

DATE ISSUED: February 2, 2007 **REPORT NO. PC-07-036**

ATTENTION: **Planning Commission, Agenda of February 8, 2007**

SUBJECT: SYNERGY DANCE STUDIO - PROJECT NO. 106474.
PROCESS 3 APPEAL

**OWNER/
APPLICANT:** Metroplex Shopping Center 05, Owner (Attachment 10)
Synergy Dance Productions, Applicant

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a Conditional Use Permit (CUP) to operate an instructional dance studio in an existing two-story commercial building at 7480 Miramar Road in the Mira Mesa Community Plan area?

Staff Recommendation: Deny the appeal and Approve Conditional Use Permit No. 353665.

Community Planning Group Recommendation: On September 18, 2006 the Mira Mesa Community Planning Group voted unanimously to recommend approval of the project with no conditions.

Other Recommendations: On December 4, 2006, the San Diego County Regional Airport Authority, Airport Land Use Commission (SDCRAA/ALUC) voted 7-0-2 to determine the project conditionally consistent with the MCAS Miramar Airport Land Use Compatibility Plan (Attachment 12).

Environmental Review: This project is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Fiscal Impact Statement: All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

Code Enforcement Impact: None.

Housing Impact Statement: The proposed project is subject to the 1992 Mira Mesa Community Plan. The Community Plan designates the subject property as Commercial. The request for a CUP for a dance studio will not result in the creation of additional housing units, nor result in the loss of any existing housing in the Mira Mesa community.

BACKGROUND

The 10.77 acre site is located at 7480 Miramar Road in the Mira Mesa Community Plan area (Attachment 2). The Mira Mesa Community Plan designates this site as commercial. The proposed instructional use is consistent with this designation. The property is zoned CC-3-5 and is currently developed with four commercial buildings totaling 347,250 square feet. The proposed instructional dance studio would be located within a 104,801 square-foot, two-story commercial building and would occupy approximately 4,065 square-feet in a second floor suite. The properties to the east and west are developed with similar commercial buildings. To the south is MCAS Miramar.

On December 13, 2006, the Hearing Officer approved the CUP for Synergy Dance Studio and on December 20, 2006, Green Music, Inc. filed an appeal application with the City of San Diego (Attachment 8).

DISCUSSION

Project Description:

The project requests a Conditional Use Permit to operate an instructional dance studio in the existing two-story commercial building. The dance studio would be located on the second floor level, northwest corner of the commercial building. A Conditional Use Permit is required for the proposed use. The site is also within the Airport Environs Overlay Zone of the Mira Mesa Community Plan.

The existing 104,801 square-foot, two-story building was approved along with three other commercial buildings through a Planned Commercial Development Permit No. 93-0551 on August 9, 1994 (Attachment 9). The existing building will be maintained in its current condition with no proposed additions or modifications. All conditions for the Planned Commercial Development Permit No. 93-0551 are applicable to this permit. Additional conditions which include parking, hours of operation, limit of students and staff have been added to avoid any adverse impacts.

The proposed project complies with the Land Development Code, the San Diego Regional Airport Authority's Airport Land Use Commission for development within the adopted Airport Land Use Compatibility Plan's Airport Influence Area for MCAS Miramar, and the General Plan.

Community Plan Analysis:

The proposed dance studio is located in an area identified as Commercial in the Mira Mesa Community Plan (MMCP). The Community Plan recommends a Specialized Commercial designation for the proposed location. The Specialized Commercial designation is intended to provide for the location of commercial uses that are more suitable for individual auto access than for general shopping area developments. The project proposes a dance studio in an existing commercial building which is in conformance with the identified land use in the Community Plan.

The proposed project is located in the Airport Overlay Designation and the Community Noise Equivalent Level (CNEL) 65 contour in the MMCP, and subject to the requirements of the MCAS Miramar Comprehensive Land Use Plan (CLUP). Buildings within the CNEL 65-70 contours must be subjected to an acoustical study to assure that interior levels do not exceed CNEL 50. The proposed use is compatible with the MCAS Miramar CLUP and has been conditioned to provide an acoustical noise study prior to issuance of construction permits.

Appeal Issues:

The appellant, Green Music, Inc., has filed an appeal of the Hearing Officer's decision to approve a CUP for the proposed dance studio. Green Music, Inc. cites reasons for appeal related to conflict with other matters, findings not supported, and factual error presented during the Hearing Officer hearing. Green Music, Inc. operates an existing musical instrument retail store located on the ground floor level, directly below the proposed dance studio.

Green Music, Inc. Owner and General Manager attended the Hearing Officer meeting and spoke in opposition of the project. The existing building is a typical steel and concrete construction with large glass showcase windows. The floor/ceiling slab between the two floor levels is comprised of steel joists and lightweight concrete. Green Music's primary concern is related to potential sound transmission from the dance studio above to their music store below and customer disruption.

The City of San Diego does not have a noise isolation standard or regulations for commercial buildings; however, after public testimony and verbal agreement from Green Music Inc. and Synergy Dance, the Hearing Officer applied a permit condition that is required by California Building Code to reduce noise transmission in multi-family residential buildings. Permit condition No. 34 will require the applicant to achieve sound rating at least equal to what is required for multi-family residential units' common floor ceiling assemblies. Synergy Dance will have to provide testing results to the City prior to issuance of any certificate of occupancy.

Conclusion:

In summary, staff has reviewed the proposed project and determined the project meets all the regulations and policies in effect for this site. City staff is recommending that the Planning Commission deny the appeal and approve Conditional Use Permit No. 353665.

ALTERNATIVES

- 1. Deny the appeal and Approve Conditional Use Permit No. 353665, with modifications.**
- 2. Approve the appeal and Deny Conditional Use Permit No. 353665, if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

Mike Westlake
Program Manager
Development Services Department

Tim Daly
Development Project Manager
Development Services Department

ESCOBAR-ECK/TD

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Copy of Appeal
9. Copy of Recorded PCD Permit No. 93-0551
10. Ownership Disclosure Statement
11. Project Chronology
12. SDCRAA/ALUC Resolution 2006-0058 ALUC

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