

**CITY OF DUARTE
PLANNING COMMISSION
MINUTES
June 18, 2018**

**Planning Commission
Commissioners**
Sara Vasquez, Chair
Wally Wolff, Vice-Chair
George K. Farra
Paula Watson-Gardner

1. [CALL TO ORDER AND NOTATION OF ANY ABSENCES](#)

Chair Vasquez called the meeting to order at 7:00 p.m.

The following were in attendance:

PRESENT:	Vasquez, Wolff, Farra, Watson-Gardner
ABSENT:	None
STAFF:	Hensley, Golding, Baldwin, Contreras, Eoff IV, Serna
DEPUTY CITY ATTORNEY:	Alisha Patterson

2. [PLEDGE OF ALLEGIANCE](#)

Wolff led the Pledge of Allegiance.

3. [APPROVAL OF MINUTES:](#) May 21, 2018

Wolff moved to approve the minutes of May 21, 2018. Seconded by Farra. Motion approved 3-0-1-0. (Vote: Yes: Vasquez, Wolff, Farra; No: None; Abstain: Watson-Gardner; Absent: None)

4. [ORAL COMMUNICATIONS – ITEMS NOT ON THE AGENDA](#)

Chair Vasquez opened Oral Communications for items not on the Agenda. Seeing none, Chair Vasquez closed Oral Communications.

5. [BUSINESS ITEMS:](#)

A. [Request to reconsider Conditional Use Permit 14-02 and Site Plan and Design Review Case 14-34.](#)

[Staff memo request for reconsideration of CUP 14-02 and SPDR 14-34.](#)

Hensley indicated that a confidential memorandum was provided to the Commissioners from the City Attorney regarding the request from Verizon Wireless to reconsider the new wireless communication facility at Royal Oaks Park.

There was a discussion about the request to reconsider the business item. Farra requested clarity for reconsideration, and inquired as to what decision would be compatible with the findings. Patterson explained that she read the minutes and heard Commissioner discussions that included both related and non-related findings. However, it was unclear how the Commission's vote related directly to applicable findings related to cellular projects. She added that it would benefit the applicant and public alike to reconsider the item and have a re-hearing to clarify the decision based on compatibility with the findings. Patterson added that Wireless Communication facilities have an additional level of State and Federal requirements and it is beneficial to clarify the decision of the Commission.

Farra moved to approve the request to reconsider the project. Seconded by Watson-Gardner. Motion approved 4-0-0-0.

6. [ITEMS FROM DIRECTOR](#)

Hensley provided a brief update on the following development improvements:

- McDonald's – construction to be completed in approximately 4 months. Start date TBD
- Mixed Use – Plan submittal expected on week of June 25, 2018
- NE corner of Huntington Dr. and Buena Vista St. – expecting submittal for design review by end of summer 2018.

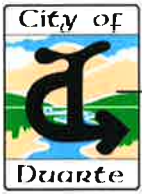
7. [ITEMS FROM COMMISSIONERS](#)

Farra notified the Commission that he may be absent for next month's meeting due to a medical procedure.

8. [ADJOURNMENT:](#) Monday, July 16, 2018

Chair Vasquez adjourned the meeting at 7:16 p.m. The next meeting is scheduled for July 16, 2018.

Craig Hensley, Secretary



PLANNING COMMISSION STAFF REPORT

Date: July 16, 2018

Project: **Conditional Use Permit 17-02**
New Twenty-Four Hour Health & Fitness Facility (Planet Fitness)

Location: 1193A Huntington Drive (Buena Vista Marketplace Shopping Center)

Applicant: Mitchell Stanley, Planet Fitness Representative

SUMMARY

The applicant, Mitchell Stanley, is requesting approval to operate a new 24-hour health & fitness facility known as Planet Fitness in a vacant tenant space located at 1193A Huntington Drive (Buena Vista Marketplace shopping center). A variety of fitness activities and equipment will be available to members 24 hours a day, seven days a week. The facility will be staffed with two to six employees at any one time.

The project proposal contains two conditional use components requiring Planning Commission approval: operation of a health & fitness facility and 24-hour operation.

PROPERTY DESCRIPTION

The project is located within the Buena Vista Marketplace shopping center which is located at the northwest corner of Huntington Drive and Buena Vista Avenue. The property has a Huntington Buena Vista Specific Plan zoning designation and contains three separate buildings with office, retail, and service uses with a total of 91,616 square feet of commercial-retail space (Exhibit B). There are a total of 29 tenant spaces, four of which are currently vacant. The tenant space that is the focus of this discussion is located within the multi-tenant building adjacent to Smart and Final and is one of the larger vacant spaces with a square footage of roughly 15,862 square feet. The zoning for the property allows health & fitness facilities greater than 2,001 square feet and uses with 24-hour operations with an approved conditional use permit.

PROJECT DESCRIPTION

The applicant is requesting approval of a health and fitness facility, which will be operated as a Planet Fitness gym. It is a membership-only facility that will be open 24-hours a day, seven days a week. The fitness facility will provide cardiovascular and strength-training equipment such as cardio machines, circuit training, free weights, and weight machines. Most members will work out independently, but fitness consultation and work-out facilitation will be provided to small groups of people on a first come, first served basis. Individual personal trainer services and exercise classes are not provided. Memberships are available for a monthly fee for minors and adults. The applicant has set a minimum age requirement for minors at 16 years old. The business staff will consist of one manager/supervisor and between one and five additional staff members at any one time. The staffing provided will correspond with the peak usage times of the facility, and a minimum staff of two people will be on duty during the late night and early morning hours.

All fitness and training activities will occur inside the tenant space and a condition of approval has been included to prohibit future outdoor fitness activities. Rubber flooring will be installed throughout the workout areas, which offers a durable cushioned surface to walk on and can absorb some impact if weights are dropped. A section of the gym will be reserved for premium membership holders. This area offers the use of mechanical massage beds, mechanical massage chairs, and tanning machines. Massage will be provided with bed and chair mechanical devices that are user-operated and will be located in semi-private rooms. No person-to-person contact is involved. The tanning machines will be within private, lockable rooms. Childcare services will not be provided.

ANALYSIS

The main concerns associated with the proposed conditional use permit are noise, compatibility with surrounding uses, parking, and security. Health and Fitness facilities have the potential to negatively impact the business operations of their neighbors if these issues are not adequately addressed. Staff has analyzed the applicant's operations and the preventative measures the applicant has taken to avoid creating negative impacts for the neighboring uses and described these in the paragraphs below.

Noise

To avoid any potential adverse impacts on the shopping center and surrounding areas the applicant will be required to comply with several conditions of approval. All of the fitness and training equipment/activities must occur indoors and remain indoors at all times. To help mitigate concerns with noise the applicant will be required to install rubber floors in the strength training areas. Planet Fitness will also discourage noisy behavior by installing what they call a "lunk alarm" which is a brief unpleasant sound that gym employees can activate if a member using free weights engages in prohibited activities such as slamming weights or loud grunting. The facility stereo system is also required to remain at low levels and the volume control is accessible to the owner and management staff only. The CUP also does not include approval for large group training or fitness classes, which tend to be associated with high volume music and a larger number of members arriving concurrently.

Five new rooftop HVAC units (RTUs) are proposed to be installed on the roof and a noise study was prepared by a professional sound engineer hired by the applicant in response to concerns that those units could generate excessive noise (see Exhibit C). The engineer's study revealed that without mitigation, the new units could create noise that exceeds the maximum allowed by the City's Development Code. To address this matter, a condition of approval has been added which requires the installation of sound barriers around the units, which will reduce the sound generated by the units to a permitted level.

Compatibility With Surrounding Uses/Parking

The proposed health and fitness facility is proposed at the end of one of three commercial buildings in the shopping center and its only adjacent business will be Smart and Final (see Exhibit B for the Site Plan). A driveway will separate Planet Fitness and the building to the west

and the closest tenants in that building are the UPS Store, a vacant service use, and a nail salon. The proposed health and fitness facility will complement this group of tenants because it will attract customers to the shopping center at varied times of the day and night and will not introduce noise or activity outside the building that could impact neighboring businesses.

The subject property is developed with three commercial buildings that are divided into 29 units with a total of 91,616 square feet of commercial/retail space. Of the total commercial/retail space, only 3,946 square feet is vacant, excluding the space for the proposed health facility. There are a total of 381 parking stalls on the property. The neighborhood shopping center (as defined in the Duarte Development Code) requires a parking ratio of 1 space per 250 square feet of gross floor area. When applying this ratio to the property, a minimum of 367 parking stalls is required, which results in a parking surplus of 14 stalls.

Staff had some concern that even with a parking surplus on the property, additional analysis was warranted due to the vacancies on the property and in consideration of the recent addition of the Habit restaurant at the southwest corner of the property. For these reasons, the City requested a parking study be performed to assess parking availability on the property.

A parking study was performed by Scott Martin of Desman Design Management to analyze the potential parking impacts related to the proposed health facility (Exhibit D). The study includes an analysis based on industry standards for analyzing shared parking as well as two surveys that show the actual parking demand on the property.

The analysis is based on industry standards that calculates parking demand within a shopping center based on the assumptions that patrons may visit more than one business per stop, some customers/employees will use alternative transportation to access the property, and that there will be variations in peak parking demand depending on the season and mix of land uses. The table below shows the midweek peak parking demand. The table shows that even at peak demand, 6:00 p.m., there is anticipated to be a parking surplus.

Peak-Month (December) Parking Conditions by Hour

Hour	Shopping Center		Fitness Center		Fast Food		Total Demand	Parking Supply	Parking Surplus
	Customer	Employee	Customer	Employee	Customer	Employee			
6:00 AM	2	4	36	4	1	1	48	380	332
7:00 AM	11	6	21	4	3	1	46	380	334
8:00 AM	32	17	21	4	6	2	82	380	298
9:00 AM	74	32	36	4	8	2	156	380	224
10:00 AM	137	37	36	4	15	4	233	380	147
11:00 AM	179	41	41	4	24	5	294	380	86
12:00 PM	200	43	31	4	28	5	311	380	69
1:00 PM	210	43	36	4	28	5	326	380	54
2:00 PM	200	43	36	4	25	5	313	380	67
3:00 PM	189	43	36	4	17	4	293	380	87
4:00 PM	189	43	41	4	15	3	295	380	85
5:00 PM	200	41	46	5	17	4	313	380	67
6:00 PM	200	41	51	5	24	5	326	380	54
7:00 PM	200	41	46	4	22	5	318	380	62
8:00 PM	168	39	41	3	14	3	268	380	112
9:00 PM	105	32	36	2	8	2	185	380	195
10:00 PM	63	17	18	2	6	2	108	380	272
11:00 PM	21	6	5	2	3	1	38	380	342
12:00 AM	0	0	5	2	1	1	9	380	371

In addition to the analysis based on industry standards, the parking consultant surveyed the parking conditions on the property two days during the week (Wednesday and Saturday) between 11:00 a.m. and 8:00 p.m. at hourly intervals. The survey times were selected to coincide with a range of time with the greatest parking demand for the property. The weekday result indicated a peak parking demand for the shopping center at 6:00 p.m. with a total of 169 spaces occupied at that time, which results in a parking occupancy level of 44%. The survey results for Saturday indicated a peak demand for the shopping center was at 12:00 p.m. with a total of 216 spaces occupied, which results in a parking occupancy of 57%. In summary, 211 parking spaces were available during the week and 164 spaces were available on the weekend.

When considering the results of the survey, it is important to also consider the vacancy of the unit of the proposed health facility and the remaining vacant units in the shopping center. All the vacancies when viewed together have a combined area of 19,808 square feet. If all the vacancies in the shopping center were filled, then a total of 79 parking spaces would be required by Code. When these 79 spaces are compared to the available stalls observed by the parking surveys, it is clear that there would still be adequate parking for all tenants.

The results of the industry study and the parking survey show that the shopping center can accommodate the existing uses along with the proposed fitness facility. The midweek survey shows a peak parking demand at 6:00 p.m. and although this coincides with the health facility's anticipated peak hours of operation, there will still be plenty of available parking. Staff has visited that property at different times of the day over the past several weeks to verify the results of the parking study and survey. On each occasion, there was available parking on the property, however, there were some parts of the parking lot that were busier than others such as the areas closest to the Habit and Smart and Final. The least frequently used spaces were the spaces to the west of the unit that Planet Fitness is proposing to occupy.

Security

Security is a key component of the Planet Fitness operation. The following information summarizes the components of the security proposed.

- *Entry and Exit:* The entry and exit for this health facility will be through a double-door on the front elevation. After entering this door, gym members will be greeted by a gym employee at the reception desk and must scan a barcoded key fob to gain access to the facility. If persons entering the facility are prospective members, a gym employee will escort them on a tour. The front door will remain open at all times. The side door is an emergency exit that will be alarmed and equipped with panic hardware. This door cannot be opened from the exterior of the building.
- *Security on the Floor:* Employees walk the gym floors and locker rooms every 20 minutes to ensure gym rules are being followed and members are acting in a safe manner. Each employee will be trained to understand the safety rules of the gym and will also be given CPR/AED training.

- *Exterior and Parking Lot Lighting* – The exterior lighting for the front entrance of the business is equipped with recessed lighting. These lights are not currently operating to their full potential due to the installation of low wattage bulbs and some non-functioning lights, but these lights will be upgraded as a condition of approval to the application. Once fully functional, the entry will have a well illuminated entry similar to the adjacent Smart and Final store. The main parking lot is illuminated by pole lighting that provides enough light for all areas of the lot, including in front of the proposed health and fitness facility. The lighting for the west side of the building is provided by wall sconces that are mounted to the building and all of these lights, except one, are functional and provide light for the area; however, they are not in compliance with City regulations and will need to be removed and replaced. The lighting for both parking areas remains on all night.
- *Closed Circuit Television:* The facility will be equipped with a closed-circuit television system (CCTV) that includes surveillance cameras at the points of entry and a digital video recorder (DVR). The cameras at the doorways will record each person entering and exiting the business and will be monitored by gym employees via CCTV at the reception desk. The DVR records daily activity for a one-week duration, which can be shared with authorities upon request. These cameras will be mounted on the exterior of the building, so the area in the immediate vicinity outside the doors will be viewed and recorded as well.

The proposed use will be open 24 hours a day and it will be the first business of this nature within the Buena Vista Marketplace shopping center. Most of the other businesses in the shopping center close between 6 p.m. and 9 p.m., with Subway closing the latest at 11 p.m. The various components of Planet Fitness' security strategy are designed to ensure member safety, protect the general welfare of the public, and maintain a successful business operation. The security plan was reviewed by Duarte Public Safety and they did not identify any areas of concern with the proposal. Staff has also determined that the proposed security measures adequately prepares the business to operate 24 hours a day. If, however, reoccurring complaints or incidents are received pertaining to the late night and early hours, City Staff, the Planning Commission, or the City Council may call this conditional use permit for review or revocation per Chapter 19.52 of the Duarte Development Code.

The main concerns pertaining to health and fitness facilities and to the specific proposal that Planet Fitness is proposing have been discussed in the analysis above. The concerns that were identified have been addressed by the conditions of approval discussed in the staff report and included with the resolution (Exhibit A). These conditions include, but are not limited to the installation of HVAC sound barriers and the repair of the existing exterior lighting. With the applicant's acceptance and implementation of these conditions of approval, the use will be compatible with the other uses in the shopping center and appropriate for the site.

RECOMMENDATION

Based on the information provided in the Staff report, Staff recommends the Planning Commission adopt PC Resolution 18-16, approving Conditional Use Permit 17-02.

Respectfully Submitted,



Nick Baldwin
Associate Planner

ATTACHMENTS

Exhibit A: PC Resolution 18-16
Exhibit B: Project Plans
Exhibit C: Noise Study
Exhibit D: Parking Analysis

Exhibit A

RESOLUTION NO. PC 18-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE APPROVING CONDITIONAL USE PERMIT 17-02 FOR THE OPERATION OF A TWENTY- FOUR-HOUR HEALTH & FITNESS FACILITY (KNOWN AS PLANET FITNESS) AT 1193A HUNTINGTON DRIVE

WHEREAS, the applicant is requesting approval of a conditional use permit to operate a twenty-four-hour health & fitness facility at 1193A Huntington Drive; and

WHEREAS, a health & fitness facility that is 2,001 square feet or greater located in the Huntington Buena Vista Specific Plan zone is a conditionally permitted use pursuant to that zone; and

WHEREAS, a commercial land use open to the public twenty-four hours and located within 300 hundred feet of a legal residential use is a conditionally permitted use pursuant to the Huntington Buena Vista Specific Plan; and

WHEREAS, the Planning Commission has considered the analysis and recommendation provided in the staff report for Conditional Use Permit application 17-02 and all the information, evidence and public testimony received at the public meeting held on July 16, 2018 at 7:00 p.m. in the City Council Chambers;

NOW THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. That the Planning Commission approves PC Resolution 18-16 with conditions, the request for Conditional Use Permit 17-02 at 1193A Huntington Drive.

SECTION 2. All the facts set forth in the Recitals of this Resolution are true and correct and incorporated herein by this reference.

SECTION 3. The Planning Commission finds and determines as follows, findings for Conditional Use Permits, as set forth in DDC Section 19.114.040(B), as:

1. The proposed use is consistent with the General Plan;

The twenty-four health & fitness facility is consistent with Land Use Goal 1 of the General Plan by maintaining a balanced community consisting of various commercial activities. The use is also consistent with the Commercial land use designation by providing neighborhood retail and service uses serving the daily needs of nearby residential areas.

2. The proposed use is allowed within the subject zone and complies with all other applicable provisions of this Development Code and the Municipal Code;

The twenty-four-hour health & fitness facility (2,001 square feet or greater) is permitted with a Conditional Use Permit within the Huntington/Buena Vista Specific Plan zone. The use is consistent with the specific plan zoning designation as it provides and added service and convenience for the community. The use follows all regulations of the Duarte Development Code and Municipal Code, and conditions of approval have been included to ensure such compliance.

3. The design, location, size and operating characteristics of the proposed use are

compatible with the allowed uses in the vicinity;

The twenty-four-hour health & fitness facility will occupy one of 29 tenant spaces within an existing commercial shopping center building. The facility's space is 15,862 square feet, which is sufficient for accommodating the use. The health facility is compatible with the project site and other uses in the vicinity. All of activities of the gym will occur indoors. To support the fitness activities that will take place inside the building, five new HVAC units will be installed on the roof. These units would generate more noise than the maximum allowed by the Municipal Code if they were to be installed without mitigation measures. To address this issue, sound barriers will be installed around each unit, which will reduce the sound emanating from the units to an acceptable level. With the installation of these sound reduction measures, sound generated from the indoors and outdoors for this use will be no greater than the other uses in the shopping center. Overall, the operation of the facility complements the existing shopping center by providing an added service to the community.

4. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

The twenty-four-hour health & fitness facility is allowed with a conditional use permit in the Huntington/Buena Vista Specific Plan zone. The location of the fitness facility is suitable and typical in the shopping center as it provides and an added convenience. Furthermore, the imposed conditions of approval are designed to help prevent any adverse and detrimental impacts on the City and surrounding community.

5. The subject site is:
 - a. Physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities; and
 - b. Served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

The site is developed with three commercial-retail buildings with a total of 91,616 square-feet of leasable area. The property is in the Huntington/Buena Vista Specific Plan zone located generally at the northwest corner of Huntington Drive and Buena Vista Avenue, and is accessible from multiple drive aisle approaches along Huntington Drive and Buena Vista Avenue. Onsite circulation will not be altered and is suitable for the existing uses, the health & fitness facility, and emergency vehicle access. The three buildings are divided into 29 tenant spaces. The proposed health & fitness facility will occupy one of the tenant spaces, which is 15,862 square feet.

SECTION 4. The Planning Commission approves Conditional Use Permit 17-02 based on the findings listed in Section 3 and Section 4 and the conditions listed in "Exhibit A-1".

SECTION 5. The approval of Conditional Use Permit 17-02 by the Planning Commission is exempt from the California Environmental Quality Act (CEQA) pursuant to exemption in Section 15303, Class 3 and Section 15332, Class 32 of Title 14 of the California Code of Regulations. Therefore, no further environmental review is necessary.

APPROVED, AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 16th day of July 2018.

Sara Vasquez, Chairperson
City of Duarte Planning Commission

ATTEST:

Craig Hensley, Community Development Director

CITY OF DUARTE
COUNTY OF LOS ANGELES } ss.
STATE OF CALIFORNIA

I, Craig Hensley, Secretary of the Planning Commission of the City of Duarte, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Duarte held on July 16, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Craig Hensley, Community Development Director

EXHIBIT A-1
Conditions of Approval
Conditional Use Permit 17-02
1193A Huntington Drive

1. This approval is for the establishment of a 24-hour health & fitness facility at 1193A Huntington Drive as stated in the staff report and described in the applicant's business proposal statement, on file with the Planning Division.
2. Sound reduction measures shall be incorporated into the fitness facility tenant improvement. Such measures shall include, but not be limited to, installation of rubber floors in the weight training areas and use of rubberized weights only, and restricting access to the stereo system volume to owner and management personnel only. Details, including a list of improvements, shall be included as part of the plans submitted for Building & Safety Division for plan check and installed prior to business operations.
3. Music, noise-generating equipment, or any other business activities shall be operated at reasonable audible levels, not to exceed City Noise Regulations outlined in Chapter 9.68 of the Duarte Municipal Code or be detrimental to the operations of adjoining businesses or surround developments. In no case shall live music be permitted in association with this business or conditional use permit approval. Outdoor speakers or other exterior audible devices are prohibited.
4. Noise generated from the proposed rooftop mechanical equipment shall be screened to mitigate sound as recommended by the author of the noise study on file dated October 19, 2017 and subject to the satisfaction of the City Building Official and the Community Development Director. Said acoustic screening shall be installed prior to business operations.
5. The applicant/business owner shall implement the security measures provided to the Community Development Department and described in the staff report. The security measures shall be reviewed and approved by the Community Development Department and the Public Safety Department prior to the health & fitness facility opening for business. Any changes to the security plan shall require review from the Community Development Department and Public Safety Department prior to implementing. The security measures shall include, but not be limited to, the following:
 - a. The front entrance to the facility shall be monitored by health and fitness employees at all times and access to the facility shall require identification or a security device, such as a key card or membership card.
 - b. The emergency exit on the west side of the building shall remain closed and alarm activated during normal business operations.
 - c. A closed circuit television system consisting of interior and exterior surveillance cameras and a digital video recorder (DVR) for recording surveillance camera footage. Cameras shall be installed on the exterior to provide coverage of the entrances and exits of the fitness facility, including but not limited to the main entrance/exit and the parking lot on the westerly side of the building. All DVR footage

shall remain stored for a minimum of one week and shall be accessible only to the business owner or management. The DVR footage shall also be made available for review upon reasonable request to City law enforcement or any City Code Compliance officer.

6. The storefront windows shall remain clear and free of obstructions or window coverings that may prevent view from the exterior into the gym facility.
7. The exterior lights on the front, side and rear elevations shall be maintained in proper working order and shall be properly functioning prior to the opening of the business, except as described below. The following specific conditions regarding lighting shall apply:
 - a. The wall sconces on the west side of the building shall be removed and replaced with new light fixtures, subject to the approval of the Community Development Department. A photometric plan shall be provided to verify that the new lighting addresses the safety of patrons while also meeting City regulations pertaining to lighting.
 - b. The lighting outside the front entrance of the business shall be upgraded so the brightness and quality of the lighting is consistent with the illumination outside the adjacent Smart and Final store.
8. All health & fitness activities shall be held indoors, and remain indoors at all times. The use of fitness and training equipment outdoors and/or outdoor fitness activities is prohibited.
9. The 24-hour fitness facility shall remain staffed with at least two (2) employees at all times that the business is open.
10. Any signage associated with the business is not included as part of this approval; a separate review and approval process will be required for all proposed signage. All signage shall comply with the Sign Guidelines of the Duarte Development Code.
11. Minors under the age of 16 years old shall not be permitted to use or engage in any fitness related activities at the fitness facility.
12. Any outdoor storage associated with this use is strictly prohibited.
13. The following are not included as part of this CUP approval:
 - a. Childcare services.
 - b. Group exercise classes.
 - c. Massage services requiring human contact.
14. The applicant shall prepare and submit a parking striping plan for all stalls to the west of the building to comply with City parking standards. Said plan shall be approved by the Community Development Department and implemented prior to business operations.

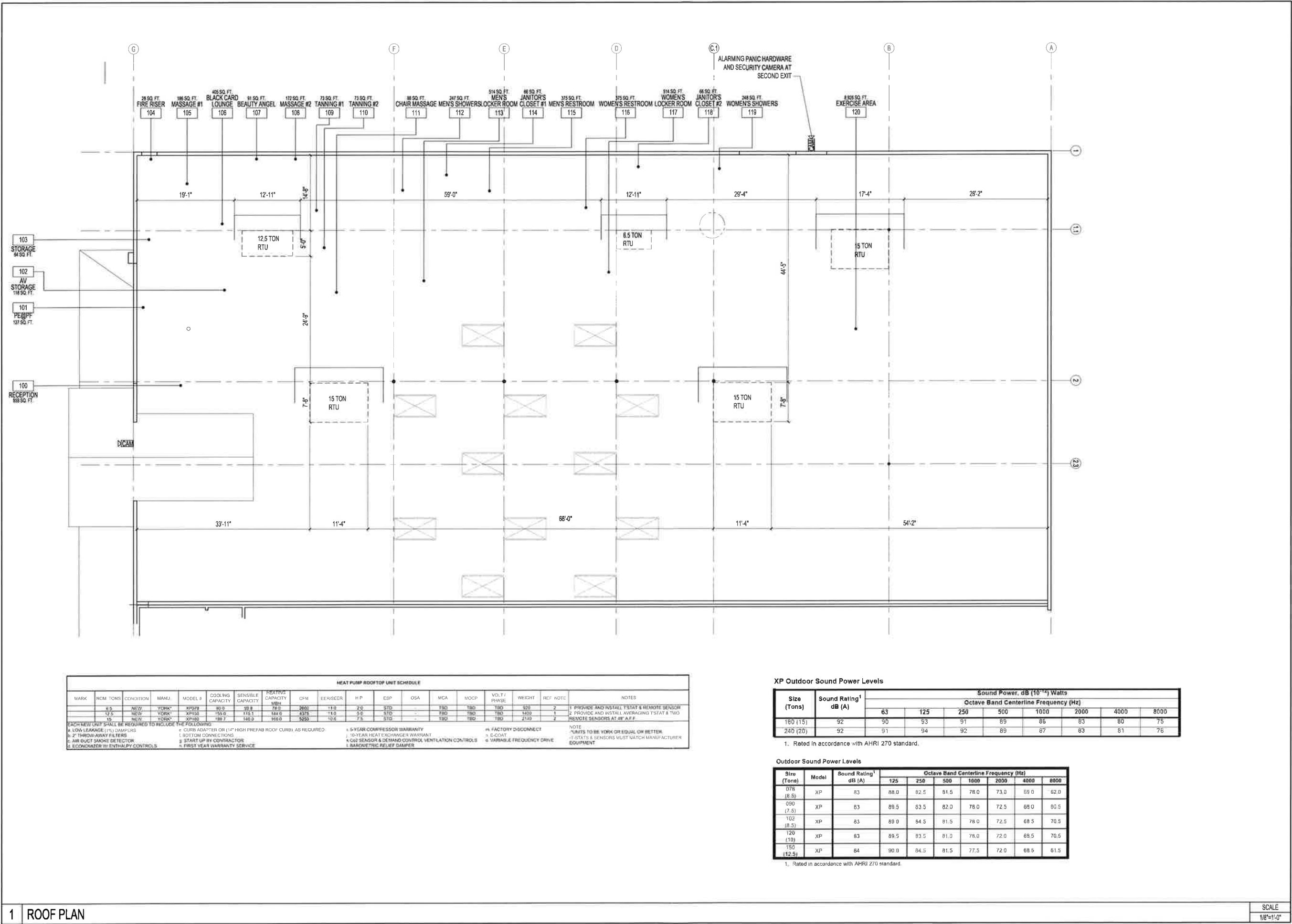
15. A final inspection by the Planning Division shall be conducted prior to occupancy approval or permit final, whichever occurs first.
16. Any expansion or modification to the approved use as part of this conditional use permit, including but not limited to any substantial changes to the floor plan or additional services that may affect or intensify the business operation shall be reviewed by the Planning Division, and may require Planning Commission approval of a new conditional use permit.
17. The project shall comply with all regulations of the Huntington Buena Vista Specific Plan Zone, including the intent and purpose, permitted uses, development standards, and any other applicable sections of both the Duarte Development Code and Duarte Municipal Code.
18. Any required building permits for this project must be issued within one-year from the date of approval from the Planning Commission or the application and approval shall expire.
19. Any required plans and plan check fees shall be submitted to the Community Development Department for Building & Safety plan check prior to construction. Approval from Building & Safety shall be obtained prior to the issuance of permits.
20. Any and all correction notice(s) generated through the plan check and/or inspection process is/are hereby incorporated by reference as conditions of approval and shall be fully complied with by the owner, applicant, and all agents thereof.
21. This entitlement shall be contingent upon the privileges being utilized within 12 months from the effective approval date.
22. The decision of the Planning Commission may be appealed to the City Council within 15 days of the Planning Commission's decision. Said appeal must be in writing and filed with fees paid to the City Clerk's Office. The written appeal shall include reasons for the appeal.
23. This CUP may be called for review or revocation at any time by City Staff, City Council, or Planning Commission if a violation of the approved conditions is alleged, or if it is alleged that the health & fitness facility, or its patrons, are creating a public nuisance, as substantiated by the LA County Sheriff's Department, Public Safety Department, or any other City Department. The applicant and successors shall operate the subject premises in a safe and sanitary manner at all times. Such review of the CUP may include any remedy available to the City that will prevent negative impacts on the property and surrounding developments. Problems or continued/repeated violations of any Municipal Code, conditions of approval or any other governmental regulations may be grounds for initiation of proceedings for the revocation of this CUP before the Planning Commission pursuant to Section 19.152.030 of the Duarte Development Code.
24. That by acceptance of the approval of the project by the City, the applicant shall defend, indemnify and hold harmless the City of Duarte and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers and employees to challenge, set aside, void or annul the approval of the project or from any other action pertaining to this application or the granting of this conditional use permit which may be brought within the time period provided for such actions or challenges under applicable law.

Exhibit B

NOTE 2: REFER TO PARKING STUDY FOR USAGE STATISTICS.



SCALE
1/32"=1'-0"



rgla solutions, inc.
5100 River Road, Ste 125
Schiller Park, IL 60176
p: 847.871.7452
c: 847.871.4200
www.rgla.com

REVISIONS	DATE
CLIP REVIEW	10/12/2017

robert g. lyon + associates, inc.
retail architecture
5100 River Road, Ste 125
Schiller Park, IL 60176
p: 847.871.4200
www.rgla.com

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WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB AND THIS OFFICE MUST BE NOTIFIED OF ANY DISCREPANCIES FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS. DIMENSIONS MUST BE SUBMITTED TO THIS OFFICE FOR APPROVAL. RATINGS: PROJECTS ONLY. AUTHORIZATION:

APPROVED FOR THE PROJECT:
DATE: 10/12/2017

PLANET FITNESS
DUARTE
1193 E. HUNTINGTON DR.
DUARTE, CA 91010

SITE SURVEY
ROOF
PLAN

DESIGNED BY	JC
DRAWN BY	MS
CHECKED BY	JERFALMER
DATE	17080
SHEET NAME	SS-3

REVISIONS	DATE
C.U.P. REVIEW	10/12/2017

robert g. lyon + associates, inc.
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Schiller Park, IL 60176
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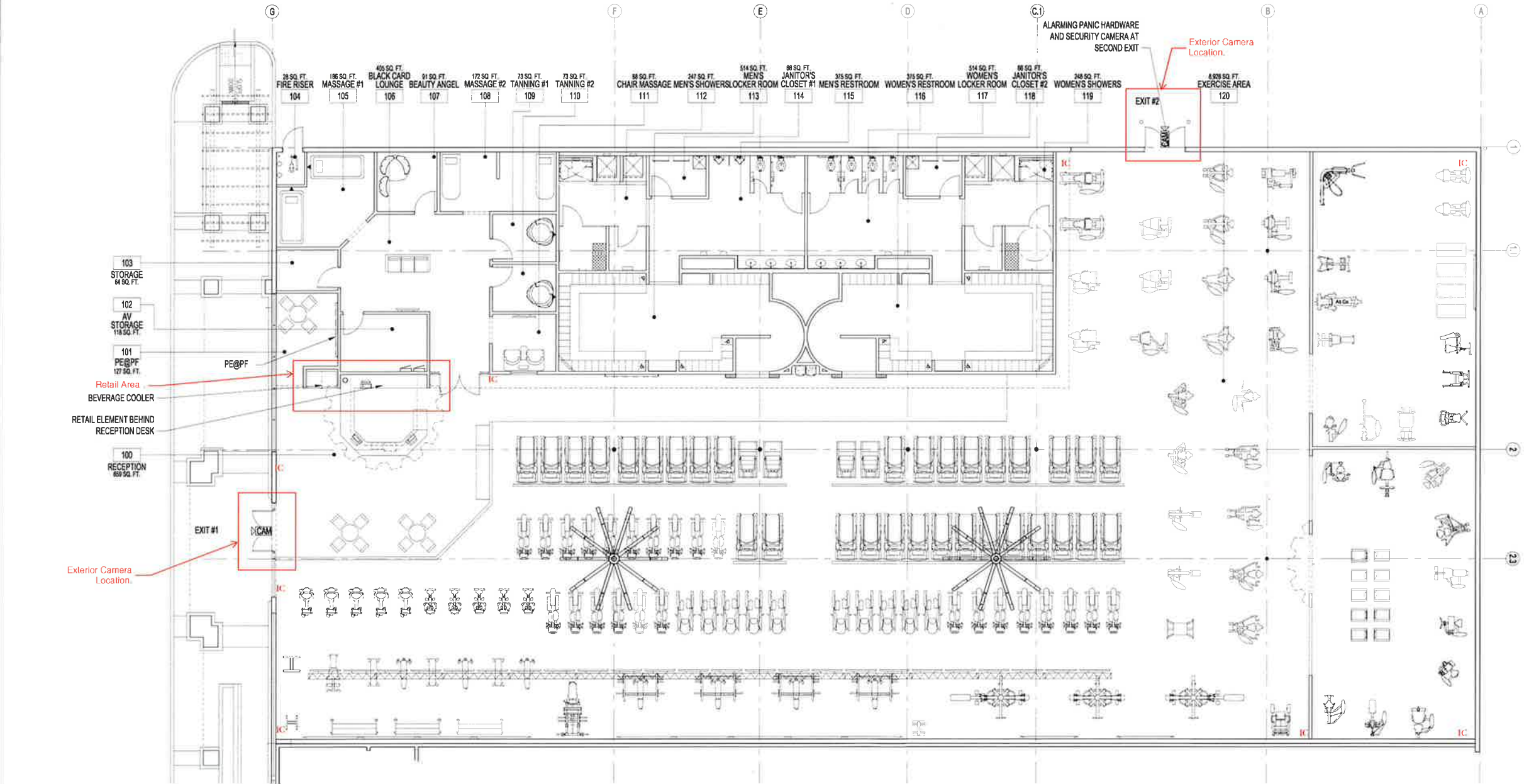


PLANET FITNESS
DUARTE
1193 E. HUNTINGTON DR.
DUARTE, CA 91010

SCHEMATIC
FLOOR PLAN

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JOB NUMBER	17080
SHEET NAME	SCH-4

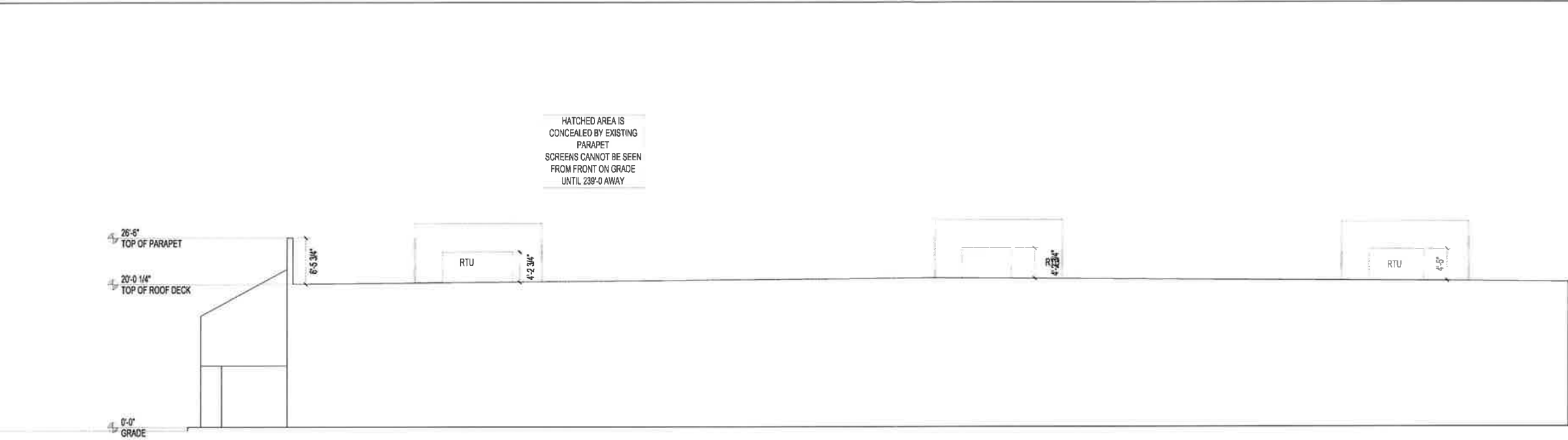
SCALE
1/8"=1'-0"



OCCUPANCY CALCULATION:		
EXERCISE AREA:		
LOCKER ROOM & RESTROOMS:	13,494 SF	270 OCCUPANTS
BUSINESS:	2,296 SF	23 OCCUPANTS
STORAGE:	296 SF	3 OCCUPANTS
TOTAL:		296 OCCUPANTS
2 REQUIRED EXITS		2 PROVIDED

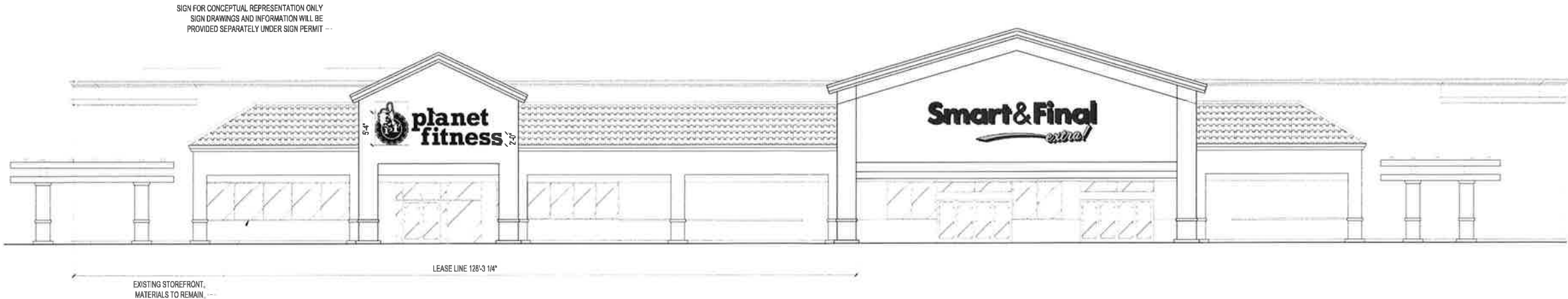
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COMMUNITY DEVELOPMENT



2 SCHEMATIC BUILDING SECTION

SCALE
1/8"=1'-0"



1 EXTERIOR FRONT ELEVATION

SCALE
N.T.S.

RGLA

rgla solutions, inc.

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REVISIONS	DATE
C U P REVIEW	10/1/2017

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PLANET FITNESS
DUARTE
1193 E. HUNTINGTON DR.
DUARTE, CA 91010

EXTERIOR
ELEVATION

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SHEET NAME	EL-1

Exhibit C



October 19, 2017

Jason Cheslak
RGLA Solutions, Inc.
5100 River Road, Suite 125
Schiller Park, IL 60176

RE: Planet Fitness Duarte, CA – Environmental Noise Assessment
Project No. 1750004094

Dear Jason:

As requested, we have reviewed the site plan and the Duarte, California noise ordinance for the proposed Planet Fitness. This letter-report documents our analysis and recommendations.

Introduction

Henderson Engineers' acoustics team has studied from an environmental noise perspective the submitted project site plan and mechanical roof drawings as related to the roof-top units ("RTU's") location. Below are our recommendations to comply with the Duarte, California noise ordinance.

Duarte, CA Noise Ordinance

It is understood that this study was prompted by the need to determine the resultant sound levels on adjacent properties lines, the closest of which is the residential property line to the west. Duarte Code of Ordinances Chapter 9.68 limits sound levels across property lines to:

Receiving Property Category	Sound Level Limit (dBA)	
	7:00 A.M. – 9:00 P.M.	9:00 P.M. – 7:00 A.M.
R-1 and R-2	55	45
R-3 and R-4	55	50
Commercial	60	55
Industrial	70	70

In addition to the overall dBA sound level limits, the noise ordinance also applies the following correction to the noise limits:

Noise Condition	Correction (in dB)
Steady whine, screech or hum	-5

8345 Lenexa Drive, Suite 300
Lenexa, KS 66214

(913) 742-5000

HENDERSONENGINEERS.COM

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HOUSTON DALLAS PHOENIX LAS VEGAS LOS ANGELES

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OCT 24 2017

CITY OF DUARTE
COMMUNITY DEVELOPMENT

Based on our understanding of the noise ordinance, we assume the residences to the west are under the R-3 and R-4 zoning since they appear to be multi-family. Accounting for the above correction, the required sound level limit is 45 dBA at the west property line.

Analysis

The proposed Planet Fitness store has a total of 5 RTU's located on the roof. Below is a table showing the estimated distance of each RTU from the west property line and estimated noise level contribution from each RTU at the property line.

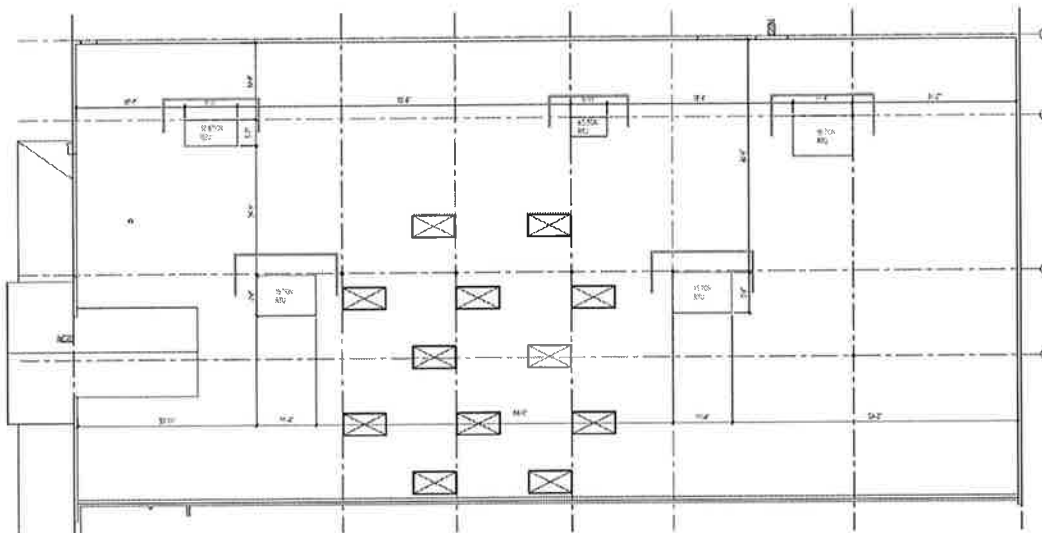
Ton	Sound Power Level (dBA)	Distance to West Property Line (ft)	Resultant Sound Level based on Distance (dBA)
6.5	83	83	45
12.5	83	83	45
15	92	83	53
15	92	113	50
15	92	113	50

Based on images from Google Earth, the residences to the west appear to be two story structures and have a similar elevation to the Planet Fitness store. Since there is minimal elevation change between the two structures, sound loss from elevation change was not considered.

Based on the estimated distance to the property line and the supplied sound power data for the RTU's, the estimated sound level at the west property line with all 5 RTU's operating is 57 dBA, which exceeds the sound level limit stated in the noise ordinance of 45 dBA.

Recommendations

To meet the required noise ordinance sound level limit, we recommend specifying a noise control barrier around each RTU. The noise control barrier should be located on the west side of the RTU and should extend half the distance of the RTU along the north and south face. The barriers should be located approximately 4 feet from the unit and extend above the unit by approximately 4 feet. The recommended barrier should provide a decrease of approximately 12-15 dBA, which will reduce the noise associated with the RTU's to at or below the required sound level listed in the noise ordinance.



Other options were reviewed, such as parapet heights and moving the RTU's, but these options did not provide enough decrease and would still require a noise control barrier.

Noise Control Barriers

Recommended noise control barrier include the following:

1. AIL Silent Protector www.ailsoundwalls.com
2. Sound Fighter Systems, www.soundfighter.com
3. Empire Acoustical Panels, www.empireacoustical.com

Please contact me if you have any questions.

Sincerely,

Henderson Engineers

Kevin Butler

Kevin Butler
Acoustical Consultant



Exhibit D

May 2, 2018

Mr. Lawrence Luckwaldt
Managing Member
MLM Group El Monte LLC
3110 Main St. Building C
Santa Monica, CA 90405

**Re: Revised Shared Parking Study
Buena Vista Marketplace**

Dear Mr. Luckwaldt:

This letter report summarizes the results of a shared parking study conducted by DESMAN for the Buena Vista Marketplace in Duarte, CA with the addition of 15,862 square foot fitness center. Buena Vista Marketplace has 91,846 square feet of space and a total parking supply of 381 spaces. **Table 1** below indicates the base parking requirement for Buena Vista Marketplace for a fully leased shopping center of 367 spaces. The Habit Burger restaurant, which has moved to the vacated Starbucks space in the shopping center, is included in the fast food category. The small amount of additional space that is currently vacant (3,946 square feet) is included in the shopping center category.

Table 1.
Base Parking Requirement

Land Use	Square Feet	Parking Requirement	Parking Required
Shopping Center	65,221	1.0 space per 250 SF	261
Fitness Center	15,862	1.0 space per 250 SF	63
Fast Food	10,763	1.0 space per 250 SF	43
TOTAL:	91,846		367

The Shared Parking Process

The parking requirements indicated in the table above are for single, stand-alone land uses that account for the maximum level of parking demand that is likely to occur. Parking demand for a mixed-use development can be significantly overstated if parking is provided for each land use in accordance with base parking ratios. This occurs for three primary reasons:

1. The density of the development and the patronization of two or more land uses close to each other in a single trip.
2. The use of public transportation and other modes of transportation (carpooling, walking, bicycling, etc.) reduce the reliance on the use of the automobile, particularly among commuting employees.

3. Variations in peak parking accumulation by time of day, day of week, and month of the year for the different land uses.

The Shared Parking Analysis process, developed by the Urban Land Institute (ULI) in the early 1980's, is today widely accepted among local jurisdictions to more accurately balance the parking supply with parking demand in developments with a mix of land uses. Captive Market refers to a reduction in parking due to the proximity of land uses that allow individuals to walk between destinations in a single trip. ULI's *Shared Parking* documents the peak accumulation of vehicles for shopping center, fitness center and fast food restaurant. Variations in parking accumulation are provided for time of day, day of week (weekdays versus weekends), and month of the year. The time-share approach to shared parking can result in significant reductions in parking even in suburban locations. The main goal of a shared parking study is to provide sufficient parking to support the development while minimizing the area and resources dedicated to parking.

Captive Market and Modal Split Adjustments

Table 2 separates the parking for the individual land uses (367 spaces) into customer (304 spaces) and employee (63 spaces) components based on parking demand ratios presented in *Shared Parking*, except for the fitness center demand which has been slightly modified to reflect more employee demand. The non-captive ratio presented in the table for fast food customers of 0.75 is conservative, as the default value presented in *Shared Parking* for fast food customers is 0.50 during the day and in the evening.

Table 2.
Revised Parking Demand with Captive Market and Modal Split Adjustments

Land Use	Revised				Revised				Total Revised
	Customer Parking	Non-Captive Adjustment	Modal Split	Customer Parking	Employee Parking	Non-Captive Adjustment	Modal Split	Employee Parking	
Shopping Center	210	1.00	1.00	210	51	1.00	0.85	43	253
Fitness Center	57	1.00	1.00	57	6	1.00	0.85	5	62
Fast Food	37	0.75	1.00	28	6	1.00	0.85	5	33
TOTAL:	304			295	63			53	348

The modal split adjustment of 0.85 for employees is based on the following information for the City of Duarte in the 2015 US Census:

<u>Mode of Transportation</u>	<u>Number</u>	<u>Percent</u>
Drove alone	7,318	79%
Carpooled	1,092	12%
Public Transportation	427	5%
Walked	257	3%
Other means	126	1%

The 15% reduction (modal split of 0.85) anticipates two persons per vehicle for carpoolers and a 6% reduction in the number of vehicles, a 5% reduction for using public transportation, a 3% reduction for walking, and a 1% reduction for other means of transportation. As seen in the table on the previous page, there is estimated demand for 295 customer spaces and 53 employee spaces with captive market and modal split adjustments. These adjustments reduce the overall parking demand by about 5%.

Hourly and Daily Variations in Parking Demand

Table 3 indicates hourly variations in parking accumulation as a percent of the peak (100%) accumulation for the subject land uses at Buena Vista Marketplace. The percentages in the table are taken from *Shared Parking* and are based on data collected from hundreds of mixed-use developments throughout the country. The 12:00 AM fitness center customer percentage has been increased to reflect a 24/7 operation. The late evening fitness center employee percentages have also been increased to account for two employees working the overnight shift. It should be noted that shared parking models have been run for both weekdays and weekends, and the remainder of the analysis focuses on weekdays as they have higher peak parking demand than weekends.

Table 3.
Hourly Variations in Parking Demand

Hour	Shopping Center		Fitness Center		Fast Food	
	Customer	Employee	Customer	Employee	Customer	Employee
6:00 AM	1%	10%	70%	75%	5%	15%
7:00 AM	5%	15%	40%	75%	10%	20%
8:00 AM	15%	40%	40%	75%	20%	30%
9:00 AM	35%	75%	70%	75%	30%	40%
10:00 AM	65%	85%	70%	75%	55%	75%
11:00 AM	85%	95%	80%	75%	85%	100%
12:00 PM	95%	100%	60%	75%	100%	100%
1:00 PM	100%	100%	70%	75%	100%	100%
2:00 PM	95%	100%	70%	75%	90%	95%
3:00 PM	90%	100%	70%	75%	60%	70%
4:00 PM	90%	100%	80%	75%	55%	60%
5:00 PM	95%	95%	90%	100%	60%	70%
6:00 PM	95%	95%	100%	100%	85%	90%
7:00 PM	95%	95%	90%	75%	80%	90%
8:00 PM	80%	90%	80%	50%	50%	60%
9:00 PM	50%	75%	70%	30%	30%	40%
10:00 PM	30%	40%	35%	30%	20%	30%
11:00 PM	10%	15%	10%	30%	10%	20%
12:00 AM	0%	0%	10%	30%	5%	20%

Table 4 presents the hourly distribution of parked vehicles based on the adjusted parking demand presented in Table 2 and the percentages presented in Table 3. The peak hour for parking occurs at 6:00 PM when there is the estimated demand for 332 parking spaces.

Table 4.
Parking Demand by User Group and Hour

Hour	Shopping Center		Fitness Center		Fast Food		Total
	Customer	Employee	Customer	Employee	Customer	Employee	
6:00 AM	2	4	40	4	1	1	52
7:00 AM	11	6	23	4	3	1	48
8:00 AM	32	17	23	4	6	2	84
9:00 AM	74	32	40	4	8	2	160
10:00 AM	137	37	40	4	15	4	237
11:00 AM	179	41	46	4	24	5	299
12:00 PM	200	43	34	4	28	5	314
1:00 PM	210	43	40	4	28	5	330
2:00 PM	200	43	40	4	25	5	317
3:00 PM	189	43	40	4	17	4	297
4:00 PM	189	43	46	4	15	3	300
5:00 PM	200	41	51	5	17	4	318
6:00 PM	200	41	57	5	24	5	332
7:00 PM	200	41	51	4	22	5	323
8:00 PM	168	39	46	3	14	3	273
9:00 PM	105	32	40	2	8	2	189
10:00 PM	63	17	20	2	6	2	110
11:00 PM	21	6	6	2	3	1	39
12:00 AM	0	0	6	2	1	1	10

Peak Hour

Monthly Variations in Parking Demand

Table 5 illustrates monthly variations in parking demand as percentage of the peak month for the subject land uses. The percentages in the table are taken from *Shared Parking*. Except for health club customer parking demand, which is 90% in December, the other land uses exhibit peak demand for both customer and employee parking in the peak month of December.

Table 5.
Monthly Variations in Parking Demand

Month	Shopping Center		Fitness Center		Fast Food	
	Customer	Employee	Customer	Employee	Customer	Employee
January	56%	80%	100%	100%	85%	95%
February	57%	80%	95%	100%	86%	95%
March	64%	80%	85%	95%	95%	100%
April	63%	80%	70%	80%	92%	100%
May	66%	80%	65%	75%	96%	100%
June	67%	80%	65%	75%	95%	100%
July	64%	80%	65%	75%	98%	100%
August	69%	80%	70%	80%	99%	100%
September	64%	80%	80%	90%	91%	100%
October	66%	80%	85%	95%	96%	100%
November	72%	90%	85%	95%	93%	100%
December	100%	100%	90%	100%	100%	100%

As presented in **Table 6**, in the peak month of December there is the estimated maximum demand for 326 parking spaces. The 326 parking spaces represent approximately a 11% reduction in parking from the 367 spaces presented in Table 1. The estimated parking demand in December is much higher than the other months of the year, which range from a low of 230 spaces in April to a high of 261 spaces in November. Because Buena Vista Marketplace is a neighborhood shopping center versus a regional mall, it is doubtful that there would be this large of an increase in December as compared to the other months of the year.

Table 6.
Peak-Hour Parking Demand by Month - Weekdays

Month	Shopping Center		Fitness Center		Fast Food		Total
	Customer	Employee	Customer	Employee	Customer	Employee	
January	112	33	57	5	20	5	232
February	114	33	54	5	21	5	232
March	128	33	48	5	23	5	242
April	126	33	40	4	22	5	230
May	132	33	37	4	23	5	234
June	134	33	37	4	23	5	236
July	128	33	37	4	24	5	231
August	138	33	40	4	24	5	244
September	128	33	46	5	22	5	239
October	132	33	48	5	23	5	246
November	144	37	48	5	22	5	261
December	200	41	51	5	24	5	326

Peak Month

Summary

Base Parking Demand	367
Shared Parking Calculation	326
Reduction in Parking	-41
Percent Reduction	-11%

It should be noted that Planet Fitness will not be using non-employees for any of its typical operations. It is also understood there are sixteen 7'-6" wide compact parking spaces located west of the proposed fitness center. If these spaces are restriped at 8'-0" to meet code requirements for compact spaces, there will be a net loss of one space and a revised overall parking supply of 380 spaces at the shopping center. This is reflected in the following table.

Table 7 indicates peak-month (December) parking conditions on a weekday by hour from 6:00 AM to 12:00 AM. If Buena Vista Marketplace is 100% leased, it is estimated that the current parking supply of 380 spaces will exceed peak-hour parking demand for 326 spaces by 54 spaces, or by about 16.5%.

Table 7.
Peak-Month (December) Parking Conditions by Hour

Hour	Shopping Center		Fitness Center		Fast Food		Total	Parking	Parking
	Customer	Employee	Customer	Employee	Customer	Employee	Demand	Supply	Surplus
6:00 AM	2	4	36	4	1	1	48	380	332
7:00 AM	11	6	21	4	3	1	46	380	334
8:00 AM	32	17	21	4	6	2	82	380	298
9:00 AM	74	32	36	4	8	2	156	380	224
10:00 AM	137	37	36	4	15	4	233	380	147
11:00 AM	179	41	41	4	24	5	294	380	86
12:00 PM	200	43	31	4	28	5	311	380	69
1:00 PM	210	43	36	4	28	5	326	380	54
2:00 PM	200	43	36	4	25	5	313	380	67
3:00 PM	189	43	36	4	17	4	293	380	87
4:00 PM	189	43	41	4	15	3	295	380	85
5:00 PM	200	41	46	5	17	4	313	380	67
6:00 PM	200	41	51	5	24	5	326	380	54
7:00 PM	200	41	46	4	22	5	318	380	62
8:00 PM	168	39	41	3	14	3	268	380	112
9:00 PM	105	32	36	2	8	2	185	380	195
10:00 PM	63	17	18	2	6	2	108	380	272
11:00 PM	21	6	5	2	3	1	38	380	342
12:00 AM	0	0	5	2	1	1	9	380	371

Peak Hour

Parking Occupancy Surveys

The City of Duarte requested that the number of parked vehicles in the shopping center parking lot be counted on an hourly basis from 11:00 AM to 8:00 PM on a weekday and a Saturday and to include the results in this

study. The results of the April 25, 2018 (Wednesday) and April 28, 2016 (Saturday) parking occupancy surveys are presented below in **Table 8**.

Table 8.
Parking Occupancy Counts

Hour	Vehicles Parked Wed. 4/25	Vehicles Parked Sat. 4/28
11:00 AM	92	184
12:00 PM	125	216
1:00 PM	168	201
2:00 PM	146	187
3:00 PM	129	196
4:00 PM	140	159
5:00 PM	135	118
6:00 PM	169	130
7:00 PM	148	96
8:00 PM	109	98

Peak Hour

The peak hour on Wednesday was 6:00 PM when there were 169 vehicles parked in 380 spaces, which represents an occupancy level of 44%. The number of vehicles parked at the peak hour presented in the table above of 169 is about 9% less than the estimated number of peak-hour (6:00 PM) vehicles presented in Table 6 for the month of April without the fitness center of 186 ($230 - 44 = 186$). The shared parking model without the fitness center exceeds the actual demand by 17 spaces.

The peak hour on Saturday was 12:00 PM when there were 216 vehicles parked in 380 spaces, which represents an occupancy level of 57%. The parking was busier during the day on Saturday and busier in the evening on Wednesday.

Conclusion

The revised parking supply of 380 spaces at Buena Vista Marketplace is expected to represent sufficient parking with the addition of the fitness center based on the results of this shared parking study. As requested by the City of Duarte, the shared parking study is stamped by a professional engineer registered in California on the following page.

DESMAN appreciates the opportunity to assist you on this project, and please do not hesitate to contact us if you have questions regarding the contents in this letter report.

Respectfully Submitted,



Scot D. Martin
Senior Planner



RESOLUTION NO. PC 18-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE APPROVING CONDITIONAL USE PERMIT 17-02 FOR THE OPERATION OF A TWENTY- FOUR-HOUR HEALTH & FITNESS FACILITY (KNOWN AS PLANET FITNESS) AT 1193A HUNTINGTON DRIVE

WHEREAS, the applicant is requesting approval of a conditional use permit to operate a twenty-four-hour health & fitness facility at 1193A Huntington Drive; and

WHEREAS, a health & fitness facility that is 2,001 square feet or greater located in the Huntington Buena Vista Specific Plan zone is a conditionally permitted use pursuant to that zone; and

WHEREAS, a commercial land use open to the public twenty-four hours and located within 300 hundred feet of a legal residential use is a conditionally permitted use pursuant to the Huntington Buena Vista Specific Plan; and

WHEREAS, the Planning Commission has considered the analysis and recommendation provided in the staff report for Conditional Use Permit application 17-02 and all the information, evidence and public testimony received at the public meeting held on July 16, 2018 at 7:00 p.m. in the City Council Chambers;

NOW THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. That the Planning Commission approves PC Resolution 18-16 with conditions, the request for Conditional Use Permit 17-02 at 1193A Huntington Drive.

SECTION 2. All the facts set forth in the Recitals of this Resolution are true and correct and incorporated herein by this reference.

SECTION 3. The Planning Commission finds and determines as follows, findings for Conditional Use Permits, as set forth in DDC Section 19.114.040(B), as:

1. The proposed use is consistent with the General Plan;

The twenty-four health & fitness facility is consistent with Land Use Goal 1 of the General Plan by maintaining a balanced community consisting of various commercial activities. The use is also consistent with the Commercial land use designation by providing neighborhood retail and service uses serving the daily needs of nearby residential areas.

2. The proposed use is allowed within the subject zone and complies with all other applicable provisions of this Development Code and the Municipal Code;

The twenty-four-hour health & fitness facility (2,001 square feet or greater) is permitted with a Conditional Use Permit within the Huntington/Buena Vista Specific Plan zone. The use is consistent with the specific plan zoning designation as it provides and added service and convenience for the community. The use follows all regulations of the Duarte Development Code and Municipal Code, and conditions of approval have been included to ensure such compliance.

3. The design, location, size and operating characteristics of the proposed use are

compatible with the allowed uses in the vicinity;

The twenty-four-hour health & fitness facility will occupy one of 29 tenant spaces within an existing commercial shopping center building. The facility's space is 15,862 square feet, which is sufficient for accommodating the use. The health facility is compatible with the project site and other uses in the vicinity. All of activities of the gym will occur indoors. To support the fitness activities that will take place inside the building, five new HVAC units will be installed on the roof. These units would generate more noise than the maximum allowed by the Municipal Code if they were to be installed without mitigation measures. To address this issue, sound barriers will be installed around each unit, which will reduce the sound emanating from the units to an acceptable level. With the installation of these sound reduction measures, sound generated from the indoors and outdoors for this use will be no greater than the other uses in the shopping center. Overall, the operation of the facility complements the existing shopping center by providing an added service to the community.

4. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

The twenty-four-hour health & fitness facility is allowed with a conditional use permit in the Huntington/Buena Vista Specific Plan zone. The location of the fitness facility is suitable and typical in the shopping center as it provides and an added convenience. Furthermore, the imposed conditions of approval are designed to help prevent any adverse and detrimental impacts on the City and surrounding community.

5. The subject site is:
 - a. Physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities; and
 - b. Served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

The site is developed with three commercial-retail buildings with a total of 91,616 square-feet of leasable area. The property is in the Huntington/Buena Vista Specific Plan zone located generally at the northwest corner of Huntington Drive and Buena Vista Avenue, and is accessible from multiple drive aisle approaches along Huntington Drive and Buena Vista Avenue. Onsite circulation will not be altered and is suitable for the existing uses, the health & fitness facility, and emergency vehicle access. The three buildings are divided into 29 tenant spaces. The proposed health & fitness facility will occupy one of the tenant spaces, which is 15,862 square feet.

SECTION 4. The Planning Commission approves Conditional Use Permit 17-02 based on the findings listed in Section 3 and Section 4 and the conditions listed in "Exhibit A-1".

SECTION 5. The approval of Conditional Use Permit 17-02 by the Planning Commission is exempt from the California Environmental Quality Act (CEQA) pursuant to exemption in Section 15303, Class 3 and Section 15332, Class 32 of Title 14 of the California Code of Regulations. Therefore, no further environmental review is necessary.

APPROVED, AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 16th day of July 2018.

Sara Vasquez, Chairperson
City of Duarte Planning Commission

ATTEST:

Craig Hensley, Community Development Director

CITY OF DUARTE
COUNTY OF LOS ANGELES } ss.
STATE OF CALIFORNIA

I, Craig Hensley, Secretary of the Planning Commission of the City of Duarte, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Duarte held on July 16, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Craig Hensley, Community Development Director

EXHIBIT A-1
Conditions of Approval
Conditional Use Permit 17-02
1193A Huntington Drive

1. This approval is for the establishment of a 24-hour health & fitness facility at 1193A Huntington Drive as stated in the staff report and described in the applicant's business proposal statement, on file with the Planning Division.
2. Sound reduction measures shall be incorporated into the fitness facility tenant improvement. Such measures shall include, but not be limited to, installation of rubber floors in the weight training areas and use of rubberized weights only, and restricting access to the stereo system volume to owner and management personnel only. Details, including a list of improvements, shall be included as part of the plans submitted for Building & Safety Division for plan check and installed prior to business operations.
3. Music, noise-generating equipment, or any other business activities shall be operated at reasonable audible levels, not to exceed City Noise Regulations outlined in Chapter 9.68 of the Duarte Municipal Code or be detrimental to the operations of adjoining businesses or surround developments. In no case shall live music be permitted in association with this business or conditional use permit approval. Outdoor speakers or other exterior audible devices are prohibited.
4. Noise generated from the proposed rooftop mechanical equipment shall be screened to mitigate sound as recommended by the author of the noise study on file dated October 19, 2017 and subject to the satisfaction of the City Building Official and the Community Development Director. Said acoustic screening shall be installed prior to business operations.
5. The applicant/business owner shall implement the security measures provided to the Community Development Department and described in the staff report. The security measures shall be reviewed and approved by the Community Development Department and the Public Safety Department prior to the health & fitness facility opening for business. Any changes to the security plan shall require review from the Community Development Department and Public Safety Department prior to implementing. The security measures shall include, but not be limited to, the following:
 - a. The front entrance to the facility shall be monitored by health and fitness employees at all times and access to the facility shall require identification or a security device, such as a key card or membership card.
 - b. The emergency exit on the west side of the building shall remain closed and alarm activated during normal business operations.
 - c. A closed circuit television system consisting of interior and exterior surveillance cameras and a digital video recorder (DVR) for recording surveillance camera footage. Cameras shall be installed on the exterior to provide coverage of the entrances and exits of the fitness facility, including but not limited to the main entrance/exit and the parking lot on the westerly side of the building. All DVR footage

shall remain stored for a minimum of one week and shall be accessible only to the business owner or management. The DVR footage shall also be made available for review upon reasonable request to City law enforcement or any City Code Compliance officer.

6. The storefront windows shall remain clear and free of obstructions or window coverings that may prevent view from the exterior into the gym facility.
7. The exterior lights on the front, side and rear elevations shall be maintained in proper working order and shall be properly functioning prior to the opening of the business, except as described below. The following specific conditions regarding lighting shall apply:
 - a. The wall sconces on the west side of the building shall be removed and replaced with new light fixtures, subject to the approval of the Community Development Department. A photometric plan shall be provided to verify that the new lighting addresses the safety of patrons while also meeting City regulations pertaining to lighting.
 - b. The lighting outside the front entrance of the business shall be upgraded so the brightness and quality of the lighting is consistent with the illumination outside the adjacent Smart and Final store.
8. All health & fitness activities shall be held indoors, and remain indoors at all times. The use of fitness and training equipment outdoors and/or outdoor fitness activities is prohibited.
9. The 24-hour fitness facility shall remain staffed with at least two (2) employees at all times that the business is open.
10. Any signage associated with the business is not included as part of this approval; a separate review and approval process will be required for all proposed signage. All signage shall comply with the Sign Guidelines of the Duarte Development Code.
11. Minors under the age of 16 years old shall not be permitted to use or engage in any fitness related activities at the fitness facility.
12. Any outdoor storage associated with this use is strictly prohibited.
13. The following are not included as part of this CUP approval:
 - a. Childcare services.
 - b. Group exercise classes.
 - c. Massage services requiring human contact.
14. The applicant shall prepare and submit a parking striping plan for all stalls to the west of the building to comply with City parking standards. Said plan shall be approved by the Community Development Department and implemented prior to business operations.

15. A final inspection by the Planning Division shall be conducted prior to occupancy approval or permit final, whichever occurs first.
16. Any expansion or modification to the approved use as part of this conditional use permit, including but not limited to any substantial changes to the floor plan or additional services that may affect or intensify the business operation shall be reviewed by the Planning Division, and may require Planning Commission approval of a new conditional use permit.
17. The project shall comply with all regulations of the Huntington Buena Vista Specific Plan Zone, including the intent and purpose, permitted uses, development standards, and any other applicable sections of both the Duarte Development Code and Duarte Municipal Code.
18. Any required building permits for this project must be issued within one-year from the date of approval from the Planning Commission or the application and approval shall expire.
19. Any required plans and plan check fees shall be submitted to the Community Development Department for Building & Safety plan check prior to construction. Approval from Building & Safety shall be obtained prior to the issuance of permits.
20. Any and all correction notice(s) generated through the plan check and/or inspection process is/are hereby incorporated by reference as conditions of approval and shall be fully complied with by the owner, applicant, and all agents thereof.
21. This entitlement shall be contingent upon the privileges being utilized within 12 months from the effective approval date.
22. The decision of the Planning Commission may be appealed to the City Council within 15 days of the Planning Commission's decision. Said appeal must be in writing and filed with fees paid to the City Clerk's Office. The written appeal shall include reasons for the appeal.
23. This CUP may be called for review or revocation at any time by City Staff, City Council, or Planning Commission if a violation of the approved conditions is alleged, or if it is alleged that the health & fitness facility, or its patrons, are creating a public nuisance, as substantiated by the LA County Sheriff's Department, Public Safety Department, or any other City Department. The applicant and successors shall operate the subject premises in a safe and sanitary manner at all times. Such review of the CUP may include any remedy available to the City that will prevent negative impacts on the property and surrounding developments. Problems or continued/repeated violations of any Municipal Code, conditions of approval or any other governmental regulations may be grounds for initiation of proceedings for the revocation of this CUP before the Planning Commission pursuant to Section 19.152.030 of the Duarte Development Code.
24. That by acceptance of the approval of the project by the City, the applicant shall defend, indemnify and hold harmless the City of Duarte and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers and employees to challenge, set aside, void or annul the approval of the project or from any other action pertaining to this application or the granting of this conditional use permit which may be brought within the time period provided for such actions or challenges under applicable law.



MEMORANDUM

TO: DUARTE PLANNING COMMISSION

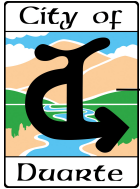
FROM: JASON GOLDING, PLANNING DIVISION MANAGER

DATE: JULY 16, 2018

SUBJECT: PRESENTATION AND REQUEST FOR INPUT ON PROPOSED TREE PRESERVATION AND PROTECTION ORDINANCE

Staff will be providing the Planning Commission with a presentation on a proposed ordinance addressing the preservation and protection of trees on private property. Attached for review are draft versions of the: staff report, ordinance adding Chapter 13.12 ("Tree Preservation and Protection") to the Duarte Municipal Code, and two other exhibits containing photographs of trees and a survey of local cities.

Input provided by Commissioners will be used to modify the staff report and associated ordinance before it is presented to the City Council for consideration. Once these documents are revised, Staff will prepare a public notice for a City Council hearing in the next several months.



City Council STAFF REPORT

Date: July 16, 2018

To: Mayor and City Council

Location: City-wide

Project: **MUNICIPAL CODE AMENDMENT #18-2**
Tree Preservation and Protection Ordinance

SUMMARY

The draft ordinance focuses on updating the City's existing provisions found in Title 13, Trees and Vegetation, of the Duarte Municipal Code (Exhibit A) by adding Chapter 13.12, "Tree Preservation and Protection". The provisions of Municipal Code Amendment 18-2 aim to protect existing and significantly sized oak trees, a variety of other native trees, and specimen trees on private properties and development sites. Furthermore, the ordinance establishes a permit process for removal and associated replacement tree requirements, and also includes definitions, exemptions, and related penalties.

Staff is recommending City Council approval of Municipal Code Amendment 18-2 (Proposed Ordinance 18-O-__) in order to create regulations and procedures for the preservation and protection of native and large specimen trees on private property.

BACKGROUND

The Duarte Municipal Code includes Chapter 13.04 dedicated to trees and vegetation on public property as well as street trees. Since the adoption of Chapter 13.04 in 1963, the City has protected all trees and shrubs within any street, park, parkway or public place. However, this Chapter is silent on the protection of trees on private property.

Even without tree preservation laws, the City encourages the protection of native and specimen trees on private property in several different ways. First, Community Development Staff works with applicants when tree preservation issues are associated with a development project. This includes adjusting site planning, preserving trees that are significant to the overall project or not in conflict with proposed development plans, relocating trees, and requiring tree replacement through a design review process. This form of tree preservation is generally negotiated, informal in nature, and is not backed by regulatory authority. A good example of this form of tree preservation can be seen in the Susan Brook/Westvale residential development, built in the late 1990's. Boxing and relocation of several on-site oak trees and the replacement planting of other trees (many oaks), was required as part of the approval of the 15-unit subdivision. Second, questions regarding the pruning or preservation of Oak trees are forwarded to the Planning Division, where we have promoted the Los Angeles County Oak Tree Ordinance, although we have ever officially adopted the County's regulations. Currently, the preservation and protection of trees on private property is handled through a design review and negotiation process for new developments. However, there are no regulations in place that require property owners (without a proposed development) to obtain City approval for the pruning or removal of trees. Recently, oak trees were cut down on a vacant residential parcel in the Duarte Mesa area. The Ordinance being considered would address

unauthorized removal, create a process for the elimination of trees, provide a replacement ratio for removed trees, and authorize penalties for unapproved tree removals.

ENVIRONMENTAL

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to exemption in Section 15306, 15307, 15308, and 15321 of the California Code of Regulations. Therefore, no further environmental review is necessary in accordance with CEQA Guidelines and a Notice of Exemption will be prepared for this project.

ANALYSIS

The City has a variety of both larger native and specimen trees that add to the fabric of our community, offer abundant shade, and provide an attractive focal element to many private properties. Due to many factors, including: ongoing drought issues, the size and maturity of trees, and potential development opportunities; the City is experiencing an increase in tree losses and removals. Unfortunately, there are no current regulations or processes available to consider the pruning, alteration or removal of a tree on private property, nor are there penalties for the unauthorized removal of trees that may be significant or beneficial to a property or the surrounding neighborhood. Establishing regulations and a permit/review process will help the City preserve much of the oak, native, and larger specimen trees that are left in our community. Ultimately, the intent of the proposed Tree Preservation and Protection Ordinance is to develop a set of reasonable regulations that address tree pruning, alteration or removal for the most significant private property trees within the City, create a process to consider trees proposed for removal, provide a tree replacement program that helps mitigate trees approved for removal, and to establish enforceable regulations that would discourage violators, but allow the average property owner to alter or remove non-applicable tree species and types without obtaining City approvals or permits.

Survey and Research

Staff researched and surveyed a variety of local cities who have implemented a tree preservation ordinance, including: Claremont, Thousand Oaks, La Verne, San Dimas, Monrovia, Bradbury, Alhambra, and Los Angeles County (Exhibit A). A primary factor for surveying other cities was to understand the level of regulation and procedures used by other jurisdictions, and then create an ordinance that is customized for Duarte to protect larger and more mature native and specimen trees. There were a few differences within the surveyed ordinances, including: variety of protected tree species (or only Oak trees); measurement thresholds for preservation ranging anywhere between 2" to 36" in diameter; replacement ratios or program; and level of review. Most ordinances included similarities such as: definitions, formal permit/review process, replacement ratios, exceptions, appeals, and penalties for violation.

A comprehensive field assessment was conducted within our City to determine the types of trees that could be protected by the Ordinance. It was determined that we have a substantial number of oak, native, and specimen trees that should be considered for preservation. In most cases, these trees exist on developed properties; however, there are some undeveloped properties where these regulations would be helpful in preserving significant trees or providing a reasonable number of replacement trees. Exhibit B includes a photo collage of both tree types and sizes that are being proposed for conservation.

Applicability

The Tree Preservation and Protection Ordinance is proposed to apply to the removal, alteration, and maintenance of larger oak, native, and specimen trees on all private properties within residential, commercial, manufacturing, hospital, open space and specific plan zones. For the purposes of the Ordinance, oak trees are listed under the definition of “native” trees. Normal maintenance that meets Industry standards and clearance for public safety or utility purposes are exempt.

Undeveloped, single-family residential (R-1) zoned properties will have more restrictive requirements, while developed properties in that zone will have regulations only for larger trees within yards that face a street. In all other zones, regulations will apply to all trees on both developed and undeveloped properties.

Trees to be included in the ordinance are:

Oak Trees	Native Trees	Specimen Trees
12” in diameter or greater measured by DBH – oaks indigenous to Southern California, including but not limited to: Coast Live, Engelmann, Canyon, Black, Interior Live, and Valley Oak.	12” in diameter or greater as measured by DBH – trees endemic to Southern California, including but not limited to: Southern California Black Walnut, California Sycamore, California Bay Laurel, and Toyon	24” in diameter or greater as measured by DBH - larger and/or older ornamental trees that make a significant aesthetic or environmental contribution to their immediate surroundings. Fruit trees are not included.
Diameter at Breast Height (DBH) - The measurement of tree diameter measured at 4.5 ft. above ground level.		

Oak and native trees grow slower than most ornamental and non-native trees. For this reason, Staff has established the applicability threshold for native trees at 12” DBH or greater.

Review and Permitting Process

Prior to the proposed removal or alteration of a qualified native or specimen tree, an applicant would apply for a “tree permit” from the Community Development Department. The application would ask for basic information, including a written explanation as to why the tree’s removal is necessary, the location of all trees on site (and those to be removed) identified on a plan or map, photos, and any applicable fee. At this time, there is no fee associated with this type of permit, but the City Council could elect to establish a fee for this review in the future. Based upon the tree removal request, the applicant may also be required to submit a certified Arborist’s tree report that includes information regarding the genus/species, age, size (canopy, caliper, trunk, and height), relative health, and any preservation proposals for all protected trees on the site.

For most tree permits, the review process will be performed at a staff level, with final approval by the Community Development Director or their designee. Architectural Review Board, Planning Commission or City Council review is not required unless the tree removal application is part of a discretionary process including one or more other permits that would require a public hearing before

the Commission or Council. Most subdivision actions that would allow significant development of a property require Planning Commission or City Council approval.

In our analysis, the level of review is consistent with other cities in which the decision is left primarily at a Staff level. The recommended review process is similar in comparison to the cities surveyed as they all have a formal application to submit along with detailed information necessary to determine the approval or denial of a protected tree removal or alteration.

Required Replacement Trees

Overall, the cities surveyed implemented a replacement ratio for all tree removals. While some cities left the replacement ratio decision to the discretion of the reviewer, other cities enforced ratios between 1:1 to 1:4. The City of Bradbury for example, requires tree restoration by replanting a tree of equal size, significance, and prominence for any illegal removals. Other cities, like Alhambra, do not require replacement for the removal of a diseased or hazardous protected tree. However, a removed oak would require a 2:1 oak replacement, and any mature tree would require a 1:1 replacement, in double the size of the existing tree. Alhambra also permits replanting at off-site locations or in-lieu payments deposited into a tree fund.

Staff is proposing a replacement program that allows flexibility in the size and location of the replacement trees, including off-site locations or an in-lieu payment to be deposited into a fund dedicated to an urban forestry program. In addition, a section has been added to ensure that on-site tree replacement plantings would be maintained, or replaced if the tree does not survive the first year.

For the removal of qualified trees, replacement tree container size shall be equivalent to the diameter (DBH) of the removed tree, and in no case less than a 24" box size is allowed to be planted. The decision-making body would have the ability to regulate the size, species and location of the replacement tree(s). For instance, a project requests the removal of three, 20" native trees, and one 36" specimen tree equaling 96" of tree diameter removed. Replacement trees would need to include at least 96" of tree replacement container size. This could be required as one, 96" tree; or as a 60" and 36" tree; or as four (4), 24" sized container trees. Details on the size, location, species, and irrigation are subject to the discretion of the approving authority.

Off-site plantings and in-lieu fees would be permitted for up to 50% of the required replacement, subject to the approval of the directing body. The value of any replacement tree using the in-lieu fee method, including installation, would be established by a certified Arborist.

Definitions, Appeals, Penalties, Enforcement

Similarly to other cities, a list of definitions, appeal process, and enforcement are included in the draft ordinance.

The list of definitions varied from simple to complex. For our community, the list of definitions was simplified to include the basic terminology that best fit within the needs of the City. The following terminology is defined within the proposed ordinance: diameter at breast height (DBH), native tree, specimen tree, tree alteration, and tree removal.

It is also important to include an appeal process, in which the applicant has the right to file an appeal in writing to the appropriate appellate body. The proposed Ordinance includes more details on the timing and required City response to appeals.

In order to discourage illicit tree removal or alteration, penalties have been incorporated into the ordinance. Similar to other surveyed cities, penalties for violation include a combination of notices of violation, stop work notices, fines, and/or prosecution. Some cities impose a higher replacement ratio. The City is proposing to enforce violations through the traditional remedies and penalties already provided within our Codes, in addition to requiring a higher 3:1 tree replacement ratio as a penalty for those who violate the Ordinance.

CONCLUSION

After reviewing ordinances in other cities, our Tree Preservation and Protection Ordinance has been designed to meet several goals:

- Recognize, protect and replace larger and more mature oak, native, and specimen trees that benefit private properties and the greater community.
- Create practical regulations and reasonable replacement requirements for the preservation of native and significant specimen trees for the benefit of current and future residents of Duarte.
- Institute a formal process of review when requesting to remove a protected tree to ensure consideration of both tree preservation and development interests.
- Provides penalties to deter offenders and establishes authority to regulate violators who remove trees without the appropriate permits.

Additionally, it is important to remember that our community benefits from tree preservation. Trees help reduce air pollution by keeping the air clean and producing oxygen. Property values increase when properties and neighborhoods include well maintained, healthy trees. Removing healthy trees also displaces wildlife habitats for squirrels, birds, or other types of creatures.

STAFF RECOMMENDATION

Staff recommends that City Council hold a public hearing, and then review, consider and approve the proposed Municipal Code Amendment 18-2, Ordinance 18-O-__ (Exhibit C), amending the Duarte Municipal Code.

Respectfully Submitted,

Yesenia Serna
Community Development Technician

ATTACHMENTS

- Exhibit A: Survey Research – Existing Oak Tree Preservation Ordinances
Exhibit B: Existing Oak Tree Photos – DBH
Exhibit C: Municipal Code Chapter 13.12 – Ordinance 18-O-XX

Exhibit A

Oak Tree Ordinance Survey

City	Oak Tree Ordinance	Application Process	Fee	Level of Review	Penalty	Replacement Ratio	Protected Trees
City of San Dimas	Yes	Submit application along with site plan, replacement plan, and photographs of the tree(s) to be removed, and when deemed necessary and arborist report.	Residents No Fee HOA/Industrial \$109 New Development \$274	Staff	Misdemeanor, each tree a separate offense, and/or higher replacement ratio	2 to 1 No fruit trees or palm trees, must be a shade tree	Any Oak tree measuring 8 inches or more in trunk diameter, and/or any other species of tree that measures 10 inches or more in diameter, and any multi-trunk tree having a total circumference of 38 inches or more, with at least one trunk having a minimum diameter of 4 inches. The diameter must be measured at a point 36 inches above the ground at the base of the tree
City of Monrovia	Yes	Submit application along with a tree location map drawn to scale. The map shall detail trunk diameter, base elevation, height and condition of each oak tree as done by a certified arborist.	No Fee	Review Committee – Director of Public Services, Police Chief, Fire Chief, and the Director of Community Development	Single Family Homes- Infraction Other - Misdemeanor	Determined by the Review Committee	Any oak tree ten inches in diameter or more measured at two feet above the level ground. OAK TREES -native California Live Oak (Quercus Agrifolia) and or any other trees of the oak family.
City of Bradbury	Yes	Submit application and specifications of work proposed.	No Fee	City Manager		Illegal removal of or damage to trees shall be required to restore the	<i>Diameter at breast height (DBH)</i> of a specific tree trunk at 4.5 feet (1.4 m) above finished grade. Any <i>Native tree</i> of any woody plant species indigenous to the desert, foothills or canyons of

Oak Tree Ordinance Survey

						tree by replanting a tree of equal size, significance, and prominence.	southern California prior to the California Mission Period, provided that the plant has an expected mature trunk size of six inches DBH and has an expected mature height of 15 feet or higher. Giant sequoias, redwoods (<i>Sequoiadendron semperivirens</i>), and dawn redwoods (<i>Metasequoia glyptostroboides</i>), evergreen native oaks (such as <i>Quercus agrifolia</i> , <i>engelmannii</i>), deciduous oaks (such as <i>Quercus lobata</i> , and <i>kelloggii</i>) are to be regarded as important native trees even though they have been planted by man, introduced (or possibly reintroduced) into the Southern California foothill and canyon environments.
LA County	Yes	Submit application; home ownership evidence, site plan to scale that indicates the location of all oak trees to be removed/and/or/relocated, information of all trees (size) including the size of	Yes	Director with public hearing	Each individual tree cut, destroyed, removed, relocated or damaged in violation shall be deemed a separate offense.	2-1 Replacement, must be exclusively of indigenous oak tree, at least 15-gallon size, measure 1 inch diameter one foot	Any tree of the oak genus which is (a) 25 inches or more in circumference (eight inches in diameter) as measured four and one-half feet above mean natural grade; in the case of an oak with more than one trunk, whose combined circumference of any two trunks is at least 38 inches (12 inches in diameter) as

Oak Tree Ordinance Survey

		the replacement trees, oak tree report when necessary				above the base. The reviewer might impose a larger container specimen for larger oak tree removals.	measured four and one half feet above mean natural grade
Alhambra	Yes		Per City's Fee Schedule	Staff	Stop work order, and a fine assessed. Up to a double replacement ratio.	Oak: 2-1 10" diameter replaced by 24" Oak Mature: 1-1 10" diameter replaced by a 24" Mature or Native	Oak, Native, and Mature trees.

Exhibit B

Existing Native and Specimen Trees

Native Trees:



8" Coast Live Oak
Spinks Canyon



8" Coast Live Oak
Spinks Canyon



12" Coast Live Oak
Golden Meadow



Coast Live Oak
Oak Avenue

Existing Native and Specimen Trees

Specimen Trees:



Pear – 18"
Calle Martos



Jacaranda – 24"
Vineyard Avenue



Pine – 24"
Encanto Park

Exhibit C

Exhibit C

Chapter 13.12 - TREE PROTECTION AND PRESERVATION**13.12.10 - Purpose**

The purpose of this chapter is to protect certain trees in order to preserve cultural heritage, maintain and enhance the scenic beauty of the city, improve air quality, abate soil and slope erosion, preserve and enhance property values, and thereby promote public health, safety and welfare by:

- A. Identifying native and specimen trees and establishing procedures to encourage their conservation;
- B. Including consideration of existing trees and their protection in the review and implementation of development proposals;
- C. Requiring permits for the removal and alteration of native and specimen trees except in emergencies; and
- D. Requiring replacement plantings when native and specimen trees are removed.

13.12.020 - Applicability

The provisions of this chapter shall apply to all the following with respect to the removal and maintenance of native and specimen trees:

- A. *Trees subject to this Chapter.* Any of the following tree types are subject to the provisions of this Chapter. For the purposes of this Chapter, the word "tree(s)" shall refer to:
 - 1. Native trees 12" inches in diameter or greater, as measured from DBH; and
 - 2. Specimen trees 24" inches in diameter or greater, as measured from DBH.
- B. *Properties subject to this Chapter.*
 - 1. Developed, single-family residential zoned properties with trees in the front or street-facing side yard(s);
 - 2. Undeveloped, single-family residential zoned properties with trees on the property;
 - 3. Developed or undeveloped properties in multiple-family residential, commercial, industrial, hospital, and open space zones, with trees on the property; and
 - 4. Developed or undeveloped properties in specific plan zones, with trees on the property, unless otherwise regulated by the individual specific plan.
- C. *Activities subject to this Chapter.*
 - 1. Tree removal; and
 - 2. Tree alteration

13.12.030 - Definitions

The following words and phrases as used in this Chapter are defined as follows:

- A. *Diameter at breast height (DBH)*. The measurement of tree diameter measured at 4.5 ft above ground level. In the situation where measurement of DBH is unclear, DBH shall be calculated using recognized arboricultural resources, such as: A Simplified Guide to Measuring DBH by the International Society of Arboriculture (<http://www.isa-arbor.com/Portals/0/Assets/PDF/Certification/Tree-Ordinance-Guidelines.pdf>); and/or Measuring Guidelines Handbook by American Forests (www.americanforests.org/wp-content/uploads/2014/12/AF-Tree-Measuring-Guidelines_LR.pdf).
- B. *Native tree*. Trees indigenous to the desert, foothills or canyons of southern California prior to the California Mission Period. For the purposes of this Chapter, native trees are defined as: all endemic California oak species, (including but not limited to: *Quercus agrifolia*, *chrysolepis*, *engelmannii*, *kelloggii*, *lobata*, and *wislizeni*); California bay laurel (*Umbellularia californica*); California black walnut (*Juglans californica*); California sycamore (*Platanus racemosa*); and Toyon (*Heteromeles arbutifolia*).
- C. *Specimen tree*. Generally larger and/or older trees (except Native trees) that make a significant aesthetic or environmental contribution to their immediate surroundings.
- D. *Tree alteration*. Actions taken by cutting or pruning any branch, trunk or root of a tree, or by filling, surfacing, grading, compacting or changing the drainage pattern of the soil around any tree in a manner that threatens to diminish the vigor of the tree; provided that, as used in this chapter, the term *alteration* does not include:
 - 1. Normal seasonal trimming, shaping, thinning or pruning of a tree necessary to its health and growth on less than one-fourth of the tree's foliage, and within national pruning standards as defined in the ANSI 300A Standards;
 - 2. Trimming, pruning or clearance of tree branches, performed by a utility company or their contractors, from lines of any public utility necessary to the maintenance of the lines; and
 - 3. Trimming, clearing or pruning by the Community Development Director or their designee of any tree necessary for:
 - a. The clearance of streets for pedestrian or vehicular traffic; or
 - b. Compliance with fire, building and wildland urban interface codes and/or requirements.
- E. *Tree removal*. Complete or partial removal of a tree or any other actions including but not limited to acts which inflict damage upon the roots systems or other parts of the tree by fire, cutting, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling the drip line area around the trunk resulting in the

death of a tree or permanent damage to its health, or removal of more than one-fourth of the tree's foliage in any 12-month period.

13.12.040 - Permits

No person shall remove or cause the removal of, or alter any native or specimen tree unless a tree permit is first obtained from the Community Development Department.

13.12.050 - Permit Process

Prior to the granting of a tree permit, an application for alteration and/or removal shall be submitted to the Community Development Department. The application shall be in the form required by the Community Development Department and shall be accompanied by any fees established by the City Council.

13.12.060 - Review Required

An application for a tree permit for the removal or alteration of a native or specimen tree shall be made to the Community Development Department. The content, form, instructions, procedures, and requirements of the application package deemed necessary and appropriate for the proper enforcement of this Chapter shall be established by the Community Development Department.

As a part of any development application, the Community Development Director may require that the applicant submit a tree report which shall include, as a minimum: data regarding genus and/or species, age, size (including canopy, caliper, trunk and height), relative health, and any preservation proposals for all protected trees on the site. The tree report shall be prepared by a certified Arborist approved by the City, and funded by the applicant. The application shall also include, but not be limited to the following:

- A. An explanation as to why the tree's removal is necessary;
- B. The location of all trees on the site, including those to be removed, shall be identified on a plan or map indicating species and trunk diameter;
- C. Photographs of the proposed trees to be removed or relocated shall be included;
- D. Any fees (established by the City Council)

13.12.070 - Review Authority

The Community Development Director or their designee shall review and have authority to approve, conditionally approve, or deny tree permit applications. Pursuant to Duarte Development Code, Chapter 19.122.050, if any tree permit application is filed concurrently with another discretionary land use application, the decision to approve, conditionally approve, or deny the tree permit shall be made by the authority responsible for reviewing the other discretionary land use application.

13.12.080 - Replacement Required

Tree permit applications which approve tree removal(s) shall provide replacement tree(s) in the following manner:

- A. Native tree(s) removed
 - 1. The aggregate replacement tree(s) box container size shall be equivalent to the DBH of the tree(s) removed.
 - 2. An individual replacement tree container size shall be no less than a 24" box, irrespective of the DBH removed.
 - 3. Replacement tree(s) shall be a native tree species.
- B. Specimen tree(s) removed
 - 1. The aggregate replacement tree(s) box container size shall be equivalent to the DBH of the tree removed.
 - 2. An individual replacement tree container size shall be no less than a 24" box.
- C. Off-site planting
 - 1. A minimum of fifty percent (50%) of required replacement trees shall be planted on-site. The remaining balance of required replacement trees may be planted off-site, subject to the applicable review authority.
- D. In-lieu fee payment
 - 1. A maximum of fifty percent (50%) of required replacement trees may be substituted with an in-lieu fee payment, subject to the applicable review authority.
 - 2. The value of each replacement tree, including the cost of installation, shall be established by a certified Arborist, selected by the City and paid for by the applicant. All in-lieu fees shall be dedicated to an urban forestry program administered by the City of Duarte or its approved urban forestry partner.
- E. Replacement tree details
 - 1. The applicable review authority shall have the ability to regulate the details of the replacement tree(s) planted, including but not limited to: container size, species, location, appropriateness of irrigation, amount of off-site planting (up to 50%), and amount of in-lieu fee payment (up to 50%).
- F. Replacement tree maintenance and survivability
 - 1. Any required replacement tree must be maintained and/or irrigated by the property owner.
 - 2. On-site replacement tree(s) that do not survive a minimum of 12 months from the date of planting shall be replaced by the applicant at their own cost.

13.12.090 - Exceptions

All trees should be protected, but there are a few cases where this Chapter does not apply, as follows:

- A. Trees planted, grown, and/or held for sale by licensed nurseries and/or tree farms or the removal or transplanting of such trees pursuant to the operation of licensed nursery and/or farm;
- B. Any trees or parts thereof growing upon private property, that due to health, condition, shape, or growth habits that interfere with the use of any public street, parkway, sidewalk, improvement, utility or public place of the City which endangers the life, health, safety or property of the public, as determined by the Director of Community Development;
- C. Trees where their removal or relocation is necessary to obtain adequate line-of-site distances as required by the Director of Community Development;
- D. Trees which, in the opinion of the Director of Community Development, will cause damage to existing public improvements or infrastructure;
- E. Trees which require maintenance or removal for the protection of existing public utility electrical power or communication lines or other property of a public utility;
- F. Trees damaged by thunderstorms, windstorms, flood, earthquakes, fire widespread organic disease or insect infestation, or other natural disaster and determined to be dangerous by any of the following Departments: Sheriff, Fire, Public Safety, or Community Development;
- G. Minor trimming and/or pruning of trees on developed property within the scope of typical and reasonable tree maintenance, as further described under the definition of Tree Alteration in this Chapter;
- H. Trees declared by the Director of Community Development to be dead, diseased, or dying. The Community Development Director may require that the applicant submit a tree report prepared by a certified Arborist approved by the City, and funded by the applicant;
- I. Trees declared by the Director of Community Development to be known to reproduce itself excessively, thus becoming weedlike;
- J. Fruit trees, including citrus, plum, nectarine, cherry, apricot, peach, pear, pomegranate, persimmon, loquat, fig, avocado and other species determined similar by the Director of Community Development;
- K. In case of emergency when a tree is hazardous or dangerous to life or property, it may be removed by order of any member of the Sheriff, Fire, Public Safety, or Community Development Department; provided, further, that any franchised public utility or representative of the city may remove trees which interfere with the safe and efficient operation of the public service for which they are responsible.

13.12.100 - Prohibited Activities

It is prohibited and unlawful for any person to do, cause or allow the following activities or conditions to occur:

- A. No person shall cause, authorize or permit any brine, oil, liquid dye or other substance deleterious to tree life to lie, leak, pour, flow or drip upon or into the soil about the base of protected trees at a point from which such

substance may flow, drip or seep into such soil, injure such protected tree, or to otherwise harm or kill any such protected tree.

- B. Cause or allow irrigation on or close proximity in such a manner as to cause harm, decline or death to a protected tree.

13.12.110 - Appeals

Any interested party may appeal any determination of the Community Development Director, Architectural Review Board, or Planning Commission made under this chapter to the City Council by filing a written notice of appeal with the City Clerk within fifteen (15) days following the actual date the decision is rendered. The City Council shall hold a public hearing within sixty (60) days after its receipt of such written appeal, giving to the appellant at least ten days written notice of the date of such hearing, by first class mail. At such hearing, the appellant shall have the right to be heard and to present witnesses in his behalf. The City Council shall make its determination and shall mail written notice thereof to the appellant within twenty-one days of the date of the hearing. The decision and determination of the City Council shall be final.

13.12.120 - Penalty for Violation

Anyone found in violation of this Chapter is subject to the following:

- A. Violations of this Chapter shall be governed by Chapter 1.04.100 of the Duarte Municipal Code and Chapter 19.154 of the Duarte Development Code.
- B. Tree(s) removed without approval of a City tree permit shall be replaced at a time established by the Director of Community Development. The aggregate replacement tree(s) box container size shall be equivalent to triple the DBH of the tree(s) removed. All other regulations promulgated by section 13.12.080 remain.

13.12.130 - "Non-liability of city"

Nothing in this ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of public property or the owner of any private property shall have a duty to keep native and specimen trees upon the property and under their control in a safe, healthy condition. Except as provided in the Exception Section, any person who feels a tree located on property possessed, owned or controlled by them is a danger to the safety of themselves, others or structural improvements on-site or off-site shall have an obligation to secure the area around the tree or support the tree, as appropriate to safeguard both persons and improvements from harm.