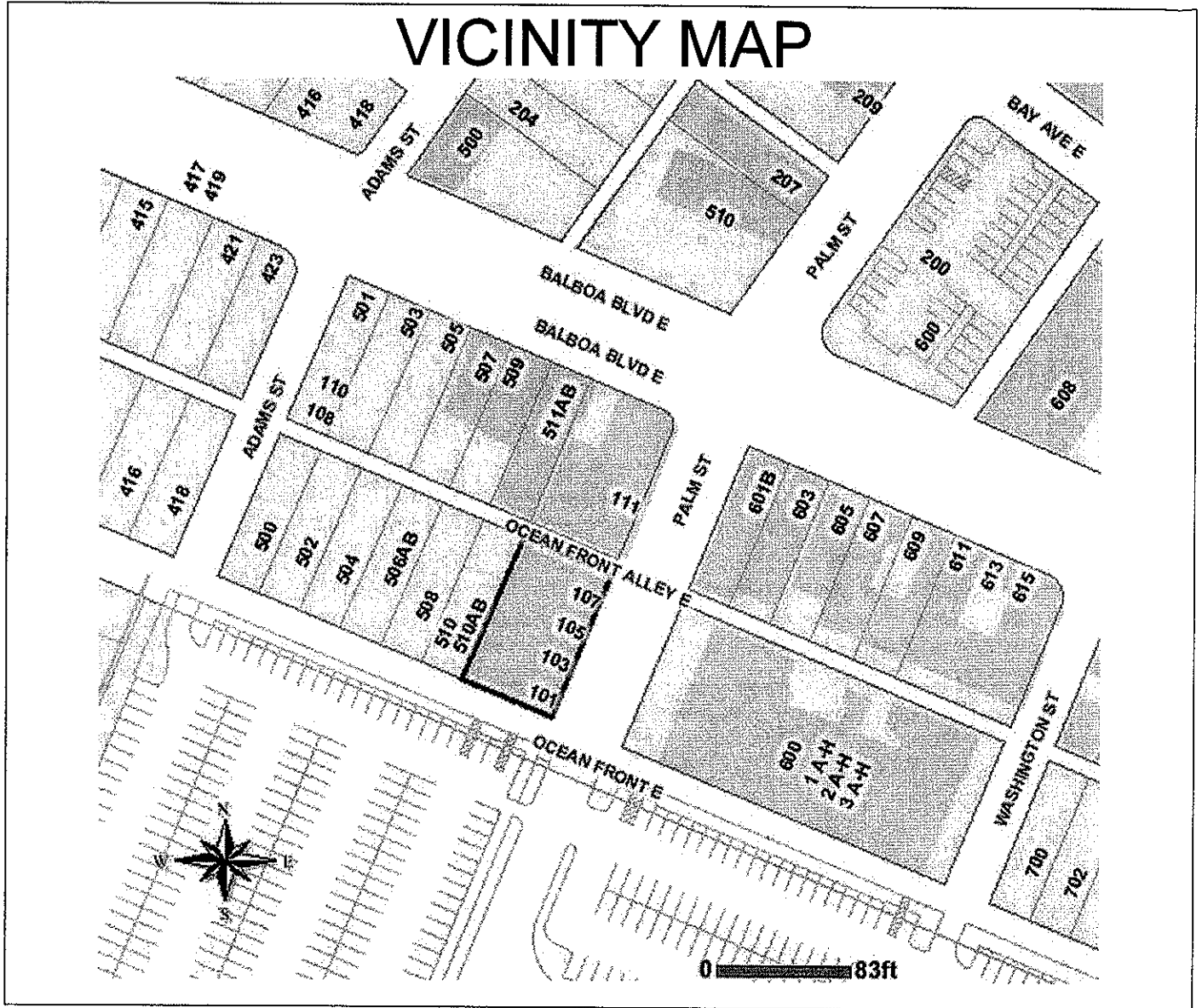
Finding 2. *That the site and structure are of sufficient size and design to accommodate the use and will not cause customer service queues, storage areas, or waste to encroach onto adjacent properties or public rights-of-way.*

The facility can be accommodated by the building. The facility also provides enough interior customer area to prevent encroachment onto adjacent properties and the public right-of-way. Customer queuing shall be prohibited outside of the facility and the applicant shall be directed to turn away customers to prevent encroachment into the public right-of-way.

Finding 3. *That a condition of approval for the use permit includes a practical program for controlling litter, spills, and stains resulting from the on-site use and adjacent areas.*

The approval letter has a condition that requires submittal and approval of a practical program for the control of litter, spills and stains for the subject property, the adjacent private property as well as the adjacent public rights-of-way to be maintained in a clean and orderly manner.

VICINITY MAP



Planning Director's Use Permit UP2008-050
Project No. PA2008-156

Site Address: 101 Palm Street

EASYRIDE BICYCLE RENTAL

101 PALM STREET

NEWPORT BEACH CA 92661

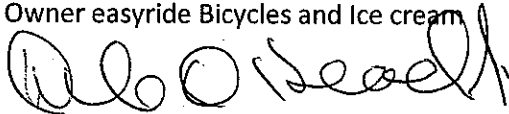
(949) 887-5547

We are planning to open an Ice Cream store in conjunction with our bicycle rental store. The ice cream store will be for take out only and there will be no seating. The hours of operation will be from 9:00 a.m. till 9:00 p.m. We plan to have Ice Cream, Hawaiian shaved Ice, bagged Ice and soft drinks. The Ice cream store is going to use space that was used for bicycle storage and as such will be merged into the bicycle business and should be a great fun for locals and tourist

Thank you for your consideration.

Dale O. Head

Owner easyride Bicycles and Ice cream

A handwritten signature in black ink, appearing to read "Dale O. Head". The signature is written in a cursive, somewhat stylized font.

To: FILE

Subject: PLANNING DIRECTOR'S USE PERMIT No> UP2008-050 (PA2008-156)

PA2008-156 FOR UP2008-050

101 PALM STREET

From: wdildine36@aol.com [mailto:wdildine36@aol.com]

Sent: Sunday, September 07, 2008 2:29 PM

To: Campagnolo, Daniel; Henn, Michael; Ifundy@sbcglobal.net

Subject: PLANNING DIRECTOR'S USE PERMIT No> UP2008-050 (PA2008-156)

Reference is made to the above mention subject, for property located at 101 PALM STREET, this property is located in the SP-8 District, not SP-9. They seek a permit for "limited-food-service" etc

Having visited the site, I have several concerns.

ACCESS to RESTROOM FACILITIES:

If the existing Bicycle/Surrey Rental Business is to continue, access for employees of the "take-out" operation are going to have restricted access due to the storage of rental items in the limited space they utilize.

COMPLIANCE with CHAPTER 12.56.040 of MUNICIPAL CODE:

12.56.040 A:

I have heard "their personnel" on several occasions tell customers, "not to worry about riding on the sidewalk's or boardwalk,
as the Chief of Police would rather have them there than on the streets".

12.56.040 B:

Question if they comply with this, due to the statement above.

12.56.040 C

It appears to me that the "require flagging" does not comply, as their "flags" are not three (3) feet above the canopies'.

As a Bicycle rider, utilizing the "boardwalk", I have had a couple of "hits" by inattentive operators and have seen others operated with lack of concern for others, ie: Bicycle riders and Pedestrians.

I have witnessed business conducted on City owned property, and also storage/delivery of units on City owned property.

Living and owning property in SP-8, and knowing that the CENTRAL NEWPORT BEACH COMMUNITY ASSOCIATION has a Policy "supporting consistent and aggressive police enforcement

to stop operation on the Ocean Front Walk,.....,and all Peninsula sidewalks
of.....(ii) all human powered conveyances with four or more wheels," I would
appreciate your consideration of these facts, before allowing potential more problems with APPROVAL
of this USE PERMIT.

Respectively submitted

William R. Dildine
320 E Balboa Blvd.
APN 048-092-11 (SINCE 1965)
(949) 675-5117
e-mail: wdildine36@aol.com
Cell: (805)680-9894

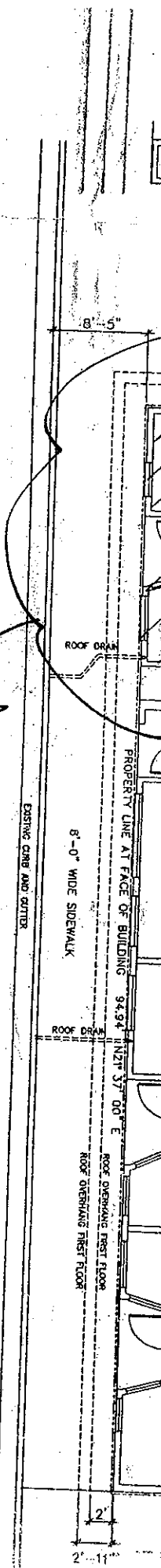
Living in the

APPROVAL
 HEALTH CARE AGENCY
 HEALTH DIVISION
 9187 58010923

PLAN NO.

NOTATIONS HAVE BEEN MADE TO THE ORIGINAL SET OF PLANS AND ATTACHED LETTERS. ANY CHANGES, COMMENTS OR CORRECTIONS SHOULD BE MADE IN WRITING AND ATTACHED TO THE ORIGINAL SET OF PLANS. ANY CHANGES TO THE ORIGINAL SET OF PLANS MUST BE MADE IN WRITING AND ATTACHED TO THE ORIGINAL SET OF PLANS. ANY CHANGES TO THE ORIGINAL SET OF PLANS MUST BE MADE IN WRITING AND ATTACHED TO THE ORIGINAL SET OF PLANS. ANY CHANGES TO THE ORIGINAL SET OF PLANS MUST BE MADE IN WRITING AND ATTACHED TO THE ORIGINAL SET OF PLANS.

DEPT. FOR PLANNING AND CONSTRUCTION
 12 MONTHS FROM DATE



TOILET RM

R-1 PROPERTY ADJACENT

APN 048-122-08
 TRACK BALBOA, BLOCK 6, LOTS 15 & 16

NOTICE
 HEALTH CARE AGENCY
 HEALTH DIVISION
 ANY CHANGES TO THE ORIGINAL SET OF PLANS MUST BE MADE IN WRITING AND ATTACHED TO THE ORIGINAL SET OF PLANS.

SITE PLAN

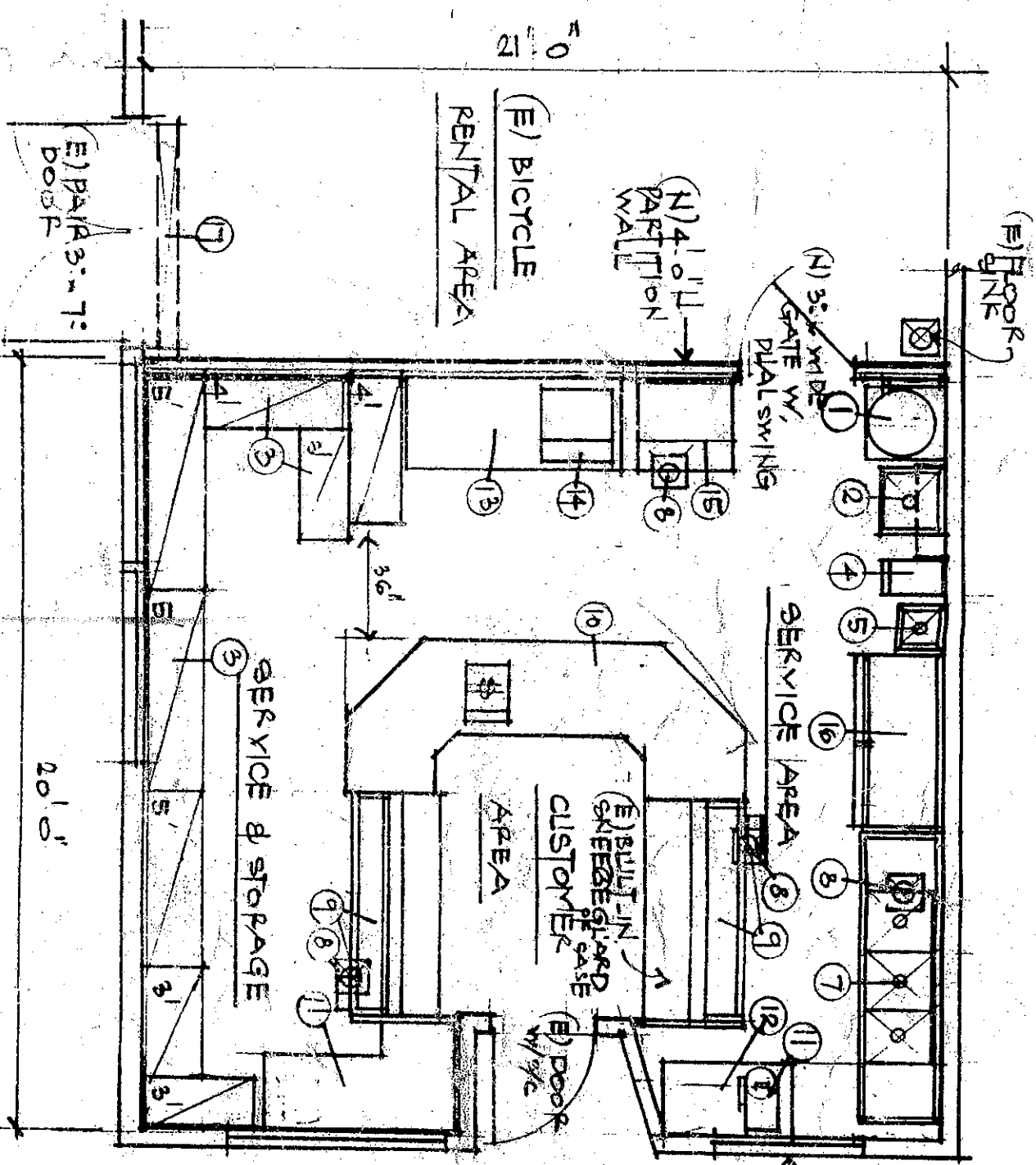
1/8"=1'-0"

Food Service Area only

PALM AVE

BE ARRANGED AT LEAST 2 WEEKS

21' 0"



(E) BACK DOOR 3'-0"

(E) BICYCLE RENTAL AREA

(N) 4'-0" PARTITION WALL

(N) 3'-0" GATE W/ DUAL SWING

(E) FRONT

SERVICE AREA

SERVICE & STORAGE

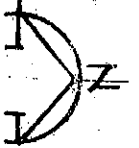
(E) BUILT-IN SNEEZE GUARD CUSTOMER AREA

(E) DOOR W/ Y/C

(E) GLASS STORE FRONT (FIXED)

PALM AVE

FLOOR PLAN





USE PERMIT NO. UP2008-054

(PA2008-169)

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Staff Person: Javier S. Garcia, 644-3206
Appeal Period: 14 days after approval date

Application: Planning Director's Use Permit No. UP2008-054 (PA2008-169)

Applicant: B Fit Personal Training

Site Address: 2028 Quail Street

Legal Description: Lots 11, 12, 50 and 51, Tract 3201

Request as Approved:

To allow the establishment of a personal fitness facility in a commercial shopping center. Training will be by appointment only at this time. The hours of operation will be between 6:00 a.m. and 8:00 p.m., daily. The tenant space is approximately 2,369 square feet. The facility will operate with the owner as the single training person and will be expanded to include up to two additional trainer/employees in the future. Provisions of this approval allow for the future addition of group training or instruction on a limited basis. The property is located in the APF (Administrative, Professional, Financial Commercial) District.

DIRECTOR'S ACTION: **APPROVED – OCTOBER 10, 2008**

Application Request

The Planning Director in approving this application analyzed the proposal with regard to parking requirements and compatibility with surrounding uses. The discussion can be found in the attached appendix. The Planning Director determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood and that the use permit as approved would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, and made the following findings:

FINDINGS

1. The property is designated for "Administrative, Professional and Financial Commercial" use by the Land Use Element of the General Plan. The proposed use is consistent with those designations.

2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. The Planning Director's approval of Use Permit No. **UP2008-054** will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City for the following reasons:
 - The proposed use is a support use for the residential, office and commercial uses in the area and citywide.
 - The health and fitness facility, based on its operational characteristics and limitation on future class size (none are proposed at this time), will have a parking demand similar to a typical retail use, a permitted use on the subject property. The anticipated peak demand periods will not generally conflict with the peak demands of the other uses on site or adversely affect the public on street parking in the area.
 - The noise impacts on the nearby tenants and uses have been addressed by the closing hour restriction, the closed door and window requirement during the business hours and class session size limitations. The use of amplified music is also prohibited.

CONDITIONS

1. Development shall be in substantial conformance with the approved site plan and floor plan, except as noted in the following conditions.
2. The class size and hours of operation of the facility shall be limited as follows and any increase in the class size or hours of operation shall be subject to the approval of an amendment to this use permit:

Hours:	<u>Facility:</u> Between 6:00 a.m. and 8:00 p.m., daily Generally, the facility will provide one-on-one instruction/training.	<u>Classes (none proposed at this time):</u> Group training sessions include 10-12 persons during the day before 8:00 a.m. 8-10 persons during the day between 8:00 a.m. and 5:00 p.m. 15-20 persons after 5:00 p.m. (Any combination of students and instructors)
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3. The doors and windows shall remain closed at all times that the facility is open for business.
4. The operator of the health and fitness facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.;	Between the hours of 10:00 p.m. and 7:00 a.m.
Measured at the property line of Commercially zoned property:	65 dBA	60 dBA
Measured at the property line of Residentially zoned property:	60 dBA	50 dBA

5. No indoor or outdoor paging system or sound system shall be utilized in conjunction with this establishment. The use of amplified sound or music is prohibited.
6. No temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the health and fitness facility, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
7. If this business is sold or otherwise comes under different ownership, the current business owner, property owner or the leasing company shall notify any future owners or assignees of the conditions of this approval.


STANDARD CITY REQUIREMENTS

1. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code. A comprehensive sign program may be required in accordance with the provisions of Chapter 20.67 of the Newport Beach Municipal Code.
2. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.
3. Sanitation facilities shall comply with Building Code requirements, unless otherwise approved by the Building Department.
4. The project shall comply with State Disabled Access requirements.
5. The Planning Director or the Planning Commission may add to or modify conditions of approval to this use permit, or revoke this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
6. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

APPEAL PERIOD

The decision of the Planning Director may be appealed by the applicant or any interested party to the Planning Commission within 14 days of the decision date. Any appeal filed shall be accompanied by a filing fee of \$600.00.

On behalf of Planning Director David Lepo,



Zoning Administrator Javier S. Garcia, AICP

Attachments: Appendix
Vicinity Map
Letter from Applicant Describing Facility Operation
Site Plan/Parking Plan and Floor Plan

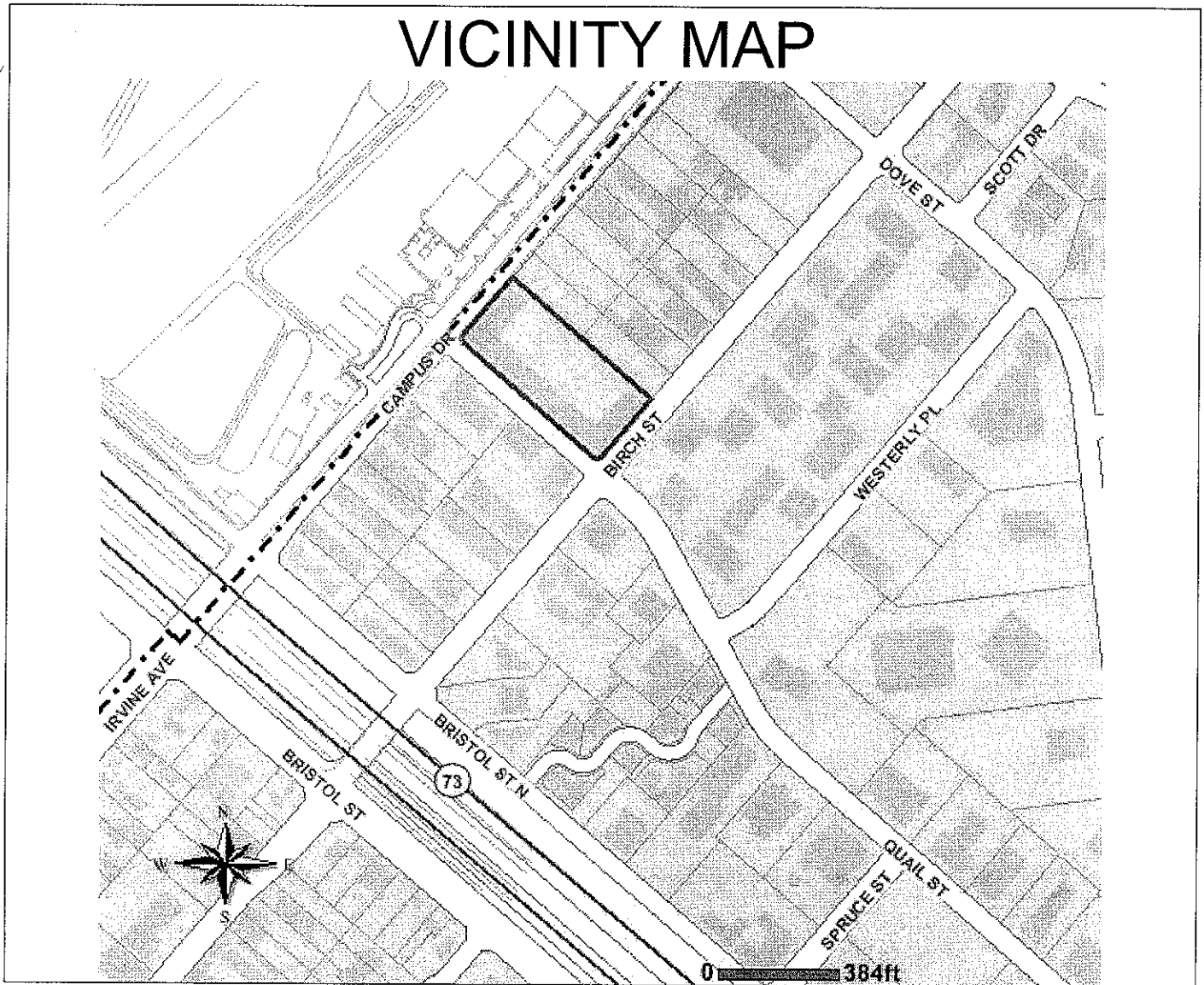
APPENDIX

Comparison of Proposed and Previous Operation

	Proposed Expanded Operation	Previous Facility
Subject Tenant Space:	2,369 sq. ft.	2,369 sq. ft.
Hours: Proposed by Applicant and as recommended by Staff:	6:00 a.m. to 8:00 p.m. Mon. - Fri., and 6:00 a.m. to 8:00 p.m. Sat. and Sun.	Typically, 8:00 a.m. to 5:00 p.m. (M-F)
Maximum Class Size:	<u>Classes:</u> 10-12 persons during the day before 8:00 a.m. 8-10 persons during the day between 8:00 a.m. and 5:00 p.m. and 15-20 persons after 5:00 p.m. (Any combination of students and instructors)	
Number of Sessions:	Various times <u>One-on-one</u> personal training with up to five trainers	
Employees:	5 to 7 at any one time (Up to 5 trainers -1 for each class session)	9 ¹
Tenant Gross Area (sq. ft.)	2,369 sq. ft.	2,369 sq. ft.
Parking Available:	Parking available on a first come first serve basis.	No parking change proposed.

¹ Based on an employment density for commercial centers of 0.00280 employees per square foot.

VICINITY MAP



Planning Director's Use Permit UP2008-054
Project No. PA2008-169

Site Address: **2028 Quail Street**

Project Description and Justification

The project proposed for 2028 Quail Street, Newport Beach is that of a fitness training facility. As a whole our goal is to help the citizens of Orange County lose weight and lead healthier, happier lives. Our medium is that of exercise science.

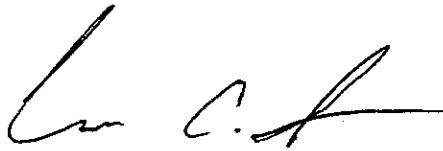
Days and Hours of operation: Currently Monday, Wednesday, Friday 6 am-7 pm.

Unit: 2369 Square Feet

Format: Private training facility by appointment only. One trainer typically works with 1-2 clients at a time. Training sessions are about 60 minutes.

Employees: Currently owner operator is the only employee. Future plans include hiring 1-2 employees.

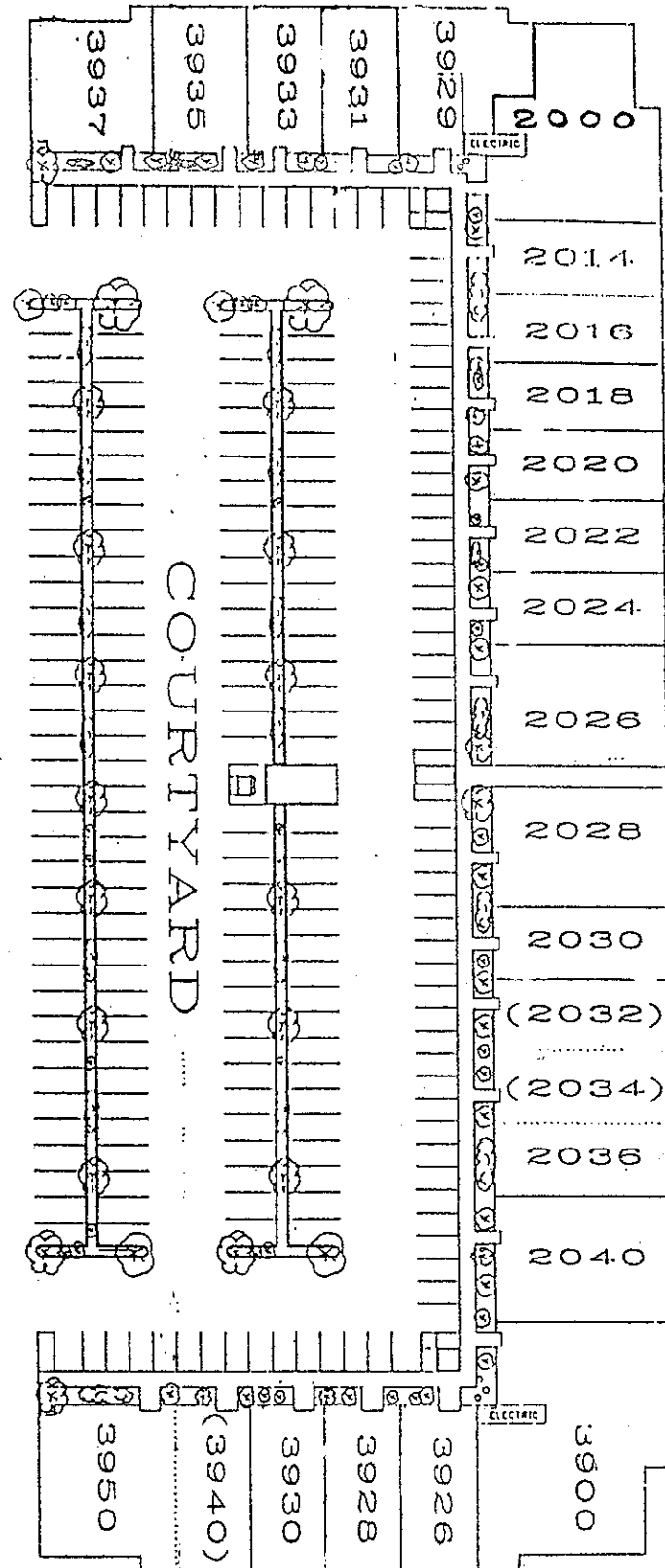
Aaron C. Benes
949-733-2348
aben5@gmail.com



CAMPUS SQUARE

QUAIL STREET

BIRCH STREET



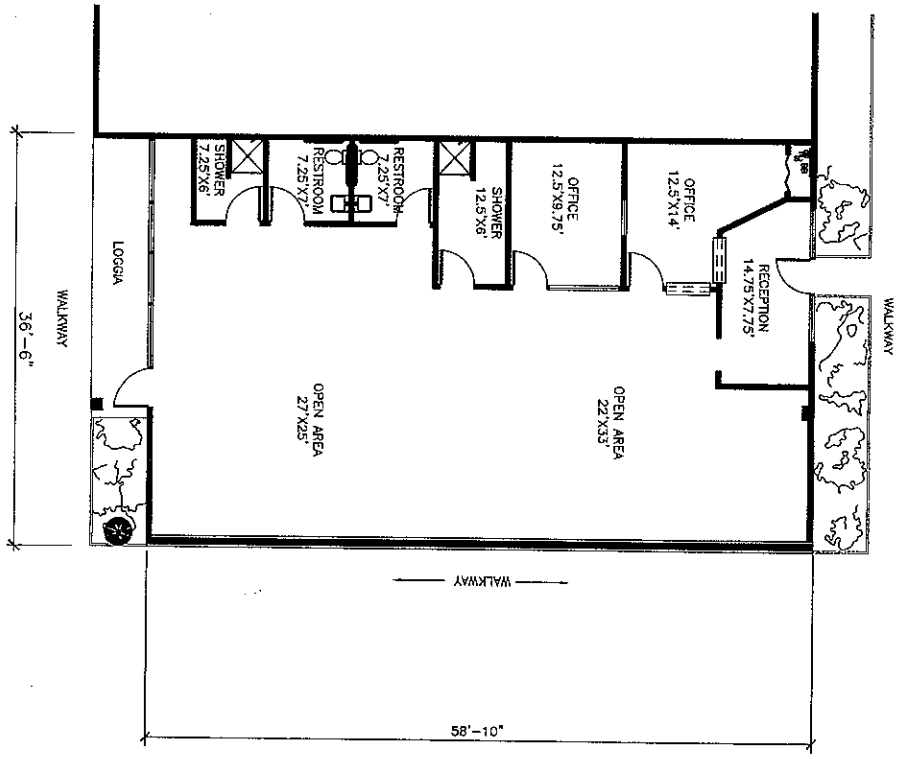
COURTYARD
ENTRY

COURTYARD
ENTRY

SITE PLAN OF PROJECT

CAMPUS DRIVE

PARKING LOT



QUAIL ST.

2028 QUAIL

1/8"=1'-0"
0 10 20 30

PROJECT
B FITNESS
PERSONAL
TRAINING
2028 QUAIL
SHERMANTON HILLS, CA

ARCHITECTS:
ACCEPTED THE PLAN OF _____ 2008
DATE: _____
PROJECT: _____
DRAWING NO.: _____
SHEET NO.: _____

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF SPACES ARCHITECTURE & INTERIORS, INC. AND ARE TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE OR MODIFICATION OF THESE PLANS WITHOUT THE WRITTEN PERMISSION OF SPACES ARCHITECTURE & INTERIORS, INC. IS STRICTLY PROHIBITED.

NO.	DESCRIPTION	DATE

SPACES ARCHITECTURE & INTERIORS, INC.
P.O. BOX 510
15000 BAYVIEW BLVD., SUITE 100
SHERMANTON HILLS, CA 91764
TEL: 909.396.3333
WWW.SPACESARCHITECTURE.COM

UNITS:
DIMENSIONS: 2000 MM
SCALE: 1/8"=1'-0"

GROUND FLOOR AS-BUILT PLAN
Sheet Title
Project Number: 2793.01
Sheet Number: A-1

PA2008-169 for UP2008-054
2028 QUAIL STREET
B Fit Personal Training