

Location:	2084 Mountain Blvd- See map on reverse
Assessor's Parcel Number:	048F-7352-016-01
Proposal:	Appeal of the zoning manager's approval of a Minor Conditional Use Permit for Personal Instruction and Improvement Service (Orangetheory Fitness personal training) Commercial Activity on the ground floor of a multi-tenant commercial building.
Applicant:	Terri Dickeroff/ Orangetheory Fitness/ 213-422-1450
Owner:	TROJAN DEVELOPMENT ASSOCIATES IV LLC
Appellant:	Mark Sutro representing CruFit and other Montclair Businesses
Case File Number:	PLN19-299-A01
Original Case File Number:	PLN19-299
Planning Permits Required:	Minor Conditional Use Permit to allow a Personal Instruction and Improvement Service Commercial Activity on the Ground Floor
General Plan:	Neighborhood Center Mixed Use
Zoning:	Neighborhood Center Commercial 1 (CN-1) Zone
Environmental Determination:	Exempt pursuant to the following sections of the State CEQA Guidelines: 15301, Existing Facilities; 15305, Minor Alterations in Land Use; 15183, Projects Consistent with a Community Plan or Zoning; and 15061(b)(3), No Possibility of Significant Effect on the Environment.
Historic Status:	N/A
City Council District:	4
Status:	Project approved on June 11, 2020 and appealed on July 2, 2020.
Staff Recommendation:	Deny the Appeal and uphold the Zoning Manager's Decision.
Finality of Decision:	The decision of the Planning Commission is final pursuant to Planning Code Sections 17.134.060.
For Further Information:	Contact case Planner Rebecca Wysong at (510) 238-3123 or rwysong@oaklandca.gov

SUMMARY

On December 4, 2019, Orangetheory Fitness (the project Applicant) applied for a Minor Conditional Use Permit (CUP) to establish a Personal Instruction and Improvement Services Commercial Activity at the subject location (See *Attachment A*). The Zoning Manager approved the project on June 11, 2020 after analyzing it for compliance with the applicable standards and regulations (See *Attachment B*).

On July 2, 2020 after a 2-week extension to the appeal period, Mark Sutro (the Appellant), on behalf of CRUfit and other Montclair Businesses appealed the Zoning Manager's decision on the grounds that the proposed use is an inappropriate use for the location and therefore doesn't comply with the applicable CUP findings (See *Attachment C*).

The basis of the Appeal is that the Zoning Manager is alleged to have abused his discretion and made a decision and determination not based on substantial evidence. In summary, the Zoning Manager made incorrect and/or erroneous statements in the CUP. The Appellant's specific arguments are described and responded to in detail in the *Basis of Appeal* section of the report below.

Staff finds that the findings made for approving the project clearly demonstrate how the project complies with the applicable standards and criteria for approval and that the Appellant fails to present a case where

the Zoning Manager's decision was in error or abuse of discretion and therefore recommend that the Planning Commission deny the appeal and uphold the Zoning Manager's decision.

BACKGROUND

- The project site was approved for development as a three-unit one-story commercial building (PLN17142) in July 2017.
- Terry Dickeroff, on behalf of Orangetheory Fitness, applied for a Minor Conditional Use Permit (PLN19299) for Personal Instruction and Improvement Services use on December 4, 2019.
- Staff sent out a public notice for the proposal on January 10, 2020 and received comments (*Attachment D*).
- The Zoning Manager approved the project on June 11, 2020.
- The appeal was filed on July 2, 2020 by Mark Sutro, on behalf of CRUfit and other Montclair businesses after the Zoning Manager gave a 2-week extension to the appeal period due to lack of public documents. (*Attachment E*)

PROPERTY DESCRIPTION

Subject Site

The project site is located at 2084 Mountain Blvd. The site is a 10,560-square-foot lot, with street frontage on Mountain Boulevard and Antioch Street. The site contains a three-unit one-story building, that was approved in July 2017, under PLN17142. The proposed unit is located on Mountain Blvd. One of the other units is located on the corner of Mountain Blvd and Antioch Street and the other unit is located along Antioch Street. There is no parking located on the property. (*Attachment A*).

Surrounding Area

The surrounding area is a neighborhood business district, Montclair Village, that contains a variety of Commercial activities, such as fitness uses, retail shops, restaurants, salons, and offices. The majority of the buildings are between one-story to three-story street-fronting buildings with a large parking lot next door to the subject lot. The business district runs along Mountain Boulevard, from Moraga Boulevard to Colton Boulevard. A block to the east, there are two-story to four-story multi-unit apartment buildings and duplexes. Within a block of the subject lot, the 13 Freeway is located, with two entrances and exits within a mile.

PROJECT DESCRIPTION

The site was redeveloped into a three-unit one-story building under PLN17142. The two other units are currently occupied with a Starbucks, that was approved with a Minor Conditional Use Permit for a Limited-Service Restaurant and Café Activity, and F&M Bank, a Consultative and Financial Service Commercial Activity that was also approved as part of an amendment to the Minor Conditional Permit required for locating the activity on the ground floor with street frontage.

The proposed activity for the remaining vacant unit is Personal Instruction and Improvement Service Activity, that is proposed to operate between 5am to 9pm on weekdays and 5am to 4pm on weekends. The proposal will include retail in the front of the store located near the entrance and the majority of the space, which has 13 rowing machines and 13 treadmills, will contain the fitness use that can accommodate 26 people. On average, there will be 7 to 10 classes per day on weekdays and 5 to 7 classes on weekends, that lasts around 60 minutes. The exterior will be maintained with the windows and patios being kept as is with the only exterior change being signage.

GENERAL PLAN AND SPECIFIC PLAN ANALYSIS

The subject site is in the Neighborhood Center Mixed Use land use classification per the Land Use and Transportation Element (LUTE) of the Oakland General Plan. The Neighborhood Center Mixed Use land use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers, that are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. The subject site is not within a Specific Plan area. Some of the policies that relate to this specific use and site, as stated in the Approval letter findings:

Policy I/C3.4 Strengthening Vitality

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Policy T2.3 Promoting Neighborhood Services

Promote neighborhood-serving commercial development within one-quarter to one-half mile of established transit routes and nodes.

ZONING ANALYSIS

The project site is located in the Neighborhood Commercial - 1 Commercial Zone (CN-1 Zone). The intent of the CN-1 Zone is to maintain and enhance vibrant commercial districts with a wide range of retail establishments serving both short- and long-term needs in attractive settings oriented to pedestrian comparison shopping. The Personal Instruction and Improvement Activity requires a Minor Conditional Use Permit in this zone, when located on the ground floor of a street fronting building and must meet the additional requirements, CN-1, CN-2 & CN-3 Commercial Zones Use Permit Findings, located in the Approval letter.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists the projects that qualify as categorical exemptions from environmental review. Construction of the previous building approved under PLN17142 was determined categorically exempt from CEQA pursuant to Section 15301 for Existing Facilities and Section 15183 for projects consistent with a community plan, general plan, or zoning. The proposed project is categorically exempt from the environmental review requirements pursuant to Section 15301 for Existing Facilities, Section 15305 for Minor Alterations in Land Use Section. In addition, the project is also exempt per Section 15183, for projects consistent with a community plan, general plan or zoning, and Section 15061(b)(3), the general exemption for projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Each of these sections constitute a separate and independent basis for the exemption.

BASIS FOR THE APPEAL

The Appeal (*Attachment C*) was filed by Mark Sutro on behalf of Cru-Fit and a coalition of other Montclair Businesses. The basis of Appeal is that the Zoning Manager is alleged to have abused his discretion and made a decision and determination not based on substantial evidence. Specifically, the Appeal alleges that:

Appellant Claim 1:

The three-unit, one story commercial development at 2084 Mountain Blvd was permitted, with

support from Montclair Village Association, to allow one unit to be used for financial services (current occupant F&M Bank) and the remaining two units (2080 and 2084 Mountain) for use as restaurant and retail. The Case Planner clearly understood and agreed with the community's input that the high traffic frontage units should conform to the CN-1 Zoning Plan for the district and be used for restaurant or retail operations.

Staff Response:

The CN-1 Zoning district requires a Minor Conditional Use Permit for both restaurants (i.e. Full Service and Limited Service and Café) and gyms (Personal Instruction and Improvement use). The site already received a minor Conditional Use Permit for the corner unit, where the Starbucks is currently located, as part of the initial project approval. The required findings are the same for all conditionally permitted uses. While permitted and conditionally permitted uses in the CN-1 Zone are anticipated during project review, particular uses for specific units are not pre-determined in the initial approval. Instead, whether a particular activity meets the required findings is determined on an individual, case-by-case basis based on information provided by the applicant and other interested parties.

Appellant Claim 2:

The above market rent being sought for the space at 2084 (\$6/square foot) has been a deterrent to restaurant and retail businesses interested in the location. It is our understanding that the owners of the 3-unit building at 208x Mountain will in discussions for close to one year with a potential tenant who was looking to open a restaurant at 2084 Mountain. Much of the time attributed to the space being vacant is actually time when negotiations with the other potential tenant were moving slowly.

Staff Response:

The Oakland Planning Code does not determine the commercial rent charged by the owners nor does staff get involved in the leasing arrangements of commercial properties as that is a private matter between commercial landlords and tenants. The amount of rent charged is not a basis for concluding that the proposed project does not meet the general conditional use permit criteria specified in Section 17.134.050 or the additional use permit criteria for CN-1 commercial zones described in L4 of Table 17.33.01, Section 17.33.030.

Appellant Claim 3:

There are a decreasing number of commercial spaces with ground floor frontage available for retail and restaurant use on Mountain Blvd in the Montclair commercial district. It is critical that these prime, highly visible and high foot traffic locations retain their zoned use. Unlike retail and restaurants, fitness uses are not as dependent on location for successful operations.

Staff Response:

The CN-1 zoning regulations encourages ground floor retail and similar uses that promote active pedestrian activity, but it does not identify site specific locations for specific uses. Similarly, the applicable use permit criteria require Planning to determine whether the activity proposed meets the criteria, and not whether an alternative use not proposed would better meet the criteria. The proposed activity that generates pedestrian activity is therefore appropriate for the subject location.

Appellant Claim 4:

The business owners of Montclair strongly believe the longer-term success of the District is closely tied to their ability to offer local flavor through an assortment of small locally owned businesses which create a unique shopping experience and a Destination for patrons. There are well over 1,000 Orangetheory locations in the United States, including 15 in the East Bay alone.

Staff Response:

As much as Oakland encourages and supports local business, there is no restriction against non-

local businesses or chain businesses. The Zoning Manager determined that the proposed fitness studio is consistent with the character of ground-floor land uses along Mountain Boulevard, which provides a diverse mix of commercial uses, including retail shops, offices, restaurants, and salons.

Appellant Claim 5:

Granting the CUP to the Orangetheory franchisees would adversely impact the mix of businesses in the Village. Montclair is currently oversaturated with fitness offerings. There are a total of nine fitness locations in the Village including a variety of group classes, yoga, Pilates, personal training and self-directed circuit training. The existing Village fitness operators have the capacity to serve many more daily customers than they did at peak prior to the Pandemic. Orangetheory's offerings directly compete with most if not all of these businesses and the potential is there for some of those local owners to be forced out of business due to the dilution of profits among too many players in the market. This is especially true now as fitness business owners struggle to survive in the wake of Covid-19. A recent community survey with over 300 responses showed that additional fitness offerings are not high on the list for area residents. A quality restaurant, however, was at the top of the list along with retail and specialty grocery. The ongoing success of recent restaurant openings shows there remains an unmet demand in the district for quality dining options.

Staff Response:

There are no regulations in regards to the density and number of a certain business use such as a gym. Where the City does impose such restrictions, for businesses such as bars, liquor stores, which have overconcentration standards as there is a concern about criminal behavior that is often associated with their activities. In all other cases, the City prefers to allow market forces to decide what the appropriate number of any one type of business might be in a given area. While some might look to the examples of other nearby communities that have restrictions on chain stores, that is not in our Zoning regulations and it is not a matter that can be resolved in an appeal, which is limited to whether the Zoning Manager abused his discretion in determining the status of this case with the existing regulations available. Rather, it is a political decision and it would require and ordinance adopted by City Council to take such a step. In addition, see staff response to Appellant Claim 4.

Appellant Claim 6:

Of the current fitness businesses in Montclair, CRUfit's offerings and customer overlap the most, and in fact extensively, with what Orange aims to bring to the Village. CRUfit is co-owned by a Black Woman who resides in District 4. CRUfit employs numerous Oakland residents including several from District 4. This supports the City of Oakland's vision for equity by creating economic activity stimulating tax in a People of Color-owned businesses.

Staff Response:

Competition between similar businesses and minority status are not bases for reviewing zoning compliance with applicable criteria. The required Findings clearly state the criteria for evaluating all project proposals.

Appellant Claim 7:

Parking: Many of Orangetheory's classes would take place during peak hours when people are off work and the Village is most crowded. Parking is already an issue in Montclair and Orangetheory's claim that patrons will likely walk or cycle to their location shows their lack of knowledge of the dynamics of our area. The planned development and reduction in parking on Antioch Court further reduces options for parking. The potential for 20+ class members at a time taking away parking from potential customers visiting existing businesses would channel profits directly out of Oakland and into the pockets of an out of area owner. A current fitness business owner in Montclair has noted that when their CUP was granted in 1996, they were required to provide 6 designated parking spaces marked specifically for their use. They have paid additional rent for 24 years to meet that

requirements.

Staff Response:

In terms of parking, the Conditional Use Permit that the appellant is referring to was approved under different regulations that have since then been changed. Under current regulations, commercial activities, with few exceptions, do not require onsite parking when they are less than 3,000-square-feet in size. The subject unit is 2,950-square-feet and therefore does not require any on-site parking. See Oakland Planning Code Section 17.116.080.A. Minimum Parking for Commercial Activities.

Appellant Claim 8:

The revenue from Orangetheory’s business in Montclair would not stay in the Oakland economy as the majority owners of the franchise are based in Simi Valley, California and Orangetheory’s headquarters is in Boca Raton, Florida. In addition, bringing additional fitness offerings into Montclair will not generate sales tax.

Staff Response:

In determining whether or not to approve Conditional Use Permits, required findings do not include taking into account whether or not a company is local or the tax value of a company or differentiate between local and non-local businesses. The required findings for review and approval of project does not include assessment of whether or not revenue from an activity stays in Oakland and the City cannot base their decision on such considerations.

Appellant Claim 9:

Orangetheory classes can have as many as 26 participants and the training is rigorous. There is only one shower planned for the space. Contrary to what has been written in the CUP application, virtually all participants would leave the Village shortly after class.

Staff Response:

There is no requirement for number of showers. The retail storefront has been conditioned to be transparent as well as have the retail component located in the front, to appear more consistent and friendly to the streetscape, similar to other approved Fitness uses.

Appellant Claim 10:

The retail storefront that Orange would provide is unlikely to be of interest to those who are not Orangetheory members.

Staff Response:

There is no basis to conclude that the retail storefront from the proposed activity will not generate interest beyond patrons of the proposed activity.

Discussion of Appeal

Appellant argues that Findings made by the Zoning Manager are not supported by substantial evidence, are erroneous, and constitute abuse of discretion. Section II of Appellant’s Appeal (*Attachment C*) raises “Exceptions” to four of the Zoning Manager’s Findings. Each challenged use permit criteria is shown in **bold** text, followed by the Zoning Manager’s findings in support of the project meeting the use permit criteria in *italic* text, the Appellant’s claimed “exception” in **bold** text, and finally staff’s response follows each point in regular type.

The Appeal raises issues pertaining to the approval of the CUP. There are 4 findings that the appellant are raising issues with. Staff recommends the Planning Commission consider each ground of the Appeal to

determine whether the Zoning Manager's determination was supported by substantial evidence.

General Conditional Use Permit Finding:

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed fitness studio will be in a new, multi-tenant development that was approved for commercial use and currently contains a coffee shop and a bank as its other tenants. The proposed fitness use is consistent with the character of ground-floor land uses along Mountain Boulevard, which provides a diverse mix of commercial uses, such as retail shops, offices, restaurants, and salons. There are existing parking lots and a parking garage in the neighborhood as well as street parking. Traffic and parking will only be affected at the times of classes and not throughout the day. Additionally, the proposed studio will not change the scale, bulk, coverage or density of the neighborhood as it is an existing structure.

Exception: With respect to CN-1 zoning, see items 1 through 6 above. With respect to Parking, see item 7 above.

Staff Response

See responses 1-7. Above.

General Conditional Use Permit Finding:

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The site was designed and approved for retail and commercial use and it is partial occupied with such uses. The fitness studio will occupy a vacant space that was recently built anchoring one side of the development. This use is consistent with other pedestrian-oriented uses at the site, as well as similar uses on adjacent parcels and the surrounding community. By occupying a vacant ground floor retail space, the proposed fitness studio will preserve the commercial space and connect with the street and allow for functional use of the space and enhance the use of the space, that has been vacant for at least a year. The use will be open to the street, allowing for connection with the street and surrounding businesses.

Exception: With respect to the "at least a year" vacancy at 2084 Mountain, see item 2 above.

Staff Response

See response 2 above.

General Conditional Use Permit Finding:

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

There are many other fitness uses within the Montclair Village, that are similar in nature but appeal to a different niche. Montclair Village is a neighborhood commercial area, that contains many cafes, restaurants, and shops that keep the area lively and active. The fitness studio will

bring patrons to the Village and augment the commercial vitality of the neighborhood. The surrounding area adjacent to the Village is residential in nature, providing clients for the fitness studios and the surrounding businesses

Exception: The statement that: “There are: other fitness uses within Montclair Village that are similar in nature but appeal to a different niche”, is false and is unsustainable. See items 5 through 10 above.

Staff Response

Based on the information provided by Orangetheory on their type of classes and other sites, it was determined that it would meet a niche clientele that was different from other fitness uses. See responses 5 – 10 above.

CN-1, CN-2 & CN-3 Commercial Zones Use Permit Finding:

1. The proposal will not detract from the character desired for the area.

The fitness studio will enhance the desired character of the Montclair Village, by filling in an existing vacant ground floor commercial space that is in line with the neighborhood. As there are no changes to the exterior of the building, the character will remain. The use will retain the commercial feel of the neighborhood, with the retail component located in the front and the window maintaining their visibility to the street.

Exception: See items 1 through 5 above.

Staff Response

Refer to responses 1-5 above.


CONCLUSION

The Appellant has not demonstrated any instance of error or abuse in discretion by the Zoning Manager, thus City staff considers the Zoning Manager’s decision to be valid and accurate. Staff has reviewed the project based on the Findings for approval prescribed in the Zoning code. Staff recommends that the Planning Commission deny the appeal and uphold the approval of the Minor Conditional Use Permit for the proposed Personal Instructional and Improvement activity at the subject site.

RECOMMENDATIONS:

1. Affirm staff’s Environmental Determination, and
2. Deny the Appeal and uphold the Zoning Manager’s decision based on the Findings included in the Zoning Manager’s Determination as well as the findings and evidence presented in this January 20, 2021 staff report, and based on the Conditions of Approval included in the Zoning Manager’s Determination.

Prepared by:



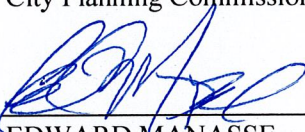
REBECCA WYSONG
Planner I

Reviewed by:



ROBERT MERKAMP
Zoning Manager

Approved for forwarding to the
City Planning Commission:



EDWARD MANASSE
Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Project Plans/Documents
- B. Zoning Manager's Decision dated June 11, 2020 with CEQA Findings
- C. Appeal filed by Mark Sutro on behalf of CRUfit and other Montclair Businesses
- D. Public Comments from PLN19299 comment period.
- E. Email from Robert Merkamp, Zoning Manager, with extension of appeal period.

LEGAL NOTICE:

ANY PARTY SEEKING TO CHALLENGE THIS DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE ANNOUNCEMENT OF A FINAL DECISION, PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.

Orangetheory Fitness

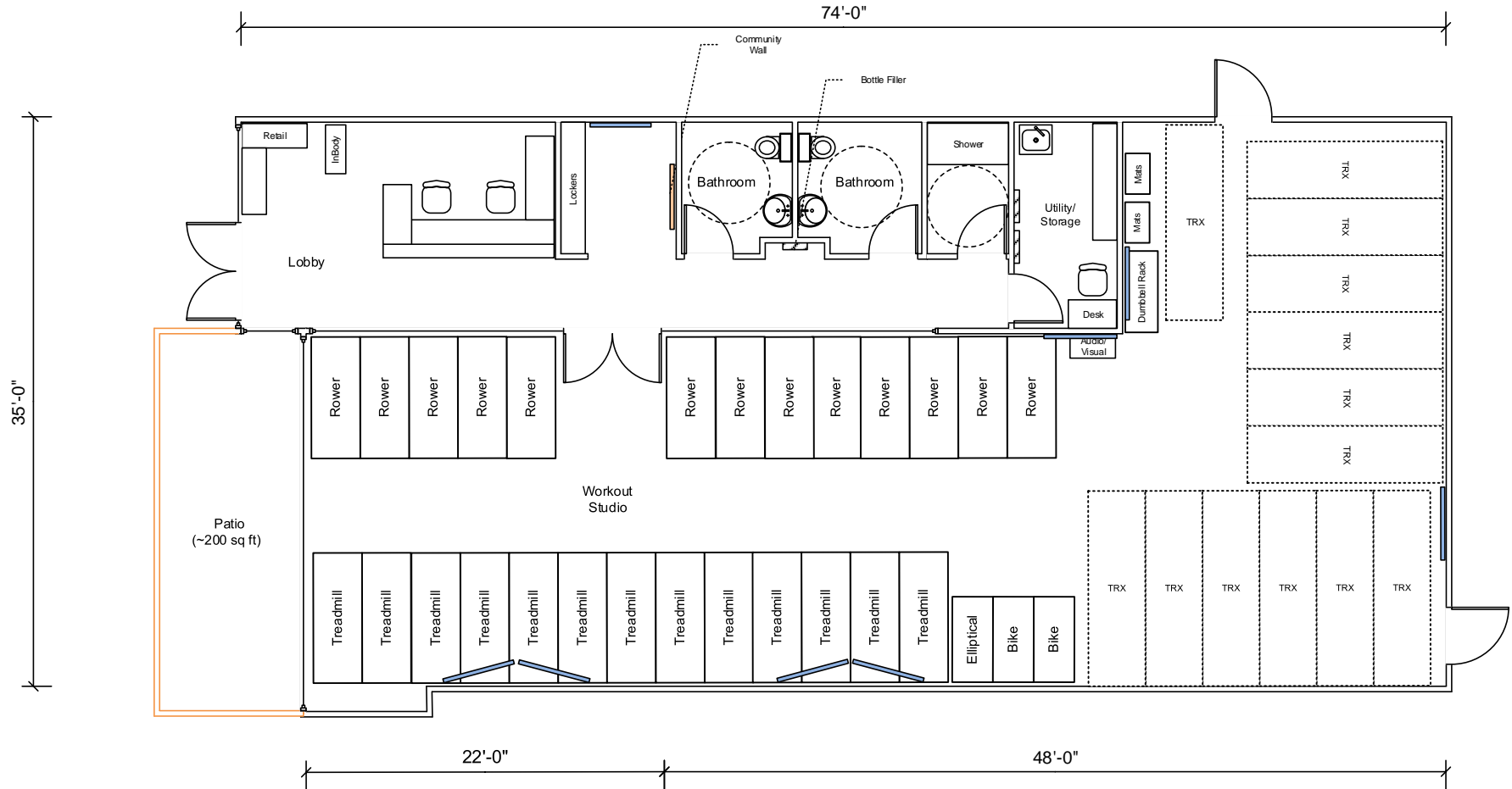
2080 Mountain Ave
Montclair Village
Oakland, CA

~2750 sq ft
(~2950 sq ft w/ patio)

Studio Floor Plan

Attachment A
DRAFT ONLY

Legend:
Treadmill Block: 36" x 96"
Rower Block: 36" x 90"
TRX Block: 42" x 144"



LEGEND

- UNRATED CONSTRUCTION
- 1-HR FIRE-RESISTIVE-RATED CONSTRUCTION
- CONCRETE MASONRY UNIT (CMU)
- PROPERTY LINE
- WALL TYPE - SEE SHEET A10.3 FOR DETAILS & SCHEDULE
- WINDOW OR STOREFRONT TYPE - SEE SHEET A10.4 FOR SCHEDULE
- DOOR TYPE - SEE SHEET A10.4 FOR SCHEDULE
- SIGNAGE TYPE - SEE SHEET G1.1

SHEET NOTES

1. STRUCTURAL DIMENSIONS AND SPACING IS APPROXIMATE UNTIL FINAL ENGINEERING IS COMPLETED.
2. ALL DIM. SHOWN TO CENTER LINE OF COLUMN OR FACE OF STRUCTURE, U.O.N.
3. FOR TYP. WINDOW & OPENING DETAILS, SEE SHEET A10.4
4. NOT USED
5. FOR WALL TYPE ASSEMBLY INFORMATION, SEE SHEETS A10.3.
6. FOR WINDOW & STOREFRONT SCHEDULE, SEE SHEET A10.4
7. ALL CONTRACTORS AND TRADES SHALL OBTAIN A COPY OF CONDITIONS OF APPROVAL AND ABIDE THEIR REQUIREMENTS THROUGHOUT CONSTRUCTION.
8. SEE M.E.P. FP FOR EXTERIOR PENETRATION LOCATION, AND QUANTITIES. ALL PENETRATIONS THROUGH FIRE RESISTIVE CONSTRUCTION SHALL BE SEALED WITH RATED JOINT ASSEMBLIES EQUAL TO OR EXCEEDING THE RATING OF THE FIRE RESISTIVE CONSTRUCTION.
9. NOTED DIMENSIONS SHALL AT ALL TIMES TAKE PRECEDENCE.
10. DIMENSIONS ARE NOT ADJUSTABLE WITHOUT APPROVAL OF THE ARCHITECT, UNLESS OTHERWISE NOTED WITH "+/-"
11. DIMENSIONS LOCATING DOORS ARE 4" TO THE INSIDE EDGE OF JAMB, U.O.N.
12. PROVIDE SUITABLE 2X10 WD BLOCKING FOR WALL MOUNTED EQUIPMENT AND FIXTURES. SEE DETAIL
13. REFER TO G0.4 FOR MOUNTING HEIGHTS AND ACCESSIBILITY STANDARDS.
14. MAXIMUM ALLOWABLE SLOPE TO FLOOR DRAINS SHALL NOT EXCEED 2% IN ANY DIRECTION.
15. TRADES SHALL ABIDE BY THE REQUIREMENTS SET FORTH IN THE PROJECT MANUAL.
16. THE FRAMING CONTRACTOR SHALL INSTALL 6" CONTINUOUS BLOCKING APPROPRIATE FOR INSTALLATION OF WATERPROOFING (EDGES).

lowney arch
 TEL 510.836.5400 URL lowneyarch.com
 350 SEVENTEENTH STREET | SUITE 200 | OAKLAND, CALIFORNIA 94612

2084 MOUNTAIN BLVD
 TROJAN DEVELOPMENT ASSOCIATES IV, LLC

2084 MOUNTAIN BLVD
 OAKLAND, CA 94610

OWNER
 TROJAN DEVELOPMENT
 BASIL CHRISTOPOULOS
 43 Panoramic Way
 Walnut Creek, CA 94595
 Phone: 925.906.1966

ARCHITECT
 LOWNEY ARCHITECTURE
 360 17th Street, Suite 200
 Oakland, CA 94612
 Phone: 510.836.5400

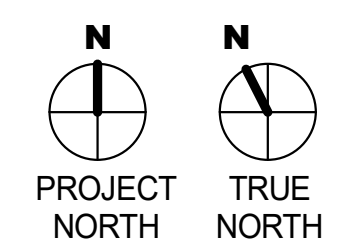
KEY NOTES

- 05 06 10.13 STEEL COLUMN
- 05 51 33.13 VERTICAL METAL LADDERS
- 05 52 00.01 STEEL GUARDRAIL, PTD
- 08 41 13.01 ALUMINUM STOREFRONT
- 10 41 16 RECESSED EMERGENCY KEY CABINETS
- 10 44 13 FIRE PROTECTION CABINETS
- 12 67 23.01 WOOD BENCH
- 12 93 14 BICYCLE LOCKERS
- 21 13 00 FIRE-SUPPRESSION SPRINKLER SYSTEMS
- 26 12 00.01 UNDERGROUND VAULT TRANSFORMER
- 26 24 00 SWITCHBOARDS AND PANELBOARDS
- 32 13 13 CONCRETE PAVING
- 32 94 33 CUSTOM STEEL PLANTERS
- 33 51 33 NATURAL-GAS METERING

STAMP



#	DATE	ISSUES & REVISIONS	BY
	06/30/2017	PERMIT SUBMITTAL	EP
1	10/17/2017	PERMIT REVISION	EP
2	12/07/2017	BULLETIN 1	MG
5	06/13/2018	BULLETIN 2	EP
6	09/19/2018	BULLETIN 3	MG

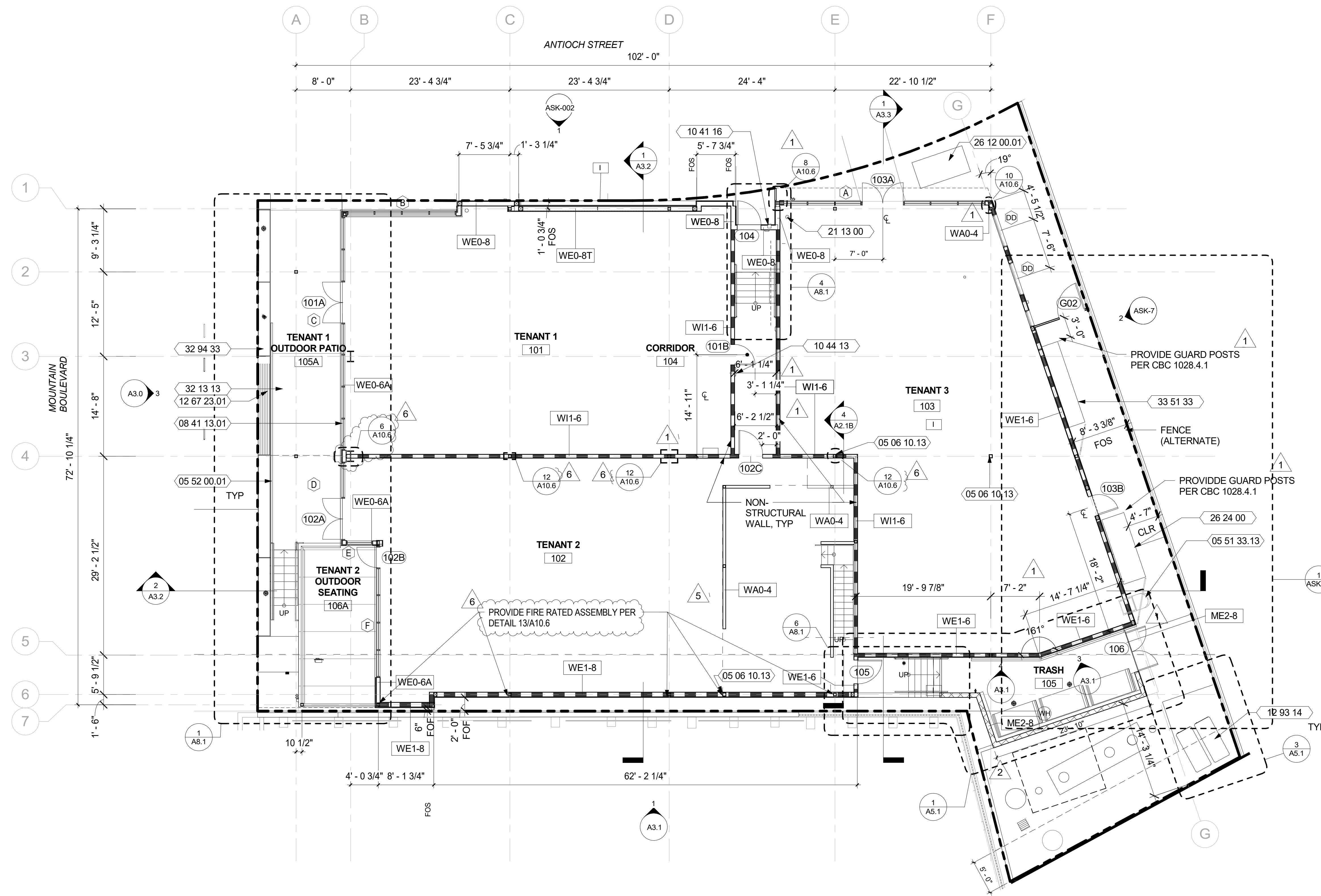


DRAWN BY: _____ Author
 PROJECT NUMBER: 15-038
 SHEET ISSUE DATE: 12/12/16
 SHEET TITLE:

GROUND FLOOR PLAN

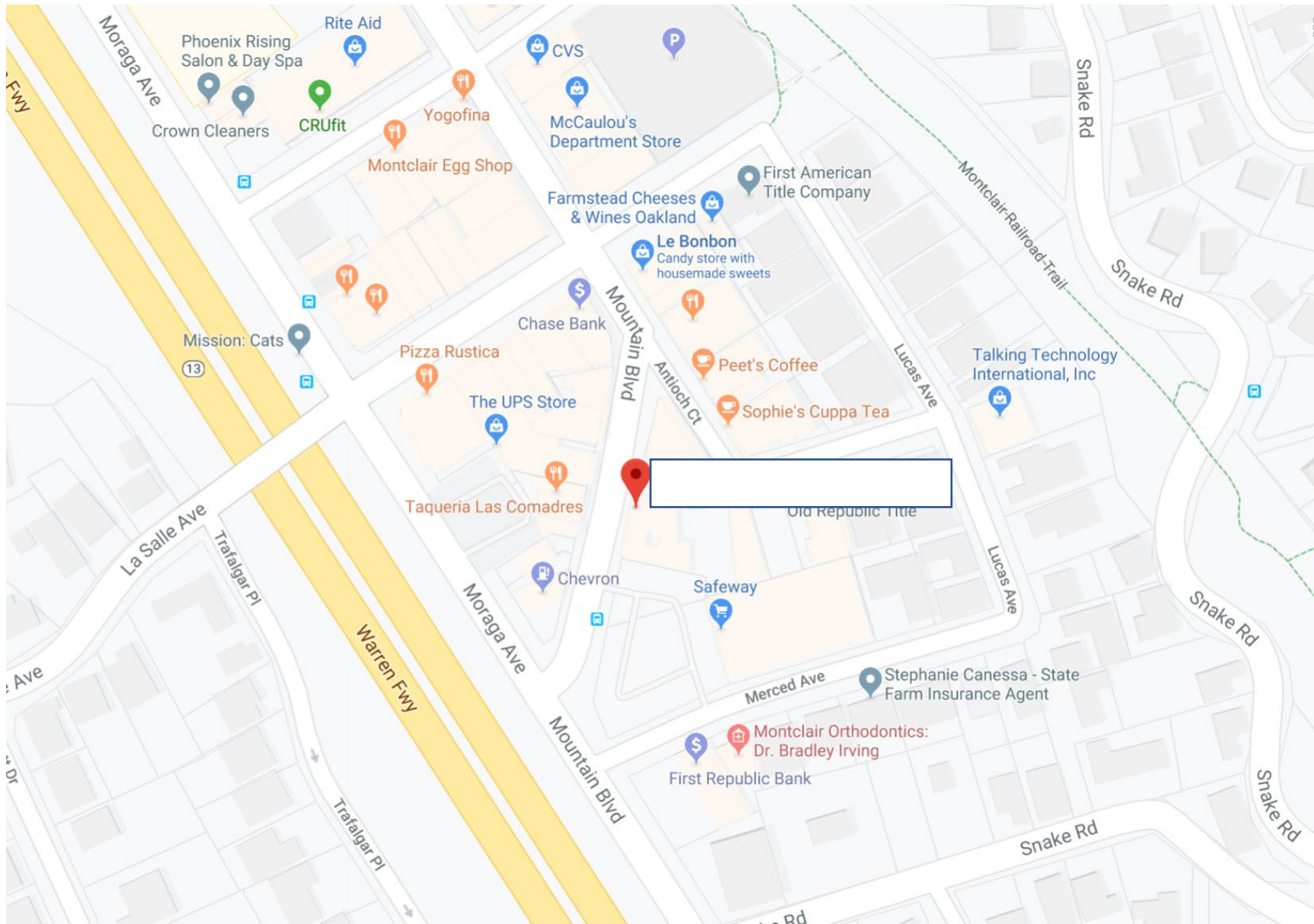
SHEET NUMBER **A2.1**

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT OF THE ARCHITECT



1 GROUND FLOOR PLAN
 1/8" = 1'-0"

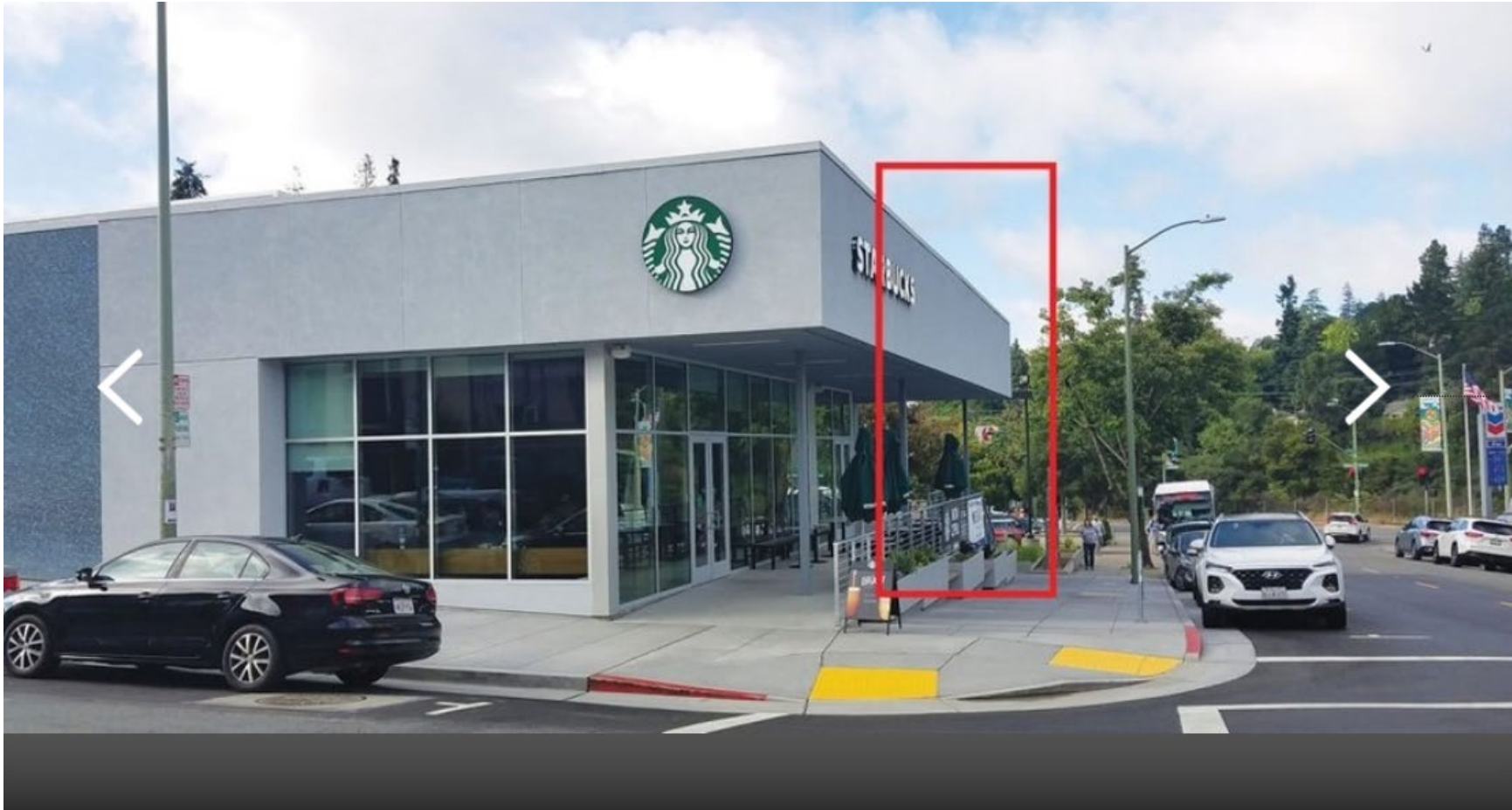
10/8/2018 11:01:02 AM



Vicinity Map



Proposed Project Site, Located Next to Starbucks, Red Outline, Across Mountain Street, Front of Building



Orangetheory Fitness Patio Space, Red Outline, Looking South on Mountain Boulevard, Site of Building



Site of Proposed Site, Looking North on Mountain Boulevard, Side of Building



Looking North on Antioch Street, Rear of Building

**Site Address: 2084 Mountain Boulevard
Applicant: Orangetheory Fitness**

THE REQUEST

Orangetheory Fitness (“the Applicant”) is seeking the following discretionary approval:

- **Pursuant to Section 17.134 of the City of Oakland Municipal Code**, the applicant requests approval of a Minor Conditional Use Permit to allow a Personal Instruction and Improvement Services use, to be located on the ground floor in the CN-1 (Neighborhood Commercial) zone. Hours of operation will be from 5 am to 9 pm, Monday through Friday and 5 am to 4 pm on Saturday and Sunday.

Proposed Fitness Studio

The proposed fitness studio will occupy a newly completed commercial building located at the southeast corner of Mountain Boulevard and Antioch Street. The entrance will face Mountain Boulevard and will be located directly adjacent to Starbucks. The third tenant in the project is Farmers & Merchants Bank, located behind Starbucks and the proposed Orangetheory Fitness.

The fitness studio will be approximately 2,750 square feet of interior space and will have a 200 square foot patio space next to the entrance. The studio consists of a training/instructional area with rowing machines, treadmills and TRX stations. There will be two (2) bathrooms and a shower for the convenience of the members, a reception/retail area, and a small office. The reception area will be visible from the street and will have retail offerings. There will be no change to the building and no increase in square footage. The fitness studio will maintain the existing storefront and windows; the only change being signage. Both the reception/retail area and the training studio will be visible from the sidewalk. This project will not change the urban fabric or the pedestrian experience.

Orangetheory Fitness is an instructor led, class based, group personal training studio. This is not an open gym and the workout is limited to the classes held throughout the day. Classes run from 5 am to 9 pm, Monday through Friday and 5 am to 4 pm on Saturday and Sunday. The number of classes each day will be dependent on demand, but typically there are 7 to 10 classes per day during the week and 5 to 7 on the weekends. The classes are usually held in the early to mid-morning, late afternoon and evening during the week and early to mid-morning and early afternoon on weekends. The class size is dictated by the pieces of equipment in the studio and this space has 13 treadmills and 13 rowing machines, which allows for 26 students per class, although the average class size is between 20 to 25 students. Classes last approximately 60 minutes and run throughout the day, with intervals between classes. The classes are led by one instructor and the staffing is estimated to be 7 to 9 employees per day, with 2 morning openers, one to 2 coaches before and during lunch, 2 coaches in the early afternoon and 2 evening coaches. Additionally, there is one manager on staff throughout the day. In total, this small studio will employ 12 to 14 people.

This is not an open gym, but rather a neighborhood oriented instructional studio that allows members to enjoy a group, personal training experience. The exercise studio is small, with almost half the space dedicated to retail and accessory uses.

The Science of the Orangetheory Workout

Orangetheory Fitness is a one-of-a-kind workout, broken into intervals of cardiovascular and strength training, using a variety of equipment including treadmills, rowing machines, TRX suspension training™ and free weights to tone the body and gain energy throughout the day. There are three components to the 60-minute workout, treadmill training, indoor rowing and weight training. Backed by the science of post-exercise oxygen consumption (EPOC), the heart-rate monitored training is designed to keep heart rates in a target zone that stimulates metabolism and increases energy. Orangetheory Fitness uses the science of Heart Rate Based Treadmill Interval Training, the efficiency of Indoor Rowing for increased power and the proven concept of Weight Training Blocks to create the fitness level and body desired. Highly qualified and motivational Personal Trainers lead each class to increase the safety and effectiveness of the workout.

PER SECTION 17.134.050 – CONDITIONAL USE PERMIT FINDINGS

- A. The location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development:

This request is for a Conditional Use Permit to allow Personal Instruction and Improvement Services on the ground floor in the CN-1 zone. The studio will be located in a new, multi-tenant development that was approved for commercial use. Therefore, the location, size and design of the building have already been deemed compatible with the adjacent uses and surrounding community. The proposed fitness use is consistent with the character of ground-floor land uses along Mountain Boulevard, which provides a diverse mix of commercial uses. The properties that adjoin and are near the subject site are developed with uses that include restaurants, retail, services/commercial. Additionally, the proposed studio will not change the scale, bulk, coverage or density of the neighborhood.

All Orangetheory Fitness studios are designed to minimize any impact on the adjacent neighbors and surrounding neighborhoods. The success of the business relies on members who live and work in the community, so it is imperative that the operation of the business is not harmful to either the commercial businesses or residents. The studio will not create any unusual noise, noxious odors or be disruptive in any way. All classes are held indoors. None of the classes will use the sidewalks or streets for any part of the workout. The studio is oriented away from the

residential uses and sound absorbing construction materials are used to mitigate any sound transfer to the adjacent businesses. The goal is to be an amenity and asset to the community.

The members of the studio will work and live in the community, so the addition of Orangetheory Fitness will not burden any civic facilities, public utilities or increase traffic. To extend the benefits of a healthy lifestyle, members can walk or ride their bike, alleviating parking and traffic issues. These studios are small in scale because they are a neighborhood-based fitness option.

Orangetheory Fitness will offer the community with a service that will contribute to a healthy lifestyle for all members. The Orangetheory Fitness workout has major health benefits and helps both the body and the mind through physical activity and stress relief.

- B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant:

The site was designed and approved for retail and commercial use and it is partial occupied with such. The fitness studio will occupy a vacant space anchoring one side of the development. This use is consistent with development on the site, as well as the adjacent parcels and surrounding community, making this site suitable for the proposed development. By occupying a ground floor, vacant retail space, the proposed Project is part of an optimal development plan that increases the utility of land, while providing nearby residents and employees a neighborhood amenity; one that will not disrupt the daily lives of residents or workers.

A diverse offering, of services and commercial/retail uses, keeps neighborhoods vital and local, neighborhood serving fitness studios are an important part of these offerings. As retail changes and fewer new retail storefronts open, it is important to find alternatives to maintain low vacancy rates. Orangetheory Fitness is a unique and specific type of workout that cannot be replaced with the other fitness studios and/or gyms in the City. This location is ideally sited to draw most, if not all, members from the neighborhood, thereby allowing members to walk or ride their bike to the studio. This will, in turn, reduce vehicular traffic and the need for parking. All while offering workers and residents a popular alternative to straight retail. The goal is to promote the health of the body and the community.

- C. The proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region:

Orangetheory Fitness will provide the community with a unique, economically viable and respected establishment as part of its neighborhood-serving amenities. Orangetheory Fitness is like no other personal training studio and therefore, will offer the community a unique workout. As stated above, it is important that communities have a variety of goods and services available to residents and workers to keep neighborhoods active and vibrant and this exceptional fitness studio will be a welcome addition.

- D. The proposal conforms with all applicable Regular Design Review criteria set forth in Section 17.136.050 of the Oakland Planning Code:

Section 17.136.050 of the Oakland Planning Code requires that projects conform to three criteria in the Design Review process; to provide a cohesive design that is harmonious, fits into the existing neighborhood and respects the General Plan as well as any other code or ordinance. This project has already been approved by the City of Oakland and does not require a Design Review approval and through that approval has demonstrated the project conforms with the criteria set forth in this Section.

- E. The proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The elements of the General Plan establish the policies that provide for the regulatory environment needed for smart development and growth in a City and address environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements in the Municipal Code and with the approval of this requested Conditional Use Permit, the project will meet all Municipal Code requirements.

The City's General Plan provides incentives to encourage housing, jobs and services in closer proximity to one another; and to create balanced communities and neighborhoods. The Housing Element of the General Plan encourages the location of housing, jobs and services in mutual proximity. One plan objective is to accommodate a diversity of uses that support the needs of the City's existing and future residents. Orangetheory Fitness furthers these goals. It is located in an area with a mix of residential, commercial and retail uses, on a commercial thoroughfare. Another important objective is to promote economic development. Orangetheory Fitness is a very successful and growing business that will create jobs through a small, local business.

A mix of amenities enhances the desirability of the neighborhood as a place to work and live, directly and indirectly contributing to the jobs-housing linkage. Orangetheory Fitness will serve the local population who live and work adjacent to and in the vicinity of the studio. The location of the fitness studio helps realize the goal of co-locating jobs, housing and services, which in turn encourages greater pedestrian activity and hopefully aids in the longer-term goal of encouraging a safer, more inviting environment. While not allowed by-right, this use will further Objectives and Goals of the General Plan and will in no way have an adverse effect on any element of the General Plan.

- F. For proposals involving a One- or Two-Family Residential Facility: If the Conditional Use Permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height;

N/A

- OR -

2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.

N/A

PER SECTION 17.33.030, TABLE 17.33.01, LIMITATIONS (L4) – ADDITIONAL CONDITIONAL USE PERMIT FINDINGS FOR PERSONAL INSTRUCTION ON THE GROUND FLOOR

This use is allowed in the CN-1 zone, but is not allowed on the ground floor, unless the following findings can be made:

1. That the proposal will not detract from the character desired for the area;

The site was designed for retail and commercial uses and it is partially occupied with such. The fitness studio will occupy a vacant space anchoring one side of the development. This use is consistent with development on the site, as well as the adjacent parcels and surrounding community, making this site suitable for the proposed development. The proposed fitness use is consistent with the character of ground-floor land uses along Mountain Boulevard, which provides a diverse mix of commercial uses. The properties that adjoin and are near the subject site are developed with uses that include restaurants, retail, services/commercial.

The project will not create any unusual noise. All classes are held indoors and will not interfere with any of the adjacent commercial/restaurant uses. All traffic will be similar to the existing traffic patterns for retail/commercial uses and there will not be a significant change to either the property or any other improvements within the vicinity. The use will not be materially

detrimental to the public welfare. On the contrary, the Orangetheory Fitness workout has major health benefits and helps both the body and the mind through physical activity and stress relief.

2. That the proposal will not impair a generally continuous wall of building facades;

The proposed studio will not change the building façade in any way, other than the installation of signage.

3. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;

The new development replaced an existing office building and the new tenant space is currently vacant. Therefore, approving this Conditional Use Permit will not change the concentration or continuity of any retail facility. And, while this is not a retail store, the studio does have a retail component that sells fitness gear and accessories. This retail area will be located in the reception area along the northern portion of the storefront.

The visual experience of the pedestrian from the sidewalk will be twofold. The northern side of the storefront has the retail display and reception area mentioned above and the southern side has the exercise equipment, with an outdoor patio directly in front of it. This patio will allow members to gather and will activate the outdoor space.

The building is set back from and elevated above the sidewalk. There are planter boxes at the sidewalk level that soften the pedestrian experience. The outdoor patio connects the studio to the lower pedestrian level; when people are sitting on the patio, there is an outdoor visual interaction between the sidewalk and the patio. The retail component, the high energy of the studio, staff and members and this usable outdoor space, all create an interactive experience and activates the streetscape more than a retail store.

4. That the proposal will not interfere with the movement of people along an important pedestrian street; and

The use will not change pedestrian access. The project is setback from and elevated above the sidewalk. All classes will be held indoors and will not use the adjacent or neighborhood sidewalks and streets.

5. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.

There is no district plan associated with the proposed project site.

In a changing economic climate, it is important to support businesses that are successful and growing. Fitness is an incredibly robust industry presently and Orangetheory Fitness is a very popular workout, with hundreds of members in each new studio. This successful brand is a great addition to any neighborhood. Orangetheory Fitness will provide the community with a unique, economically viable and respected establishment as part of its neighborhood-serving amenities for residents and workers in and near the studio. The fitness studio is consistent with the pattern of existing development, and since the studio will be located within an existing building, the use will not change or degrade the community character that presently exists. The addition of Orangetheory to this location will ensure a successful growing business that will occupy a vacant space, will generate taxable income, will hire employees and will provide a community benefit to the neighborhood.

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

June 11, 2020

Terri Dickerhoff
Orangetheory Fitness
5635 Evening Sky Dr.
Simi Valley, CA 93063

RE: Case File No. PLN19299; 2084 Mountain Blvd.; APN No. 048F-7352-016-01

Dear Mrs. Dickerhoff:

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	To operate a Personal Instruction and Improvement use (Fitness Facility) on the ground floor of an existing building in the CN-3 Zone.
Planning Permits Required:	Minor Conditional Use Permit to allow for ground floor Personal Instruction and Improvement Use
General Plan:	Neighborhood Center Mixed Use
Zoning:	CN-1 (Neighborhood Center Mixed Use Commercial)
Environmental Determination:	15301- Existing Facilities; and 15183- Projects Consistent with a Commercial Plan, General Plan or Zoning
Historic Status:	X
City Council District:	4

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 pm on June 21, 2020**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted via email to: (1) **Rebecca Wysong, Planner I, and rwysong@oaklandca.gov**, (2) **Robert Merkamp, Zoning Manager, at rmerkamp@oaklandca.gov**, and (3) **Catherine Payne, Development Planning Manager, at Cpayne@oaklandca.gov**. The appeal form is available online at <https://www.oaklandca.gov/documents/appeal-application-form>. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or decision-making body or wherein the decision is not supported by substantial evidence. Applicable appeal fees in the amount of **\$1,622.57** in accordance with the City of Oakland Master Fee Schedule must be paid within five business days of filing the appeal. Failure to timely appeal (or to timely pay all appeal

fees) will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter. For further information, see the attached Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Bureau Decisions for Development Projects.

If the ten (10) day appeal period expires without an appeal, you are expected to contact **Rebecca Wysong, Planner I** in order to receive the signed Notice of Exemption (NOE) certifying that the project has been found to be exempt from CEQA review. Under ordinary circumstances, it would be your responsibility to record the NOE with the Alameda County Clerk's office. However, due to the COVID-19 public health emergency, Governor Gavin Newsom issued Executive Order N-54-20, which temporarily suspends the clerk filing requirement and instead requires that the NOE be (1) posted on the City's website; (2) submitted to the State Clearinghouse via the CEQAnet web portal; and (3) distributed to known interested parties. The NOE will be posted on the City website at <https://aca.accela.com/OAKLAND/Welcome.aspx> 10 days after the issuance of this letter or upon conclusion of any appeal. The City will also submit the NOE to CEQAnet 10 days after the issuance of this letter or upon conclusion of any appeal. State Clearinghouse charges, if any, will be billed to the project account. Known interested parties have received a copy of this determination letter. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines and the Governor's Executive Order, publication of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, **Rebecca Wysong, Planner I** at (510) 238-3123 or rwysong@oaklandca.gov, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Zoning Manager

Attachments:

- A. Findings
- B. Conditions of Approval, including Standard Conditions of Approvals

cc: Sarah Saltzer, sarahsaltzer@outlook.com
Gretchen Horton, gretchorton@gmail.com
Jill Nelson, jillnelson@gmail.com
Aissia Ashoori, aissiaashoori@icloud.com
Polly Simmons, theoswifepolly@gmail.com
Bryan Edelman, bryan@trialinnovations.com
Trevor Owens, trevor.owens1@gmail.com
Kat Brignano, kat.brignano@vituity.com
Megan Petruccelli, megan.petruccelli@gmail.com
Joey Prather, josephprather@gmail.com
Christy Newport, cnewport@fmbonline.com
Kathleen Caldwell, kathleen@ggpbooks.com
Nancy Walker, nanwalker@sbcglobal.net
Tom Gregory, fatherogregory@gmail.com
Laura Curtis, lauracurtis@sbcglobal.net
Kate Alessi, kate.alessi@gmail.com
Kate Harrison, kate@kateharrisonphotography.com
Joyce Gemperlein, joycegemp110@gmail.com
Merete Aiyer, merete339@gmail.com
Chris Gallagher, norge1944@icloud.com
Bart Ostro, bostro@pacbell.net
Margo Bart, thebarts@sbcglobal.net
Bill Williams, billwilliams10@att.net
David Vastine, dwwastine@aol.com
Kelli Bordessa, kbordessa@comcast.net
Judith Branzburg, jmbranzburg@gmail.com
Glen Harrison, glen.harrison@gmail.com
RJ Anderson, rjonanderson@yahoo.com
Jasmine Smith, jasmine3@gmail.com
Ted Chapler, tchapler@comcast.net
Roy Egawa, royisako.e@gmail.com
Marsha Gelt, k9loves@gmail.com
David Creech, david.creech77@gmail.com
Mark Sutro, marks@crufit.net
Kym Sterner, kymsterner@gmail.com
CC Holland, cc_holland@yahoo.com
Ann Cattalini Sinclair, anncatsinclair@gmail.com
Laura Scholes, laura@storyhousecreative.com
Pillar Strutin-Belinoff, pilarariella@gmail.com
Leah Jayasekera, leajayasekera@gmail.com
Andrea Faber, andreacfaber@gmail.com
Beth Vuolo Gousman, bvuolo@hotmail.com
Jennifer Sandstrom, someonesinthekitchenoakland@yahoo.com
Dara Richman, darasportspt@gmail.com
Steven Balling, ssballing@gmail.com
David Hartsough, bhbooktree@earthlink.net
Justin Sherman, j.sherman.nola@gmail.com
Anne Su, annemariesu@gmail.com
Helen Horvath, helen.horvath@gmail.com
Daniel Swafford, daniel@montclairvillage.com

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the **General Conditional Use Permit Criteria (OMC Sec. 17.134.050)** and **Use Permit Criteria for CN-1, CN-2 & CN-3 Commercial Zones (OMC Sec. 17.33.030)** of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

General Conditional Use Permit Criteria (OMC Sec. 17.134.050):

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed fitness studio will be in a new, multi-tenant development that was approved for commercial use and currently contains a coffee shop and a bank as its other tenants. The proposed fitness use is consistent with the character of ground-floor land uses along Mountain Boulevard, which provides a diverse mix of commercial uses, such as retail shops, offices, restaurants, and salons. There are existing parking lots and a parking garage in the neighborhood as well as street parking. Traffic and parking will only be affected at the times of classes and not throughout the day. Additionally, the proposed studio will not change the scale, bulk, coverage or density of the neighborhood as it is an existing structure.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The site was designed and approved for retail and commercial use and it is partial occupied with such uses. The fitness studio will occupy a vacant space that was recently built anchoring one side of the development. This use is consistent with other pedestrian-oriented uses at the site, as well as similar uses on adjacent parcels and the surrounding community. By occupying a vacant ground floor retail space, the proposed fitness studio will preserve the commercial space and connect with the street and allow for functional use of the space and enhance the use of the space, that has been vacant for at least a year. The use will be open to the street, allowing for connection with the street and surrounding businesses.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

There are many other fitness uses within the Montclair Village, that are similar in nature but appeal to a different niche. Montclair Village is a neighborhood commercial area, that contains many cafes, restaurants, and shops that keep the area lively and active. The fitness studio will bring patrons to the Village and augment the commercial vitality of the neighborhood. The surrounding area adjacent to the Village is residential in nature, providing clients for the fitness studios and the surrounding businesses.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposed fitness studio will maintain the existing storefront and will maintain the dynamics and character of the street. Any exterior alterations or new business sign would be subject the Small Project

Design Review process.

E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposed use is allowed within the CN-1 (Neighborhood Center Mixed Use) zoning district with a Conditional Use Permit and complies with all other applicable provisions of the zoning code. The site conforms to the Neighborhood Center Mixed Use designation of the Land Use and Transportation Element (LUTE) of the General Plan which encourages commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial. The project complies with the following LUTE policies:

Policy I/C3.4 Strengthening Vitality

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Policy T2.3 Promoting Neighborhood Services

Promote neighborhood-serving commercial development within one-quarter to one-half mile of established transit routes and nodes.

Use Permit Criteria for CN-1, CN-2 & CN-3 Commercial Zones (OMC Sec. 17.33.030):

1. The proposal will not detract from the character desired for the area.

The fitness studio will enhance the desired character of the Montclair Village, by filling in an existing vacant ground floor commercial space that is in line with the neighborhood. As there are no changes to the exterior of the building, the character will remain. The use will retain the commercial feel of the neighborhood, with the retail component located in the front and the window maintaining their visibility to the street.

2. The proposal will not impair a generally continuous wall of building facades.

No changes to the building façade and massing are proposed. The proposal is within an existing building that conforms to the continuous wall of building facades as the building takes up the whole frontage along Mountain Boulevard. Exterior changes such as business signs, awnings and minor exterior alterations shall be subject to Small Project Design Review.

3. The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage.

The fitness studio will contain a retail component, that will be in the front portion of the business along with the reception area. The fitness component of the studio will be located behind the retail and reception portion. The windows will retain the feel of a retail store, with non-glazed windows and the inside being visible from the street.

4. The proposal will not interfere with the movement of people along an important pedestrian street.

The fitness studio will maintain the existing footprint of the vacant space it proposes to occupy. There will be no encroachment into the sidewalk, allowing for the street to maintain the pedestrian street feel

that Montclair Village currently has. The space already contains a patio that will allow clients to use outdoor space without blocking the sidewalk.

- 5. The proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.**

There is no district plan for Montclair Village.

ATTACHMENT B: CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the application materials, and the approved plans **dated and received on December 4, 2019** as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City’s Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called “City”) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys’ fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called “Action”) against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys’ fees.

- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Trash and Blight Removal

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Lighting

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

15. Dust Controls – Construction Related

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).

- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f. All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Criteria Air Pollutant Controls - Construction Related

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- b. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).
- c. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- d. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- e. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- f. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”) and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then

an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

20. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacturer's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

22. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

23. Extreme Construction Noise

a. Construction Noise Management Plan Required

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

24. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

25. Construction Activity in the Public Right-of-Way

a. Obstruction Permit Required

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

b. Traffic Control Plan Required

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

c. Repair of City Streets

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval

of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

26. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

27. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

28. Recycling Collection and Storage Space

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

29. Employee Rights

Requirement: The project applicant and business owners in the project shall comply with all state and federal laws regarding employees’ right to organize and bargain collectively with employers and shall comply with the City of Oakland Minimum Wage Ordinance (chapter 5.92 of the Oakland Municipal Code).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

30. Window Transparency

Requirement: The windows must remain transparent during times of operation. No blinds, frosting, and/or film, etc. can be added to the windows.

When Required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

31. Small Project Design Review for signs and minor exterior alterations

Requirement: Exterior changes such as Business signs, awnings and minor exterior alterations are subject to Small Project Design Review.

When Required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

Applicant Statement

I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

Name of Project Applicant

Signature of Project Applicant

Date



CITY OF OAKLAND
APPEAL FORM
FOR DECISION TO PLANNING COMMISSION, CITY
COUNCIL OR HEARING OFFICER

PROJECT INFORMATION

Case No. of Appealed Project: PLN19299
 Project Address of Appealed Project: 2084 MOUNTAIN BLVD, OAKLAND CA, 94611
 Assigned Case Planner/City Staff: REBECCA WYSONG

APPELLANT INFORMATION:

Printed Name: MARK SUTRO Phone Number: 415.515.6995
 Mailing Address: 5010 PROCTOR AVE Alternate Contact Number: 415.845.9438
 City/Zip Code OAKLAND, CA 94618 Representing: CRUFI & OTHER MONTCLAIR BUSINESS OWNERS & RESIDENTS
 Email: marks@crufi.com
CRUFI
6125 Medway Place
Oakland, CA 94611

An appeal is hereby submitted on:

- AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

YOU MUST INDICATE ALL THAT APPLY:

- Approving an application on an Administrative Decision *(per Rebecca Wysong)*
 Denying an application for an Administrative Decision
 Administrative Determination or Interpretation by the Zoning Administrator
 Other (please specify) _____

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
 Determination of General Plan Conformity (OPC Sec. 17.01.080)
 Design Review (OPC Sec. 17.136.080)
 Small Project Design Review (OPC Sec. 17.136.130)
 Minor Conditional Use Permit (OPC Sec. 17.134.060)
 Minor Variance (OPC Sec. 17.148.060)
 Tentative Parcel Map (OMC Section 16.304.100)
 Certain Environmental Determinations (OPC Sec. 17.158.220)
 Creek Protection Permit (OMC Sec. 13.16.450)
 Creek Determination (OMC Sec. 13.16.460)
 City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
 Hearing Officer's revocation/impose or amend conditions (OPC Sec. 17.152.150 &/or 17.156.160)
 Other (please specify) _____

(Continued on reverse)

(Continued)

- A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)** Granting an application to: **OR** Denying an application to:

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) _____

FOR ANY APPEAL: An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision. The appeal must be accompanied by the required fee pursuant to the City's Master Fee Schedule.

You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.

The appeal is based on the following: *(Attach additional sheets as needed.)*

In conversation with Rebecca Wyszong, we were informed that it was not necessary for us to distinguish whether our appeal is claiming an "error or abuse of discretion" or "decision is not supported by substantial evidence" as both provisions could apply.

SEE ATTACHMENT FOR APPEAL SPECIFICS.
Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.)*

(Continued on reverse)

(Continued)

Mark [Signature]
Signature of Appellant or Representative of
Appealing Organization

7/2/2020
Date

TO BE COMPLETED BY STAFF BASED ON APPEAL TYPE AND APPLICABLE FEE

APPEAL FEE: \$ _____

Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. All fees are due at submittal of application.

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:

**Attachment to Appeal Form
PLN19299 / 2084 Mountain Blvd
July 2, 2020**

While this appeal is officially filed by Mark Sutro, a Montclair business owner, the appeal has broad-based support from Montclair business owners and residents. Many of the business owners have contributed specific language to the points raised in this appeal.

Outline of our appeal:

- I. **Key Points in Opposition** to the granting of the Conditional Use Permit on PLN19299 as consolidated from Montclair business owners. All of the Montclair business owners listed in Section III stand in support of these points.
- II. **Exceptions Found in the “Findings”** which were presented in Attachment A to the CUP approval letter from Mr. Robert Merkamp dated June 11, 2020.
- III. **Montclair Business Owners in Support of this Appeal**
- IV. **Montclair Residents and Frequent Visitors in Support of this Appeal**

I. Key Points in Opposition

- 1) The three unit, one story, commercial development at 208X Mountain Blvd was permitted, with support from the Montclair Village Association to allow one unit to be used for financial services (current occupant F&M Bank) and the remaining two units (2080 and 2084 Mountain) for use as restaurant and retail. Planner Jose Herrera clearly understood and agreed with the community's input that the high traffic frontage units should conform to the CN-1 Zoning plan for the district and be used for restaurant or retail operations.
- 2) The above market rent being sought for the space at 2084 (\$6/square foot) has been a deterrent to restaurant and retail businesses interested in the location. It is our understanding that the owners of the 3 unit building at 208x Mountain were in discussions for close to one year with a potential tenant who was looking to open a restaurant at 2084 Mountain. Much of the time attributed to the space being vacant is actually time when negotiations with the other potential tenant were moving slowly.
- 3) There are a decreasing number of commercial spaces with ground floor frontage available for retail and restaurant use on Mountain Blvd in the Montclair commercial district. It is critical that these prime, highly visible and high foot traffic locations retain their zoned use. Unlike retail and restaurants, fitness uses are not as dependent on location for successful operations.
- 4) The business owners of Montclair strongly believe the longer-term success of the District is closely tied to their ability to offer local flavor through an assortment of small, locally-owned businesses which create a unique shopping experience and a Destination for patrons. There are well over 1,000 Orangetheory locations in the United States including 15 in the East Bay alone.
- 5) Granting the CUP to the Orangetheory franchisees would adversely impact the mix of businesses in the Village. Montclair is currently oversaturated with fitness offerings. There are a total of nine fitness locations in the Village including a variety of group classes, yoga, Pilates, personal training and self-directed circuit training. The existing Village fitness operators have the capacity to serve many more daily customers than they did at peak prior to the Pandemic. Orangetheory's offerings directly compete with most if not all of these businesses and the potential is there for some of those local owners to be forced out of business due to the dilution of profits among too many players in the market. This is especially true now as fitness business owners struggle to survive in the wake of Covid-19... A recent community survey with over 300 responses showed that additional fitness offerings are not high on the list for area residents. A quality restaurant, however, was at the top of the list along with retail and specialty grocery. The ongoing success of recent restaurant openings shows there remains an unmet demand in the district for quality dining options.
- 6) Of the current fitness businesses in Montclair, CRUfit's offerings and customers overlap the most, and in fact extensively, with what Orangetheory aims to bring to the Village. CRUfit is co-owned by a Black Woman who resides in District 4. CRUfit employs

numerous Oakland residents including several from District 4. This supports the City Of Oakland's vision for equity by creating economic activity stimulating tax in a People of Color-owned businesses.

- 7) Parking: Many of Orangetheory's classes would take place during peak hours when people are off work and the Village is most crowded. Parking is already an issue in Montclair and Orangetheory's claim that patrons will likely walk or cycle to their location shows their lack of knowledge of the dynamics of our area. The planned development and reduction in parking on Antioch Court further reduces options for parking. The potential for 20+ class members at a time taking away parking from potential customers visiting existing businesses would channel profits directly out of Oakland and into the pockets of an out of area owner. A current fitness business owner in Montclair has noted that when their CUP was granted in 1996, they were required to provide 6 designated parking spaces marked specifically for their use. They have paid additional rent for 24 years to meet that requirement.
- 8) The revenue from Orangetheory's business in Montclair would not stay in the Oakland economy as the majority owners of the franchise are based in Simi Valley, California and Orangetheory's headquarters is in Boca Raton, Florida. In addition, bringing additional fitness offerings into Montclair will not generate sales tax.
- 9) Orangetheory classes can have as many as 26 participants and the training is rigorous. There is only one shower planned for the space. Contrary to what has been written in the CUP application, virtually all participants would leave the Village shortly after class.
- 10) The retail storefront that Orangetheory would provide is unlikely to be of interest to those who are not Orangetheory members.

II. Exceptions Found in the “Findings”

General Conditional Use Permit Criteria (OMC Sec. 17.134.050):

A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development. The proposed fitness studio will be in a new, multi-tenant development that was approved for commercial use and currently contains a coffee shop and a bank as its other tenants.

Planning and Building Department Findings: The proposed fitness use is consistent with the character of ground-floor land uses along Mountain Boulevard, which provides a diverse mix of commercial uses, such as retail shops, offices, restaurants, and salons. There are existing parking lots and a parking garage in the neighborhood as well as street parking. Traffic and parking will only be affected at the times of classes and not throughout the day. Additionally, the proposed studio will not change the scale, bulk, coverage or density of the neighborhood as it is an existing structure.

Exceptions: With respect to CN-1 zoning, see items 1 through 6 in Section I above. With respect to Parking, see item 7 in Section I above.

General Conditional Use Permit Criteria (OMC Sec. 17.134.050):

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

Planning and Building Department Findings: The site was designed and approved for retail and commercial use and it is partial occupied with such uses. The fitness studio will occupy a vacant space that was recently built anchoring one side of the development. This use is consistent with other pedestrian-oriented uses at the site, as well as similar uses on adjacent parcels and the surrounding community. By occupying a vacant ground floor retail space, the proposed fitness studio will preserve the commercial space and connect with the street and allow for functional use of the space and enhance the use of the space, that has been vacant for at least a year. The use will be open to the street, allowing for connection with the street and surrounding businesses.

Exceptions: With respect to the “at least a year” vacancy at 2084 Mountain, see item 2 in Section I above.

General Conditional Use Permit Criteria (OMC Sec. 17.134.050):

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

Planning and Building Department Findings: There are many other fitness uses within the Montclair Village that are similar in nature but appeal to a different niche. Montclair Village is a neighborhood commercial area, that

contains many cafes, restaurants, and shops that keep the area lively and active. The fitness studio will bring patrons to the Village and augment the commercial vitality of the neighborhood. The surrounding area adjacent to the Village is residential in nature, providing clients for the fitness studios and the surrounding businesses.

Exceptions: The statement that: "There are: other fitness uses within Montclair Village that are similar in nature but appeal to a different niche," is false and is unsubstantiated. See items 5 through 10 in Section I above.

Use Permit Criteria for CN-1, CN-2 & CN-3 Commercial Zones (OMC Sec. 17.33.030):

1. The proposal will not detract from the character desired for the area.

Planning and Building Department Findings: The fitness studio will enhance the desired character of the Montclair Village, by filling in an existing vacant ground floor commercial space that is in line with the neighborhood. As there are no changes to the exterior of the building, the character will remain. The use will retain the commercial feel of the neighborhood, with the retail component located in the front and the window maintaining their visibility to the street.

Exceptions: See items 1 through 5 in Section I above.

III. Montclair Business Owners in Support of this Appeal

First	Last	Business	Email
Pat	Benson	Mix	pat@mixmontclair.com
Theresa	Henrekin	Pelago	thenrekin@sbcglobal.net
Bill	Williams	Pelago	billwilliams10@att.net
Sailish	Patel	Annie's Hallmark	annieshallmark1976@gmail.com
Krista	Thomas	Montclair Village Pilates	info@montclairvillagepilates.com
Andrea	Faber	Hula	andreaefaber@gmail.com
Ann	Dyer	Mountain Yoga	info@m-yoga.com
Kathleen	Caldwell	A Great Good Place for Books	kathleen@ggpbooks.com
Howard	Neal	Neal & Associates	hneal@nealaw.com
Kelly	Bordessa	Montclair Fitness	kbordessa@comcast.net
Tom	Revelli	Montclair Sporting Goods	revelli4@gmail.com
Laura	Sefchovich	Pilates 580	pilates580@att.net
Irina	Akkerman	Artful Aesthetics	irina@artful-aesthetics.com
Jennie	Flanigan	Compass Real Estate	jennie@jennieflanigan.com
Jeff	Diamond	Farmstead Cheeses and Wine, LLC	jeff@farmstead.biz
Rebecca	Conradi	Conradi Disston, LLP	Rebecca@cdtrustlaw.com
Holly	Wallis	ReActive Movement	info@reactivemovement.com
Reenie	Raschke	Raschke Photography	reenie@reenieimages.com
Heidi	Marchesotti	Highland Partners	heidi@homesbyheidi.com
Dee	Carlson	Italian Colors	deecarly@aol.com
David	Petlin	Flair Travel	david@travelbyflair.com
Hana	Levin	Melt Massage	hana@meltmassage.net

Many others are in support but could not be confirmed in time for this appeal.

IV. Montclair Residents and Frequent Visitors in Support of This Appeal

First	Last	Email
John	Bacon	John Bacon Jr. <jbacon@economylumberco.com>
Alicia	Biersteker	abierste@gmail.com
Sheryl	Bregman	Sheryl Bregman <sheryl_bregman@hotmail.com>
Shannon	Broome	sbroome@pacbell.net
Tracy	Dearman	tdearman@hsmsf.com
Charles	Dyke	cmdyke@comcast.net
Lee	Eisman	lee.ellen.eisman@gmail.com
Jesusita	Fishel	jesuscita@yahoo.com
Denise	Friday	denise.friday@jud.ca.gov
Darlene	Fung	dlwfung@earthlink.net
Lisa	Gately	elisabethgately@gmail.com
Leah	Herman	leahanne1@me.com
Anna	Hoffman	werfamily@gmail.com
Kaamil	Ives	kaamilisles@gmail.com
Ronald	Jones	rj5800@att.net
Ursela	Knezevic	urselan@yahoo.com
Gary	Laymon	Gary Laymon <glaymon@TGP-INC.com>
Ellen	Lingar	Ellen.lingar@gmail.com
Julia	Liou	Julia Liou <jliou27@me.com>
Olivia	Ono	Olivia Ono <olivia.ono@gmail.com>
Lesley	Parke	lesley.parke@alumni.stanford.edu
Kate	Quigley	wanderkate@gmail.com
Jill	Rian	jcorbea@gmail.com
Melissa	Richards	melissarichards10@aol.com
Erica	Segal	erica.sigal@gmail.com
Tracy	Seo	pickles927@gmail.com
Doug	Smith	doug.smith9@mac.com
Kristin	Smith	nitsirksmith@yahoo.com
Alice	Sung	asung1@gmail.com
Jay	Tannenbaum	jeisbaum@icloud.com
Steven	Tran	willie081506@gmail.com
Lynna	Wong-Jones	lynna_wong_2000@yahoo.com
Mario	Zelaya	mariozelayajr@gmail.com

Most of the individuals listed above are Montclair residents.

On the day this appeal was submitted, we had ~75 additional Montclair residents and/or Frequent Visitors email us in support of this appeal. Additional names and email addresses are available upon request.

Wysong, Rebecca

From: Sarah Saltzer <sarahsaltzer@outlook.com>
Sent: Wednesday, February 5, 2020 4:11 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Rebecca,

I am writing in support of the application from OrangeTheory fitness to open a fitness business at 2084 Mountain Blvd. I understand that the Montclair village association recommended denying the application.

I think that a new, high energy fitness center, such as Orange Theory would add to the business district. Right now Montclair village pretty much goes to sleep by 7 pm. Orange Theory will bring folks for an afterwork workout to Montclair, and then they are likely to stay and have dinner at one of the numerous existing eating establishments.

I know that Montclair has a number of existing fitness establishments. However, most of the existing options are either personal training based (e.g. Golden State Fitness), niche pilates or yoga, or antiquated (Montclair fitness...seriously....it's a blast from the past).

Thanks for your support,

Sarah Saltzer
Oakland, CA

Wysong, Rebecca

From: Gretchen Horton <gretchorton@gmail.com>
Sent: Wednesday, February 5, 2020 4:42 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello Ms. Wysong-

I am writing to comment on the proposed Change of Use permit for 2084 Mountain Blvd. I understand that originally this space was designated for restaurant or retail space, but I have to say, as a resident of Montclair, I am not sure how viable restaurants and retail spaces are in the village. Services like what Orange Theory Fitness provide might be a more viable and successful use of the space. I know that the Montclair Village Association is against OTF occupying the space, but I think their view is misguided. The greek restaurant around the corner just recently closed. We need successful businesses in the village, and knowing the success of OTF fitness, and also knowing how difficult it is for restaurants to succeed anywhere, let alone Montclair, I think let the most sound business model take the space.

Just my two cents from a interested resident of the area

Gretchen Horton
1220 Mountain Blvd, 94611

Wysong, Rebecca

From: Jill Nelson <jillhnelson@gmail.com>
Sent: Wednesday, February 5, 2020 9:26 PM
To: Wysong, Rebecca
Subject: In support of Change of Use Permit (CUP) Proposed for 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi,

I'm writing in support of the change of use permit proposed for 2084 Mountain Blvd for Orange Theory Fitness. I think they would be a great addition to the neighborhood and attract new customers to help sustain all the local, small businesses.

Thanks,

Jill Golub
7011 Homewood Drive

Sent from my iPhone

Wysong, Rebecca

From: Aissia Ashoori <aissiaashoori@icloud.com>
Sent: Wednesday, February 5, 2020 9:58 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello,

As a resident of Montclair, I support the CUP for OTF. Restaurants and retail are sadly fading due to changes in consumer patterns, increased operating cost, etc. Opening a restaurant is very costly endeavor and yields a small/negative profit margin over the first 24 months. Many fail, sadly, within the first 2 years. Instead of designating a use that remains vacant, please allow flexibility and diversity. The market will work it out and there are many other vacant commercial spaces in the neighborhood.

Thanks,
Aissia Ashoori
15 Vista Del Mar Court

Sent from my iPhone

Wysong, Rebecca

From: Polly Simmons <theoswifepolly@gmail.com>
Sent: Thursday, February 6, 2020 6:52 AM
To: Wysong, Rebecca
Subject: Orangetheory Montclair

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I would be thrilled for Orangetheory to open in Montclair. OT is a super hot brand and would be an amazing "get" for the city and Village. I moved to the area from NYC about 6 years ago and I've seen how difficult it is for restaurants to succeed in the sleepy Village. It's also frustrating for long-term residents of the area to be so resistant to change, another strong theme I've seen that I believe holds the Village back from being a better destination.

I look forward to finally having a nearby Orangetheory and I know that existing businesses would appreciate the fresh business that Orangetheory would bring to the area.

My best,
Polly Simmons

Polly Simmons

Sent from my iPhone

Wysong, Rebecca

From: Bryan Edelman <bryan@trialinnovations.com>
Sent: Thursday, February 6, 2020 7:52 AM
To: Wysong, Rebecca
Subject: Change of use permit in Oakland

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I think an Orange Theory is a great idea. There are no quality exercise options in Montclair. We have to either go to Berkeley or downtown Oakland to find a decent gym.

Bryan Edelman

Sent from my iPhone

Wysong, Rebecca

From: Trevor Owens <trevor.owens1@gmail.com>
Sent: Thursday, February 6, 2020 9:10 AM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit – 2084 Mountain Blvd

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

As a resident of the Piedmont Pines neighborhood of Oakland, I am writing in favor of the proposed change of use permit for 2084 Mountain Blvd., which would allow the space to be leased to Orangetheory Fitness.

There are presently no Orangetheory Fitness locations in Oakland. Oakland residents should not have to drive to Emeryville, Berkeley or Alameda to attend an Orangetheory Fitness.

In my experience, Orangetheory Fitness is a community minded business often organizing community events outside of their physical location, which would benefit the neighboring community.

The location in question has been vacant since the building was completed, so it would be great to no longer have such a prominent empty store front.

Many other Montclair neighbors are advocating for a restaurant in that space. The Montclair village has many other dining options, so I do not think the Village will be at a loss if the space is used by such a worthwhile community minded business as Orangetheory Fitness.

Thank you,

Trevor Owens

Wysong, Rebecca

From: Kat Brignano <kat.brignano@vituity.com>
Sent: Thursday, February 6, 2020 11:42 AM
To: Wysong, Rebecca
Subject: Orangetheory Fitness

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Good morning Ms. Wysong,

I am 100% in support of moving an Orangetheory into the space on Mountain Blvd. in Montclair. Orangetheory has proved to be an excellent tenet in Albany, Alameda, and Berkeley. They have the resources to keep the space clean and updated.

I think that adding Orangetheory will bring much needed foot traffic to the area in the early morning and evening hours, and will boost the other, sometimes, struggling eating establishments in the area.

In addition, Orangetheory has several membership levels that make it more financially accessible than some of the other fitness offerings in Montclair.

I sincerely hope that you jump on this opportunity (and I truly believe it's an opportunity) to revitalize the Montclair Business District.

Sincerely,
Kat Brignano
Kearney Ave.
Oakland, CA

Sent from Mail for Windows 10

Wysong, Rebecca

From: Megan Petruccelli <megan.petruccelli@gmail.com>
Sent: Thursday, February 6, 2020 2:08 PM
To: Wysong, Rebecca
Subject: 2084 Mountain Blvd - PLEASE APPROVE

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Rebecca,

I am a Montclair resident and have lived in the neighborhood for 5+ years. I recently heard that Orange Theory Fitness has petitioned for a variance in the space at 2084 Mountain Blvd. I would like to express my whole hearted support for this.

There are a few different gyms in Montclair, none of which offer the type of class and fitness experience Orange Theory does. The type of fitness class orange theory provides brings in a whole different caliber clientele then a typical gym. Their classes are frequented by mostly women with time and money on their hands so think opening an Orange Theory in the heart of Montclair would only bring positive things to the Montclair village. More foot traffic, more people wanting a snack, and smoothies, running errands, spacing money.

Although there are a few gyms in Montclair none of them cater to the clientele that OTF brings in, and that clientele is much more fruitful to other surrounding businesses than the typical weight lifting gym goer. I fully support Orange Theory Fitness moving in and speaking from my personal routine I think having an Orange Theory would triple my time spent in downtown Montclair.

Thanks for your time! Cheers!

Megan Petruccelli
3100 Robinson Drive
Oakland, CA 94602

Wysong, Rebecca

From: Joey Prather <josephprather@gmail.com>
Sent: Friday, February 7, 2020 1:26 AM
To: Wysong, Rebecca
Subject: Orange Theory Montclair

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

It will be a major benefit to the village. Provides a regular flow of people to the village that will inevitably support the other businesses in the area.

Its a very popular fitness option that will bring new life to the village especially in the evening, when things shut down early.

Joey Prather

Wysong, Rebecca

From: Newport, Christy <CNewport@fmbonline.com>
Sent: Thursday, January 30, 2020 3:53 PM
To: Wysong, Rebecca
Cc: West, Linda
Subject: PLN19299 - Orange Theory Fitness

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Thank you for taking our call today. We are strongly in support of Orange Theory Fitness. As a new tenant in the 2084 Mountain Boulevard location, we encourage the City of Oakland to issue a CUP. Over the past four years both Cumbelich & Associates and Colliers International have sought endlessly for a restaurant use. While we had a lease signed with La Marcha of Berkley, they were not able to come through faulting the cost of business. That said, Orange Theory Fitness pays its employees generous wages and benefits. Within a 2 miles radius, Orange Theory already has 225 clients that visit alternate locations. We have held two public outreach meetings within the Village, only to be challenged by two other similar businesses stating Orange Theory may potentially provide completion.

We look forward to your findings in the next week or two. If you have any questions, please do not hesitate to reach out to us.

Christy Newport

F&M BANK, Where Banking is Easy!
VP, Corporate Real Estate Development & Construction
121 W Pine Street, Lodi, CA 95240

Office: (209) 367-2362 | Cell: (209) 810-8893
cnewport@fmbonline.com | fmbonline.com

The information transmitted may contain confidential material which is intended only for the person to which it is addressed. Any review, retransmission, dissemination or other use of this information by persons other than the intended recipient is prohibited. If you are not the intended recipient, please delete the information from your system and contact the sender. **Note:** The sender accepts no responsibility for viruses and it is your responsibility to scan this e-mail and attachments.



The MVA's mission is to support our merchant members and help the Village thrive

January 31, 2020

Rebecca Wysong
City of Oakland
Planning Department
250 Frank H Ogawa Plaza, 2nd Floor Rm. 2114
Oakland CA 94612-2031
(510) 238-3123

Re: PLN 19299 Conditional Use Permit Application, Orangetheory Fitness, 2084 Mountain Blvd.,
Oakland, CA 94611
Request to Deny

Dear Mrs. Wysong:

The Board of Directors of Montclair Village Association (MVA)--the merchant-based Business Improvement District (BID) for the commercial district of Montclair Village, asks the City of Oakland Planning Department to respectfully deny the application from Orangetheory Fitness for a variance and CUP for operation at 2084 Mountain Blvd., Oakland, CA 94611 - PLN 19299

Please note: Due to a delay in the on premise posting by the applicant, proper notice was not given on the stated date of posting (Jan. 10, 2020), we request the comment period be extended until 2/7/2020 and that this letter be fully considered and included in the record, as confirmed by phone on 1/29/2020. Thank you.

The Montclair Village Association in 2016 worked closely with the Montclair Safety and Improvement Council (MSIC), the area Neighborhood Crime Prevention Council and largest resident based organization in the Montclair District, during the design and permitting of the new building construction at 2084 Mountain Blvd. where the applicant currently seeks a CUP. The three unit, one story, commercial development was permitted, with support from the MVA to allow one unit to be used for financial services (current occupant F&M Bank) and the remaining two units (2080 and 2084 Mountain) for use as restaurant and retail. Planner Jose Herrera clearly understood and agreed with the communities input that the high traffic frontage units should conform to the CN-1 Zoning plan for the district and be used for restaurant or retail operations.

On January 14, 2020 at the request of the property owner and Orangetheory Fitness a special meeting of the MVA Board was called to review a presentation from Orangetheory Fitness, sharing the business model and plan for the 2084 Mountain unit. After taking comment from the public, the MVA Board



The MVA's mission is to support our merchant members and help the Village thrive

approved the motion to request the City of Oakland Planning Department deny the applicant request for the CUP at 2084 Mountain.

Please consider the following justification for the request to deny:

Uphold the CN-1 Zoning and preserve 2084 Mountain for the unit's originally permitted restaurant or retail use:

- There is a decreasing number of commercial spaces with ground floor frontage available for retail and restaurant use on Mountain Blvd. in the Montclair commercial district. It is important that these prime, highly visible and high foot traffic locations retain their zoned use. Unlike retail and restaurants, fitness uses are not as dependent on location for successful operations.
- Preserve the retail mix and balance of uses for the Montclair commercial district. The Village currently has a number of fitness offerings and a recent community survey with over 300 responses showed that additional fitness offerings are not high on the list for area residents. A quality restaurant, however, was at the top of the list along with retail and specialty grocery. The ongoing success of recent restaurant openings shows there remains an unmet demand in the district for quality dining options, the original, intended use of this unit when the building was constructed and permitted.

The MVA agreed with all parties that the original development plan for 2080/2084 Mountain Blvd. would be an opportunity to grow and enhance the district in a positive way. We are acutely aware of the challenges in attracting restaurant and retail tenants, however there is a 98+% occupancy rate in the Montclair commercial district reinforcing a high demand. The MVA Board asks that you uphold the original permitting granted for 2084 Mountain Blvd. and deny the CUP application for fitness use at that address.

Cordially,

Howard Neil
President
Montclair Village Association

Daniel Swafford
Executive Director
Montclair Village Association

Cc: Sheng Thao, Oakland City Council District 4

Wysong, Rebecca

From: kathleen@ggpbooks.com <kathleen@ggpbooks.com>
Sent: Wednesday, February 5, 2020 2:19 PM
To: Wysong, Rebecca
Subject: OrangeTheory

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Ms. Wysong,

I am writing you in opposition of Orange Theory's plan to open a franchise in Montclair Village. We already have SEVERAL gyms and really use an actual retail business. Please help the merchants of Montclair Village to maintain this as a shopping destination, we do not need anymore franchises in the district!

Thank you,
Kathleen Caldwell
Owner
A Great Good Place for Books

Wysong, Rebecca

From: Nancy Walker <nanwalker@sbcglobal.net>
Sent: Wednesday, February 5, 2020 3:15 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello,

As a longtime resident of Oakland and more specifically the Montclair district, I urge you not to allow Orangetheory to come to the Village. We have several fitness businesses in the area and we really need more restaurant or retail offerings.

Thank-you for your attention to this matter.

Sincerely,

Nancy Caldwell

Wysong, Rebecca

From: Tom Gregory <fatherogregory@gmail.com>
Sent: Wednesday, February 5, 2020 4:32 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

As a long time Montclair resident, I'm always excited to see new and exciting retail move into our community; however, not just any retail provider is either needed or wanted. In order to sustain local businesses, we must be selective about what type of services move into our town so that we have a variety of choices and reasons to stay in the village to consume the services/products offered. As it is, we have way too many nail salons and dry cleaners and too few high quality restaurants which keep Montclarians local.

Over the years, I've seen locally owned business come and go, a few of which were fitness establishments. As it is, there are three fitness centers in Montclair. Isn't it in our best interest to allow these locally owned businesses to thrive by not allowing too much competition into the area? CruFit, specifically, offers myriad classes for teens and adults alike and has established itself as a stellar fitness center that not only provides a much desired fitness service, but Mark and Mia are recognized as leaders in the downtown retail community.

I certainly believe in capitalism and the fact that competition is good. But, I also believe that if we don't support local businesses, we allow our towns to become homogenized and overrun by franchises that often put corporate profits ahead of community interests. Montclair is a unique village amidst the sprawling metropolis of Oakland. Let's work to keep Montclair unique and focus on helping our locally owned business flourish.

Please deny a use permit to Orangetheory and help keep Montclair unique.

Best Regards,
Tom

Thomas Gregory
5545 Balboa Drive
Oakland, CA 94611
510-338-1101

Wysong, Rebecca

From: Laura Curtis <lauracurtis@sbcglobal.net>
Sent: Wednesday, February 5, 2020 4:46 PM
To: Wysong, Rebecca
Subject: pln 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong:

Please make sure that the space in Montclair that was recently built for retail and restaurant space is used for that purpose. We could really use more high-quality restaurants and small, unique retail establishments.

The Montclair Village Association in 2016 worked closely with the Montclair Safety and Improvement Council (MSIC), the area Neighborhood Crime Prevention Council and largest resident based organization in the Montclair District, during the design and permitting of the new building construction at 2084 Mountain Blvd. where the applicant currently seeks a CUP. The three unit, one story, commercial development was permitted, with support from the MVA to allow one unit to be used for financial services (current occupant F&M Bank) and the remaining two units (2080 and 2084 Mountain) for use as restaurant and retail. Planner Jose Herrera clearly understood and agreed with the communities input that the high traffic frontage units should conform to the CN-1 Zoning plan for the district and be used for restaurant or retail operations.

I understand that there is a proposal to put an Orange Theory in that building instead. Orange Theory is a national chain, which doesn't seem to be what we really need in Montclair. There are Orange Theory sites not far away in Emeryville, Berkeley, Alameda, Lafayette, and many other places not far away so I do not see what unique value it would bring to Montclair. There are already several fitness studios and gyms in Montclair Village, including some that are small, family run, independent businesses that are more in keeping with the Village vibe.

To me, it almost seems deceptive to get a large building like that approved with the idea that it would be restaurant and retail use and then try to get that changed.

Thank you for your consideration.

Laura Curtis
124 Nova Drive
Piedmont CA 94610

Wysong, Rebecca

From: Kate Alessi <kate.alessi@gmail.com>
Sent: Wednesday, February 5, 2020 6:29 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application - resident feedback

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

I am writing to voice my opposition to the conditional use permit application submitted by OrangeTheory Fitness and respectfully request that the planning commission deny this request.

It is important for Montclair to maintain a reasonable balance of property uses as defined in the CN-1 zoning ordinance. The Village is already well-populated with fitness offerings, and with its small physical footprint, we certainly don't need another - much less a national retail chain. Knowing that most people won't travel more than a few miles to exercise, the likelihood of this business attracting many locals from an already-saturated market is low, as is the potential to draw others from nearby communities who already have their own selection of fitness facilities to patronize. I simply don't see the benefit to either the business or the community at large.

Further, as a resident I consider one of the primary charms of the Montclair Village to be its unique, individual-owner shops, restaurants and service providers. Anchor businesses like Safeway and Lucky are important, to be sure, but it's what's in between that really characterizes the community and makes the Village a destination. I believe the Montclair Village Association and the Montclair business owners share a commitment to prioritizing and preserving this uniqueness, and they, too, are opposed to this CUP application.

I am confident that a more appropriate retail (how about a hardware store?) or restaurant business will be welcomed and would thrive in that space; just not another gym. I respectfully request that the planning commission uphold the original permitting granted for 2084 Mountain Boulevard.

Thank you for your consideration,
Kate Alessi
5672 Thornhill Drive

Wysong, Rebecca

From: Kate Harrison <kate@kateharrisonphotography.com>
Sent: Wednesday, February 5, 2020 6:50 PM
To: Wysong, Rebecca
Subject: Change of Use

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Rebecca,

I would prefer a restaurant or retail store go in next to Starbucks on Mountain Blvd. instead of another fitness location. We have so many of those already.

Thanks,
Kate Harrison
30 Southwood Ct.,
Oakland 94611

Kate Harrison
650-269-8402

Wysong, Rebecca

From: Joyce Gemperlein <joycegemp110@gmail.com>
Sent: Wednesday, February 5, 2020 7:56 PM
To: Wysong, Rebecca
Subject: Orange Theory

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello, Rebecca,

Please consider that the establishment of yet another fitness studio in Montclair will make the small business the Land of Fitness Studios and Nail Parlors.

Also, large chains will destroy what is left of the small town atmosphere in town. This is a strip-mall sort of fitness place with gimmicks that ensure it will not last. This type of large chain is about making money, not building community.

We hope the city of Oakland still cares about that.

We were told by LaMarcha earlier last year that it was opening in Montclair in that space but that it fell through. Why? So many of us were looking forward to that, as it is a family business, is of excellent quality, and fits perfectly with the demographics and atmosphere of Montclair. Unlike Orange Theory or any such fitness chain.

I would spend money at LaMarcha and draw friends in to do same. Not so another gym.

Thank you,

Joyce Gemperlein

Wysong, Rebecca

From: Merete Aiyer <merete339@gmail.com>
Sent: Wednesday, February 5, 2020 10:05 PM
To: Wysong, Rebecca
Subject: Use permit 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Just my 2 cents worth:

We do not need another fitness center there. We have 4 already.

Stick to zoning rules and give permission for retail or restaurant.

Problem is greedy landlords.

Very hard to earn enough to pay the rent.

Sincerely,

Merete Aiyer

Mendoza Drive

Oakland

Sent from my iPhone

Wysong, Rebecca

From: Chris Gallagher <norge1944@icloud.com>
Sent: Thursday, February 6, 2020 7:37 AM
To: Wysong, Rebecca
Subject: Change of use permit 2084 Mountain Bl

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Retail/restaurant permitted use for the above location should be kept. Montclair needs to keep balance of uses. We need quality restaurants, small market, bakery, boutique retail. We don't need more fitness studios. We have more than enough. I am a 45 year resident of Montclair. We need to think about the present, but also the future of our business district. Banks, fitness studios and nail salons should not be a focus here. I miss Robert's Market and The Equinox restaurant. Please think carefully before you approve this measure. We are counting on you.

Chris Gallagher

Sent from my iPhone

Wysong, Rebecca

From: Bart Ostro <bostro@pacbell.net>
Sent: Thursday, February 6, 2020 9:29 AM
To: Wysong, Rebecca
Subject: Motclair stores

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Please! Not another workout place...we desperately need more restaurants, an organic produce market, a bakery. Let's raise the level of commerce here!

Thanks,

Bart Ostro
Tampa Ave

Wysong, Rebecca

From: MARGO BART <thebarts@sbcglobal.net>
Sent: Thursday, February 6, 2020 9:37 AM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

**Ms. Rebecca Wysong
City of Oakland
Planning Department
250 Frank H Ogawa Plaza, 2nd Floor Rm. 2114
Oakland CA 94612-2031**

RE: PLN 19299 Conditional Use Permit Application, Orangetheory Fitness, 2084 Mountain Blvd., Oakland, CA 94611

Dear Ms. Rebecca Wysong:

This letter respectfully asks that you DENY the applicant's CUP request.

Montclair Village is one of the finest communities in the State of California. My opinion might be biased as I frequent the Village on a daily basis and I patronize its stores and restaurants. Thus, this request to deny the CUP is a request to preserve the CN-1 Zoning. Thoughtful zoning is a key reason for the Village's success and the CN-1 Zoning should be preserved.

Preserving the CN-1 Zoning preserves the inclusive nature of the Village's business establishments which enjoy a high degree of foot traffic. Anyone can enter a store. Anyone can enter a restaurant. But only members can enter a gym. Other fitness centers are already in the Village. Another gym is not needed and such would erode the availability for prime retail sites.

Voices in opposition to this CUP include the Montclair Village Association. This association was actively involved with the construction and use of the building that is the subject of PLN 19299. Intentional planning went into this site and I strongly encourage you to preserve the CN-1 Zoning and deny the CUP request.

Respectfully submitted,

**Cc: Montclair Village Association
Sheng Thao, Oakland City Council District 4**

Sent from [Mail](#) for Windows 10

Wysong, Rebecca

From: Bill Williams <billwilliams10@att.net>
Sent: Thursday, February 6, 2020 9:50 AM
To: Wysong, Rebecca
Subject: CUP For 2084 Mountain Blvd. Montclair

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I am a resident and business owner in Montclair and am opposed to the change of use for this property.

We don't need Another gym. the developer got his bldg and zoning permit on the promise that the space would be a restaurant. We have four gyms in the village already (one in village sq and three in the village proper) that's more than enough.

The developer and now new owner should Deliver on promises made.

Bill Williams
510-612-5462

Wysong, Rebecca

From: dwvastine@aol.com
Sent: Thursday, February 6, 2020 10:21 AM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional use permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I am concerned that another work out and exercise facility in Montclair District is inappropriate to the long term viability of the village. Orangetheory is a nation wide franchise with little interest in promoting the village as a multi functional shopping center. The community needs to promote individual and family owned businesses to draw shoppers to the village. I have been shopping and using the village and supporting its businesses for over 40 years and hope to see recruitment of a unique business to attract more shoppers and bring more vitality to the area. There are at least 6 or 7 other workout facilities in the village and adding one more would only weaken the vitality of the current facilities and offer nothing to bring in new customers to the current businesses in the village. We as consumers could use a good quality restaurant which would be a good magnet for people to come to the village outside of the immediate area. I am sure there are other niche businesses that could make a go in the village that would be more attractive. The current property owners should also consider appropriate incentives to support a start up and perhaps buck the trend and decrease the rent structure. David Vastine

Wysong, Rebecca

From: Kelli Bordessa <kbordessa@comcast.net>
Sent: Thursday, February 6, 2020 10:55 AM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong:

I write to you today in support of The Montclair Business Association's position opposing the approval of the application by Orange Theory Fitness for a variance and CUP for operation at 2084 Mountain Blvd., Oakland, 94611.

The ground floor space in question is zoned for restaurant or retail and The Montclair Village Association worked closely with the building developers to insure that the CN-1 zoning plan for the district would be adhered to. This request for a variance is in opposition to the general guidelines of the Montclair Business District (and multiple active neighborhood groups) supporting those exact guidelines. The guidelines are well supported and with good reason: to encourage and maintain the walkable, "village" feel of our community by encouraging a variety of retail establishments in areas of high foot traffic. In addition, I feel that the private ownership of many of the existing businesses in Montclair reinforces this desired sense of community while also contributing to the local economy. Orange Theory is not a private, local company. It operates as a franchise and has many other location options in Oakland that would be better suited for its use. Montclair is currently saturated with fitness businesses (9 by my count), all of which are privately owned and operated and seem to service our community well. I believe the addition of Orange Theory would not bring new business to Montclair, but would instead have the potential to redirect existing business from those already established, locally owned fitness facilities.

My last concern is with parking. With the class structure that Orange Theory operates under, there is the potential that 25 participants attending classes (operating throughout the day) would need to park in Montclair for over an hour at a time. Parking is already difficult in Montclair and I would hope that any business such as this would be required by the planning department to provide a private parking option for at least some of its customers. I do not see private parking available at the site under consideration.

I appreciate your consideration of my concerns regarding this matter. As a lifelong resident of Montclair, I care deeply about our community.

Sincerely,
Kelli Bordessa

Wysong, Rebecca

From: Judith Branzburg <jmbranzburg@gmail.com>
Sent: Thursday, February 6, 2020 2:58 PM
To: Wysong, Rebecca
Subject: rezoning request in Montclair

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello, I have been a resident of Oakmore (just across highway 13 from Montclair and within walking distance of the Montclair Village) for more than 35 years. I feel strongly that we do not need yet another fitness center to take up space, and, contrary to what some people have said, I do not think clients of a fitness center will stay after working out to have a nice dinner in a restaurant, which is what was originally proposed for the site near the new Starback's. Fast food or quick takeout, maybe, but we have plenty of those places already. A restaurant with food other than Japanese (since we already have at least a couple of these) would be very welcome.

Thanks for your attention.

Judy Musante Branzburg
Oakmore district, Oakland, CA

Wysong, Rebecca

From: Glen Harelson <glen.harelson@gmail.com>
Sent: Thursday, February 6, 2020 3:45 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Not sure if this note got to you earlier today.

Dear Ms. Wysong,

It is my understanding that Orangetheory Fitness is proposing to locate one of their 1,320 plus national and international franchises at 2084 Mountain Blvd. Please Say No To This Use Permit! I fully support the Montclair Village Association's position along with the many residents that The City of Oakland should deny Orangetheory's request for a use permit for the space at 2084 Mountain Boulevard. A fitness facility was never envisioned for this space and there are more than enough fitness facilities already in place in the Village.

According to GloFox (a fitness software company), 2019 estimates, nationally roughly 15%-20% of the US population are members of fitness clubs. Of those who actively use their gym memberships roughly half (7%-10% get to the gym twice a week. Visits to restaurants, on the other hand, is on the order of 60% of the US population who dine out at least once a week. According to a recent Gallup Poll Survey, Restaurants are the most popular industry in the United States. As residents contend, we don't need another fitness club in Montclair Village, we need more restaurants.

In addition, businesses spend money within any given community. However, economic growth within the community cannot occur unless the money spent by the company remains in town. A business with headquarters in Boca Raton, Florida (Orangetheory Headquarters) mean that less money made by the company gets recirculated into our community. A use permit granted to Orangetheory also sets an unwelcome precedent to other similar national chains with headquarters located elsewhere.

We ask that the City of Oakland seriously consider the request by local Montclair businesses and residents to deny the use permit to Orangetheory to occupy the space at 2084 Mountain Boulevard.

Sincerely,

Glen Harelson

Resident

510-898-8971

Wysong, Rebecca

From: RJ Anderson <rjonanderson@yahoo.com>
Sent: Thursday, February 6, 2020 4:34 PM
To: Wysong, Rebecca
Subject: 2084 Mountain BLVD., Oakland

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Thank you for denying the Orange theory CUP.

I believe a better use can be found.

Wysong, Rebecca

From: Jasmine Smith <jasmine3@gmail.com>
Sent: Thursday, February 6, 2020 5:08 PM
To: Wysong, Rebecca
Subject: Orangetheory Fitness in Montclair

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Mrs. Wysong,

I'm writing to you this evening to ask that you deny the CUP application for fitness use at 2084 Mountain Blvd. The original development plan for 2080/2084 Mountain Blvd. was to be an opportunity to grow and enhance the district in a positive way. As a former employee of Orangetheory Fitness, I can confidently say that they are not interested in building community and that they focus their efforts on quantity of members, not the quality of experience. While employed there, my colleagues and I were regularly trained on sales - how to close the deal. We were heavily trained to badger potential members on their first free visit. We were trained on specific canned questions to use if they worried about affordability, if they said they needed to check with a spouse first, if they weren't sure it would fit with their schedule, etc. It was the epitome of high-pressure sales. Approximately 75% of our meetings and trainings were about closing deals, with the remaining focusing on the actual fitness. Little to no time was spent discussing what makes one location's community different from another, nor how to help grow or enhance a district. The people of Montclair deserve better than that.

Please show the Montclair community that we are more important than dollar signs and help us maintain the integrity of the village mentality.

Thank you,
Jasmine Smith

Wysong, Rebecca

From: tchapler@comcast.net
Sent: Thursday, February 6, 2020 7:37 PM
To: Wysong, Rebecca; Thao, Sheng; Office of the Mayor
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

Please deny Orangetheory®'s request to open yet another franchise in Montclair Village. Orangetheory® is just another fitness chain with no local ties- Montclair would just be another link in the franchise chain. Please do not let Montclair Village lose its unique character by allowing yet another impersonal franchise export local money to its out-of-state headquarters.

The Montclair villages that would be greatly impacted by this fitness chain are all locally owned, operated and staffed by Montclair residents-with Orangetheory® these businesses would likely close, with dozens of local resident losing their jobs. Your position is one of great authority and power to shape the future of Oakland. Please do the right-and smart-thing and deny Orangetheory® their application. A more suitable tenant is sure to come.

Thank you,

Ted Chapler
1842 Gaspar Dr.
Oakland, CA 94611

510.289.0917.

Wysong, Rebecca

From: Roy Egawa <royisako.e@gmail.com>
Sent: Thursday, February 6, 2020 8:09 PM
To: Wysong, Rebecca
Subject: PLN19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Mrs. Wysong

It was brought to our attention, that Orangetheory Fitness is seeking a variance to the CN-1 Zoning Restriction in order to build a new franchise fitness center in Montclair Village.

We have lived in the Piedmont-Montclair area for over 55 years and had always enjoyed a district that retained the charm of a true village or a small town. Montclair, along with Piedmont Avenue, Temescal and Rockridge, are truly unique to Oakland and to a certain extent, to the entire Bay Area.. All of these areas, provide a unique dining and shopping experience.

We believe that the character of these areas are best maintained by providing a shopping and dining experience, which was the intent of the CN-1 Zoning restrictions.

Montclair already has a fitness gym, studios and personal training facilities. We believe that an addition of a large franchise fitness facility would be redundant, and in lieu of the original intent for dining and retail opportunities, would be a mistake that will distract from the appeal of Montclair Village.

Respectfully yours,

Roy and Isako Egawa

shopping district that retained the what .

Wysong, Rebecca

From: marsha gelt <k9loves@gmail.com>
Sent: Thursday, February 6, 2020 9:08 PM
To: Wysong, Rebecca
Subject: Montclair zoning issue

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi
I totally support your denying of the permit for Orange Theory. Montclair does not need another exercise studio.

Marsha

Wysong, Rebecca

From: David Creech <david.creech77@gmail.com>
Sent: Thursday, February 6, 2020 10:02 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

I'm writing to oppose the Conditional Use Permit Application for Orange Theory in the Montclair District at 2084 Mountain Boulevard. As a 32 year Oakland resident, I've enjoyed Montclair Village for its local flavor and small business shopping and dining experiences. The beauty of the Village is that nearly all of the businesses are operated by small business owners creating a unique feel not available through a franchise or chain business.

I don't want to lose the small town, unique feel of Montclair Village and I feel that an Orange Theory site which will be one of approximately 1,150 outlets nationwide will detract from the "Village experience" and doesn't fit with the other businesses in the community. What we really need is a quality restaurant to give some additional variety to those currently in place.

I'm also concerned with the idea of adding another "fitness" facility. We already have at least 10 sites in the Village that cater to fitness and health. We really don't need another option. Further, there are Orange Theory locations in several other East Bay cities. I've heard talk that they may be opening a location near Lake Merritt. People tend to select fitness facilities near to their home or work. There appear to plenty of locations currently available for people who wish that kind of fitness experience.

I respectfully request that you deny the Conditional Use Permit for Orange Theory at 2084 Mountain Boulevard and encourage the the developer to search for a suitable retail or restaurant tenant.

Sincerely,

David Creech
4281 Lakeshore Avenue
Oakland, CA 94610

Sent from my iPad

Wysong, Rebecca

From: Mark <marks@crufit.net>
Sent: Thursday, February 6, 2020 11:09 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

To: Rebecca Wysong, City of Oakland Planning Department

Ms. Wysong,

I encourage you to deny the application from Orangetheory Fitness for a variance and CUP for operation at 2084 Mountain Blvd., Oakland, CA 94611 (PLN 19299) for the reasons listed below.

The strength of the local economy and Montclair's ability to draw patrons to The Village will be enhanced if we can nurture and build upon the unique characteristics of the Montclair Business District. The addition of big national brands detracts from the unique local flavor we are seeking to grow (Orangetheory is a big national brand with over 1,000 U.S. locations). Montclair business owners and the MVA have consistently echoed this theme and feel that it is an essential component of the vision for future success of The Village.

The vacant ground floor space in question which faces Mountain Boulevard, was originally zoned for a restaurant or retail. A recent survey of Montclair residents indicated that additional quality restaurants was the top priority. The recent success of Daughter Thai and Perle, two relatively new restaurants in Montclair, shows that well-run, quality restaurants can thrive in The Village.

It is important for Montclair to maintain a reasonable balance of property uses as defined in the CN-1 zoning ordinance. The Village is already well-populated with fitness offerings and the recent survey mentioned above showed that additional fitness offerings are not high on the list for local residents. The current list of Montclair fitness industry providers includes nine separate and distinct entities:

- A 6,000 square foot group-training focused club running 60 group classes a week, personal training and after-school programs for teens.
- A club offering a comprehensive array of exercise machines for those looking to do a time-efficient, self-paced workout.
- A club offering specialized personal and small group training.
- Three smaller studios offering personal and small group Pilates training.
- A yoga studio.
- Two small personal training studios.

Because most customers will not travel regularly more than a few miles to exercise, Orangetheory would not be bringing a lot of new people in from outside the area. The Orangetheory franchisees looking to come into Montclair noted the limited travel distance for most of their customers in their presentation to the Montclair Village association (MVA).

Mark

Mark Sutro
Co-Founder

Wysong, Rebecca

From: Kym Sterner <kymsterner@gmail.com>
Sent: Friday, February 7, 2020 9:20 AM
To: Wysong, Rebecca
Subject: Orange Theory

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi,

I am writing in support of CRUfit's request that you uphold the CN-1 Zoning and preserve 2084 Mountain for the unit's originally permitted restaurant or retail use:

- There is a decreasing number of commercial spaces with ground floor frontage available for retail and restaurant use on Mountain Blvd. in the Montclair commercial district. It is important that these prime, highly visible and high foot traffic locations retain their zoned use. Unlike retail and restaurants, fitness uses are not as dependent on location for successful operations.
- Preserve the retail mix and balance of uses for the Montclair commercial district. The Village currently has a number of fitness offerings and a recent community survey with over 300 responses showed that additional fitness offerings are not high on the list for area residents. A quality restaurant, however, was at the top of the list along with retail and specialty grocery. The ongoing success of recent restaurant openings shows there remains an unmet demand in the district for quality dining options, the original, intended use of this unit when the building was constructed and permitted.

Thank you,
Kym Sterner
Albany resident, CRUfit Trainer
510-813-4557

Wysong, Rebecca

From: CC Holland <cc_holland@yahoo.com>
Sent: Friday, February 7, 2020 9:47 AM
To: Wysong, Rebecca
Subject: REF: PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

I have learned that an OrangeTheory location is being considered as a tenant for the space next door to Starbucks, at 2084 Mountain Blvd. in Montclair Village.

I strongly object to this considered use. My understanding was that the space was zoned for a restaurant — something Montclair wants and needs and which would contribute to our community.

We do NOT need another fitness outlet, particularly one that is a chain and not a local business. We have several outstanding fitness businesses in the village already that (1) more than sufficiently fill the need, (2) are local and part of the fabric of our community, and (3) would be hurt by a new business that has no local ties and deep corporate pockets.

We need more restaurant options and/or retail — not another soulless fitness chain.

Please consider this comment when you are making your final decisions. Thank you.

Regards,
CC Holland
6764 Sims Drive, Oakland

Wysong, Rebecca

From: Ann Cattalini Sinclair <anncatsinclair@gmail.com>
Sent: Friday, February 7, 2020 9:47 AM
To: Wysong, Rebecca
Subject: Please deny Orangetheory Fitness application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I am writing in regards to the PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd and ask the Oakland Planning Department to deny the CUP application for Orangetheory.

We have lived in Montclair Village for 20 years and believe strongly that the Village needs to preserve the limited ground floor commercial spaces for retail or restaurants and not a gym. In addition, the Village already has 3 gyms, including Cru-Fit, a locally owned business that is grounded in the community.

The success of Daughter Thai in Montclair demonstrates that a quality restaurant will be very successful in the Village. We live walking distance to the Village but often have to drive to Rockridge or Berkeley to go out to dinner because there are so few options in Montclair.

Please support the Montclair Village Association and the needs of our community by denying the Conditional Use Permit and insist that the building be used for the purpose that it was zoned for.

Sincerely,
Ann Sinclair

Wysong, Rebecca

From: Laura Scholes <laura@storyhousecreative.com>
Sent: Friday, February 7, 2020 10:00 AM
To: Wysong, Rebecca
Subject: Montclair resident opposed to OrangeTheory in the Village

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello Ms. Wysong,

I just heard that OrangeTheory is applying to move into Montclair Village where a much-needed Spanish restaurant was supposed to be (from the original plan for the new building—F&M Bank/Starbucks). I wanted to let you know that as a resident of Montclair (5807 Colton Blvd.), I oppose this addition to the village. We already have several locally owned (not chain) gyms in the Village and it would hurt their businesses. It would also make daytime parking a nightmare. On top of that, we desperately need better food options in the Village. Let me know if you have any questions.

Laura Scholes Baedeker

Laura Scholes
Founder

Story House Creative
415.515.0995
www.storyhousecreative.com

Wysong, Rebecca

From: pilar strutin-belinoff <pilarariella@gmail.com>
Sent: Friday, February 7, 2020 10:06 AM
To: Wysong, Rebecca
Subject: NO to more franchises (Orange Theory) in Montclair Village!

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Rebecca Wysong, first of all thank you for all of your hard work in helping to make our communities the best that they can be.

Why would we want an Orange Theory in our community where we already have well NINE different places to work out, or are fitness related?? These fitness businesses range from full gyms to pilates, and many places in between. These businesses are already working hard to keep their customers, please don't let a large franchise come in and take that away. I ask you and your team to consider what is the best fit to create a nurturing environment for small businesses, and thoughtfully building a good mix for establishing a community we all want to be a part of (e.g. not transient nor transactional).

We have been residents of Montclair for over 20 years, raised our children here and have relied on the "Village" as a community gathering space and a place for our kids to feel safe as they experiment with being more independent. It has been a struggle to support small businesses in our community as the landlords have strict and high lease rates, as a result franchises end up coming in, pushing out small, independent businesses. Our small village is already teeming with banks and mortgages shops (9!), beauty and fitness outfits (38! and please no more nail shops) and not to mention many other franchise restaurants. These types of shops DO NOT foster community. As residents of the area, we end up going out to restaurants in Uptown, or Grandlake (is there a blueprint for what mix fosters a strong community?) as they have been thoughtfully establishing themselves as places where culture thrives, small businesses are welcome and great restaurants await.

With best regards and deep appreciation,

pilar strutin-belinoff

Wysong, Rebecca

From: Leah Jayasekera <leahjayasekera@gmail.com>
Sent: Friday, February 7, 2020 10:29 AM
To: Wysong, Rebecca
Subject: No orange theory

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello There

Thank you for all your hard work to help Montclair.

Please reconsider the orange theory.

We don't need another gym and it doesn't promote small business or community feel.

Thank you for your consideration

Leah

Sent from my iPhone

Wysong, Rebecca

From: Andrea Faber <andreaefaber@gmail.com>
Sent: Friday, February 7, 2020 10:49 AM
To: Wysong, Rebecca
Subject: PLN19299 - Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I am the co-owner of Hula, a women's boutique in Montclair Village. We have been at our location for 22 plus years. Since we opened in 1997 we have seen the loss of so many retail spots. It's alarming. We are over-run with salons, fitness places, banks, real estate offices. We do not need another fitness place on the ground level in Montclair Village. We oppose the granting of this use permit.

Yours sincerely, Andrea Faber and Naomi Lockyer, owners of Hula, 6136 LaSalle Ave., Oakland.
Many thanks for your consideration.

Wysong, Rebecca

From: beth vuolo gousman <bvuolo@hotmail.com>
Sent: Friday, February 7, 2020 12:36 PM
To: Wysong, Rebecca
Cc: District 4
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

I am writing you in opposition to the request for a variance and conditional use space by Orangetheory for the space located at 2084 Mountain Blvd. In order for the Village to thrive, it needs a quality blend of unique restaurant and retail. Orangetheory serves neither purpose. A recent community survey indicated that the current myriad of fitness options offered, which include 2 small personal training studios, a yoga studio, a club offering self-paced workouts, plus two additional clubs suggest that the Village is already saturated with fitness options. I'm frankly surprised that the Orangetheory franchisees have failed to notice that this location as such will provide a significant marketing challenge-unless they are unfamiliar with the market altogether, as I suspect.

With such limited commercial space in the Village, approval of this application shows a blatant disregard for the desires of those who live and work in the Village. The recent successes of Perle and Daughter's Thai indicates that residents appreciate alternatives. Residents and visitors have been excited by the entry of a Korean deli on La Salle. Let's build upon this momentum to bring a retailer or restaurateur who will breathe new life into this village. Thank you for your consideration.

Regards,

Beth Gousman
Employee: 1757 Mountain Blvd, Oakland
Resident: 6066 Romany Road, Oakland

Wysong, Rebecca

From: Jennifer Sandstrom <someonesinthekitchenoakland@yahoo.com>
Sent: Friday, February 7, 2020 1:41 PM
To: Wysong, Rebecca
Subject: ORANGE THEORY FITNESS

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

I am writing in reference to PLN 19299. As a business owner in Montclair Village I would like to see more retail shops and restaurants. There are already numerous fitness businesses in the Village and adding another seems unnecessary. Additionally, parking would be affected which is already very limited.

Thank you,
Jennifer Sandstrom
Someone's in the Kitchen
510-339-3837

Wysong, Rebecca

From: dara richman <darasportspt@gmail.com>
Sent: Friday, February 7, 2020 1:44 PM
To: Wysong, Rebecca

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Permit for Orange theory -

I am not in favor and do not appreciate more hectic outside franchises in this space.
I vehemently would oppose this and they are not about the community.

Wysong, Rebecca

From: ssballing@gmail.com
Sent: Friday, February 7, 2020 5:02 PM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms Wysong,

In the above matter of Orangetheory's request for a variance and Conditional Use Permit (CUP) for operating a fitness center at 2084 Mountain Blvd, I respectfully request that the City of Oakland Planning Department deny the application. High traffic frontage units like the above are best used for retail and restaurants that require such locations and that in turn can bring real energy to a community. My understanding is that this was the agreed upon contingent in the original development plan for the new building permitting.

I've lived in Montclair for 35 years and have watched the vitality of the Village wax and wane. It has often suffered from too many banks, too many real estate companies and too many mortgage brokers that stifle retail appeal and in turn foot traffic. But recently, we have enjoyed an especially exciting time with several new businesses growing and prospering and young families enjoying the district's new energy.

What we don't need is another fitness spot. The Village already has 3 fitness facilities and two nearby swim clubs with extensive equipment and class options. Do we really have the population to support more of same? Or will we just spread the limited dollars over more square feet and hurt everyone's viability. Of great concern is that Orangetheory is a huge national franchise that will not hesitate to try to drive out small family-owned businesses that it sees as competition. Orangetheory simply does not align with the character of the Montclair community.

I ask the Planning Department to please give careful consideration to the future of Montclair and not waste a wonderful opportunity to further energize the retail community. Please deny the request for a variance and the conditional use permit.

Thank you,
Steven S Balling
6743 Banning Dr
Oakland, CA 94611
C: (925) 519-7815

Wysong, Rebecca

From: David Hartsough at the Book Tree <dhbooktree@earthlink.net>
Sent: Friday, February 7, 2020 5:14 PM
To: Wysong, Rebecca
Subject: Opposition to application for planning variance by Orangetheory Fitness for 2084 Mountain Blvd in the Montclair district

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Rebecca Wysong
City of Oakland
Planning Department

Hello Ms. Wysong,

I am a retail business owner in the Montclair District of Oakland, and I am writing to oppose an application by Orangetheory Fitness for a planning variance for 2084 Mountain Blvd in the Montclair district. This variance application is to allow a fitness business to use the retail/restaurant space in the new building at that location.

The Montclair area needs more retail businesses, not fewer.

We already have two fitness businesses within two blocks of the proposed location, as well as another three blocks away.

As retail businesses are replaced by non-retail, it reduces the draw for customers to come to the area; it reduces the vibrancy and variety of the area. Retail businesses and business areas rely upon this vibrancy and combined draw to create a thriving district, and I believe that placing a fitness club in what is clearly a retail space would harm the area and its businesses.

A fitness club does not need to be in a storefront; they could use off-street space, such as the closed McCaulou's store which is to be redeveloped. (Several employees at McCaulou's have said that that store's move to a retail store front in the business district has helped, even though they have much less space. They are now much more visible to foot and car traffic. That is the kind of retail business that can benefit from a streetside storefront.)

Thank you for your consideration,
David Hartsough
Owner

The Book Tree
6121 La Salle Ave
Oakland, CA 94611
(510) 339-0513
dhbooktree@earthlink.net

Wysong, Rebecca

From: Justin Sherman <j.sherman.nola@gmail.com>
Sent: Saturday, February 8, 2020 7:45 AM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Rebecca,

As a frequent visitor to Montclair Village, I am writing to voice opposition to the Orange Theory proposed location. One of the charming things about Montclair is true emphasis on small business, community, and its quiet nature. It would be an unwelcome addition to the village in terms of a corporate presence that would partially erode the culture and vibe of the village.

Thanks for listening.

Sincerely,
Justin Sherman

Sent from my iPhone

Wysong, Rebecca

From: Anne Su <annemariesu@gmail.com>
Sent: Sunday, February 9, 2020 9:25 AM
To: Wysong, Rebecca
Subject: PLN 19299 Conditional Use Permit Application 2084 Mountain Blvd.

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi,

I write as someone who lives in the village. I don't think an Orangetheory is good for our community as only people who can afford the monthly fees of a gym would be able to use the space. Not only does that put this venture in danger of failing financially as Montclair already has at least 5 gyms that I can personally count and limited parking, but it is not a very good use of the space for all. I would much prefer to see it used as a restaurant or retail. Also is this a good idea if it hurts the gyms that already exist? I currently am a member of movement pilates, am 34 years old with no children— I think Orange theory's target audience— and I would not sign up. Thank you for your consideration.

~Anne Su

2064 Antioch Ct. Apt B
Oakland CA

Wysong, Rebecca

From: helen horvath <helen.horvath@gmail.com>
Sent: Sunday, February 16, 2020 7:34 PM
To: Wysong, Rebecca
Cc: District 4
Subject: PLN 19299 Conditional Use Permit Application

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Wysong,

I realize that it is past the public comment deadline for this variance and CUP, but I hope you will consider my message in addition to the many others you have surely received opposing the variance and CUP for Orangetheory in Montclair.

I have come to the Montclair business district three times a week for the last five years, traveling all the way from Alameda to work out at CRUfit, often also spending time after my workout at the other local businesses. I make the trek because of how much I value the community atmosphere at my local family-owned and family-operated fitness club and the other small businesses in Montclair Village. Another fitness-focused facility such as Orangetheory will surely not benefit this area that is already saturated with nine other fitness businesses, and could make it harder for these local businesses to thrive. Bringing a national chain into a business district that has worked to sustain its charm and uniqueness by supporting local businesses rather than big chains is insulting and damaging to the atmosphere of Montclair.

I urge you to follow the community's lead, as voiced by the Montclair Village Association, and deny a variance and conditional use permit to Orangetheory. Support your local community and local business district!

Helen Horvath

Re: 2084 Mountain Extension

Merkamp, Robert <RMerkamp@oaklandca.gov>

Fri 6/19/2020 3:12 PM

To: tchapler@comcast.net <tchapler@comcast.net>

Cc: Wysong, Rebecca <RWysong@oaklandca.gov>

Not a problem, we're living in unusual times and we're all figuring out how to roll with it.

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: tchapler@comcast.net <tchapler@comcast.net>

Sent: Friday, June 19, 2020 2:40 PM

To: Merkamp, Robert <RMerkamp@oaklandca.gov>

Cc: Wysong, Rebecca <RWysong@oaklandca.gov>

Subject: Re: 2084 Mountain Extension

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.
--

Dear Mr. Merkamp,

Thank you for extending the appeal deadline to July 2, 2020. It is greatly appreciated.

Sincerely,

Ted Chapler
1842 Gaspar Drive
Oakland, CA 94611
510.289.0917

On 06/19/2020 2:28 PM Wysong, Rebecca <rwysong@oaklandca.gov> wrote:

Hello Ted,

I just heard back from Robert. He will grant the extension of 10 days from Monday. The appeal deadline will now be July 2nd.

He will uploading the files to Accela on Monday.

Have a good weekend,
Rebecca

Re: Appeal Deadline

Merkamp, Robert <RMerkamp@oaklandca.gov>

Mon 6/22/2020 2:27 PM

To: Wysong, Rebecca <RWysong@oaklandca.gov>

Hi Rebecca,

Please let the applicant know the file has been uploaded to ACA and is now viewable.

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Merkamp, Robert <RMerkamp@oaklandca.gov>

Sent: Friday, June 19, 2020 2:33 PM

To: Wysong, Rebecca <RWysong@oaklandca.gov>

Subject: Re: Appeal Deadline

Also, after letting the neighbors know, please let your applicant know my decision. Thanks for bringing this to my attention.

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Merkamp, Robert <RMerkamp@oaklandca.gov>

Sent: Friday, June 19, 2020 2:25 PM

To: Wysong, Rebecca <RWysong@oaklandca.gov>

Subject: Re: Appeal Deadline

Oh, you were sending this as I was sending you my ultimate call! No worries, just tell them we'll grant an extension.

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Wysong, Rebecca <RWysong@oaklandca.gov>

Sent: Friday, June 19, 2020 2:20 PM

To: Merkamp, Robert <RMerkamp@oaklandca.gov>

Subject: Re: Appeal Deadline

Hello Robert,

The people who want to appeal are going to be contacting you about the appeal process. They did not like my answers in regards to the timing and file access.

Thanks,

Rebecca

From: Merkamp, Robert <RMerkamp@oaklandca.gov>
Sent: Friday, June 19, 2020 1:58 PM
To: Wysong, Rebecca <RWysong@oaklandca.gov>
Subject: Re: Appeal Deadline

I thought it was with me actually. I remember getting a call from the applicant pleading with me to sign the letter before we had a process in place for appeals. I think it was ready to sign once I reviewed.

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Wysong, Rebecca <RWysong@oaklandca.gov>
Sent: Friday, June 19, 2020 1:57 PM
To: Merkamp, Robert <RMerkamp@oaklandca.gov>
Subject: Re: Appeal Deadline

Nothing has changed since then. That would be great if you could. I believe it is on my desk.

Thanks,
Rebecca

From: Merkamp, Robert <RMerkamp@oaklandca.gov>
Sent: Friday, June 19, 2020 1:56 PM
To: Wysong, Rebecca <RWysong@oaklandca.gov>
Subject: Re: Appeal Deadline

I'm planning to go in Monday so I probably can. However, has anything changed since then? Any details related to the project?

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Wysong, Rebecca <RWysong@oaklandca.gov>
Sent: Friday, June 19, 2020 1:54 PM
To: Merkamp, Robert <RMerkamp@oaklandca.gov>
Subject: Re: Appeal Deadline

Should I go into the office and scan the file?

From: Wysong, Rebecca <RWysong@oaklandca.gov>
Sent: Friday, June 19, 2020 1:54 PM
To: Merkamp, Robert <RMerkamp@oaklandca.gov>
Subject: Re: Appeal Deadline

Yep

From: Merkamp, Robert <RMerkamp@oaklandca.gov>
Sent: Friday, June 19, 2020 1:53 PM
To: Wysong, Rebecca <RWysong@oaklandca.gov>
Subject: Re: Appeal Deadline

No, I'm sorry. This is that gym right? YOU had it on my desk just before SIP but I didn't sign it then. So I'm assuming you noticed it, got comments, showed it to whomever wanted to see it and then the comment period closed and you prepared the letter, right?

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Wysong, Rebecca <RWysong@oaklandca.gov>
Sent: Friday, June 19, 2020 1:52 PM
To: Merkamp, Robert <RMerkamp@oaklandca.gov>
Subject: Re: Appeal Deadline

It closes on Monday.

From: Merkamp, Robert <RMerkamp@oaklandca.gov>
Sent: Friday, June 19, 2020 1:51 PM
To: Wysong, Rebecca <RWysong@oaklandca.gov>
Subject: Re: Appeal Deadline

And, when did the original comment period close?

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Merkamp, Robert <RMerkamp@oaklandca.gov>
Sent: Friday, June 19, 2020 1:49 PM
To: Wysong, Rebecca <RWysong@oaklandca.gov>
Subject: Re: Appeal Deadline

Interesting. Did they have access to the file prior to? Is there any new information that they weren't privy to beforehand?

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Wysong, Rebecca <RWysong@oaklandca.gov>
Sent: Friday, June 19, 2020 1:47 PM
To: Merkamp, Robert <RMerkamp@oaklandca.gov>
Subject: Appeal Deadline

Hello Robert,

For 2084 Mountain, the file had not been digitally uploaded. The possible appellants want an extension because all the information is available. Do we do extensions to appeals?

Thanks,
Rebecca