



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending April 17, 2015

**ZONING ADMINISTRATOR ACTIONS
APRIL 16, 2015**

- Item 1: Bayshores Temporary Parking Lot Limited Term Permit No. XP2015-001 (PA2015-003)
100 Dover Drive
Action: Approved by Resolution No. ZA2015-017 Council District 3
- Item 2: Griggs Tentative Parcel Map No. NP2015-002 (PA2015-031)
616 Narcissus Avenue
Action: Approved by Resolution No. ZA2015-018 Council District 6
- Item 3: Chaba Thai Massage and Spa Minor Use Permit No. UP2015-009 (PA2015-039)
1000 Bristol Street N., Suite 19 and 20
Action: Approved by Resolution No. ZA2015-019 Council District 3
- Item 4: RA Yoga Minor Use Permit No. UP2015-012 (PA2015-045)
1617 Westcliff Drive, #107 and #111
Action: Approved by Resolution No. ZA2015-020 Council District 3

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Wendy Joe, Civilian Investigator, NBPD (*Massage Therapy – ABC License*)
Sgt. Brad Miller, NBPD (*Massage Therapy - ABC License*)

RESOLUTION NO. ZA2015-017

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT NO. XP2015-001 FOR A TEMPORARY PARKING LOT LOCATED AT 100 DOVER DRIVE (PA2015-003)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the Bayshores Community Association, with respect to property located at 100 Dover Drive, and legally described as a Portion of Lot 1 of Tract No. 1125, requesting approval of a limited term permit.
2. The applicant proposes to utilize a portion of City-owned property as an off-site parking lot for workers participating in construction projects within the Bayshores Community. A maximum of 20 parking spaces are proposed for a 12-month period.
3. Limited Term Permit No. XP2011-006 (PA2011-158) was approved for the same use on November 9, 2011; however, the permit expired on November 23, 2014.
4. The subject property is located within the PC-37 (Castaways Marina Planned Community) Zoning District and the General Plan Land Use Element category is CM (Recreational and Marine Commercial).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is CM-A (Recreational and Marine Commercial – (0.0 – 0.30 FAR)).
6. A public hearing was held on April 16, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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 pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 4 (Minor Alterations to Land).
2. The Class 4 exemption includes minor temporary uses of land having negligible or no permanent effects on the environment. The proposed project will not include permanent improvements and will maintain the surrounding vegetation and environment.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.040(G) (Limited Term Permits – Findings and Decisions) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The operation of the requested limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor 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 requested limited duration use.*

Facts in Support of Finding:

1. The property has previously been utilized as a temporary parking lot as well as a staging area for various projects in the proximate area and these uses have not proven detrimental.
2. The limited duration use will be a temporary parking lot in which no construction, staging, storage, or construction vehicles (i.e., heavy equipment) will be permitted as conditioned.
3. There are no conflicting temporary uses taking place on the property currently and any future use will be subject to review and approval by the Planning Division.

Finding:

B. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot.*

Facts in Support of Finding:

1. The subject lot is approximately four acres in size. Based upon the site plan, there is adequate area to accommodate the proposed limited duration use of a parking area for a maximum of 20 vehicles as well as the other existing temporary uses.
2. The lot is bound by Coast Highway to the south and Dover Drive to the west which serve as a buffer between the nearby residential properties within the R-1 (Single-Unit Residential) Zoning District.
3. The lot is abutting a property to the north within the PC-43 (Upper Castaways Planned Community) Zoning District currently utilized as a public park and walking trail and to the east is the Newport Harbor.

Finding:

C. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate.

Facts in Support of Finding:

1. The subject lot has one direct driveway approach taken from northbound Dover Drive.
2. The vehicles (20) would typically access the site early morning prior to peak hour and mid-late afternoon prior to peak hour; therefore, there is no traffic issue anticipated.
3. The limited duration use is a temporary parking lot for vehicles of workers participating in construction projects within the Bayshores Community. Heavy entering-and-exiting traffic is not anticipated.

Finding:

D. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator.

Facts in Support of Finding:

1. The proposed limited duration use will lessen the impact of construction workers' personal vehicles on the residential parking within the adjacent Bayshores Community.

Finding:

E. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.

Facts in Support of Finding:

1. The CM (Recreation and Marine Commercial) designation of the Land Use Element of the General Plan is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to the bay on the waterfront commercial and industrial building sites on or near the bay. The proposed use is of a limited duration and will not impede use of the site consistent with the CM designation.

2. Section IV.B (Permitted Uses) of the PC-37 (Castaways Marina Planned Community) text allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The same use has previously occurred on the site with approval of a limited term permit which expired in November 2014. Pursuant to Zoning Code Section 20.52.040(E) (Limited Term Permits – Application Filing, Processing, and Review), the same activity shall not be allowed to operate on the same lot for at least thirty (30) days following termination of the previous use. The lapse of time from the expiration date is in compliance with this section.
4. The site is not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2015-001, 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 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF APRIL, 2015.

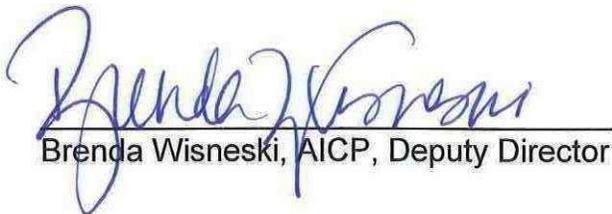

Brenda Wisneski, AICP, Deputy Director

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Anything not specifically approved by this limited term permit is prohibited and shall be addressed by a separate and subsequent review.
3. The Limited Term Permit shall expire 12 months from the effective date of the license agreement to implement this permit, unless an extension of up to one additional permit of 12 months is granted by the Zoning Administrator.
4. A maximum number of twenty (20) parking spaces is permitted and each parked vehicle shall display a placard issued by the Bayshores Community Association in a manner such that it is easily visible.
5. The applicant shall furnish and post signs designating the parking area as shown on the site plan as parking by permit only for workers participating in construction projects within the Bayshores Community only. The sign shall be subject to review and approval by the Community Development Director.
6. The applicant shall furnish and erect a temporary barricade or cones to designate the proposed parking area. The placement of any temporary barricade or cones shall be subject to the review and approval of the Community Development Director.
7. The Limited Term Permit is for the operation of a temporary parking lot and does not authorize the use or operation of a construction storage yard or staging area. As such, no construction materials, equipment, or vehicles (i.e., heavy equipment) are permitted on the site.
8. Consistent with Newport Beach Municipal Code Section 10.28.040 (Construction Activity – Noise Regulations), use of the temporary lot is limited to the hours of 6:30 a.m. to 7:00 p.m., Monday through Friday and 7:30 a.m. to 6:30 p.m., on Saturdays. No temporary parking shall be permitted on Sundays or Federal holidays.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the 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 the City's approval of the Bayshores Temporary Parking Lot including, but not limited to, Limited Term Permit No. XP2015-001 (PA2015-003). 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, the City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages which the 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.

RESOLUTION NO. ZA2015-018

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2015-002 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 616 NARCISSUS AVENUE (PA2015-031)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Adrian Scott Griggs, requesting approval of a tentative parcel map. The property is located at 616 Narcissus Avenue, and legally described as Lot 18, Block 641, Corona del Mar Tract.
2. The applicant proposes a tentative parcel map application for two-unit condominium purposes. No waiver of Title 19 (Subdivisions) development standards are proposed with this application. An existing two-unit duplex was demolished and will be replaced with a new two-unit duplex. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 16, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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 pursuant to the State CEQA (California Environmental Quality Act) Guidelines under Class 15 (Minor Land Divisions).
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

- A. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A two-unit duplex was demolished and will be replaced with a new two-unit duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two-Unit Residential."
2. The Tentative Parcel Map does not apply to any specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters along the Narcissus Avenue frontage consistent with the Subdivision Code (Title 19).

Finding:

- B. *That the site is physically suitable for the type and density of development.*

Facts in Support of Finding:

1. The lot is physically suitable for two-unit development because it is regular in shape and is relatively flat.
2. The subject property is accessible from Narcissus Avenue and the alley at the rear, and is adequately served by existing utilities.

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other*

considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

1. The site was previously developed with a two-unit duplex which was demolished and will be replaced with a new two-unit duplex.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Alterations).

Finding:

- D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Facts in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

- F. *That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a Zoning District that permits residential uses.

Finding:

- G. *That, in the case of a “land project” as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. The property is not a “land project” as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain 50 or more parcels.
2. The project is not located within a specific plan area.

Finding:

- H. *That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. *That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Facts in Support of Finding:

1. The proposed two-unit duplex is consistent with the R-2 Zoning District which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

- J. *That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Facts in Support of Finding:

1. The new two-unit duplex will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. *For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

1. The subject property is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2015-002 (PA2015-031), 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 ten (10) 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 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF APRIL, 2015



Brenda Wisneski, AICP, Deputy Director

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the Map shall tie the boundary of the Map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner, unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. An encroachment permit is required for all work activities within the public right-of-way.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
7. Narcissus Avenue is part of the City's Moratorium List. Work performed on said roadway will require additional surfacing requirements. See City Standard 105-L-F.
8. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Narcissus Avenue frontage.
9. The applicant shall reconstruct the existing broken and/or otherwise damaged alley adjacent to the development site.
10. The applicant shall install new sod or low growing groundcover of the type approved by the City throughout the Narcissus Avenue parkway fronting the development site.
11. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.

12. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130.
13. No above ground improvements shall be installed within the 5-foot alley setback.
14. All on-site drainage shall comply with the latest City water quality requirements.
15. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic grade box and cover. The water meter and sewer cleanout shall be located within the public-right-of way.
16. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for description change of the subject project development from "duplex" to "condominium." **The development will not be condominiums until this permit is finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
17. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
18. 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 Griggs Tentative Parcel Map, including, but not limited to, NP2015-002 (PA2015-031). 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.

RESOLUTION NO. ZA2015-019

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-009 FOR A MASSAGE ESTABLISHMENT LOCATED AT 1000 BRISTOL STREET, SUITES 19 AND 20 (PA2015-039)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael and Somporn Guenther, with respect to property located at 1000 Bristol Street, and legally described as Parcel 1, in the City of Newport Beach, County of Orange, State of California, as shown on a Parcel Map filed in book 97, pages 18 and 19 of Parcel Maps, in the office of the County Recorder of said County, requesting approval of a minor use permit.
2. The applicant proposes to expand an existing massage establishment (Chaba Thai Massage and Spa) located within the Plaza Newport Shopping Center. The proposed expansion would include the adjacent 1,100-square-foot tenant space and consist of four (4) additional massage rooms, an employee room, supply storage, and enlarged reception area. Two (2) additional employees are proposed to be added and the allowed hours of operation would remain unchanged.
3. The subject property is located within the Newport Place Planned Community (PC 11) Zoning District and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 16, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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, pursuant to Section 15301 (Class 1 – Existing Facilities).
2. Class 1 exempts minor alterations to existing facilities that involve negligible expansion of the use. This project involves an interior remodel of an existing commercial space and a change in use from a tanning salon to a massage establishment, which is a negligible expansion of 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 property is designated General Commercial (CG) within the Land Use Element of the General Plan and is intended to provide for a wide variety of commercial activities oriented primarily to serve Citywide or regional needs. The massage establishment is consistent with this land use designation as it will serve residents, visitors, and those working in the area.
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 subject property is located within General Commercial Site 3 of the Newport Place Planned Community (PC-11). Pursuant to the PC-11 Development Standards, Part II (Commercial), Section II (Permitted Uses), Group II (Commercial Uses), F (General Commercial), General Commercial sites allow for commercial uses such as retail, restaurant, hobby stores, professional services, offices, and other uses of a similar nature. A massage establishment is a general commercial use similar in nature to the allowed retail and services uses and the proposed expansion is permitted subject to the approval of a minor use permit.
2. The proposed massage establishment is consistent with the legislative intent of Section 20.48.120 (Massage Establishments and Services) of the Municipal Code, which provides standards for the establishment, location, and operation of massage establishments operated as an independent use, in addition to the standards in Chapter 5.50 (Massage Establishments). These standards are intended to promote operation of legitimate massage services and to prevent problems of blight and deterioration, which accompany and are brought about by large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.

3. The massage establishment is not located within 500 feet of a public or private school, park or playground, civic center, cultural site, religious institution, or another massage establishment.
4. General Commercial Site 3 has a “blended” parking requirement of one (1) space for every 250 square feet of net floor area and one (1) loading space for every 10,000 square feet of gross floor area. A change in use of a tenant suite does not affect the parking requirement for the overall site. The site is developed with a surface parking lot containing 222 parking spaces.
5. As conditioned, the proposed use will comply with all other applicable provisions of the Zoning Code and Municipal Code.

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. The proposal is to expand an existing 1,200-square-foot massage establishment (Suite 19) located in the Plaza Newport Shopping Center into an adjacent 1,100-square-foot tenant space (Suite 20), which was previously occupied by a tanning salon.
2. The project site and surrounding area consist of a mixture of nonresidential uses including eating and drinking establishments, a hair and nail salon, mail services, and retail uses that serve residents and visitors to the City of Newport Beach. The expanded massage establishment will continue to provide a service, consistent with existing and permitted uses in the area.
3. The existing 222-space parking lot provides adequate parking for all uses within the shopping center and the expanded massage establishment will not require the provision of additional parking onsite.
4. The allowed hours of operation between 10:00 a.m. and 9:00 p.m., daily, are not proposed to change, which should limit any potential late night/early morning land use conflicts with nearby properties.

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. The shopping center property is 170,366 square feet in area, and is developed with four (4) multi-tenant buildings and a 222-space surface parking lot. The existing building and parking lot have functioned satisfactorily with the current configuration. The lot fronts Bristol Street and has two (2) vehicular access points into and out of the shopping center.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on the property and the proposed massage establishment will not change this.

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

Facts in Support of Finding:

1. The massage establishment has been conditioned with hours of operation that will minimize any potential detriment to the area.
2. The shopping center is not located within an area with problems of blight and deterioration.
3. The proposed massage establishment will help revitalize the project site and provide an economic opportunity for the property owner to lease the tenant space. Additionally, the establishment will provide additional services to the residents and visitors in the surrounding area.
4. The proposal has been reviewed by the Building and Code Enforcement Divisions, Public Works, Fire, and Police Departments, and recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit UP2015-009, 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 (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community

Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

3. This resolution supersedes Zoning Administrator Resolution No. ZA2012-002, which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF APRIL, 2015.

By:



Brenda Wisneski, AICP, Deputy Director

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Conditions required by Minor Use Permit No. UP2011-033, Resolution No. ZA2012-002, have been incorporated into the conditions herein)

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. 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 Minor Use Permit.
4. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
5. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
8. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. Prior to the issuance of building permits, the shower, massage room doors, door hardware, and reception counter design shall be shown to comply with accessibility requirements.
10. The hours of operation are limited to between 10:00 a.m. and 9:00 p.m., daily.
11. A maximum of nine (9) employees are permitted to be on duty at any given time.

12. A valid business license from the City of Newport Beach with sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.
13. Any technicians working as independent contractors shall obtain their own City of Newport Beach business license.
14. The applicant shall adhere to all provisions set forth in Assembly Bill No. AB1147 and California Business and Professions Code Chapter 10.5 (Massage Therapy Act) relating to operating a massage establishment.
15. The applicant is required to obtain an Operator's Permit from the Newport Beach Police Department in compliance with Chapter 5.50 (Massage Establishments) of the Newport Beach Municipal Code.
16. All proposed signs shall be in conformance with provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
17. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
18. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment; however, not located on or within any public property or right-of-way.
19. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, debris and graffiti from the premises and on all abutting sidewalks within twenty (20) feet of the premises.
20. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
21. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
22. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.

23. 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 Chaba Thai Massage and Spa including, but not limited to, UP2015-009 (PA2015-039). 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.

RESOLUTION NO. ZA2015-020

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-012 FOR A HEALTH AND FITNESS FACILITY LOCATED AT 1617 WESTCLIFF DRIVE, SUITES 107, 109, AND 111 (PA2015-045)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Robert Kittleman of RA Yoga, with respect to property located at 1617 Westcliff Drive, Suites 107, 109, and 111, and legally described as Parcel 1 of Lot Line Adjustment No. 2002-031 as recorded in Document No. 2003000120678, also described as Lot 7 of Tract No. 4225, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 153, Pages 23 and 24 of Miscellaneous Maps in the Office of the Recorder of said county, except the northwesterly 80.00 feet thereof; and that portion of Lot 8 of said Tract described as follows: a strip of land, 55.98 feet in width lying southeasterly of and contiguous to the southeasterly line of said Lot 7. The applicant requests the approval of a minor use permit.
2. The applicant proposes a minor use permit to allow a 2,360-gross-square-foot health and fitness facility, Ra Yoga, within an existing commercial building. The building was previously occupied by two health and fitness facilities. As proposed, the existing building will be renovated and Ra Yoga will consolidate both of these tenant spaces. The suite will be improved with two yoga studios, a reception/retail area, and restrooms with storage lockers for patrons.
3. The subject property is located within the CG (Commercial General) Zoning District and the General Plan Land Use Element category is CG (General Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 16, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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. The project qualifies for Class 1 (Existing Facilities) categorical exemption, Section 15301 of the California Environmental Quality Act (CEQA) Guidelines.
2. The proposed project is a minor change in use within an existing suite of an existing building with minimal construction in the form of a tenant improvement.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Conditional Use Permits and Minor Use Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings 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 subject property has a General Plan land use designation of General Commercial, which is intended to provide for a wide variety of commercial activities to serve citywide needs. The proposed yoga studio is in conformance with the applicable goals and policies of the General Plan because the project provides a neighborhood-oriented service use that is compatible with surrounding commercial, residential, and mixed-use land uses in the area.
2. The site is not within a specific plan.

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 subject property is within the CG (Commercial General) Zoning District, which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designated to foster pedestrian activity. The proposed yoga studio is a neighborhood-oriented service use and is permitted within this zoning designation with the approval of a minor use permit.
2. Parking is provided in the on-site parking area for the building. The proposed health and fitness club in the form of a yoga studio requires only two additional parking spaces compared to a general retail use. The existing property contains sufficient parking on-site that accommodates the additional parking required for the yoga studio.

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. The existing suites where the yoga studio will be located is within a building that contains various commercial retail and service uses. Soundproofing and hush board will be installed at all four sides of the yoga rooms to reduce noise impacts to other tenants within the building.
2. Yoga studios and similar health and fitness facilities are found throughout the City and provide a service for interested residents.
3. The health and fitness facility will operate between the hours of 5:00 a.m. and 9:30 p.m., daily, which will provide flexibility to serve a wide variety of patrons beyond typical work hours while still maintaining compatibility with the neighborhood.
4. In order to regulate parking demand within the parking area, class sizes will be limited to 30 instructors and students at any one time between the two studio spaces from 9:00 a.m. through 8:00 p.m., Monday through Friday.

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. The health and fitness facility will be located in a 2,360-gross-square-foot suite in the southeast corner of the existing building with access from Westcliff Drive and Sherrington Place.
2. The on-site parking area and parking demand analysis was reviewed by the City Traffic Engineer as part of the renovation of the building (Plan Check No. 2463-2014) and provides adequate circulation and access for the proposed yoga studio and the existing uses.
3. The tenant improvement to the existing suite requires a building permit and all Fire and Building Code regulations will be verified during the plan check process.

Finding:

- E. The Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor 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.*

1. The use with its operational characteristics, including hours of operation, fits well with the existing uses within the existing building as well as with the surrounding residential

neighborhoods. The business must comply with noise levels as established by the Municipal Code to mitigate impacts to the surrounding neighborhood.

2. The improvements to accommodate a health and fitness facility are minor in nature and will not impact the overall operation of the building.
3. The use will not create any additional impacts outside of the existing building operation. Soundproofing and hush board will be installed at all four sides of the yoga rooms to reduce noise impacts to other tenants within the building.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-012 (PA2015-045), 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 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF APRIL, 2015.


Brenda Wisneski, AICP, Deputy Director

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Minor Use Permit No. UP2015-012 (PA2015-045) shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The use shall be limited to 30 instructors and students at any time between 9:00 a.m. to 8:00 p.m., Monday through Friday.
4. The hours of operation shall be limited from 5:00 a.m. to 9:30 p.m., daily.
5. Soundproofing and hush board will be installed at all four sides of the yoga rooms to reduce noise impacts to other tenants within the building.
6. All new restroom facilities shall meet California accessibility requirements. The tenant space shall provide accessible water closet and showers to the satisfaction of the Building Division.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
9. This Minor Use Permit may be modified or revoked by the Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to not constitute a public nuisance.
10. Any addition to the 2,360-square-foot yoga studio may require additional parking and an amendment to the use permit. 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.
11. 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.

12. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
13. 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 Ra Yoga including, but not limited to, the UP2015-012 (PA2015-045). 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.

Public Works Conditions

14. The parking layout shall comply with the City Traffic Engineer approved parking layout for the shopping center.