



**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 March 28, 2014

---

**ZONING ADMINISTRATOR ACTIONS  
MARCH 27, 2014**

- Item 1: Juliette Restaurant Expansion Minor Use Permit No. UP2013-029 (PA2013-248)  
1000 Bristol Street North, Suites 11 and 12  
Action: Approved by Resolution No. ZA2014-009 Council District 3
- Item 2: Club Detox Minor Use Permit No. UP2014-003 (PA2014-023)  
1040 Bayside Drive  
Action: Approved by Resolution No. ZA2014-010 Council District 5
- Item 3: Viewpointe Church Temporary Office Building Limited Term Permit No. XP2014-001 (PA2014-024)  
3300 Newport Boulevard  
Action: Removed from calendar Council District 1

**COMMUNITY DEVELOPMENT DIRECTOR  
OR PLANNING DIVISION STAFF ACTIONS  
(Non-Hearing Items)**

- Item 1: 1420 Oceanfront Surf LP Staff Approval No. SA2014-007 (PA2014-038)  
1420 West Ocean Front  
Action: Approved Council District 1

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.

## RESOLUTION NO. ZA2014-009

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2013-029 (AMENDMENT NO. 2 TO USE PERMIT NO. UP1838) FOR AN EXPANSION OF A RESTAURANT FOR PROPERTY LOCATED AT 100 BRISTOL STREET NORTH, SUITES 11 AND 12 (PA2013-248)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Hughes, Fountainhead Restaurant, Inc., dba Juliette Kitchen + Bar, with respect to property located at 1000 Bristol Street North, Suites 11 and 12, and legally described as Parcel 1 of Resubdivision 0541 requesting approval of a Minor Use Permit.
2. The applicant requests a Minor Use Permit (Amendment No. 2 to UP1838) for the expansion of an existing restaurant. The business currently operates a restaurant in Suite 11 and operates a retail store in the front portion of Suite 12 that includes wine sales. The expansion of the restaurant would increase the net public area (seating area) into Suite 12 by 180 square feet and it will accommodate approximately 12 additional seats. The rear of the suite would remain office and storage use for the restaurant. A small portion (approximately 15 percent) of the floor area within Suite 12 would be devoted to accessory retail sales including wine sales. The restaurant currently operates with a Type 47 ABC license and no late hours (after 11:00 p.m.) are proposed as part of this application.
3. The subject property is located within the Newport Place Planned Community (PC-11) Zoning District that designates the site for General Commercial use, 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 March 27, 2014, 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 California Environmental Quality Act (CEQA) Guidelines under Class 1 (Existing Facilities).

2. Class 1 exempts minor alterations to existing facilities involving negligible expansion of use beyond that existing at the time of the lead agency's determination. The proposed project is for a change of use for a tenant suite within an existing commercial building.

**SECTION 3. REQUIRED FINDINGS.**

In accordance with Section 20.48.030 (Alcohol Sales) 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 purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
  1. The proposed establishment is located within Reporting District 34, wherein the crime rate is higher than adjacent Reporting Districts (RDs) and the City. The adjacent RDs (33 and 36) have a lower crime rate as they are primarily developed with residential uses and have fewer commercial uses than RD34. Due to the high concentration of commercial land uses in the Airport Area, the crime rate is greater than in the adjacent primarily residential RDs; however, the Police Department does not consider the number significant given the type of development is located within RD34.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
  1. In 2013, there were 64 calls for service at 1000 Bristol Street North, one of which was for drunk driving in progress. The crime statistics are summarized in the table below:

Location	Calls for Service	Part I Crimes	Part II Crimes	DUI Arrests	Public Intoxication Arrests
1000 Bristol Street N	64	1	4	0	0
RD34	3985	93	180	28	14
RD33	1722	56	124	15	1
RD36	2958	66	86	19	3

2. Due to the high concentration of commercial uses, the calls for service, crimes, and number of arrests are greater than in adjacent primarily residential Reporting Districts.

The Police Department does not believe the crime rate is a concern because of the lack of residential uses and concentration of restaurants and commercial uses within the Airport Area (RD34).

- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. The Plaza Newport Shopping Center does not abut sensitive land uses and is separated from other uses by parking lots, roadways, and other commercial uses. The Airport Area allows for some mixed-use nearby, although no residential units have been developed to date. The proposed use is not located in close proximity to any residential districts, day care centers, park and recreation facilities, places of religious assembly, or schools.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. The subject restaurant has the only active ABC licenses within the Newport Place Shopping Center (Type 47 – On-Sale General Eating Place and Type 58 – Caterer Permit). There are 32 active licenses within RD34.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions.*
1. The existing restaurant does not have any current objectionable conditions. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol related impacts.

In accordance with Section 20.52.020 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- B. The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The proposed use is designated as CG (General Commercial) within the Land Use Element of the General Plan, which is intended to provide a wide variety of commercial activities oriented primarily to serve citywide or regional needs. An eating and drinking establishment is a commercial use that serves local and regional needs and is consistent with the CG designation.

2. The subject property is not located within a Specific Plan area.

Finding:

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

Facts in Support of Finding:

1. The site is located in the PC-11 (Newport Place Planned Community) Zoning District within General Commercial Site 3. Pursuant the PC-11 Development Plan 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 service uses, and offices. Restaurants are an allowed use subject to approval of a Use Permit. Retail stores are an allowed use within this district. The proposed application does not present any conflicts with the purpose and intent of this district.
2. For most land uses, General Commercial Site 3 utilizes a blended parking requirement of one (1) space for every 250 square feet of net floor area. The parking requirement for restaurant uses is established by Use Permit. Suite 11 is required to provide 30 parking spaces pursuant to Use Permit No. UP1838 based on the interior net public area of 1,190 square feet. No parking was required for the 480-square-foot outdoor dining area due to its small size. Suite 12 is currently required to provide five parking spaces for the 1,200-square-foot retail sales use. The proposed restaurant expansion would result in an additional 180 square feet of net public area within Suite 12. The parking requirement for the restaurant is one (1) space for every 40 square feet of net public area; therefore, the expansion of the restaurant would require five parking spaces and the conversion of the retail sales use for the proposed expansion would not increase the parking requirement. The rear half of Suite 12 is used for storage and office for the restaurant and as such, it does not require parking. Approximately 15 percent of the floor area within Suite 12 that would remain devoted to retail sales would not require additional parking as it is accessory to the primary restaurant use.

Finding:

- D. *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. General commercial uses are allowed in the vicinity, including retail sales, personal service, restaurant, and office uses. The subject suite is located among other commercial uses within a shopping center near Jamboree Road and State Route 73.

2. Suite 12 is 1,200 square feet and is located within a multiple-tenant commercial building. The shopping center is located within a commercial area with mixed-use allowed in the Airport Area and the John Wayne Airport nearby. The shopping center fronts Bristol Street North. Other uses in the shopping center include restaurants, hair and nail salons, mail services, health/fitness facility, and retail uses. The project is compatible with existing and allowed uses within the shopping center.
3. The existing multiple-tenant commercial building is not changing as a result of this project. The existing building design, location, and size previously used for commercial uses have not proven detrimental to the nearby residential uses. The site is developed with adequate shared parking and trash storage facilities.
4. The operational characteristics of the proposed establishment would be that of a typical restaurant that would serve residents, visitors, and employees, with accessory retail wine sales. The proposed use would not increase the parking requirement, have late hours of operation, nor create any adverse noise impacts outside of the establishment. The abutting properties are commercial and the abutting streets. Therefore, the operating characteristics would be compatible with the allowed commercial uses in the vicinity.

Finding:

- E. *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 approximately 3.91 acres, and is developed with four (4) multiple-tenant commercial buildings and a surface parking lot with 222 spaces. The existing building and parking lot have functioned satisfactorily with the current configuration. The lot fronts Bristol Street North and has two (2) vehicular access points into and out of the shopping center.
2. The site is developed with an existing multiple-tenant commercial building that is not physically changing as a result of this project. The design, location, shape, and size have been suitable for the commercial uses on site. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing property and the proposed project will not negatively affect emergency access.
3. The Public Works Department, Building Division, and Fire Department have reviewed the application. The project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

Finding:

- F. 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.*

Facts in Support of Finding:

1. The proposed use is similar to and compatible with other commercial uses in the vicinity, and complements the retail sales and service uses in the immediate area. The use will serve nearby residents, employees, and visitors to the area.
2. The proposed use will not have late hours of operation or create any adverse noise impacts outside the establishment as no changes to the outdoor patio are authorized.
3. The proposed use will not impact parking within the shopping center as no additional off-street parking is required.
4. The Police Department has reviewed the project and has no objection to the operation as described by the applicant.
5. Compliance with the Municipal Code is required and will further ensure that the proposed use will not be detrimental.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2013-029, 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 after the adoption of this Resolution 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 Staff Approval No. SA2012-008 (PA2012-033), which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.

**PASSED, APPROVED AND ADOPTED THIS 27<sup>TH</sup> DAY OF MARCH, 2014.**



---

Brenda Wisneski, AICP, Zoning Administrator



**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. All conditions of approval of Use Permit No. UP1838 (Amended) shall remain in effect.
2. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. 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.
5. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed use 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.
6. 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.
7. 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.
8. The interior net public area shall be limited to a maximum of 1,400 square feet. The net public area of the outdoor dining area shall be limited to 480 square feet.
9. The hours of operation shall be limited to between 8:00 a.m. and 11:00 p.m., daily.
10. A minimum of one parking space for each 40 square feet of net public area, excluding outdoor dining, shall be maintained in the shared parking lot.
11. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the Planning Commission first approves an amended Use Permit.
12. Food service from the regular menu must be available to patrons up to 30 minutes before the scheduled closing time.

13. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
14. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
15. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
16. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
17. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
18. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of this restaurant business 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.
19. There shall be no live entertainment allowed on the premises.
20. There shall be no dancing allowed on the premises.
21. Strict adherence to the maximum occupancy limits shall be required.
22. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
23. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
24. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other

certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the Minor Use Permit. Records of each owner's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

25. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
26. No outside paging system or loudspeaker shall be utilized in conjunction with this establishment.
27. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
28. 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.
29. 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 20 feet of the premises.
30. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
31. Prior to issuance of a building permit for any future renovations to the project site, a new approved reduced pressure backflow assembly will be required to protect the existing domestic water service, unless otherwise approved by the Public Works Department.
32. All exterior signs shall be in accordance with the approved development standards allowed for signs in Newport Place.
33. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Minor Use Permit.

34. 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.
35. 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.
36. 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 Juliette Restaurant Expansion including, but not limited to, the Minor Use Permit No. UP2013-029. 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. ZA2014-010

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-003 FOR A PERSONAL SERVICES, RESTRICTED USE AND RELATED TAKE-OUT SERVICE, LIMITED EATING AND DRINKING ESTABLISHMENT USE LOCATED AT 1040 BAYSIDE DRIVE (PA2014-023)

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 Irvine Company, with respect to property located at 1040 Bayside Drive, and legally described as Parcel 1 of Lot Line Adjustment No. LLA 98-06 requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow a Personal Services, Restricted use in conjunction with a Take-out Service, Limited Eating and Drinking Establishment use. The applicant proposes to provide sauna treatments, nutritional and lifestyle coaching, and an accessory use preparing and selling natural vegetable and fruit juices for both off- and on-site consumption with seating for four patrons. The proposed hours of operation are between 8:00 a.m. and 9:00 p.m., Monday through Friday, 9:00 a.m. and 6:00 p.m. on Saturday, and 10:00 a.m. and 4:00 p.m. on Sunday.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN).
5. A public hearing was held on March 27, 2014, 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 1 (Existing Facilities). The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use.

2. The proposed project involves interior improvements to an existing retail tenant space to establish a day spa and take-out service, limited eating and drinking establishment use and no expansion of gross floor area. Therefore, the project qualifies for a categorical exemption under Class 1.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the Minor Use Permit are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The General Plan Land Use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed project is consistent with this land use designation as it will provide an additional service within the Bayside Shopping Center to the nearby residential communities. The operation has also been conditioned to help ensure it maintains compatibility with both commercial and residential uses in the immediate 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 site is located in the Commercial Neighborhood (CN) Zoning District. This designation is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed personal services, restricted and take-out service, limited eating and drinking establishment uses provide a service to the neighboring residential areas.
2. Within Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) of the Zoning Code, the CN District allows personal services, restricted uses subject to the approval of a minor use permit. Take-out service, limited eating and drinking establishment uses are also required to obtain a minor use permit when proposed within 500 feet of a residential zoning district.

3. The Bayside Shopping Center utilizes a shopping center parking requirement consistent with Zoning Code Section (20.40.050 Parking Requirements for Shopping Centers). Under this section, the shopping center may be parked at a rate of one parking space per every 200 square feet of gross floor area on the condition that it is less than 100,000 square feet in gross building area and has a limited amount of eating and drinking establishment uses. The change of use from a beauty salon to a day spa with a take-out service, limited eating and drinking establishment use will not necessitate any additional parking space requirements.

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 personal services, restricted and take-out service, limited eating and drinking establishment uses will occupy an existing 1,500-square-foot tenant space within the Bayside Shopping Center. The space will be improved with five sauna rooms, a small-scale kitchen, and a juice counter. Seating for up to four patrons is proposed; however, as conditioned a maximum of six seats are allowed within the establishment as a convenience to patrons of the accessory food service use.
2. The project is located within the Bayside Shopping Center. Nearby uses include residential, personal services, retail sales, eating and drinking establishments, and a bank. The operational characteristics of the project are primarily that of a day spa and are compatible with the residential and other commercial uses in the vicinity.
3. As conditioned, the allowed hours of operation are 8:00 a.m. to 9:00 p.m., daily, thereby limiting the likelihood of late night/early morning land use conflicts with nearby residences and businesses.

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 Bayside Shopping Center is approximately five acres and is developed with approximately 56,000 square feet comprised of one large multi-tenant building, one smaller pad building, and a parking lot area. The existing buildings and parking lot have functioned satisfactorily with the current configuration which allows vehicular access from three separate driveways along Bayside Drive.

2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing property and the proposed project will not negatively affect emergency access.

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 use will serve the surrounding commercial and residential community, as well as visitors to the area.
2. The operation has been conditioned with limited hours of operation to help minimize any potential detriment to the area.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2014-003, 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 after the adoption of this Resolution 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 27<sup>TH</sup> DAY OF MARCH, 2014.**



\_\_\_\_\_  
Brenda Wisneski, AICP, Zoning Administrator



**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

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. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
3. Minor Use Permit No. UP2014-003 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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.
6. This Minor Use Permit may be modified or revoked by the Zoning Administrator if it is 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.
7. The hours of operation for the establishment shall be limited to between the hours of 8:00 a.m. and 9:00 p.m., daily.
8. A maximum number of six seats may be provided inside the establishment.
9. The maximum number of employees working at any one time shall be four.
10. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Minor Use Permit or the processing of a new use permit.
11. 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.
12. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only

and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

13. 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.
14. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise 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.
15. No outside paging system shall be utilized in conjunction with this establishment.
16. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
17. 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 20 feet of the premises.
18. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
19. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit.
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 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 Club Detox MUP including, but not limited to, the Minor Use Permit No. UP2014-003 (PA2014-023). 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.
24. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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

[www.newportbeachca.gov](http://www.newportbeachca.gov)

### CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

March 27, 2014

Agenda Item No. 3

**SUBJECT:** Viewpoint Church Temporary Office Building - (PA2014-024)  
3300 Newport Boulevard  
▪ Limited Term Permit No. XP2014-001

**APPLICANT:** Landworks Development Services, Tim Palmquist on behalf of  
Viewpoint Church

**PLANNER:** James Campbell, Principal Planner  
(949) 644-3210, [jcampbell@newportbeachca.gov](mailto:jcampbell@newportbeachca.gov)

---

This item has been removed from calendar. Should this application proceed forward, future notice will be provided.



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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

[www.newportbeachca.gov](http://www.newportbeachca.gov)

## **COMMUNITY DEVELOPMENT DIRECTOR** **ACTION LETTER**

**Application No.** Staff Approval No. SA2014-007 (PA2014-038)

**Applicant** 1420 Oceanfront Surf LP

**Site Address** 1420 West Ocean Front  
Compliance Determination

**Legal Description** Lots 10 and 11 in Block 14 of Tract No. 234

On **March 27, 2014**, the Community Development Director approved Staff Approval No. SA2014-007 authorizing the demolition of an eight-unit residential structure in compliance with Zoning Code Chapter 20.34 (Conversion or Demolition of Affordable Housing). This approval is based on the following information and analysis.

### **ZONING DISTRICT/GENERAL PLAN**

- **Zone:** R-2 (Two-Unit Residential)
- **General Plan:** RT (Two-Unit Residential)

### **SUMMARY**

A staff approval for determination of compliance with Zoning Code Chapter 20.34 and the Mello Act (Government Code Section 65590). The property owner proposes to demolish an existing nonconforming, eight-unit residential structure and redevelop the property into a conforming duplex.

### **ANALYSIS**

Pursuant to Zoning Code Section 20.34.020 (Review Authority), the Director shall make a determination as to the applicability of this chapter when a residential structure of three or more units is to be converted or demolished. If it is determined that any of the units are occupied by low- or moderate-income tenants, provisions for their replacement shall be provided, if feasible. If applicable and based on the documentation provided in compliance with Section 20.34.060 (Determining Requirements for Replacement Units), the Director shall make determinations as to:

1. *How many units were occupied by low- and moderate-income persons or families;*

2. *Whether the conversion or demolition proposes to go from residential to nonresidential and if so whether the proposed new use is coastal dependent;*
3. *Whether a feasibility analysis is required to be prepared;*
4. *The feasible number of affordable units required to be replaced, if any; and*
5. *Whether the required replacement affordable units are to be located on site or off site.*

In this particular case, the property owner has provided documentation to demonstrate the units are and/or were not occupied by low- and moderate-income families or persons. The documentation shows one unit is used by the property owner (Unit 8) and four units hold Short Term Lodging Permits as vacation rentals (Units 2, 4, 5, and 7). The remaining three units have been used as long-term rentals (Units 1, 3, and 6) and were occupied by families or persons exceeding the low- and moderate-income limitations defined by the County of Orange and terminating the lease on their own accord. There is no conversion of residential to nonresidential and none of the units are and/or were occupied by low- and moderate-income families or persons; therefore, no further analysis is required.

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:

  
\_\_\_\_\_  
Benjamin M. Zdeba  
Assistant Planner

GR/bmz

Attachments: CD 1 Vicinity Map  
CD 2 Unit Occupancy Table  
CD 3 County of Orange Income Limits

# **Attachment No. CD 1**

Vicinity Map

# VICINITY MAP



Staff Approval No. **SA2014-007**  
**PA2014-038**

1420 West Ocean Front



# **Attachment No. CD 2**

Unit Occupancy Table

**Zoning Code Chapter 20.34 (Conversion or Demolition of Affordable Housing)  
1420 West Ocean Front  
Unit Occupancy Table**

Unit No.	Occupant(s)	Income	County of Orange Income Limits	
			Low	Moderate
1	One Long-Term Renter 03/01/2006 – 01/01/2014	\$135,202 (yr 2011)	\$51,700 (yr 2011)	\$70,750 (yr 2011)
2	Short Term Lodging Permit	N/A	N/A	N/A
3	One Long-Term Renter 05/30/2012 – 02/28/2013	\$118,108 (yr 2012)	\$53,950 (yr 2012)	\$71,650 (yr 2012)
4	Short Term Lodging Permit	N/A	N/A	N/A
5	Short Term Lodging Permit	N/A	N/A	N/A
6	Two Long-Term Renters 01/01/2011 – 11/30/2013	\$120,366 (yr 2011)	\$59,100 (yr 2011)	\$80,850 (yr 2011)
7	Short Term Lodging Permit	N/A	N/A	N/A
8	Property Owner	Undisclosed	N/A	N/A

# **Attachment No. CD 3**

County of Orange Income Limits

See instructions on last page to use these income limits to determine applicant eligibility and calculate affordable housing cost and rent

## Number of Persons in Household

County	Income Category	1	2	3	4	5	6	7	8
Modoc County	Extremely Low	12,050	13,750	15,450	<b>17,150</b>	18,550	19,900	21,300	22,650
	4-Person	20,050	22,900	25,750	<b>28,600</b>	30,900	33,200	35,500	37,800
	Area Median Income:	32,050	36,600	41,200	<b>45,750</b>	49,450	53,100	56,750	60,400
	<b>57,200</b>	40,050	45,750	51,500	<b>57,200</b>	61,800	66,350	70,950	75,500
	Moderate Income	48,050	54,900	61,800	<b>68,650</b>	74,150	79,650	85,150	90,600
Mono County	Extremely Low	14,950	17,100	19,250	<b>21,350</b>	23,100	24,800	26,500	28,200
	4-Person	24,900	28,450	32,000	<b>35,550</b>	38,400	41,250	44,100	46,950
	Area Median Income:	39,850	45,550	51,250	<b>56,900</b>	61,500	66,050	70,600	75,150
	<b>74,500</b>	52,150	59,600	67,050	<b>74,500</b>	80,450	86,400	92,400	98,350
	Moderate Income	62,600	71,500	80,450	<b>89,400</b>	96,550	103,700	110,850	118,000
Monterey County	Extremely Low	14,250	16,300	18,350	<b>20,350</b>	22,000	23,650	25,250	26,900
	4-Person	23,750	27,150	30,550	<b>33,900</b>	36,650	39,350	42,050	44,750
	Area Median Income:	38,000	43,400	48,850	<b>54,250</b>	58,600	62,950	67,300	71,650
	<b>67,800</b>	47,450	54,250	61,000	<b>67,800</b>	73,200	78,650	84,050	89,500
	Moderate Income	56,950	65,100	73,200	<b>81,350</b>	87,850	94,350	100,850	107,400
Napa County	Extremely Low	17,850	20,400	22,950	<b>25,500</b>	27,550	29,600	31,650	33,700
	4-Person	29,750	34,000	38,250	<b>42,500</b>	45,900	49,300	52,700	56,100
	Area Median Income:	46,050	52,600	59,200	<b>65,750</b>	71,050	76,300	81,550	86,800
	<b>85,000</b>	59,500	68,000	76,500	<b>85,000</b>	91,800	98,600	105,400	112,200
	Moderate Income	71,400	81,600	91,800	<b>102,000</b>	110,150	118,300	126,500	134,650
Nevada County	Extremely Low	15,050	17,200	19,350	<b>21,500</b>	23,250	24,950	26,700	28,400
	4-Person	25,100	28,650	32,250	<b>35,800</b>	38,700	41,550	44,400	47,300
	Area Median Income:	40,150	45,850	51,600	<b>57,300</b>	61,900	66,500	71,100	75,650
	<b>71,600</b>	50,100	57,300	64,450	<b>71,600</b>	77,350	83,050	88,800	94,500
	Moderate Income	60,150	68,700	77,300	<b>85,900</b>	92,750	99,650	106,500	113,400
Orange County	Extremely Low	19,400	22,200	24,950	<b>27,700</b>	29,950	32,150	34,350	36,600
	4-Person	32,350	36,950	41,550	<b>46,150</b>	49,850	53,550	57,250	60,950
	Area Median Income:	51,700	59,100	66,500	<b>73,850</b>	79,800	85,700	91,600	97,500
	<b>84,200</b>	58,950	67,350	75,800	<b>84,200</b>	90,950	97,650	104,400	111,150
	Moderate Income	70,750	80,850	90,950	<b>101,050</b>	109,150	117,200	125,300	133,400
Placer County	Extremely Low	15,800	18,050	20,300	<b>22,550</b>	24,400	26,200	28,000	29,800
	4-Person	26,300	30,050	33,800	<b>37,550</b>	40,600	43,600	46,600	49,600
	Area Median Income:	42,100	48,100	54,100	<b>60,100</b>	64,950	69,750	74,550	79,350
	<b>75,100</b>	52,550	60,100	67,600	<b>75,100</b>	81,100	87,100	93,100	99,150
	Moderate Income	63,050	72,100	81,100	<b>90,100</b>	97,300	104,500	111,700	118,950
Plumas County	Extremely Low	12,400	14,150	15,900	<b>17,650</b>	19,100	20,500	21,900	23,300
	4-Person	20,650	23,600	26,550	<b>29,450</b>	31,850	34,200	36,550	38,900
	Area Median Income:	33,050	37,750	42,450	<b>47,150</b>	50,950	54,700	58,500	62,250
	<b>57,200</b>	40,050	45,750	51,500	<b>57,200</b>	61,800	66,350	70,950	75,500
	Moderate Income	48,050	54,900	61,800	<b>68,650</b>	74,150	79,650	85,150	90,600

See instructions on last page to use these income limits to determine applicant eligibility and calculate affordable housing cost and rent

See instructions on last page to use income limits to determine applicant eligibility and calculate affordable housing cost and rent

## Number of Persons in Household

County	Income Category	1	2	3	4	5	6	7	8
<b>Modoc County</b>	Extremely Low	12,150	13,900	15,650	<b>17,350</b>	18,750	20,150	21,550	22,950
	4-Person Very Low Income	20,300	23,200	26,100	<b>28,950</b>	31,300	33,600	35,900	38,250
	Area Median Income	32,450	37,050	41,700	<b>46,300</b>	50,050	53,750	57,450	61,150
	<b>57,900</b>	40,550	46,300	52,100	<b>57,900</b>	62,550	67,150	71,800	76,450
	Moderate Income	48,650	55,600	62,550	<b>69,500</b>	75,050	80,600	86,200	91,750
<b>Mono County</b>	Extremely Low	15,700	17,950	20,200	<b>22,400</b>	24,200	26,000	27,800	29,600
	4-Person Very Low Income	26,150	29,850	33,600	<b>37,300</b>	40,300	43,300	46,300	49,250
	Area Median Income	41,800	47,800	53,750	<b>59,700</b>	64,500	69,300	74,050	78,850
	<b>75,500</b>	52,850	60,400	67,950	<b>75,500</b>	81,550	87,600	93,600	99,650
	Moderate Income	63,400	72,500	81,550	<b>90,600</b>	97,850	105,100	112,350	119,600
<b>Monterey County</b>	Extremely Low	14,550	16,600	18,700	<b>20,750</b>	22,450	24,100	25,750	27,400
	4-Person Very Low Income	24,250	27,700	31,150	<b>34,600</b>	37,400	40,150	42,950	45,700
	Area Median Income	38,750	44,300	49,850	<b>55,350</b>	59,800	64,250	68,650	73,100
	<b>68,700</b>	48,100	54,950	61,850	<b>68,700</b>	74,200	79,700	85,200	90,700
	Moderate Income	57,700	65,950	74,200	<b>82,450</b>	89,050	95,650	102,250	108,850
<b>Napa County</b>	Extremely Low	18,100	20,700	23,300	<b>25,850</b>	27,950	30,000	32,100	34,150
	4-Person Very Low Income	30,150	34,450	38,750	<b>43,050</b>	46,500	49,950	53,400	56,850
	Area Median Income	45,500	52,000	58,500	<b>65,000</b>	70,200	75,400	80,600	85,800
	<b>86,100</b>	60,250	68,900	77,500	<b>86,100</b>	93,000	99,900	106,750	113,650
	Moderate Income	72,300	82,650	92,950	<b>103,300</b>	111,550	119,850	128,100	136,350
<b>Nevada County</b>	Extremely Low	15,300	17,450	19,650	<b>21,800</b>	23,550	25,300	27,050	28,800
	4-Person Very Low Income	25,450	29,050	32,700	<b>36,300</b>	39,250	42,150	45,050	47,950
	Area Median Income	40,700	46,500	52,300	<b>58,100</b>	62,750	67,400	72,050	76,700
	<b>72,600</b>	50,800	58,100	65,350	<b>72,600</b>	78,400	84,200	90,000	95,850
	Moderate Income	60,950	69,700	78,400	<b>87,100</b>	94,050	101,050	108,000	114,950
<b>Orange County</b>	Extremely Low	20,250	23,150	26,050	<b>28,900</b>	31,250	33,550	35,850	38,150
	4-Person Very Low Income	33,750	38,550	43,350	<b>48,150</b>	52,050	55,900	59,750	63,600
	Area Median Income	53,950	61,650	69,350	<b>77,050</b>	83,250	89,400	95,550	101,750
	<b>85,300</b>	59,700	68,250	76,750	<b>85,300</b>	92,100	98,950	105,750	112,600
	Moderate Income	71,650	81,900	92,100	<b>102,350</b>	110,550	118,750	126,900	135,100
<b>Placer County</b>	Extremely Low	16,000	18,300	20,600	<b>22,850</b>	24,700	26,550	28,350	30,200
	4-Person Very Low Income	26,650	30,450	34,250	<b>38,050</b>	41,100	44,150	47,200	50,250
	Area Median Income	42,650	48,750	54,850	<b>60,900</b>	65,800	70,650	75,550	80,400
	<b>76,100</b>	53,250	60,900	68,500	<b>76,100</b>	82,200	88,300	94,350	100,450
	Moderate Income	63,900	73,050	82,150	<b>91,300</b>	98,600	105,900	113,200	120,500
<b>Plumas County</b>	Extremely Low	12,150	13,900	15,650	<b>17,350</b>	18,750	20,150	21,550	22,950
	4-Person Very Low Income	20,300	23,200	26,100	<b>28,950</b>	31,300	33,600	35,900	38,250
	Area Median Income	32,450	37,050	41,700	<b>46,300</b>	50,050	53,750	57,450	61,150
	<b>57,900</b>	40,550	46,300	52,100	<b>57,900</b>	62,550	67,150	71,800	76,450
	Moderate Income	48,650	55,600	62,550	<b>69,500</b>	75,050	80,600	86,200	91,750

See instructions on last page to use these income limits to determine applicant eligibility and calculate affordable housing cost and rent