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**Minutes**  
**Zoning Administrator Meeting**  
**May 19, 2014**

**Staff Present**

Charley Stump, Zoning Administrator  
Kim Jordan, Senior Planner  
Cathy Elawadly, Recording Secretary

**Others Present**

Robert Axt  
Matt Bogner  
Sage Sangiacomo, Staff

**1. CALL TO ORDER**

Zoning Administrator Stump called the meeting to order at 10:30 a.m. in Conference Room No. 1, Ukiah Civic Center, 300 Seminary Avenue, Ukiah, California.

**2. SITE VISIT VERIFICATION**

Zoning Administrator Stump confirmed the site visit.

**3. APPROVAL OF MINUTES:** The minutes from the May 8, 2014 meetings will be available for review and approval at the Zoning Administrator hearing.

Zoning Administrator Stump approved the May 8, 2014 minutes, as submitted.

**4. COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS**

**Robert Axt:**

- Related to the DZC asked about the requirement for projects to have vertical windows/narrow windows.
- Vertical windows were effective for two reasons: 1) Ventilation and summertime cooling before air-conditioning was invented. 2) Tempered or plate glass was not yet in use. As such, vertical/narrow windows were used for practical purposes rather than for aesthetic reasons.
- Would like to see the DZC consider that broad windows can be very attractive and valuable, particularly in downtown areas where there are stores and storefronts.

**5. APPEAL PROCESS**

Zoning Administrator Stump read the appeal process. For matters heard at this meeting the last day to appeal is May 29, 2014.

**6. VERIFICATION OF NOTICE**

Staff verified the proposed World Gym Minor Use Permit, Minor Site Development Permit, and Minor Exception (File No. 145) were properly noticed in accordance with the provisions of the UMC.

**7. PUBLIC HEARINGS**

**7A. World Gym Minor Use Permit, Minor Site Development Permit, and Minor Exception, 203 South Main Street (File No. 145).** Consideration and possible action on a request for approval of a Minor Use Permit, Minor Site Development Permit, and Minor Exception for a 3,500 square foot building addition and 1,500 square foot outside exercise area (no equipment or structures), fencing to enclose the outdoor exercise area, and removal and reconfiguration of the parking spaces in the front of the building at 203 South Main Street, APN 002-231-09. The Minor Exception would allow the windows for the addition to be tinted.

Zoning Administrator Stump acknowledged the persons in attendance are familiar with the Project and therefore, dispensed with the staff report.

Senior Planner Jordan confirmed no public comments/questions regarding the proposed Project have been received by staff.

1 **PUBLIC HEARING OPENED: 2:07 p.m.**  
2

3 **Robert Axt, Project Architect:**

- 4
- 5 • Has reviewed the staff report.
  - 6 • Has concern about the awnings and with putting multiple mullions in windows to give the appearance of narrower windows.
  - 7 • The intent is to reuse the awnings/frames as much as possible and explained how this can be accomplished. The problem is the awnings are connected to the mullions between the panes of glass in the large windows. The site plans indicate the awnings are actually connected to the mullions on the windows. The awnings are not 18 feet wide but rather 6 feet wide and there are three awnings on every 18-foot wide storefront window.
  - 8 • Considered reducing the width of the windows and found one way to do this would be to double the number making them 3 feet wide which would not be aesthetically pleasing and another way would be to put in four-foot windows having four portions of glass in each window/storefront. While the latter approach is aesthetically pleasing, it disables reuse of the awning frames.
  - 9 • Would ask that the applicant be permitted to retain the 3-pane windows rather than adding more awnings. While he likes the narrower 4-foot-4.5-foot wide portions of glass approach the best, would lose the awning frames that presently exist for the windows.
  - 10 • Is of the opinion 4-foot wide windows would look better than 3-foot wide windows.

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22 **Senior Planner Jordan:**

- 23 • The DRB was fine with the reuse of the awnings as long as they could be modified to be made functional. Staff needed to look at this as part of a building permit submittal.
- 24 • The DRB recommended the use of the mullions, but did not require them. The DZC requires vertical windows. Staff is of the opinion the use of vertical windows would be an improvement and would help to aesthetically distinguish the new building from the existing building. If the owner is willing to use vertical windows on the new addition, is of the opinion the conditions of approval requiring the vertical windows and reuse of the awnings should remain.
- 25 • Confirmed the Project conditions of approval do require the mullions.
- 26 • The DRB did agree that the windows on the southernmost part of the west facing façade that is not part of the addition may be replaced with the same windows approved for the addition.
- 27 • DRB preference is 3-foot wide windows and considers this approach a more appropriate design. The conditions of approval do not require a specific dimension of spacing but that the windows have a vertical appearance so there is some flexibility relevant to the width so long as the vertical appearance is maintained. What this means is that the vertical dimension needs to be greater than the horizontal dimension. The DRB did not call out specific spacing dimension for the windows should they have a vertical appearance.

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42 Reference was made to the site plans and discussion followed concerning identification/location of the vertical windows, awnings, and mullions as to what fenestrations/features the DRB recommended be required in the conditions of approval.

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46 **Matt Bogner:**

- 47 • In talking with Planning staff about the existing façade, proposed addition, storefront windows/doors is fine with project conditions of approval recommended by the DRB as provided for on pages 3 and 4 of the staff report.
- 48 • Is okay with the additional recommendations made by the DRB that essentially focus on consistency with the purpose and intent of the DZC that were not included as the DRB's recommended project conditions of approval and they include:
  - 49 • Use mullions on the windows for the addition to create a more vertical appearance which is consistent with a commercial design and creates a more pedestrian-oriented design. To be consistent with the design of the addition, install the windows used for

1 the addition on the southernmost part of the west facade that is not part of the  
2 addition.

- 3 ▪ To be consistent with the design of the addition, install an awning that matches the  
4 awnings for the addition over the window on the southernmost part of the west  
5 facade that is not part of the addition.
- 6 ▪ To be consistent with the design of the addition, replace the windows on the  
7 southernmost part of the west facing facade that is not part of the addition.
- 8 ▪ If budget allows, finish the entire exterior of the building in stucco.

9  
10 **Robert Axt:**

- 11 • While he has concerns about the awnings and window fenestrations and some of the  
12 landscaping requirements with regard to the two empty planters is generally fine with the  
13 staff report, project findings and conditions and recommendations made by the DRB.

14  
15 **Matt Bogner:**

- 16 • Related to Condition of Approval 9D and 15F and the two empty planters next to the  
17 building and on the north side of the exercise area recommends no landscaping. Is  
18 concerned about having live plantings next to the building with regard to potential water  
19 intrusion and damage. Is of the opinion there is sufficient landscaping on the site.

20  
21 **Zoning Administrator Stump:**

- 22 • Reviewed the existing landscaping strips on the site and is of the opinion there is  
23 sufficient landscaping screening/coverage.
- 24 • Reviewed the landscaping plan requirements related to Condition of Approval 9D and  
25 15F and is amenable to not requiring landscaping in the one empty planter located to the  
26 north of the outdoor exercise area with the remainder of the conditions relative to 9D and  
27 15F to remain in effect.

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29 **Robert Axt** proposed Manzanita and other drought tolerant plants for the planter areas.

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31 **PUBLIC HEARING CLOSED: 2:25 p.m.**

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33 **Zoning Administrator Stump** agrees with the staff report, has visited and is familiar with the site  
34 and is of the opinion the proposed Project is a nice improvement to the Downtown and an  
35 excellent example of a redevelopment project that highly benefits the community.

36  
37 **Zoning Administrator Stump** approved Minor Use Permit to allow the expansion of the fitness  
38 facility, Minor Use Permit to allow the outdoor 'free exercise area', Minor Site Development Permit  
39 to allow between 1,000 and 15,000 square feet of development as proposed in the project  
40 description on page 1 of the staff report and Minor Exception to allow the use of tinted windows  
41 (File No. 145) with Findings 1-10 and Conditions of Approval 1-27 with the addition of a new  
42 condition of approval (No.15) that amends Condition of Approval No. 9D and No. 15F that will  
43 read, 'The landscaping plan required by condition of approval 9D and DRB condition 16F is  
44 amended by the Zoning Administrator to *not* require landscaping in the empty planter located to  
45 the north of the outdoor exercise areas. The remainder of conditions 9D and 16F remain in  
46 effect,' as discussed above.

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48 **8. ADJOURNMENT**

49 There being no further business, the meeting was adjourned at 2:34 p.m.

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53 Charley Stump, Zoning Administrator

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Cathy Elawadly, Recording Secretary

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## World Gym Final Findings and Conditions

### FINDINGS FOR APPROVAL OF A MINOR USE PERMIT, MINOR SITE DEVELOPMENT PERMIT, AND MINOR EXCEPTION

1. The Project, as conditioned, is consistent with the General Plan as described in the staff report, including Table 1.
2. The Project, as conditioned, is consistent with the requirements for zone B2 Infill (Extended Approach/Departure) of Ukiah Municipal Airport Master Plan as described in Table 2 of the staff report and below:
  - A. **Intensity of Development:** The intensity of development of the site with the addition would be similar to existing surrounding development. Many of the parcels in the area are developed at close to 100% lot coverage with the building covering almost the entire parcel. Other parcels in the area are developed with a building, onsite parking and a small amount of landscaping similar to the proposed Project.
  - B. **Allowed Uses:** The use is similar to a restaurant use based on the number of people that may be in the building at any one time and the peak hours of the use – early morning, midday (lunch hour), and evening. The use would be limited to one story. There are restaurant uses in the area, as well as single-story low intensity office and retail uses.
  - C. **Maximum Density:** Based on a 1.2 acre site, a maximum of 108 people would be allowed on the site at any one time. This is less than the maximum occupancy allowed by the Building and Fire Codes which would allow a maximum of 172 people. In order to be consistent with this requirement, staff has included a condition of approval that limits maximum occupancy to 108 people and requires this occupancy limit to be posted in the building and on the site
  - D. **Open Land:** Based on a 52,272 square foot (1.20 acre) parcel and 10,500 square foot building, 20% of the parcel would be developed with building and structures, leaving 80% as open land which exceeds the minimum requirement of 30% open land.
  - E. **Deed Notice:** In order to be consistent with the requirement to provide an avigation easement or deed notice, a condition of approval requiring the recordation of a deed notice prior to issuance of a building permit.
3. The Project, as conditioned, is consistent with the applicable requirements of the Downtown Zoning Code requirements for buildings over 50 years old as described in Table 3 of the staff report and below:
  - A. The existing façade would remain and would become an interior wall; therefore, none of the windows, doors, openings, or materials are being removed or destroyed. Removal of the addition would return the building to its existing appearance.
  - B. The conditions of approval require the exterior material to be stucco which will help differentiate the addition from existing building façade which is primarily T1-11 siding.
  - C. The conditions of approval require a more vertical orientation/fenestration for the windows which would differentiate the addition from the existing building and would make the design of the storefront more consistent with the intent of the DZC.

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- D. The conditions of approval require the awning to be functional, the material for the awning to be cloth or metal, and the design to be consistent with the design of the building and a design that would have been original to the building.
- 4. The Project, as conditioned, is consistent with the applicable requirements of the Downtown Zone Code as described Table 4 of the staff report.
- 5. The Project, as conditioned, would provide adequate parking for up to 108 people (maximum occupancy based on B2 Infill requirements of the Ukiah Municipal Airport Master Plan) based on the following:
  - A. The parcel is located within the building within the Downtown Parking District which provides on-street parking and parking lots.
  - B. The Project includes 50 onsite vehicle parking spaces and one on-street parking space.
  - C. The Project, as conditioned, would provide a minimum of eight (8) bicycle parking spaces.
  - D. Due the location of the facility, some members and employees are able to walk, bike, or take public transit to the facility.
- 6. The Project, as conditioned, is consistent with the findings required for approval of a Minor Use Permit as described in Table 6 of the staff report.
- 7. The Project, as conditioned, is consistent with findings required for approval of a Minor Site Development Permit as described in Table 7 of the staff report.
- 8. The Project, as conditioned, is consistent with the findings required for approval of Exceptions from the requirements of the Downtown Zoning Code as described in Table 8 of the staff report.
- 9. The proposed Project, as conditioned, is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, Class 3c, New Construction or Conversion of Small Structures, which allows the construction of up to 10,000 square feet of commercial space and Section 15331, Historic Resource Restoration/Rehabilitation, which allows limited maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources based on the following:
  - A. The addition to the existing building would be square feet would be 3,500.
  - B. Public services, utilities, and facilities currently serve the existing building and are available to serve the expansion.
  - C. No trees would be removed and new landscaping would be planted.
  - D. The site is located in an urban area in an area that is not environmentally sensitive (no creek, stream, water bodies, habitat, flood plain).
  - E. The building was constructed in 1962, making the building more than 50 years old. The building is primarily CMU with no distinguishing architectural features other than the storefront windows which will remain. There is no evidence the building meets the requirements to be a historic resource.
  - F. The project would not remove the existing building walls to construct the addition; instead, the addition would be constructed in the front of façade and the existing façade would become an interior wall and would retain the existing doors and windows.

1 G. The Project is subject to, and as conditioned, consistent with the requirements for  
2 buildings over 50 years old which are based on and implement the Secretary of the  
3 Interior's Standards for the Treatment of Historic Properties.  
4

5 10. A notice of the Project was provided in the following manner as required by the Ukiah City  
6 Code:

- 7
- 8 ▪ published in the Ukiah Daily Journal on May 9, 2014;
- 9 ▪ mailed to property owners within 300 feet of the subject parcel on May 7, 2014; and
- 10 ▪ posted on the subject parcel on May 7, 2014.

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12 **CONDITIONS OF APPROVAL**

- 13 1. Approval is granted for a Minor Use Permit for a fitness facility with outdoor exercise  
14 area, Minor Site Development Permit to allow development of between 1,000 and 15,000  
15 square feet, and a Minor Exception to allow tinted window glazing for the expansion of  
16 World Gym located at 203 South Main Street (APN 002-231-09) as described in the  
17 Project Description dated January 30, 2014, the additional information and details date  
18 stamped April 18, 2014, and as shown on the plans submitted to the Planning and  
19 Community Development Department and date stamped April 18, 2014, except as  
20 modified by the following conditions of approval.
- 21 2. This approval is for a Master Use Permit that permits a 11,762 square foot fitness facility  
22 that includes the existing fitness facility, building addition, outdoor exercise area, and  
23 associated improvements shown on the approved plans and required as conditions of  
24 approval.  
25
- 26 3. In order to comply with the density requirement of the Airport Compatibility B2 Infill Zone,  
27 a maximum of 108 people (members, staff, visitors, etc.) are allowed on the site at any  
28 time. The maximum occupancy is based on a maximum density of 90 people per acre in  
29 the B2 Infill zone and a 1.2 acre parcel size. (Note: This maximum occupancy may be  
30 more restrictive than the occupancy allowed by the Building and Fire codes.)  
31
- 32 4. In order to comply with the Airport Compatibility density requirement, signs shall be  
33 posted in a visible location on the site and in the building identifying the maximum  
34 occupancy allowed. Based on a 1.2 acre parcel, a maximum of 108 people would be  
35 allowed on the site.  
36
- 37 5. In order to comply with the Airport Compatibility requirement for a deed notice or  
38 avigation easement, the applicant shall record a deed notice to inform potential future  
39 buyers/owners that the parcel is located in the B2 infill zone and the requirements  
40 associated with this zone. Prior to issuance of a building permit, the language for the  
41 deed notice shall be submitted to the Planning Department for staff review and approval.  
42 The staff approved language shall be recorded prior to issuance of a building permit.  
43
- 44 6. In order to provide the parking generated by the maximum occupancy of 108 people, the  
45 Project shall provide 50 onsite parking spaces and a minimum of eight (8) bike parking  
46 spaces.  
47
- 48 7. In order to comply with the Historical Building standard that character defining features of  
49 the building are not destroyed, the existing façade shall be retained as an interior wall as  
50 shown on the plans date stamped April 18, 2014.  
51
- 52 8. In order to provide adequate bike parking for the use, a minimum of eight (8) bike  
53 parking spaces shall be provided. Four of the spaces shall be located at the front of the  
54 addition, close to the entry as shown on the plans. The other four spaces may be located  
55 within the building or elsewhere on the site. There is an existing bike rack at the rear of

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the building that provides parking for at least four additional bikes. An inverted “U” style rack is recommended. The bike racks shall be secured to the ground and the design of the bike racks shall be compatible with design of the building.

9. The following shall be included on the plans submitted for building permit and are subject to staff review and approval:

- A. Location and cutsheets for the bike parking required by condition #5.
- B. Exterior building lighting that is consistent with the requirements of the Downtown Zoning Code, including but not limited to the requirements to be fully shielded, downcast, and mounted at 12-feet or less above grade. The design of the lighting shall be compatible with building architecture (clean lines, modern, utilitarian).
- C. A modified fence design that is compatible with the design of the building (modern, clean lines, utilitarian).
- D. Landscaping plan that includes, but is not limited to, plantings in the empty landscape planter located in front of the southernmost part of the front of the building (not part of , infill plantings in the planter located between the sidewalk and outdoor exercise area and parking area, and a street tree to replace the existing street tree that is dead or dying. The landscaping plan shall use native and drought tolerant species, be designed to be compatible with the building, screen the parking located and the outdoor exercise area at the front of the site, and comply with code requirements and the site development permit finding for landscaping. *See revision to this condition of approval by the Zoning Administrator, condition #15 below.*
- E. An irrigation plan shall be submitted that is consistent with the landscaping plan required by condition # 9D and DZC requirements for irrigation.
- F. A striping plan for the relocated and reoriented accessible parking spaces located at the front of the site and for the parking spaces located at the rear of the site. The restriping plan shall comply with Code requirements for parking facilities (stall size, backup distance, drive aisles, etc).
- G. Notes that identify the type of glazing for the windows and complies with condition #15G from the Design Review Board. A sample of the proposed glazing shall also be provided. Opaque and mirrored glazing is prohibited.
- H. Location and detail for the signs required by condition #4.

10. Prior to building permit final, the approved landscaping and irrigation shall be installed.

11. Prior to building permit final, any damaged or removed landscaping shall be replaced in-kind. In-kind replacement landscaping is subject to Planning staff inspection and acceptance prior to building permit final.

12. Construction hours shall comply with the City of Ukiah Noise Ordinance.

13. Plans submitted for building permit shall be in substantial conformance with the plans approved by the Zoning Administrator and these conditions of approval and are subject to staff review and approval.

1 14. These conditions of approval shall be included on the first sheet of the plans submitted for  
2 building permit.

3  
4 From the Zoning Administrator

5  
6 15. The landscaping plan required by condition of approval #9D above and DRB condition #16F  
7 below is amended by the Zoning Administrator to not require landscaping in the empty  
8 planter located to the north of the outdoor exercise area. The remainder of conditions 9D and  
9 16F remain in effect.

10  
11 From the Design Review Board

12  
13 16. Plans submitted for building permit shall include the following modifications to the Project and  
14 information and are subject to staff review and approval:

- 15  
16 I. Stucco as the exterior finish material for the addition.  
17  
18 J. Location of all exterior lighting.  
19  
20 K. Cutsheets for the exterior light fixture(s) that comply with the Downtown Zoning Code  
21 requirements for outdoor lighting, including but not limited to the requirement to be  
22 fully shielded, downcast, and not more than 12 feet in height.  
23  
24 L. Modified fence design that is compatible with the modern, clean lines of the building.  
25  
26 M. Functional awnings that provide shading of the interior of the building. The awning  
27 design shall be compatible with the modern, clean lines of the building and the  
28 material shall be metal or cloth.

29  
30 The existing awnings may be reused if they can be modified or covered in cloth or  
31 metal to be functional. If the existing awnings are proposed to be modified and  
32 reused, staff shall verify functionality of the awnings in the field after the project  
33 proponent has installed one (1) modified awning. The modified awning is subject to  
34 staff review and approval.  
35

- 36 N. Landscaping plan that includes planting in the existing planters on the site that are  
37 empty, infill of the planter located between the sidewalk and the proposed outdoor  
38 exercise area, and replacement of the existing street tree that has died. Landscaping  
39 shall be drought tolerant, appropriate for the location and purpose (screening,  
40 aesthetics, etc.), and comprised primarily of native species. *See revision to this*  
41 *condition of approval by the Zoning Administrator, condition #15 above.*  
42  
43 O. Notes that identify the type of glazing from the windows and a sample of the glazing.  
44 The lightest tint possible shall be used.  
45

46 17. As part of this approval, the following modifications are also approved and may be performed  
47 as a future phase(s) of site/building improvements.

- 48  
49 A. An awning that matches the awnings approved for the addition may be installed over  
50 the windows on the southernmost part of the west facade that is not part of the  
51 addition.  
52  
53 B. The windows on the southernmost part of the west facing facade that is not part of  
54 the addition may be replaced with the same windows approved for the addition.  
55

1 C. The exterior of the southernmost part of the west facing facade that is not part of the  
2 addition may be finished in stucco. The remainder of the exterior of the building may  
3 be finished in stucco.  
4

5 If required, a building permit shall be submitted and issued for the above work. Planning  
6 staff shall review the proposed work for compliance with the approved plans and the  
7 conditions of approval. If no building permit is required, plans shall be submitted for  
8 Planning staff review of the proposed work for compliance with the approved plans and  
9 the conditions of approval. Plans submitted for review and subject to staff review and  
10 approval prior to commencement of work.  
11

12 From the Building Official (David Willoughby)  
13

14 18. The following are comments from the Building Official are related to the Code requirements  
15 for the project and are provided for you information and consideration prior to preparing plans  
16 for building permit.  
17

18 A. Provide two (2) exits from the space with doors in the correct swing.  
19

20 B. Sprinklers are required for the addition.  
21

22 C. The occupant load is calculated at 1 person for every 50 square feet.  
23

24 From the Electric Utility Department (Jimmy Lozano)  
25

26 19. Based on the information provided, it cannot be determined if the Project will require the  
27 upgrade of the existing service panel. At the time of building permit, additional information will  
28 be required to be submitted in order to determine the need for the upgrade of the panel.  
29 Please contact Jimmy Lozano to determine the information required as part of the building  
30 permit.  
31

32 From the Fire Department (Kevin Jennings, Division Chief/Prevention Officer)  
33

34 20. The following comments from the Fire Marshal are not conditions of approval. The comments  
35 are provided for consideration prior to preparing plans for building permit.  
36

37 A. Adding the square footage noted on the plans is not consistent with the square  
38 footage stated in the written project description.  
39

40 B. The men's and women's bathroom doors are incorrect on the plans. They are not  
41 located as drawn on the plans.  
42

43 C. Occupant load is based on square footage of the building and use. Use of the term  
44 "acreage" may be misleading or misunderstood.  
45

46 D. The Prevention Office will have a few minor requirements once the plans have been  
47 submitted for building permit.  
48

49 Standard Conditions of Approval and Code Requirements  
50

51 21. Business operations shall not commence until all permits required for the approved use,  
52 including but not limited to business license, tenant improvement building permit, have been  
53 applied for and issued/finaled.  
54

1 22.No permit or entitlement shall be deemed effective unless and until all fees and charges  
2 applicable to this application and these conditions of approval have been paid in full.  
3

4 23.The property owner shall obtain and maintain any permit or approval required by law,  
5 regulation, specification or ordinance of the City of Ukiah and other Local, State, or Federal  
6 agencies as applicable. All construction shall comply with all fire, building, electric, plumbing,  
7 occupancy, and structural laws, regulations, and ordinances in effect at the time the Building  
8 Permit is approved and issued.  
9

10 24.A copy of all conditions of this Use Permit shall be provided to and be binding upon any future  
11 purchaser, tenant, or other party of interest.  
12

13 25.All conditions of approval that do not contain specific completion periods shall be completed  
14 prior to building permit final.  
15

16 26.This Permit may be revoked through the City's revocation process if the approved project  
17 related to this Permit is not being conducted in compliance with these stipulations and conditions  
18 of approval; or if the project is not established within two years of the effective date of this  
19 approval; or if the established use for which the permit was granted has ceased or has been  
20 suspended for 24 consecutive months.  
21

22 27.This approval is contingent upon agreement of the applicant and property owner and their  
23 agents, successors and heirs to defend, indemnify, release and hold harmless the City, its  
24 agents, officers, attorneys, employees, boards and commissions from any claim, action or  
25 proceeding brought against any of the foregoing individuals or entities, the purpose of which is to  
26 attack, set aside, void or annul the approval of this application. This indemnification shall include,  
27 but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be  
28 asserted by any person or entity, including the applicant, arising out of or in connection with the  
29 City's action on this application, whether or not there is concurrent passive or active negligence  
30 on the part of the City. If, for any reason any portion of this indemnification agreement is held to  
31 be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement  
32 shall remain in full force and effect.  
33

34 28.All landscaping shall be properly maintained to insure the long-term health and vitality of the  
35 plants, shrubs and trees. Proper maintenance means, but is not limited to the following:  
36

- 37 A. Regular slow, deep watering when feasible. The amount of water used shall fluctuate  
38 according to the season, i. e., more water in summer, less in the winter.  
39
- 40 B. Additional watering shall occur during long periods of severe heat and drying winds,  
41 and reduced watering shall be used during extended periods of cool rainy weather.  
42
- 43 C. Fertilizer shall only being used on trees during planting. Shrubs may receive periodic  
44 fertilizer according to the recommendations of a landscaping professional.  
45
- 46 D. Weed killers shall not be used on or near trees.  
47

48 Failure to comply with the requirements listed above could result in revocation of this  
49 Permit.  
50  
51