

**CITY OF NEWPORT BEACH  
PLANNING DEPARTMENT ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: David Lepo, Planning Director

SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending May 29, 2009

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**ACTIONS TAKEN AT MAY 28, 2009 ZONING ADMINISTRATOR HEARING**

- Item 1: Parcel Map No. NP2009-003 (PA2009-063)  
716 Iris Avenue
- A parcel map for condominium purposes for a new 2-unit residential development. The required two-car parking spaces per unit will be provided on the property. No waivers of Title 19 (Subdivision Code) development standards are proposed with this application
- This item was approved. Council District 6
- Item 2: Lot Line Adjustment No. LA2009-004 and Modification Permit No. MD2009-011 (PA2009-058)  
1706, 1710 and 1714 Miramar Drive
- A lot line adjustment for a lot merger to combine two lots with portions of a third lot, located at 1706, 1710 and 1714 Miramar Drive, and removing the shared interior lot lines. Also included in the application was a request to waive the requirement to file a parcel map. The application also includes a modification permit to authorize an addition to the existing single-family dwelling that will encroach one foot into wider four-foot side yard setback.
- This item was approved. Council District 1
- Item 3: Modification Permit No. MD2009-010 (PA2009-045)  
2723 Ocean Boulevard
- A modification permit to allow the retention of a garage addition, constructed without an approved building permit, which encroaches 4 feet into the required 4-foot side yard setback and 10 feet into the required 10-foot front yard setback. A modification permit is also required to allow the proposed garage space to maintain a parking space depth of 18 feet 4 inches where the Code requires a clear depth of 19 feet.
- This item was approved. Council District 6

## ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF

Item 4: Graviti Fitness – Use Permit No. UP2009-016 (PA2009-062)  
3411 East Coast Highway

A use permit application for a personal improvement service that would offer group fitness training courses in an existing 700-square-foot tenant space.

Approved – May 28, 2009

Council District 6

Item 5: Curves – Use Permit No. UP2009-018 (PA2009-066)  
2865 E. Coast Highway, Suite 150

A use permit for a women's fitness facility that would be located in a 1020-square-foot tenant space of an existing building.

Approved – May 27, 2009

Council District 6

On behalf of David Lepo, Planning Director:



James W. Campbell, Zoning Administrator

### APPEAL:

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director (*e-mail*)  
Sharon Wood, Assistant City Manager (*e-mail*)  
David Keely, Public Works Senior Civil Engineer (*e-mail*)  
Code Enforcement Division (*e-mail*)



## PARCEL MAP ACTION LETTER

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.** Parcel Map No. NP2009-003 (PA2009-063)  
Tentative Parcel Map No. 2007-171

**Applicant** William D. Campbell

**Site Address** 716 Iris Avenue  
Campbell Family Trust Condominiums

**Legal Description** Corona Del Mar, Lot 18, Block 736

On May 28, 2009, the Zoning Administrator approved the following: A parcel map for condominium purposes for a new 2-unit residential development. The required two-car parking spaces per unit will be provided on the property. No waivers of Title 19 (Subdivision Code) development standards are proposed with this application. The property is located in the R-2 (Two-Family Residential) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

### Findings and Facts in Support of Findings

The Zoning Administrator determined in this case that the proposed 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 of Title 19:

1. **Finding:** 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:**

- The proposed parcel map is for two-unit condominium purposes. A previously existing single-unit dwelling was demolished and a new duplex, which will become a two-unit condominium project, is currently under construction. The proposed subdivision and improvements are consistent with the land use and property development regulations of the R-2 Zoning District and the General Plan Land Use designation "Two-Unit Residential".
2. **Finding:** That the site is physically suitable for the type and density of development.

### **Facts in Support of Finding:**

- The lot is regular in shape, has a slope of less than 20 percent, and is suitable for development.
3. **Finding:** 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:**

- This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures). The project consists of construction of a new duplex which will become a two-unit condominium project.
4. **Finding:** 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:**

- The proposed parcel map is for residential condominium purposes. The new duplex is being constructed to become a condominium project and will comply with all Building, Public Works, and Fire Codes. Public improvements will be required of the developer per Section 19.28.010 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all conditions of approval will be complied with.
5. **Finding:** 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 easements 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:**

- The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development. The utilities and sewer easements located on the subject property have been incorporated into the plans approved for construction of the new duplex.

6. **Finding:** 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:**

- The property is not subject to the Williamson Act since the subject property is not considered an agricultural preserve and is less than 100 acres.

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

**Facts in Support of Finding:**

- The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code.
- The project is not located within a specific plan area.

8. **Finding:** 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:**

- The proposed parcel map and 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 Department enforces Title 24 compliance through the plan check and inspection process.

9. **Finding:** 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:**

- The proposed parcel map 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. The residential density on the site will remain the same, which allows two units for the R-2 Zoning District. No affordable housing units are being eliminated based upon the fact that the previously existing unit was not occupied by low or moderate income household.

10. **Finding:** 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:**

- Wastewater discharge into the existing sewer system will not violate Regional Water Quality Control Board (RWQCB) requirements.

11. **Finding:** 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:**

- The proposed parcel map is not located within the Coastal Zone.

**CONDITIONS**

1. A parcel map shall be recorded. The map shall be prepared on the California coordinate system (NAD83). 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, Sub article 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,

Sub article 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. Prior to recordation of the parcel map, the In-Lieu Park Dedication Fee (\$26, 125.00) approved by City Council Resolution No. 2007-30 shall be paid to the City.
4. A 4-foot wide easement for public utility purposes (Sewer) within the two single car garages (locations as identified on the approved plan check for the duplex) shall be recorded as a part of the parcel map. The easement shall provide a minimum 10 foot vertical clearance measured from the top of the existing sewer line.
5. All improvements shall be constructed as required by City Ordinance and the Public Works Department.
6. The existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along Iris Avenue frontage shall be reconstructed. The limit of reconstruction shall be at the discretion of the Public Works inspector.
7. The existing broken and/or otherwise damaged alley panels along the rear alley frontage shall be reconstructed. The limit of reconstruction shall be at the discretion of the Public Works inspector.
8. All applicable Public Works Department plan check fees, improvement bonds and inspection fees shall be paid prior to processing of the map by the Public Works Department.
9. If recordation of the parcel map or obtaining of a building permit prior to completion of the public improvements is desired, arrangements shall be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements
10. Each unit shall be served by its individual water meter and sewer lateral and cleanout within the Public right-of-way. Each water meter and sewer cleanout shall be installed with a traffic-grade box/frame and cover.
11. Each unit shall be served with individual gas and electrical service connection and shall maintain separate meters for the utilities.
12. New sod or low groundcovers of the type approved by the City throughout the Iris Avenue parkway fronting the development site shall be installed.
13. The rear 5-foot alley setback shall be clear of any above ground improvements.


14. Overhead utilities serving the site shall be undergrounded to the nearest appropriate pole in accordance with Section 19.28.090 of the Municipal Code, unless it is determined by the City Engineer that such undergrounding is unreasonable or impractical.
15. In accordance with the provisions of Chapter 13 (or any other applicable chapters) of the Newport Beach Municipal Code, additional street trees may be required and existing street trees shall be protected in place during construction of the subject project, unless otherwise approved by the General Services Department and the Public Works Department through an encroachment permit or agreement.
16. All existing drainage facilities in the public right-of-way shall be retrofitted to comply with the City's on-site non-storm runoff retention requirements. The Public Works Inspector shall field verify compliance with this requirement prior to recordation of the parcel map.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
18. All on-site drainage shall comply with the latest City Water Quality requirements.
19. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
20. All work conducted within the public right-of-way shall be approved under an encroachment permit issued by the Public Works Department.
21. 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 unless an Encroachment Agreement is applied for and approved by the Public Works Department.
22. Each unit will provide the required number of parking spaces per unit as required by the Zoning Code
23. In compliance with the requirements of Chapter 9.04, Section 901.4.4, of the Newport Beach Municipal Code, approved street numbers or addresses shall be placed on all new and existing buildings in such a location that is plainly visible and legible from the street or road fronting the subject property. Said numbers shall be of non-combustible materials, shall contrast with the background and shall be either internally or externally illuminated to be visible at night. Numbers shall be no less than four inches in height with a one-inch wide stroke. The Planning Department Plan Check designee shall verify the installation of the approved street number or addresses during the plan check process for the new or remodeled structure.



24. County Sanitation District fees shall be paid prior to issuance of any building permits, if required by the Public Works Department or the Building Department.
25. This parcel map shall expire if the map has not been recorded within 3 years of the date of approval, unless an extension is granted by the Planning Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

**APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

By:   
James W. Campbell, Zoning Administrator

JWC/ks

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None





## ZONING ADMINISTRATOR ACTION LETTER

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**           **Modification Permit No. MD2009-011**  
                                  **Lot Line Adjustment No. LA2009-004**  
                                  **(PA2009-058)**

**Applicant**                   **John T. Morgan**

**Site Address**               **1706, 1710 and 1714 Miramar Drive**  
                                  **Perlman Residence**

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On **May 28, 2009**, the Zoning Administrator approved the following: A lot line adjustment for a lot merger to combine two lots with portions of a third lot, located at 1706, 1710 and 1714 Miramar Drive, and removing the shared interior lot lines. Also included in the application was a request to waive the requirement to file a parcel map. In accordance with Section 19.68.060 D., voluntary mergers of contiguous lots, under the same ownership, may be initiated by the lot owner. In cases where no more than one parcel is eliminated, the Zoning Administrator may approve a waiver of the parcel map requirement and use a lot line adjustment to combine the lots.

The application also includes a modification permit to authorize an addition to the existing single-family dwelling that will encroach one foot into wider four-foot side yard setback. The property is located in the R-1 (Single-Family Residential) District. The Zoning Administrator's approval is based on the following findings and subject to the following procedural requirements and condition:

### **FINDINGS**

#### **Lot Line Adjustment Findings**

1. The Land Use Element of the General Plan designates the site as Single-Unit Residential Detached (RS-D). The Coastal Land Use Plan designates this site as Medium Density Residential (RM-C), which is intended to provide primarily for single-family residential development with density ranges from 15.1 to 20 units per gross acre. The existing development on each lot is consistent with the General Plan and the Coastal Land Use Plan designations.
2. The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

3. In accordance with Chapter 19.68 (Merger of Contiguous Lots) of the Municipal Code, the Planning Director has deemed the lot line adjustment application as appropriate to combine the two lots into a single parcel based on the following:
  - The lots to be merged have the same owner(s).
  - Neither of the merged lots will be deprived of legal access as a result of the merger as vehicular access to and from the adjacent street and alley will remain unchanged.
  - In order for the proposed parcels to conform to the General Plan and Zoning Code regulations, one or two of the existing dwelling units will be demolished so that the new parcels will contain one dwelling unit each, and the structures will conform to the required distance between detached structures.
4. The merger of continuous lots, under the circumstances of the particular case, will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot line adjustment is consistent with the legislative intent of Title 19 (Subdivision Code) of the Newport Beach Municipal Code for the following reasons:
  - The future development on the proposed parcel will comply with the Zoning Code development standards.
  - The proposed merger will not cause future development to impact public views of the channel.
  - The project site described in the proposal consists of legal building sites.
  - The lot merger would combine three existing lots into two lots by removing one of the interior lot lines between them.
  - The project is in an area with an average slope less than 20 percent and no changes in use or density will occur as a result of the merger.
5. Based on the information of this particular case, the Zoning Administrator waives the requirement of a parcel map pursuant to Section 19.08.030 of the Municipal Code.
  - The proposed lot line adjustment combines three lots into two lots and does not result in the elimination of more than one lot.
  - The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved

public roads, sanitary disposal facilities, water supply availability, environmental protection and other applicable requirements of this Subdivision Code, the Zoning Code and the General Plan.

### Modification Permit Findings

The Zoning Administrator determined in this case that the proposed Modification Permit 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 20.93.030.

- A. *The granting of the application is necessary due to the practical difficulties associate with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

When addressing this finding, the Zoning Administrator may consider the physical aspects of the property and/or improvements and their relationship to adjacent properties. In this case, the existing building being set back three feet from the property line when the new setback will be four feet is the practical difficulty.

The addition would align with the existing second floor and the garage below. The one-foot encroachment provides symmetry to the alley elevation and would comply with the design standards per City Council Ordinance 2007-3.

- B. *The requested modification will be compatible with existing development in the neighborhood.*

The existing lot configuration in the neighborhood consists of average lot widths of 35 feet. Therefore, the development pattern in the neighborhood is dwelling units with a setback of three feet.

The existing development conforms to the three-foot setback requirement for lots 40 feet or less in width. The proposed addition will be compatible and align with existing improvements on the subject property although it would encroach one foot into the required four foot setback once the lots are merged.

- C. *The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.*

The orientation of the existing structure provides adequate access through the alley. The modification permit request has been reviewed by the Public Works Department and the approval has been conditioned so that the remainder of the alley setback shall be free of all above ground improvements.

The proposed remodel and addition will comply with all other requirements of the Zoning Code, and will comply with all Building Code requirements.

### **CONDITIONS – MODIFICATION PERMIT**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. 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.
4. 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 Modification 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 Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
5. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
6. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

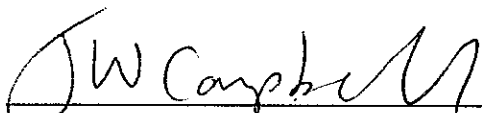
### **PROCEDURAL REQUIREMENTS FOR LOT LINE ADJUSTMENT**

1. All applicable Public Works Department plan check fees shall be paid prior to review of the lot line adjustment and grant deeds.
2. Prior to recordation of the lot line adjustment, grant deeds indicating the changes in titles of ownership should be submitted to the Public Works Department for review and approval.
3. The lot line adjustment and grant deeds reviewed and approved by the Public Works Department should be filed concurrently with the County Recorder and County Assessor's Offices.

4. In conformance with the California Coastal Act, Coastal Commission approval shall be obtained prior to the recordation of the lot line adjustment.
5. Prior to issuance of building permits for any new construction proposing development over the existing lot lines separating the existing lots, the Planning Department shall verify Coastal Commission approval of the lot line adjustment and recordation of the lot line adjustment documents with the County Recorder.
6. Prior to recordation of the lot line adjustment, the development of the combined parcels proposed by this application shall conform to current zoning regulations pertaining to the number of dwelling units and the distance between detached structures. The proposed parcels shall be permitted one residential dwelling unit each. Prior to recordation of the lot line adjustment, the structure located at 1710 Miramar Drive (currently described as Lot 3, Block K, Tract 518) shall be demolished to achieve the required separation between structures and the permitted density per lot authorized by the Land Use Element of the General Plan and the R-1 Zoning District.
7. This approval shall expire unless exercised within 24 months from the date of approval as specified in Section 20.93.050 of the Newport Beach Municipal Code, unless otherwise approved by the Planning Department.

#### APPEAL PERIOD

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

By:   
James W. Campbell, Zoning Administrator

JWC/JG/rwb

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

# VICINITY MAP

Modification Permit No. MD2009-011  
Lot Line Adjustment No. LA2009-004  
PA2009-058



**1706, 1710 and 1714 Miramar Drive**





## MODIFICATION PERMIT ACTION LETTER

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**                    **Modification Permit No. MD2009-010 (PA2009-045)**

**Applicant**                            **Bill and Sue Gross**

**Site Address**                        **2723 Ocean Boulevard  
Gross Residence**

**Legal Description**                **Portion of Block 033, Corona Del Mar Tract**

On May 28, 2009, the Zoning Administrator approved the following: A modification permit to allow the retention of a garage addition, constructed without an approved building permit, which encroaches 4 feet into the required 4-foot side yard setback and 10 feet into the required 10-foot front yard setback. A modification permit is also required to allow the proposed garage space to maintain a parking space depth of 18 feet 4 inches where the Code requires a clear depth of 19 feet. The property is located in the R-1 (Single-Family Residential) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

### **FINDINGS**

1. The Land Use Element of the General Plan designates the site for "Single-Unit Residential" use. The existing residential structure is consistent with this designation. The proposed garage addition is accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities) and Class 3 (New Construction or Conversion of Small Structures). The project consists of a minor addition to an existing residential structure.
3. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
  - The granting of this application is necessary due to the practical difficulties associated with redesigning and reconstructing the existing garage (both the permitted and non-permitted portions) to conform to the strict application of the standards of the Zoning Code.

- The buildable area of the lot is constrained by the steep sloping topography of the site. The property is also subject to a height restriction specific to structures on the bluff side of Ocean Boulevard that limits roof heights to the top of curb elevation of Ocean Boulevard, further constraining development on the property.
  - An additional enclosed garage space can not be accommodated on-site without encroaching into the front and side yards setbacks given the orientation of the existing garage structure, resulting in a physical hardship.
  - The Zoning Code generally prohibits parking within front yards and requires covered parking located within the front half of lots to be enclosed with side walls and operating garage doors. The intent of these requirements is to improve the appearance the street frontages, which is achieved with the proposed garage addition.
  - The previously approved Modification Permit (MD2007-004) which permitted a carport structure to encroach 10 feet into the 10-foot front yard setback and 10.5 inches into the 4-foot side yard setback, resulted in a parking space that was nonconforming due to size (16-foot clear depth x 8-foot 7-inch clear width) and limited the usability of the garage space. With the currently proposed garage addition, a more usable parking space is created with a clear parking depth of 17 feet 4 inches and a conforming width of 9 feet 3 inches.
4. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
- Since the height of the existing residential structure and proposed garage addition does not exceed the top of curb elevation of Ocean Boulevard, the visibility of the garage encroachments as viewed from the street is negligible.
  - Due to similar topographical constraints that exist on adjacent properties, the proposed encroachment into the 10-foot front yard setback is consistent with the setbacks maintained by structures on adjacent properties.
  - The proposed garage addition will align with the front of the existing residence and one-car garage that encroach 10 feet into the 10-foot front yard setback, which were approved by a previous modification permit.
  - Due to taper of the side property line, the proposed garage addition appears to conform to the side yard setbacks as viewed from the street elevation.
  - The proposed 4-foot encroachment into side yard setback with the corner of the garage structure is relatively minor in nature.

5. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
  - The front property line of the subject property is setback from the public street by a city parkway that is 35 to 45 feet wide. The 10-foot encroachment into the 10-foot front yard setback will not interfere with sight distance from any street or driveway.
  - The front of the existing residence and garage currently encroach 10 feet into the 10-foot front yard setback and has not proven detrimental to date.
  - The Fire Department has indicated that the existing side yard does not currently provide adequate access for public safety personnel due to the steep topography of the property; therefore, the 4-foot encroachment into the 4-foot side yard setback with a small corner of the corner of the garage will not further impede access for safety personnel.
  - The proposed garage addition will not result in a substantial invasion of privacy to the adjacent property as only a small corner of the garage encroaches into the 4-foot side yard setback and the garage does not provide any openings or windows onto the side yard.
  - The dimensions of the proposed garage space are adequate to accommodate vehicles.
  - The proposed garage addition is located below the curb height of Ocean Boulevard, is substantially hidden from public view, and will not impact public views through or across the property.

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. 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.
4. The applicant is required to obtain all applicable permits from the City Building and Fire Departments, including an "as-built" building permit for the construction of the garage addition. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

5. Within 30 days of the effective date of this approval, the applicant shall submit plans for the construction of the garage addition to the Building Department for plan check.
6. The roof overhang around the garage structure (including gutters) shall not extend beyond any property lines. The plans submitted for plan check shall correctly illustrate the roof overhang and distances to property lines, and any revisions necessary to bring the overhangs in compliance with this condition.
7. 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 Modification 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 Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
8. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
9. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
10. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

By:   
James W. Campbell, Zoning Administrator

JWC/jm

Attachments: Vicinity Map

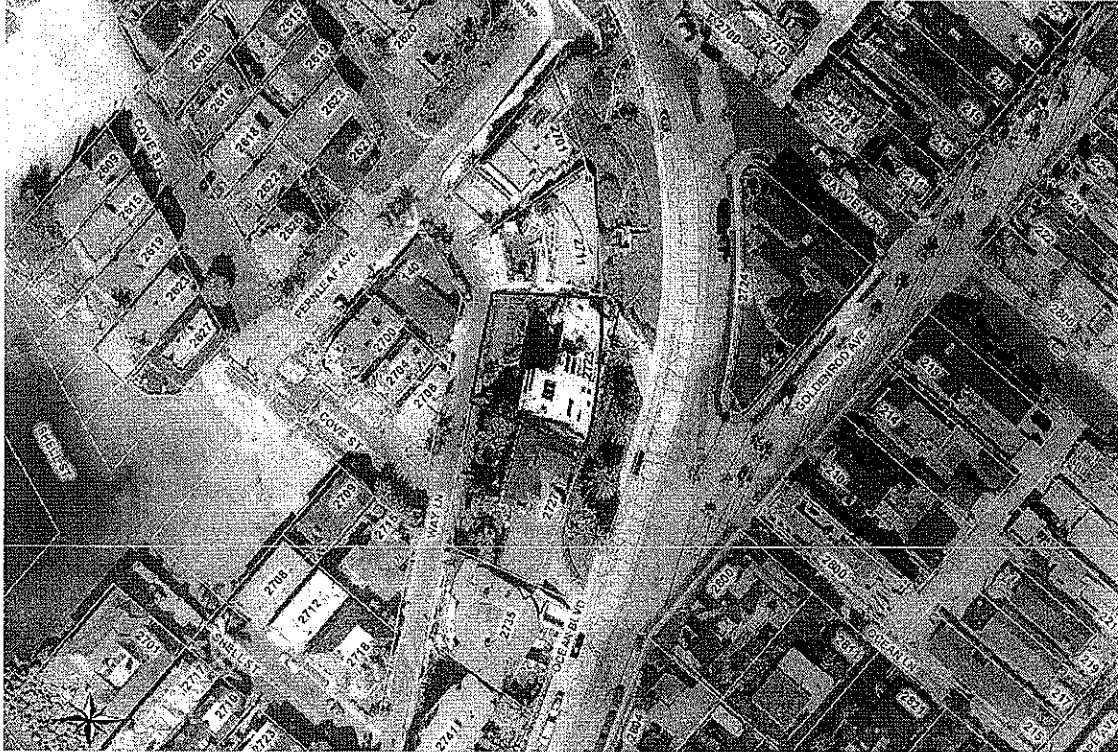
Appeared in Opposition: S. Caldwell, Scottsdale Arizona

Appeared in Support: None

# VICINITY MAP

Modification Permit No. MD2009-010

PA2009-045



**2723 Ocean Boulevard**



## USE PERMIT ACTION LETTER

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Use Permit No. UP2009-016 (PA2009-062)</b>
<b>Applicant</b>	<b>Graviti Fitness</b>
<b>Site Address</b>	<b>3411 East Coast Highway Graviti Fitness</b>
<b>Legal Description</b>	<b>TR 323 LOT 1 BLK Y ALL -INC POR OF ST ADJ- AND NWLY 25 FT -INC POR OF ST ADJ- LOT 2 BLK Y</b>

On May 28, 2009, the Planning Director approved the following: A use permit application for a personal improvement service that would offer group fitness training courses in an existing 700-square-foot tenant space. The property is located in the RSC (Retail Service Commercial) District. The Planning Director's approval is based on the following findings and subject to the following conditions:

### FINDINGS

1. The proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.

Facts in support of finding:

- The fitness club, a personal improvement service, will be located in a Retail and Service Commercial (RSC) District. This district allows for a personal improvement service with the approval of a use permit. The fitness club is a service use that does not adversely affect the retail character of the area.
2. The proposed location of the use permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

Facts in support of finding:

- The proposed personal improvement service use is consistent with the Corridor Commercial land use designation of the General Plan, which is intended to provide for a range of neighborhood serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The proposed use will offer additional services to residents of the area that are compatible with existing neighborhood-serving retail uses and will not interfere with the pedestrian charter of community.
  - The fitness club will not create undue noise that affect persons residing or working in or adjacent to the neighborhood. Windows and doors will remain closed during while the proposed fitness club is in operation.
  - The subject property is nonconforming due to deficient off-street parking; however, the nonconforming status is not intensified by the proposed use. Pursuant to Section 20.62.050 (Nonconforming Structures and Uses – Nonconforming Parking) of the Municipal Code, nonconforming uses in nonresidential districts may be continued or changed to a use requiring the same or less on-site parking. The previous retail sales use would require three parking spaces based upon the retail use parking ratio of one parking space per 250 feet of gross floor area required per Chapter 20.66 (Off-street Parking and Loading Regulations) of the Municipal Code. The gross floor area of the subject suite is approximately 700 square feet. The proposed use, with limited hours of operation and class sizes, will not require more parking than the previous retail sales use required. Given the nature of the use and its location, alternate modes of transportation, including walking and carpooling, will likely ensure that actual parking demand will not typically exceed that generated by the prior use.
  - In order to not increase parking demand, class sizes will be limited to a maximum of eight participants and two instructors. There will be no more than one class in session at a time. Fifteen minutes will be provided between the end of one class and the start of the next class to allow for adequate parking to become available for arriving class participants.
  - The proposed use may be utilized by the residents, employees and patrons from the nearby residential, office and retail sales uses in the area.
3. The proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.

Facts in support of finding:

- The fitness club is consistent with the legislative intent of Chapter 20.15 (Commercial Districts) of the Municipal Code. Section 20.15.020 requires approval of a use permit for personal improvement services in the RSC District.

No other specific conditions are required in the Zoning Code for the proposed use.

- The proposed health and fitness facility use is consistent with the parking requirements pursuant to Chapters 20.62 and 20.66 of the Municipal Code. The nonconforming off-street parking is not intensified by the proposed use.
4. The project is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities) that exempts the ongoing use of existing commercial buildings where there is negligible or no expansion of use. The use involves no construction other than minor interior alterations or signs and the change in use will not increase parking demand above the prior retail use of the existing building.

### CONDITIONS

1. Development shall be in substantial conformance with the approved site plan and floor plan, except as noted in the following conditions.
2. Class sizes shall be limited to eight participants and two instructors. There shall be fifteen minutes provided between the end of one class and the start of the next class.
3. Hours of operation of the facility shall be limited to Sunday through Saturday from 7:00 a.m. to 9:00 p.m. Any increase in the hours of operation or class size shall be subject to the approval of an amendment to this use permit.
4. The doors and windows shall remain closed at all times during periods when noise is generated by the proposed use.
5. The operator of the facility shall be responsible for the control of noise generated by the subject facility, including any music utilized. The noise generated by the use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code.
6. If this business is sold or otherwise comes under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current business owner, property owner or leasing company.
7. No temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the health and fitness facility, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
8. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code and shall only advertise and identify the primary use of the facility.

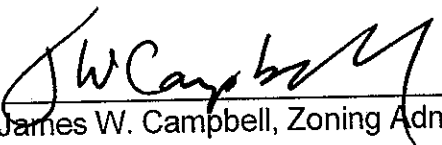


9. The project shall comply with State Disabled Access requirements.
10. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.
11. The facility shall be designed so that the bathroom is accessible from the adjoining exercise area.
12. The Planning Director may add to or modify conditions of approval to this use permit, or recommend to the Planning Commission the revocation of this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
13. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

**APPEAL PERIOD**

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

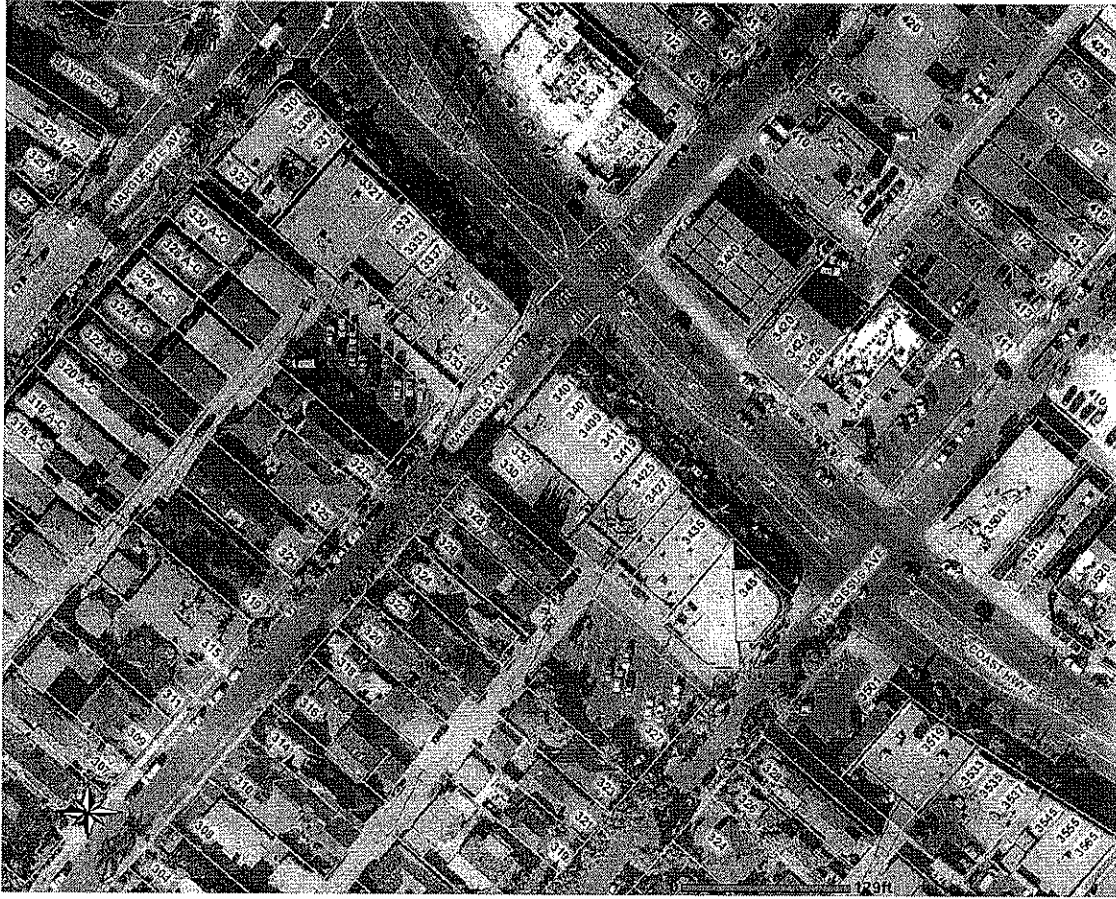
On behalf of David Lepo, Planning Director

By:   
 James W. Campbell, Zoning Administrator

JWC/cms

Attachments:	Vicinity Map Applicant's Project Description Site Plan Floor Plan on file in the Planning Department
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# VICINITY MAP



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Use Permit Permit No. UP2009-016  
PA2009-062

**3411 East Coast Highway**

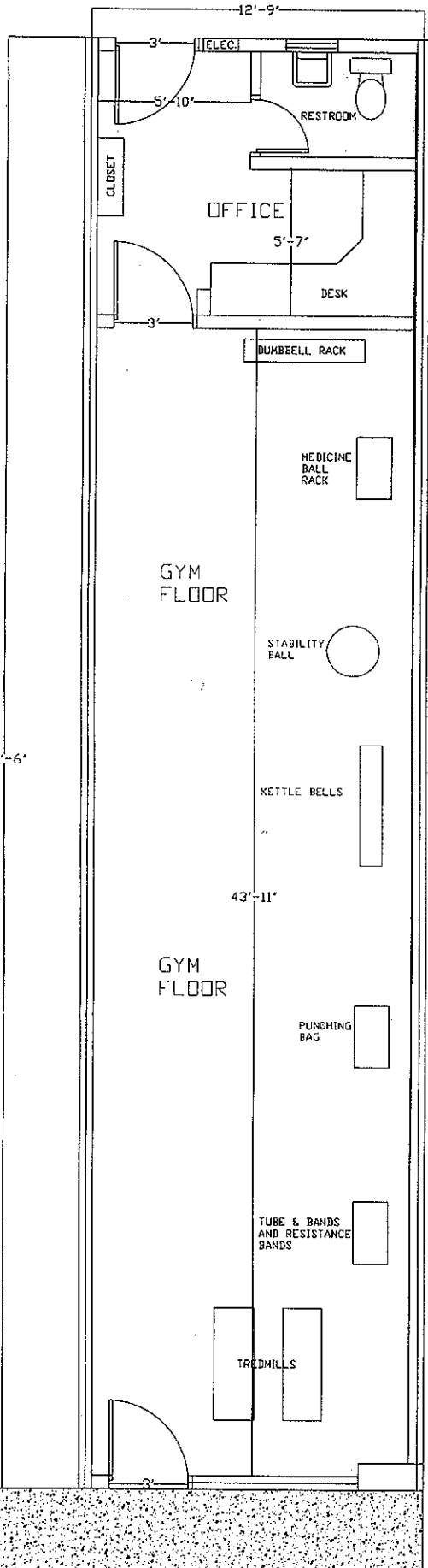
APR 30 2009

GRAVITI  
3411 E. COAST HWY  
CORONA DEL MAR CA 92625

CITY OF NEWPORT BEACH APRIL 30 2009

LETTER OF JUSTIFICATION

GRAVITI WILL OFFER PERSONAL FITNESS TRAINING,  
ALONG WITH SMALL (3 TO 8) GROUP FITNESS CLASSES.  
THE HOURS OF OPERATION WILL BE 5 A.M. TO 9 P.M.  
GRAVITI WILL HAVE A SOUND SYSTEM WITH A  
MODERATE LEVEL MAKING SURE NOT TO DISRUPT  
OUTSIDE/PUBLIC/WALKING TRAFFIC AND BUSINESS  
NEXT DOOR. A SOUND-PROOF WALL HAS BEEN ADDED  
TO ENSURE THIS MATTER. GRAVITI WILL HAVE A  
MAXIMUM OF 10 PEOPLE AT ANY ONE TIME.  
THERE WILL BE FITNESS EQUIPMENT SAFELY STORED  
AND WILL NOT BE USED UNLESS AUTHORIZED AND  
WITH THE GUIDANCE OF A PROFESSIONAL TRAINER.  
GRAVITI WILL NOT HAVE ANY EMPLOYEES OTHER  
THAN MYSELF (MICHAEL JOHN RAMIREZ), HOWEVER  
THERE WILL BE (2) INDEPENDENT CONTRACTORS (TRAINERS)  
USING THE FACILITY (GRAVITI). DAYS OF OPERATION  
ARE MONDAY THRU SUNDAY, SATURDAY AND SUNDAYS  
HOURS ARE 7 A.M. TO 12 NOON.



GRAVITI
3411 EAST COAST HWY.
CORONA DEL MAR, CA 92623
TENANT IMPROVEMENT PLAN
SCALE 1/4" = 1'

PA2009-062 for UP2009-016  
 3411 East Coast Highway  
 Michal John Ramirez

**FILE COPY**



## USE PERMIT ACTION LETTER

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Use Permit No. UP2009-018 (PA2009-066)</b>
<b>Applicant</b>	<b>Richard Diess</b>
<b>Site Address</b>	<b>2865 East Coast Highway, Suite 150 Curves</b>
<b>Legal Description</b>	<b>TR 323, Lot 6, Blk F and Corona del Mar Lots 1, 3, 5, Blk 534</b>

On May 27, 2009, the Planning Director approved the following: An application for a use permit for a health and fitness facility that would be located in a 1020-square-foot tenant space of an existing building. The property is located in the RSC (Retail and Service Commercial) District. The approval is based on the following findings and subject to the following conditions.

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### FINDINGS

1. The proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.

#### Facts in support of finding:

- The site is located in the Retail and Service Commercial (RSC) District. This district is intended to provide areas which are predominantly retail in character, but also allows service and office uses. The proposed health and fitness facility is consistent with the RSC District.
- A health and fitness facility is considered a personal improvement service and is a permitted use in the RSC district with approval of a use permit. The purpose of requiring a use permit for this type of use is to allow the City to review and condition the design and operational characteristics of the proposed use so that it will be compatible with the various uses permitted in the district. Existing uses in the area include: various retail and personal service uses, a grocery store, take-out restaurants, and residential areas located along the streets to the rear of the commercial area along East Coast Highway. The proposed health and fitness facility would complement the existing uses, and would not present any conflicts with the purpose and

intent of this district. It would provide a beneficial service for residents of the surrounding area and Corona Del Mar.

2. The proposed location of the use permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

Facts in support of finding:

- Although there are existing health and fitness facilities located within the area, the proposed use would provide a facility which serves women only, and would replace a facility that was, until recently, operating at another location in Corona Del Mar along East coast Highway. Per the applicant, most members of the previous facility live in Corona Del Mar and would like to continue their membership at the proposed facility.
- The Corridor Commercial land use designation of the General Plan is intended to provide for a range of neighborhood serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The proposed health and fitness facility would be located on the first floor of an existing commercial-office building in a suite facing East Coast Highway. It would provide a personal improvement service use to residents of the area, and would integrate well with existing neighborhood-serving retail and personal service uses.
- The proposed facility would consist of a series of hydraulic-fitness machines with a corresponding number of cushioned rest pads. Members would be permitted to work through the machines twice up to a 30 minute time limit. One employee is required to operate the facility, and the maximum number of members using the facility at one time is 10. The proposed hours of operation are 7am to 1pm and 3pm to 7pm, Monday-Sunday; although operation of the proposed use during typical retail or service commercial hours would not present a parking issue.
- According to City records, the subject building was constructed in 1964-1965. It contains approximately 20,300 square feet, and is legal nonconforming due to deficient off-street parking. A total of 40 parking spaces is provided on-site and on the adjacent off-site parking lot established by Use Permit 1011 (1964). Pursuant to Section 20.62.050 (Nonconforming Structures and Uses – Nonconforming Parking) of the Municipal Code, nonconforming uses in nonresidential districts may be continue or changed to a use requiring the same or less on-site parking. Per Chapter 20.66 (Off-Street Parking and Loading Regulations) of the Municipal Code, a retail or office use requires a ratio of one (1) parking space per 250

feet of gross floor area. A previous office or retail use within the subject suite (1020 square feet gross floor area) would require five (4.08) parking spaces. Use permits for health and fitness facilities previously approved by the City permitted a requirement of one (1) parking space for each three (3) members or employees. Using this calculation, the proposed health and fitness facility would require four (4) parking spaces, which is less than the number of parking spaces required by a retail or office use. The nature of the use (maximum 30 minute workout), and its location in close proximity to residential neighborhoods would likely encourage the use of alternate modes of transportation (walking and carpooling). The hours of operation before and after normal office hours would allow members to use the facility during off-peak times. Staff concludes that these operational characteristics would also likely further reduce the actual parking demand of the facility. The actual parking demand would, therefore, not exceed the parking demand generated by the previous office/retail use.

- The proposed health and fitness-facility would be conditioned to require that all doors and windows remain closed during all hours of operation. This would prevent any noise impact on the nearby residential uses located behind the subject property.
3. The proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.

Facts in support of finding:

- The proposed health and fitness facility is consistent with the legislative intent of Chapter 20.15 (Commercial Districts) of the Municipal Code. Section 20.15.020 requires approval of a use permit for personal improvement services in the RSC District. No other specific conditions are required by the Zoning Code for the proposed use.
  - The proposed health and fitness facility use is consistent with the parking requirements pursuant to Chapters 20.62 and 20.66 of the Municipal Code. The nonconforming off-street parking is not exacerbated by the proposed use.
4. The project is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities) that exempts the ongoing use of existing commercial buildings where there is negligible or no expansion of use. The proposed use would not increase parking demand above the previous office/retail use, and would require only minor interior alterations of the existing suite.

## **CONDITIONS**

1. The project shall be in substantial conformance with the approved site plan and floor plan approved May 27, 2009.
2. 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.
3. The number of clients using the facilities shall be limited to a maximum of 10 at any one time. The number of employees on site at any one time shall be limited to 2.
4. Hours of operation of the facility shall be limited to 7:00am to 9:00pm daily.
5. Any increase in the hours of operation or number of clients or employees on site at any one time shall be subject to the approval of an amendment to this use permit.
6. The doors and windows shall remain closed at all times during periods when noise is generated by the proposed use.
7. The operator of the facility shall be responsible for the control of noise generated by the subject facility, including any music utilized. The noise generated by the use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code.
8. If this business is sold or otherwise comes under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current business owner, property owner or leasing company.
9. No temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the health and fitness facility, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
10. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code and shall only advertise and identify the primary use of the facility.
11. The project shall comply with State Disabled Access requirements.
12. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.

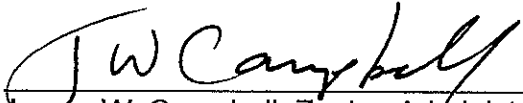


13. The Planning Director may add to or modify conditions of approval to this use permit, or recommend to the Planning Commission the revocation of this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
14. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

**APPEAL PERIOD**

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

On behalf of David Lepo, Planning Director

By:   
James W. Campbell, Zoning Administrator

JWC/ks

Attachments: Vicinity Map  
Applicant's Project Description  
Project Plans

# VICINITY MAP



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Use Permit Permit No. UP2009-018  
PA2009-066  
**2865 East Coast Highway, Suite 150**

Proposal: Curves Fitness Franchise

Location: 2865 E. Coast Highway, Suite 150, Corona del Mar, CA 92625

The Curves Fitness Program is an exercise and fitness program developed for women. It consists of a 30 minute workout program utilizing hydraulic-resistance fitness machines. These machines are designed to provide a reasonable level of conditioning with a minimum risk of injury. Combined with on-line diet and menu plans, the Curves Program provides a complete fitness program for the average person. Its 30 minute workout time can easily fit into nearly everyone's hectic daily schedule.

The operation consists of a series of hydraulic-fitness machines with a corresponding number of cushioned rest pads. Members operate the machines for 30 seconds then move to a rest pad where they jog or walk in place. Then they move to the next machine. Members are permitted to work through the machines twice up to a 30 minute limit. Only one employee is needed to operate the franchise as customers, once instructed on the machines, find them easy to use.

This Curves franchise will replace one which operated at 3100 E. Coast Highway for the past six years. It was owned and operated by another group. It closed in December, 2008. Thus we will serve the same Corona del Mar customer base that has been accustomed to a Curves facility.

As noted in the Buxton Company Retail Site Assessment performed for Newport Beach, a Curves franchise would be a good choice for the Newport Peninsula population. This demographic is similar to that in Corona del Mar which was served by a Curves franchise until December, 2008(see above).

Based on the local demographics, a previously operated franchise and women's desire to improve their health and fitness, we feel a Curves franchise operation is an appropriate addition to Corona del Mar's business offering to local residents.

PA2009-066 for UP2009-018  
2865 E. COAST HWY., SUITE 150  
Richard Diess

Coast Highway

2865 E Coast Highway  
Suite 150  
Corona del Mar, CA 92625

