



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

November 14, 2012

Agenda Item 4

SUBJECT: Orange Theory Fitness Minor Use Permit - (PA2012-130)
1040 Irvine Avenue
▪ Minor Use Permit No. UP2012-022

APPLICANT: Tom Lennon representing the property owner, OTF NB, LLC
dba Orange Theory Fitness

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** CN (Commercial Neighborhood)
- **General Plan:** CN (Neighborhood Commercial)

PROJECT SUMMARY

A minor use permit to allow a 2,915-square-foot health and fitness facility, Orange Theory Fitness, in a currently vacant tenant space within the Westcliff Plaza Shopping Center. The facility would have a maximum of 24 students and four instructors. Required parking is provided within the shopping center at a rate of one parking space per 200 square feet of gross floor area. The facility utilizes a mix of treadmills, rowing machines, benches, free weights, and suspension unit training within the tenant space. Both private and group fitness sessions will be available to patrons of the facility and the proposed hours of operation are from 5:00 a.m. to 9:00 p.m., Monday through Friday, and from 6:00 a.m. to 5:00 p.m., Saturday and Sunday. Refer to the attached business description provided by the project applicant (Attachment No. ZA 3).

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _ approving Minor Use Permit No. UP2012-022 (Attachment No. ZA 1).

DISCUSSION

- The Westcliff Plaza Shopping Center is developed with commercial/retail at the corner of Irvine Avenue and Westcliff Drive. Commercial/retail uses are located to the south and west of the subject property and properties to the north and east across Rutland Drive are developed with multi-family residential uses.
- Orange Theory Fitness will occupy a 2,915-gross-square-foot tenant space along the eastern edge of the Westcliff Plaza Shopping Center. Access to the shopping center is obtained through driveways along Irvine Avenue and Westcliff Drive. The Westcliff Plaza Shopping Center is developed with six primary buildings facing Irvine Avenue and Westcliff Drive and there are currently 21 tenant spaces within the shopping center.
- The General Plan designates the sites CN (Neighborhood Commercial). The CN land use category is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed health and fitness facility is a retail/service use consistent with this land use category.
- The subject property is located in the CN (Commercial Neighborhood) Zoning District. A health and fitness facility is a conditionally permitted use when the gross floor area exceeds 2,000 square feet of gross floor area within this zoning district.
- The project is compatible with existing and allowed uses within the shopping center, which include restaurants, a massage establishment, pilates studio, and retail uses including a grocery store.
- Fifteen parking spaces are required for the proposed use at the parking rate of one parking space per 200 square feet of gross floor area as identified in the Zoning Code. The proposed health and fitness facility creates an additional parking requirement of three parking spaces compared to the parking standard for general commercial uses (2,920 square feet/250 = 12 spaces). A surface parking lot containing 553 parking spaces is provided for Westcliff Plaza Shopping Center and a total of 522 parking spaces are required to accommodate existing uses and the proposed health and fitness facility. Therefore, the parking requirement of three additional spaces can be accommodated on-site. Refer to the attached Westcliff Plaza Parking Summary (Attachment No. ZA 4).

ENVIRONMENTAL REVIEW

The project qualifies for a Class 1 (Existing Facilities) categorical exemption, per Section 15301 of the California Environmental Quality Act. This exemption allows for the operation, repair, maintenance, and minor alteration of existing buildings. The proposed

business is located within an existing building where only minor interior alterations are required to accommodate the new use.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD

An appeal may be filed with the Director of Community Development within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:



Makana Nova
Assistant Planner

BW/mkn

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|--------------|------|---------------------------------|
| Attachments: | ZA 1 | Draft Resolution |
| | ZA 2 | Vicinity Map |
| | ZA 3 | Applicant's Project Description |
| | ZA 4 | Westcliff Plaza Parking Summary |
| | ZA 5 | Site Photos |
| | ZA 6 | Project Plans |

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2012-0##

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-022 FOR A HEALTH AND FITNESS FACILITY LOCATED AT 1040 IRVINE AVENUE (PA2012-130)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Orange Theory Fitness, with respect to property located at 1040 Irvine Avenue, and legally described as Lot 11 of Tract 4824, requesting approval of a minor use permit.
2. A minor use permit to allow a 2,915-square-foot health and fitness facility, Orange Theory Fitness, in a currently vacant tenant space within the Westcliff Plaza Shopping Center. The facility would have a maximum of 24 students and four instructors. Required parking is provided within the shopping center at a rate of one parking space per 200 square feet of gross floor area. The facility utilizes a mix of treadmills, rowing machines, benches, free weights, and suspension unit training within the tenant space. Both private and group fitness sessions will be available to patrons of the facility and the proposed hours of operation are from 5:00 a.m. to 9:00 p.m., Monday through Friday, and from 6:00 a.m. to 5:00 p.m., Saturday and Sunday.
3. The subject property is located within the CN (Commercial Neighborhood) Zoning District and the General Plan Land Use Element category is CN (Neighborhood Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on November 14, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. This exemption allows for the operation, repair, maintenance and minor alteration of existing buildings. The proposed business is located within an existing building where only minor interior alterations are required to accommodate the new use.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F(Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

A. *The use is consistent with the General Plan and any applicable specific plan:*

Facts in Support of Finding

1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The Neighborhood Commercial (CN) designation of the General Plan allows health and fitness facilities.
2. The subject property is not part of a specific plan area.

Finding

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code:*

Facts in Support of Finding

1. The site is located in the CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed health and fitness facility is consistent with land uses permitted by the CN Zoning District.
2. The proposed use will comply with all applicable development and parking standards.

Finding

C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity:*

Facts in Support of Finding

1. Retail uses such as health and fitness facilities are common in the vicinity along Westcliff Drive and serve visitors and residents. The establishment is compatible with the land uses permitted within the surrounding neighborhood.

2. The proposed use is located within the Westcliff Plaza Shopping Center. A Hallmark card store operated in this location between 1985 and 2010 and the tenant space has since been vacant.
3. The Westcliff Plaza Shopping Center abuts residential land uses to the North; however, the project site is located along the eastern edge of the shopping center and is separated from these and other uses by parking lots, roadways and other commercial uses.
4. The surrounding commercial uses along Irvine Avenue and Westcliff Drive contain various retail and visitor commercial uses. The proposed health and fitness facility is compatible with the existing and permitted uses in the vicinity
5. The project has been reviewed for compliance with the parking requirements and landscaping standards as provided in Section 20.40.070 (Development Standards for Parking Areas).
6. The hours of operation for the health and fitness facility will be from 5:00 a.m. to 9:00 a.m., Monday through Friday, and from 6:00 a.m. to 5:00 p.m., Saturday and Sunday.

Finding

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities:*

Facts in Support of Finding

1. Adequate circulation and code required parking are provided within the Westcliff Plaza Shopping Center to accommodate the existing and proposed uses. The shopping center is currently developed with 107,895 square feet total gross floor area and 553 parking spaces are currently provided on site. The number of total parking required for the shopping center, based on the general commercial rate of one parking space per 250 square feet, is 446 parking spaces ($107,895/250 = 432$ spaces). Several of the existing uses on the property have additional parking requirements. The requirement for the shopping center, including the proposed use (15 spaces) is 522 parking spaces where 553 spaces are provided.
2. Adequate public and emergency vehicle access, public services, and utilities are provided.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- E. *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, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.
2. The proposed use and hours of operation are compatible with existing uses within the Westcliff Plaza Shopping Center.
3. A health and fitness facility is a common retail use that can be expected within retail/commercial shopping centers such as the Westcliff Plaza Shopping Center.
4. The proposed health and fitness facility will serve the surrounding residential community. This will revitalize the project site and provide an economic opportunity for the property owner to update the retail tenants and services, which best serve the quality of life for the surrounding residential community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-022 (PA2012-130), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 14TH DAY OF NOVEMBER, 2012.

Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. Minor Use Permit No. UP2012-022 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, or an extension is otherwise granted.
2. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit or revoke this Minor Use Permit upon a determination that the operation, which is the subject of this Minor Use Permit, causes injury, or is detrimental to the health, safety, peace, comfort, or general welfare of the community.
3. The project shall be in substantial conformance with the approved plot plan, floor plan, and elevations dated October 12, 2012.
4. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
5. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
6. The project and all tenant improvements must comply with the most recent, City-adopted version of the California Building Code.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use will be cause for revocation of this Permit.
8. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of this health and fitness facility that would attract large crowds, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
9. All signs on the subject property shall be in conformance with the conditions of approval for the Comprehensive Sign Program as approved per Modification Permit No. MD2001-008 (PA2001-010), Modification Permit No. MD2011-006 (PA2011-050), and the provisions of Chapter 20.67 of the Newport Beach Municipal Code.
10. The use shall be limited to a maximum of four instructors and 24 students at any time during the business hours 5:00 a.m. to 10:00 p.m., daily.

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11. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the use permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Planning Director's Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
12. To the fullest extent permitted by law, applicant shall indemnify, defend, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Orange Theory Fitness Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-022 (PA2012-130). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division Conditions

13. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

Public Works Conditions

14. County Sanitation District fees shall be paid prior to the issuance of any building permits.

Attachment No. ZA 2

Vicinity Map

Attachment No. ZA 3

Applicant's Project Description

Planning Permit Application for OTF NB, LLC

Project Description and Justification: This application is for the purposes of building out a fitness studio, based on a successful and rapidly growing franchise model called Orangetheory Fitness (www.orangetheoryfitness.com). Orangetheory Fitness (OTF) is a group studio fitness concept offering results-oriented interval-based cardio and strength training classes, backed by the science of real-time target zone heart-rate monitoring, that appeal to customers at different ability levels.

The intense 60-minute classes are supervised by certified trainers and are offered at approximately eight different pre-scheduled times per day, generally in the morning and late afternoon/evening. Hours of operation will be approximately from 5:00am to 9:00pm, Monday – Friday and 6:00am to 5:00pm on Saturday and Sunday.

Class sizes are limited to 24 participants; therefore, the maximum number of customers that will be in attendance at the studio at any given time is 24. Generally, the facility will have 2-4 employees actively on staff during working hours. The maximum number of employees that will be working in the facility at any given time is 4.

All fitness training services will be provided within the interior fitness studio with closed doors. There will not be any services provided in the exterior of the premises. Special noise attention measures have been implemented to ensure that there will be no noise projected to the exterior of the premises.

By promoting health and wellness through offering a desirable fitness option in a cutting edge facility that caters to the local demographic population, we believe that this facility will be an excellent addition to both the Westcliff Plaza shopping center as well as the surrounding community.

Planning Permit Application for OTF NB, LLC

Findings:

1. The OTF use described above is consistent with the City of Newport Beach General Plan and any neighborhood Specific Plan for Westcliff Plaza Retail Center.
2. A fitness center use is allowed within the CN zoning district, but subject to a Minor Use Permit due to the floor area being over 2,000 square feet. All other aspects of the proposed use will comply with other provisions of the Zoning Code and Municipal Code.
3. The “storefront” quality of the fitness center design is compatible with other retail and service oriented businesses within Westcliff Plaza. The size of the facility at 2,632 square feet is similar to other spaces within the center and as noted above, the operational characteristics will be “self-contained” within the lease space and compatible/complementary to other businesses located within the center and other nearby retail centers.
4. Westcliff Plaza is a well-established neighborhood retail center accommodating a variety of retail and service uses. The center is bounded by two main streets, Irvine Avenue and Seventeenth Street, providing multiple points of access for customer use as well as emergency vehicle/public services access. The use of the facility will not hinder, nor restrict any public services currently being provided to tenants and customers of the center.
5. The opening and operation of OTF at Westcliff Plaza will not be detrimental to the harmonious and orderly growth of Newport Beach. The use will not adversely affect, nor jeopardize the health and welfare of the general public residing or working in the neighborhood of the proposed center.

Attachment No. ZA 4

Westcliff Plaza Parking Summary

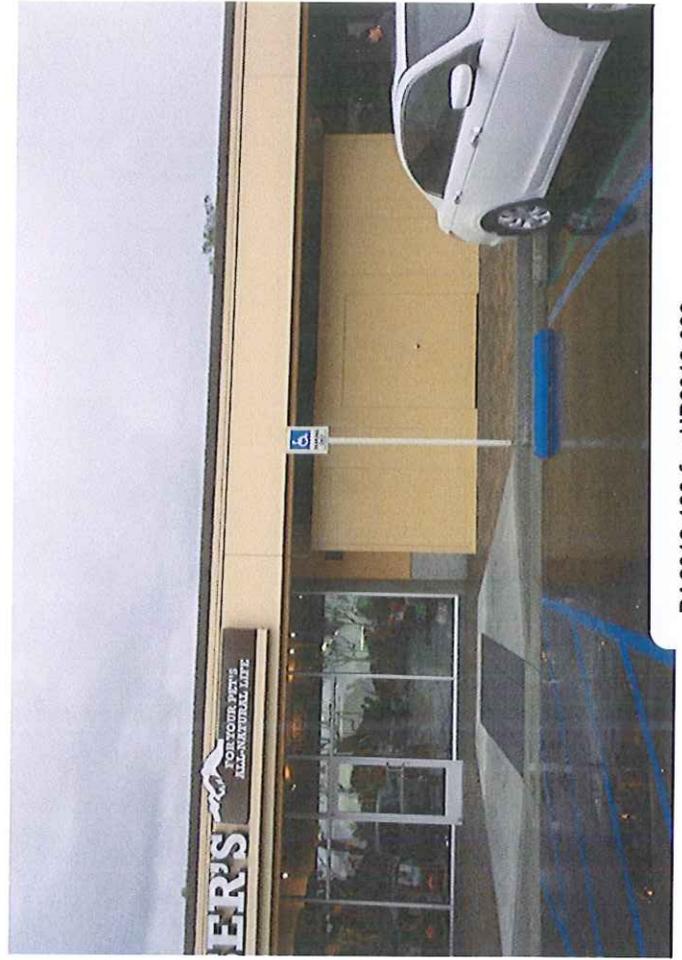
**Westcliff Plaza
Parking Study**
10/17/2012

Westcliff Parking

SUITE	TENANT	USE	SF	RATIO	USE PERMIT	REQUIRED	ROUNDED
1016	Bank of America	bank	7,200	0.004		28.80	29
1020	CVS #8881	retail pharmacy	23,594	0.004		94.38	95
1024	Crown Hardware	hardware	10,270	0.004		41.08	42
1036	Proposed Retail	Retail	1,660	0.004		6.64	7
1040	Proposed Orangetheory	Personal Imprvmt Svc (Proposed)	2,920	0.005	UP2012-022	14.60	15
1044	Kriser's	Retail	2,750	0.004		11.00	11
1048	Newport Beach Business Center	postal services	2,028	0.004		8.11	9
1052	Massage Envy	personal svc/massage estblshmnt	2,503	0.004	UP2010-023	10.01	11
1058	Core Reform Pilates	personal imprvmt svcs	1,300	UP2010-012	UP2010-012	9.00	9
1062	Drapers & Damons	Retail	3,737	0.004		14.95	15
1080	Ulta	beauty supply	11,235	0.004		44.94	45
1104	The Counter	full service	1,078	0.025	UP2007-042	26.95	27
1104P	The Counter patio	patio	120	0.025	OD2010-002	3.00	3
1112	Pick-Up Stix #7121	take-out	1,400	UP3464		6.00	6
1116	Champagne	retail	975	0.004		3.90	4
1120	Chronic Tacos	small scale	1,300	UP 3171		6.00	6
1124	Z Pizza	take out limited or retail	780	0.004	UP2006-022	3.12	4
1126A	Pan D'or	food use (proposed)	1,940	0.025	UP2011-031	20.10	21
1128A	Coffee Bean	small scale	1,200	0.004	M03981	5.00	5
1130	Anthony's Shoe	personal services	975	0.004		3.90	4
1132	Newport Nails	personal services	1,035	0.013		12.94	13
1150	Ralphs #Fresh Fair #745	food & beverage	27,900	0.005		139.50	140
	ATM1					0.00	1
		total				Required Parking Stalls	522
						Existing Parking Stalls	553
						(Does not include Pad 1000 - Chase Bank)	
						Surplus Parking Stalls	31

Attachment No. ZA 5

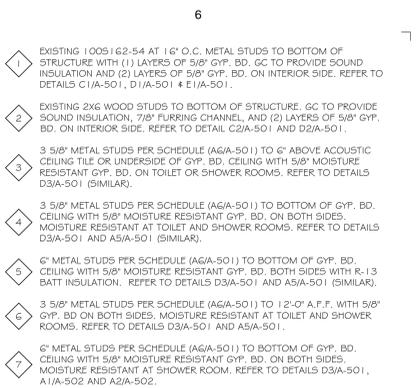
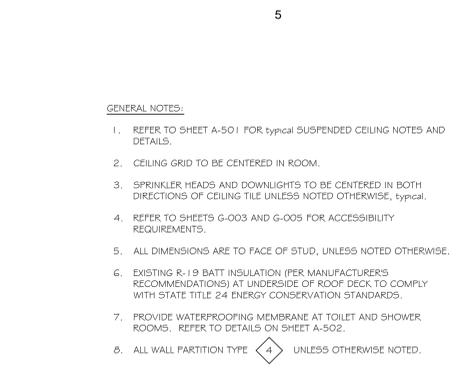
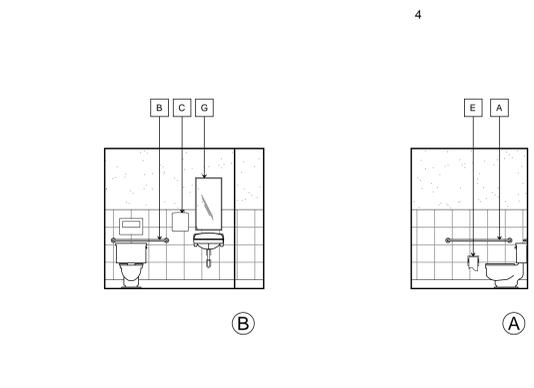
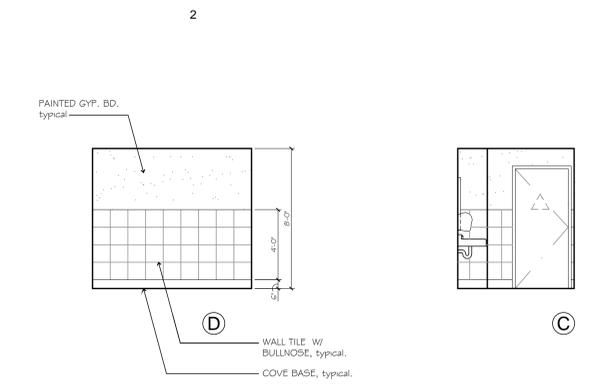
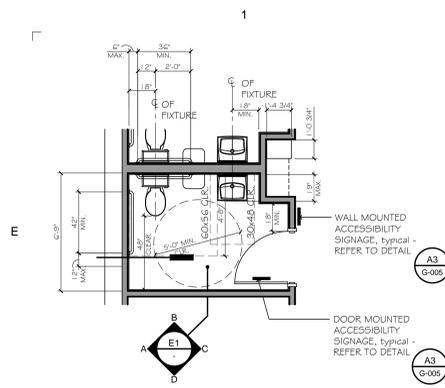
Site Photos



PA2012-130 for UP2012-022
1040 Irvine Avenue
OTF NB, LLC dba Orange Theory Fitness

Attachment No. ZA 6

Project Plans



Carlie Coatsworth Architects, Inc.
 2495 Campus Drive
 Irvine, California 92612
 Phone: 949.833.1550
 Fax: 949.833.1140
 www.ccarliewa.com

E1 TOILET ROOM PLAN AND ELEVATIONS

E2 REFLECTED CEILING PLAN

E3 FLOOR PLAN

E4 FLOOR PLAN

E5 GENERAL NOTES

E6 WALL TYPES

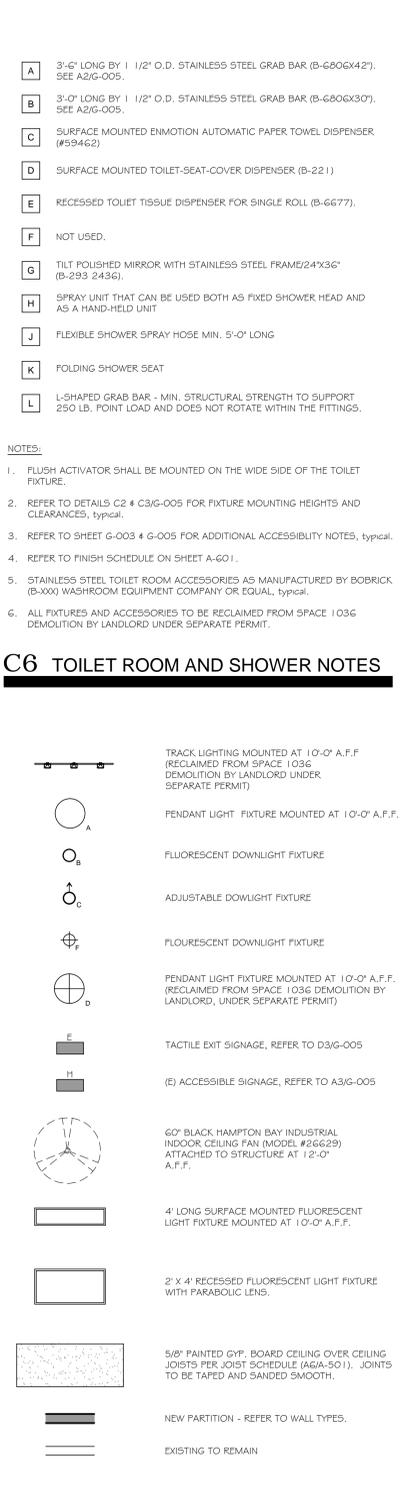
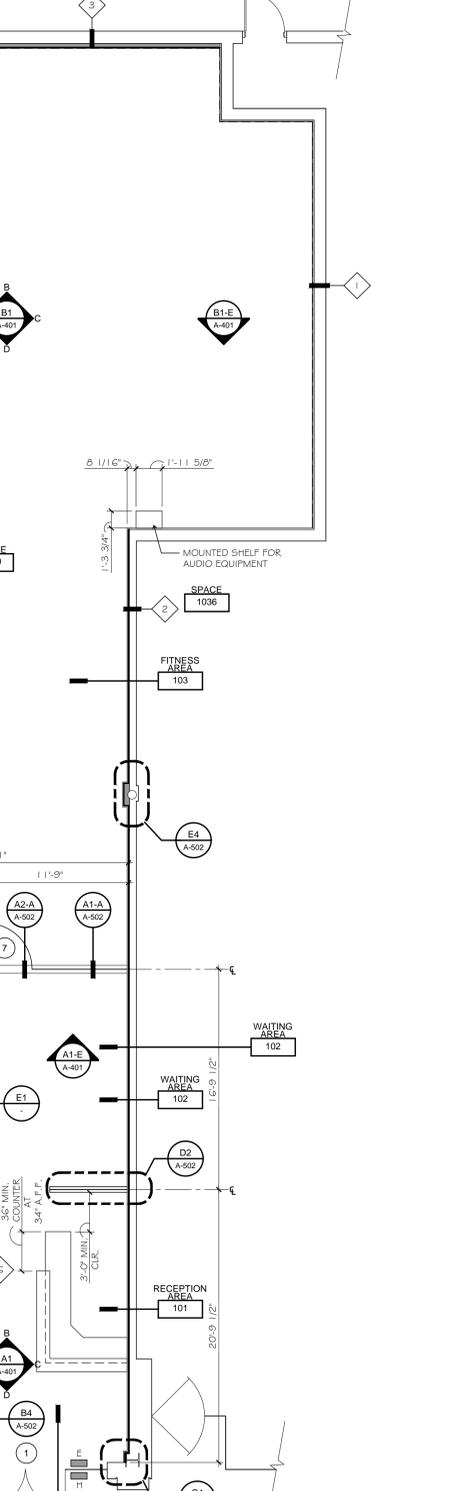
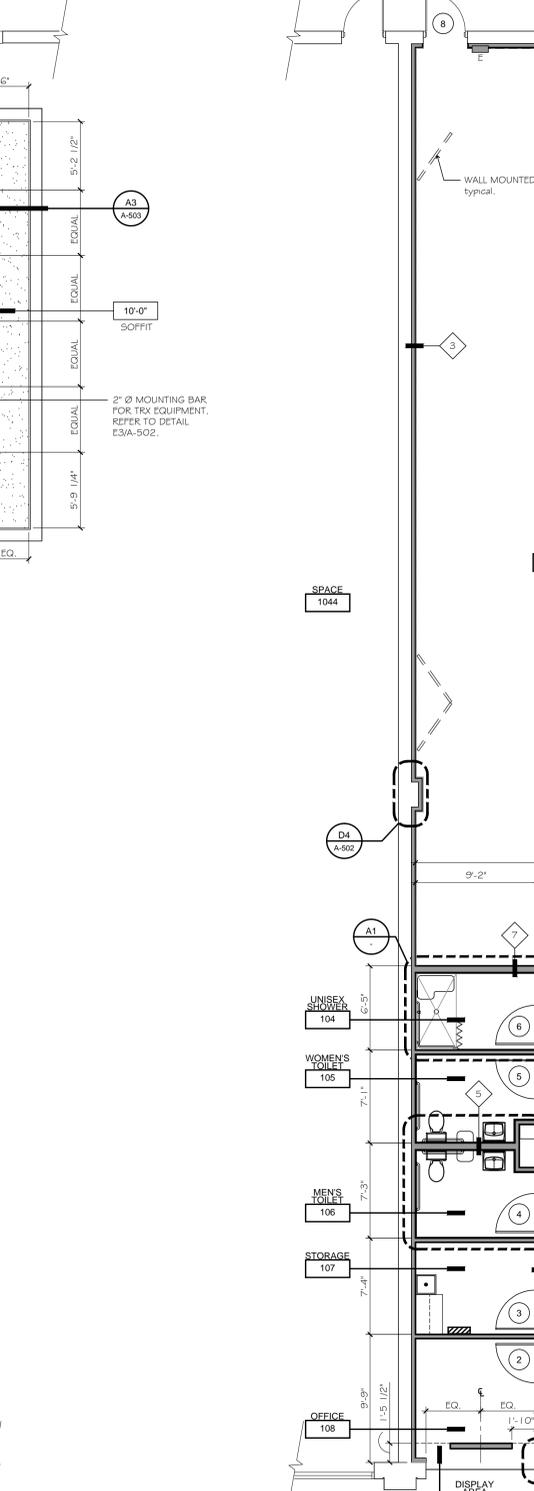
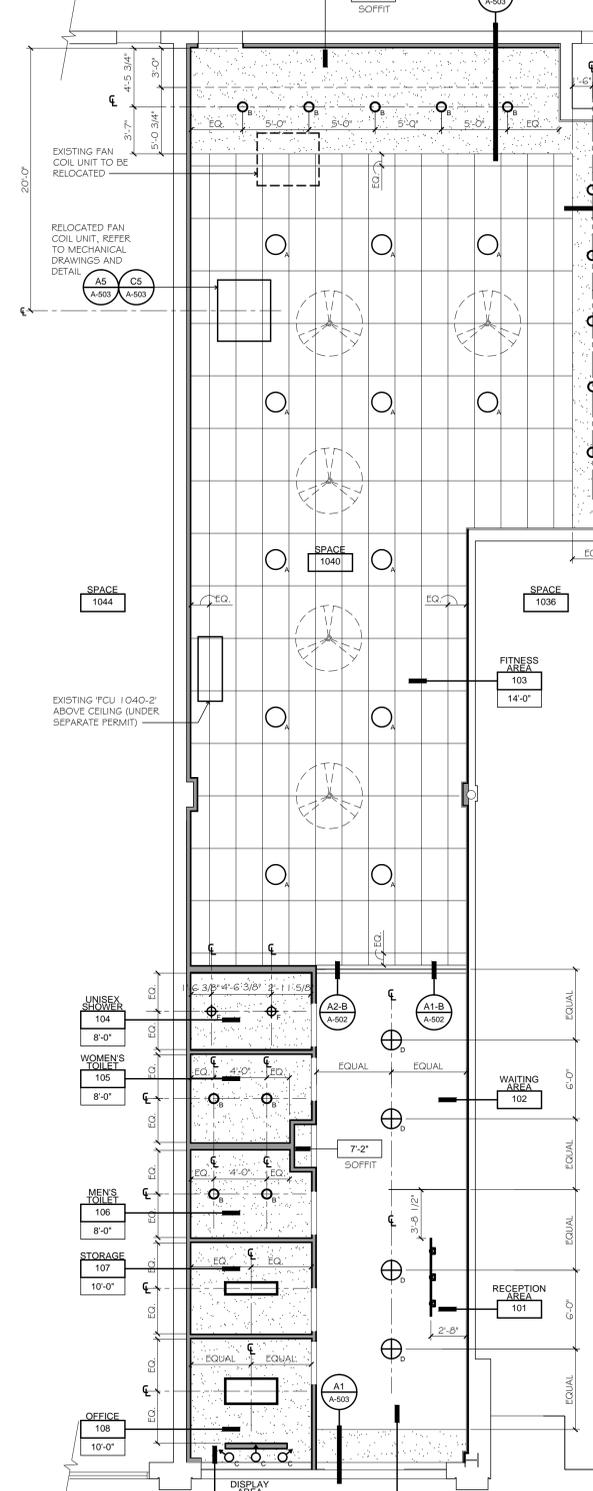
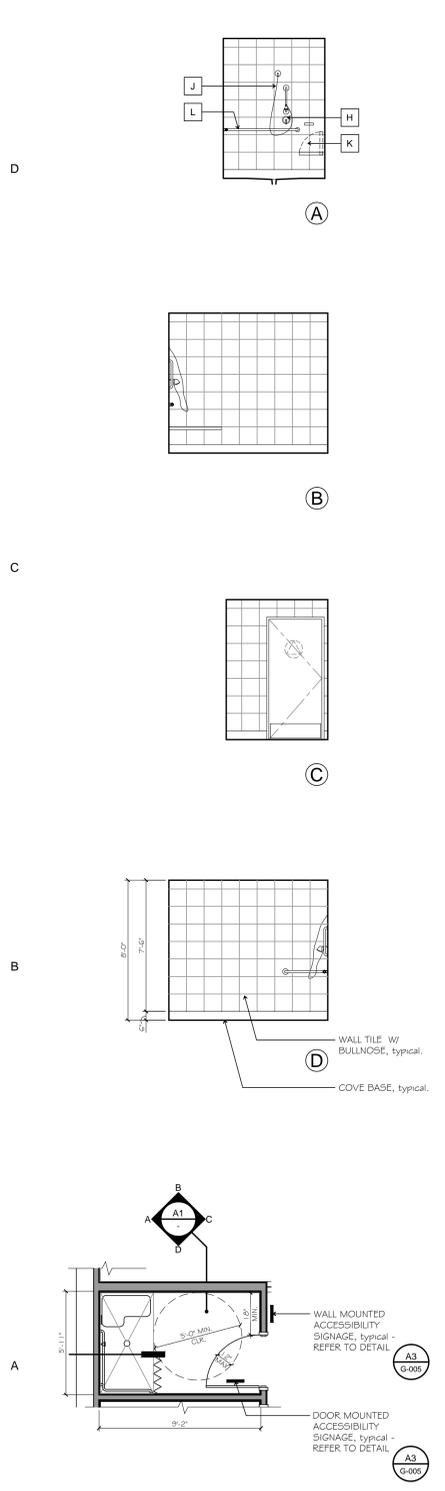
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SCALE: 3/16" = 1'-0"

SCALE: 3/16" = 1'-0"

SCALE: 3/16" = 1'-0"

SCALE: AS NOTED



OrangeTheory

TENANT IMPROVEMENT FOR
SPACE 1040

1040 IRVINE AVENUE
 NEWPORT BEACH, CA, 92660

REVISIONS:

15 OCTOBER, 2012	ISSUED FOR PLAN CHECK/LANDLORD REVIEW
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PROJECT: 12132
 FILE: A-110.DWG
 DATE: 10/15/12
 DRAWN BY: LWC
 SCALE: AS NOTED

SHEET TITLE:
FLOOR PLAN, REFLECTED CEILING PLAN, TOILET ROOM

A-110

UNIFORM DRAWING SYSTEM - U.S. NATIONAL CAD STANDARDS

A1 SHOWER ROOM PLAN AND ELEVATION

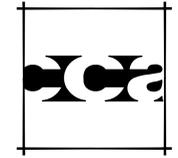
A2 REFLECTED CEILING PLAN

A3 FLOOR PLAN

A4 FLOOR PLAN

A6 LEGEND

A-110



**Carlie
Coatsworth
Architects, Inc.**

2495 Campus Drive
Second Floor
Irvine, California 92612
Phone: 949.833.1550
Fax: 949.833.1140
www.ccarchitects.com



TENANT IMPROVEMENT FOR

SPACE 1040

1040 IRVINE AVENUE
NEWPORT BEACH, CA, 92660

REVISIONS:
15 OCTOBER, 2012
ISSUED FOR PLAN CHECK/LANDLORD REVIEW

PROJECT: 12132
FILE: A-111.DWG
DATE: 10/15/12
DRAWN BY: LWC
SCALE: AS NOTED

SHEET TITLE:
FINISH AND FIXTURE PLAN

A-111

SHEET - OF -
UNIFORM DRAWING SYSTEM - U.S. NATIONAL CAD STANDARDS

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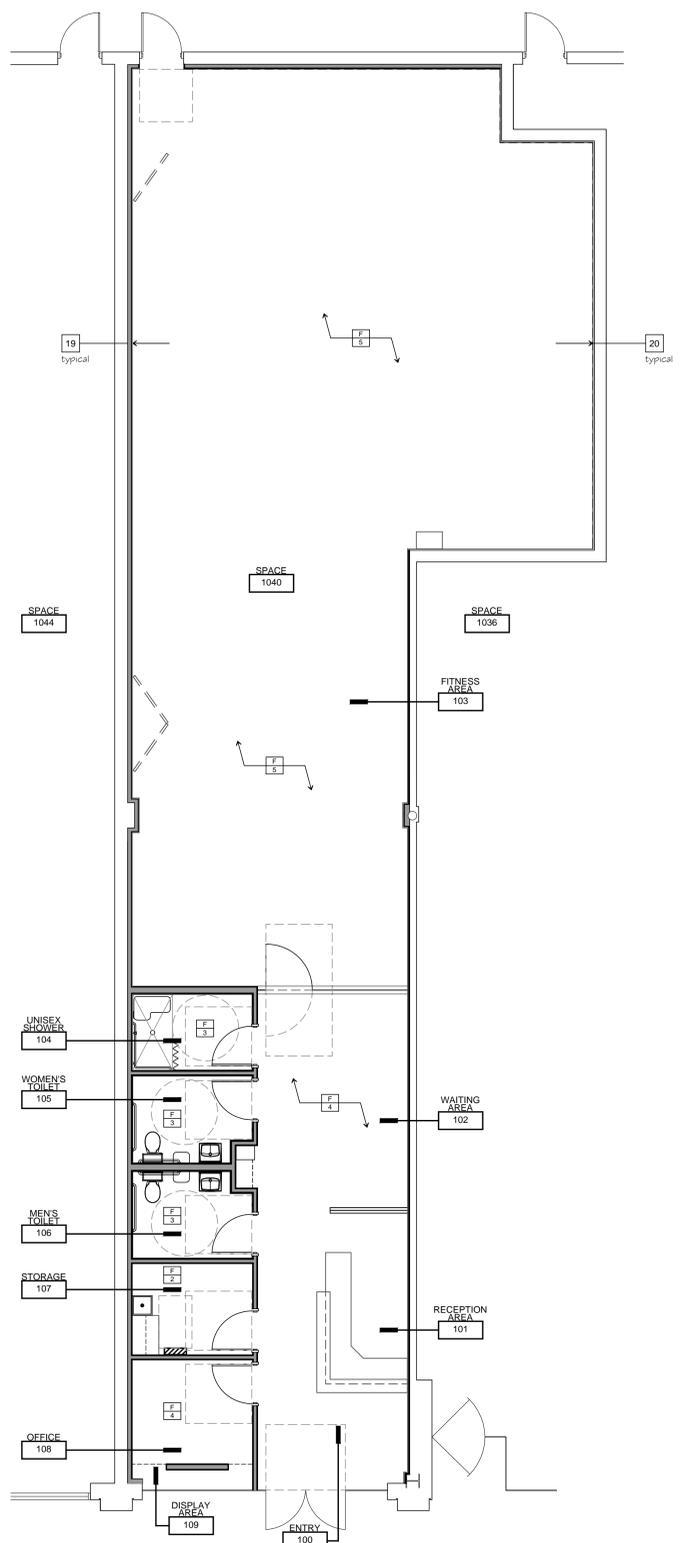
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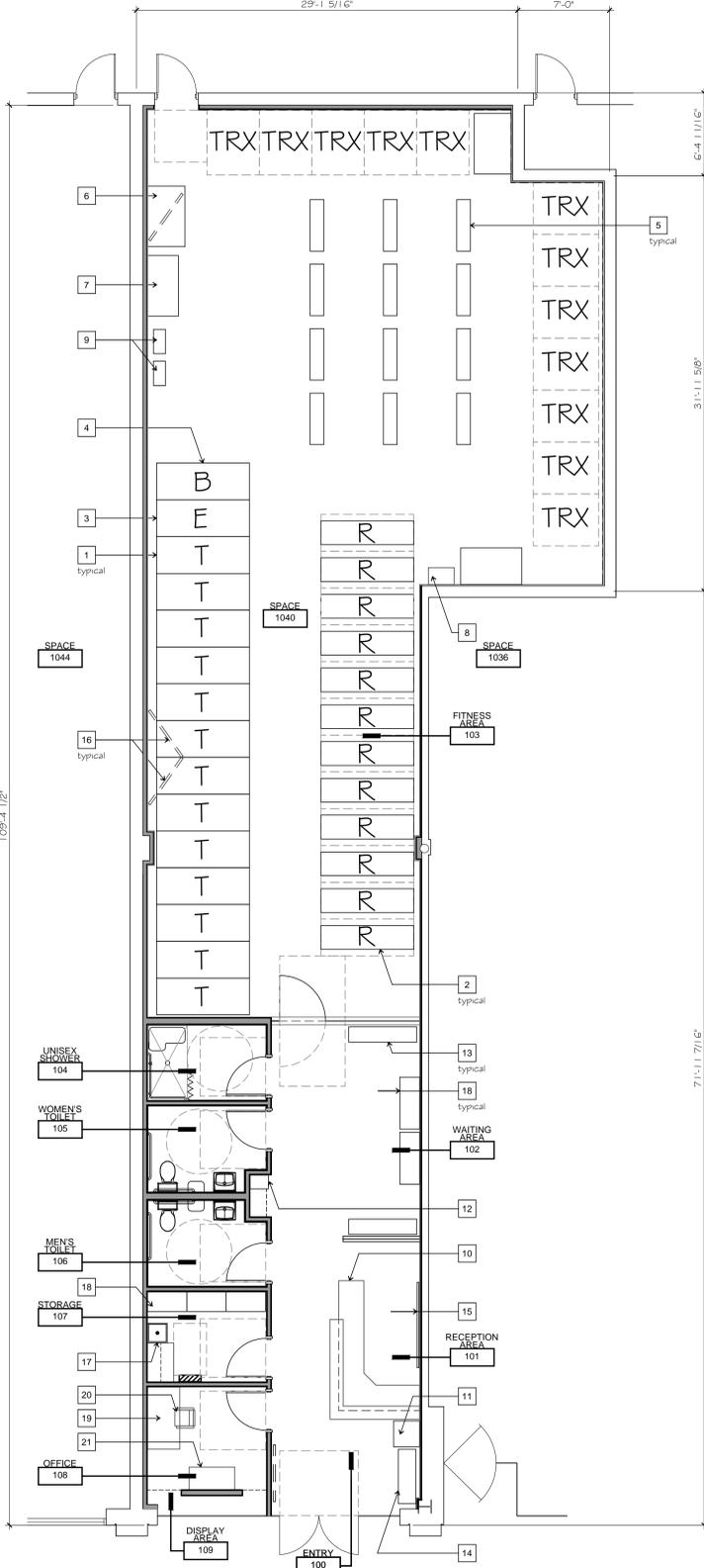
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A3 FINISH PLAN

SCALE: 3/16" = 1'-0"



A4 FIXTURE PLAN

SCALE: 3/16" = 1'-0"

- A6 FIXTURE PLAN KEYNOTES**
- 1 85" X 34" FREEMOTION REFLEX TREADMILL
 - 2 86" X 22 1/4" WATERROWER M1 HIGH RISE
 - 3 ELLIPTICAL MACHINE
 - 4 BIKE MACHINE
 - 5 AEROBIC DECKS
 - 6 34" X 56" TKO DUMBBELL RACK
 - 7 AB DOLLY RACK
 - 8 AUDIO GX SHELF @ 6'-6" A.F./7' WALL MOUNTED AUDIO DOCKING STATION
 - 9 MEDICINE BALL STORAGE
 - 10 RECEPTION DESK AND CABINETS
 - 11 REFRIGERATOR
 - 12 12 3/4" X 16 3/4" OASIS BOTTLELESS AQUABAR II WATER COOLER
 - 13 14 1/8" X 62 1/4" IKEA BENCH (MODEL: BJURSTA)
 - 14 20" X 48" MERCHANDISE DISPLAY (COLOR: BLACK)
 - 15 LOBBY SIGN MOUNTED AT 6'-9" O.C. A.F.F.
 - 16 55" FLAT SCREEN TV
 - 17 UTILITY SINK, REFER TO PLUMBING DRAWINGS FOR ADDITIONAL INFORMATION.
 - 18 18" X 36" STORAGE RACKS
 - 19 29 1/2" X 57 1/2" OFFICE DESK
 - 20 25 1/4" X 24 3/4" OFFICE CHAIR
 - 21 21 1/4" X 41 3/4" FILE CABINET

1 2 3 4 5 6

ADDITIONAL
MATERIALS
RECEIVED

REVISED DRAFT RESOLUTION.2

RESOLUTION NO. ZA2012-0##

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE
CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT
NO. UP2012-022 FOR A HEALTH AND FITNESS FACILITY
LOCATED AT 1040 IRVINE AVENUE (PA2012-130)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Orange Theory Fitness, with respect to property located at 1040 Irvine Avenue, and legally described as Lot 11 of Tract 4824, requesting approval of a minor use permit.
2. A minor use permit to allow a 2,915-square-foot health and fitness facility, Orange Theory Fitness, in a currently vacant tenant space within the Westcliff Plaza Shopping Center. The facility would have a maximum of 24 students and four instructors. Required parking is provided within the shopping center at a rate of one parking space per 200 square feet of gross floor area. The facility utilizes a mix of treadmills, rowing machines, benches, free weights, and suspension unit training within the tenant space. Both private and group fitness sessions will be available to patrons of the facility and the proposed hours of operation are from 5:00 a.m. to 9:00 p.m., Monday through Friday, and from 6:00 a.m. to 5:00 p.m., Saturday and Sunday.
3. The subject property is located within the CN (Commercial Neighborhood) Zoning District and the General Plan Land Use Element category is CN (Neighborhood Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on November 14, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. This exemption allows for the operation, repair, maintenance and minor alteration of existing buildings. The proposed business is located within an existing building where only minor interior alterations are required to accommodate the new use.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F(Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

A. *The use is consistent with the General Plan and any applicable specific plan:*

Facts in Support of Finding

1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The Neighborhood Commercial (CN) designation of the General Plan allows health and fitness facilities.
2. The subject property is not part of a specific plan area.

Finding

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code:*

Facts in Support of Finding

1. The site is located in the CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed health and fitness facility is consistent with land uses permitted by the CN Zoning District.
2. The proposed use will comply with all applicable development and parking standards.

Finding

C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity:*

Facts in Support of Finding

1. Retail uses such as health and fitness facilities are common in the vicinity along Westcliff Drive and serve visitors and residents. The establishment is compatible with the land uses permitted within the surrounding neighborhood.

2. The proposed use is located within the Westcliff Plaza Shopping Center. A Hallmark card store operated in this location between 1985 and 2010 and the tenant space has since been vacant.
3. The Westcliff Plaza Shopping Center abuts residential land uses to the ~~North~~north and east; however, the project site is located along the eastern edge of the shopping center and is separated from these and other uses by parking lots, roadways and other commercial uses.
4. The surrounding commercial uses along Irvine Avenue and Westcliff Drive contain various retail and visitor commercial uses. The proposed health and fitness facility is compatible with the existing and permitted uses in the vicinity
5. The project has been reviewed for compliance with the parking requirements and landscaping standards as provided in Section 20.40.070 (Development Standards for Parking Areas).
6. The hours of operation for the health and fitness facility will be from 5:00 a.m. to 9:00 a.m., Monday through Friday, and from 6:00 a.m. to 5:00 p.m., Saturday and Sunday.

Finding

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities:*

Facts in Support of Finding

1. Adequate circulation and code required parking are provided within the Westcliff Plaza Shopping Center to accommodate the existing and proposed uses. The shopping center is currently developed with 107,895 square feet total gross floor area and 553 parking spaces are currently provided on site. The number of total parking required for the shopping center, based on the general commercial rate of one parking space per 250 square feet, is 446 parking spaces ($107,895/250 = 432$ spaces). Several of the existing uses on the property have additional parking requirements. The requirement for the shopping center, including the proposed use (15 spaces) is 522 parking spaces where 553 spaces are provided.
2. Adequate public and emergency vehicle access, public services, and utilities are provided.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- E. 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, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.
2. The proposed use and hours of operation are compatible with existing uses within the Westcliff Plaza Shopping Center.
3. A health and fitness facility is a common retail use that can be expected within retail/commercial shopping centers such as the Westcliff Plaza Shopping Center.
4. The proposed health and fitness facility will serve the surrounding residential community. This will revitalize the project site and provide an economic opportunity for the property owner to update the retail tenants and services, which best serve the quality of life for the surrounding residential community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-022 (PA2012-130), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 14TH DAY OF NOVEMBER, 2012.

Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. Minor Use Permit No. UP2012-022 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, or an extension is otherwise granted.
2. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit or revoke this Minor Use Permit upon a determination that the operation, which is the subject of this Minor Use Permit, causes injury, or is detrimental to the health, safety, peace, comfort, or general welfare of the community.
3. The project shall be in substantial conformance with the approved plot plan, floor plan, and elevations dated October 12, 2012.
4. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
5. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
6. The project and all tenant improvements must comply with the most recent, City-adopted version of the California Building Code.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use will be cause for revocation of this Permit.
8. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of this health and fitness facility that would attract large crowds, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
9. All signs on the subject property shall be in conformance with the conditions of approval for the Comprehensive Sign Program as approved per Modification Permit No. MD2001-008 (PA2001-010), Modification Permit No. MD2011-006 (PA2011-050), and the provisions of Chapter 20.67 of the Newport Beach Municipal Code.
10. The use shall be limited to a maximum of four instructors and 24 students at any time during the business hours 5:00 a.m. to 10:00 p.m., daily.

11. The doors and windows shall remain closed at all times that the facility is open for business.

12. The operator of the facility shall be responsible for the control of noise generated on the subject facility. Pre-recorded music may be played in the tenant space, provided exterior noise levels do not exceed the provisions of Chapter 10.26 of the Newport Beach Municipal Code.

13. Prior to implementation of the proposed operation, the applicant shall install noise-abating material to both the interior walls and ceiling of the tenant space which abuts any neighboring tenant space that may be adversely impacted by daytime operations of the facility. The proposed material shall be reviewed and approved by both the Planning and Building Departments for installation requirements.

~~11.~~14. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the use permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Planning Director's Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

~~42.~~15. To the fullest extent permitted by law, applicant shall indemnify, defend, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Orange Theory Fitness Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-022 (PA2012-130). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division Conditions

~~43.~~16. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

Public Works Conditions

| ~~44.17.~~ County Sanitation District fees shall be paid prior to the issuance of any building permits.