



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

**TO:** CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

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

**SUBJECT:** Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending April 11, 2014

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**ZONING ADMINISTRATOR ACTIONS  
APRIL 10, 2014**

- Item 1: SoulCycle Minor Use Permit No. UP2014-007 (PA2014-030)  
1177 Newport Center Drive
- Action: Approved by Resolution No. ZA2014-011 Council District 5
- Item 2: Annual Review of Development Agreement for North Newport Center (PA2009-023)  
North Newport Center
- Action: Approved Council District 7

**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. ZA2014-011

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-007 FOR A PERSONAL IMPROVEMENT USE (HEALTH/FITNESS FACILITY) LOCATED AT 1177 NEWPORT CENTER DRIVE (PA2014-030)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Irvine Company, with respect to property located at 1177 Newport Center Drive, and legally described as Parcel 3 of Lot Line Adjustment LLA2009-001, requesting approval of a Minor Use Permit.
2. A Minor Use Permit to allow a health and fitness facility with accessory retail sales. The proposed project would be located in a 3,363-square-foot tenant suite within Fashion Island between Nordstrom and Macy's and across from a parking structure. The proposed project includes an indoor cycling fitness facility for group exercise classes, a locker room, restroom/showers, and a retail sales area. The applicant intends to offer up to 12 classes per day between the hours of 5:30 a.m. and 11:00 p.m., and each class could accommodate a maximum of 58 participants.
3. The subject property is located within the North Newport Center Planned Community (PC-56) Zoning District and is designated as Regional Commercial (CR) within the Land Use Element of the General Plan.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 10, 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 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) 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 subject project is for a change of use in an existing commercial building.

### SECTION 3. REQUIRED FINDINGS.

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

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

#### Facts in Support of Finding

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed health and fitness facility is a use that serves local and regional residents and is consistent with land uses in the CR land use designation.
2. The subject property is not located within 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 project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District. Fashion Island is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The health and fitness facility is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent with the purposes of the PC-56 District for the Fashion Island Sub-Area.
2. Pursuant to Section II.A.1., Table 1 of the North Newport Center Planned Community District Regulations, a personal improvement use, including a health and fitness facility is an allowed use, subject to the approval of a Minor Use Permit by the Zoning Administrator.
3. Fashion Island has a parking requirement of 3 spaces per 1,000 square feet for all commercial uses, and currently excess parking is provided due to agreements with major tenants. The proposed project does not include any additional floor area, and therefore, does not change or increase the parking requirement.

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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 Fashion Island Sub-Area permits a range of retail, dining, personal service, and commercial entertainment uses within the PC-56 (North Newport Center Planned Community) Zoning District. The proposed use is compatible with surrounding allowed commercial uses in the vicinity and there are no sensitive land uses located nearby.
2. The retail and reception areas are visible from the walkway in front of the subject suite and the fitness studio, restrooms, locker rooms, and related facilities are in the rear of the suite. This design ensures compatibility with the nearby retail and restaurant uses.
3. The subject suite is on the exterior of the shopping center and faces a parking structure, which minimizes any potential negative effects of a health and fitness facility to nearby uses.
4. The proposed hours of operation are 5:30 a.m. to 11:00 p.m., daily.

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 subject suite fronts a drive aisle and parking structure and has multiple entrances and exits to the suite.
2. The Fashion Island shopping center is contained within the boundaries of Newport Center Drive and is developed with multiple buildings and parking areas. Fashion Island provides adequate parking and circulation within the surface parking lots, parking structures, and drive aisles on site.
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. The Fire Department has reviewed the project site to ensure adequate public and emergency vehicle access is provided. Utilities are provided with all applicable requirements.

Finding

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The proposed use is 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, shoppers, and visitors.
2. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.
3. Fashion Island management has historically provided efficient on-site security and cooperation with the Newport Beach Police Department.
4. Fashion Island has a parking requirement of 3 spaces per 1,000 square feet for all commercial uses. The proposed project does not include any additional floor area, and therefore, does not change or increase the parking requirement.
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. UP2014-007, 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 10<sup>TH</sup> DAY OF APRIL, 2014.**

  
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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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. 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 Minor Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. 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.
6. 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.
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. 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.
9. 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 SoulCycle Minor Use Permit including, but not limited to, the Minor Use Permit No. UP2014-007. 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.





COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

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

**VIA EMAIL**

April 10, 2014

Irvine Company  
Dan Miller  
550 Newport Center Drive  
Newport Beach, CA 92660  
DMiller@irvinecompany.com

RE: Development Agreement Annual Review 2013 (PA2009-023)

Dear Mr. Miller,

On April 10, 2014, the Zoning Administrator held a noticed public hearing on the required annual review of the Development Agreement between the City of Newport Beach and Irvine Company. The Zoning Administrator found that Irvine Company was in good faith compliance with the terms of the Development Agreement. The approved minutes of the April 10, 2014 meeting will be available online after April 24, 2014 at the following link: <http://newportbeachca.gov/ZoningAdministrator>. Given this determination, the Development Agreement remains in effect and Irvine Company is not presently in default.

Should you have any questions regarding the Annual Review 2013 or this letter, please contact me at 949-644-3227 or [fnueno@newportbeachca.gov](mailto:fnueno@newportbeachca.gov).

Sincerely,

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Fern Nueno, Associate Planner

JC/fn

c: CAA Planning, Inc.  
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