



**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 August 15, 2014

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**ZONING ADMINISTRATOR ACTIONS  
AUGUST 14, 2014**

- Item 1: Newport Mesa Wellness and Murphy Chiropractic, Inc. Minor Use Permit No. UP2014-021 (PA2014-091)  
20280 Acacia Street, Suite 200
- Action: Approved by Resolution No. ZA2014-028 Council District 3
- Item 2: 2290 Bristol Street Minor Use Permit No. UP2014-027 (PA2014-111)  
2290 Bristol Street
- Action: Approved by Resolution No. ZA2014-029 Council District 3
- Item 3: Pressed Juicery Minor Use Permit No. UP2014-028 (PA2014-114)  
1116 Irvine Avenue
- Action: Approved by Resolution No. ZA2014-030 Council District 3
- Item 4: Pacifica Christian High School Minor Use Permit No. UP2014-008 (PA2014-045)  
883 W. 15<sup>th</sup> Street
- Action: Approved by Resolution No. ZA2014-031 Council District 2

**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. ZA2014-028

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-021 FOR A MEDICAL OFFICE USE LOCATED AT 20280 ACACIA STREET, SUITE 200 (PA2014-091)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Dr. Joseph A. Murphy, with respect to property located at 20280 Acacia Street, Suite 200 and legally described as Tract 706 Lot 69 except the SWLY 33 feet requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow a medical office use to operate within an existing 2,352-square-foot vacant tenant space within a multi-tenant office building. The applicant proposes to provide traditional chiropractic services in conjunction with holistic and nutritional support to patients with chronic autoimmune diseases. The proposed hours of operation are Monday through Thursday 8:30 a.m. to 5:30 p.m.
3. The subject property is located within the Business Park District of the Santa Ana Heights Specific Plan (SP-7) Zoning District and the General Plan Land Use Element category is General Commercial Office (CO-G).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on August 14, 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). The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use.
2. No expansion in floor area or interior improvements are proposed; 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 subject property is designated as General Commercial Office (CO-G) within the Land Use Element of the General Plan, which is intended to provide for administrative, professional, and medical offices with limited accessory, retail, and service uses.
2. The proposed chiropractic service in conjunction with holistic and nutritional support is a medical service consistent with the CO-G land use designation.
3. The subject property is located in the Business Park District (BP) of the Santa Ana Heights Specific Plan (SP-7), which is intended to provide for the development and maintenance of professional and administrative offices, commercial uses, specific uses related to product development, and limited light industrial uses.
4. The proposed chiropractic service in conjunction with holistic and nutritional support is a medical service, which is consistent with the intent of the Business Park District.

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. Medical office is a permitted use within the Business Park District of the Santa Ana Height Specific Plan subject to the approval of a Minor Use Permit.
2. The property provides 110 parking spaces on-site; which is adequate to accommodate the increased parking demand associated with the change in use. Parking demand for the subject tenant is increased from a ratio of one space per 250 square feet as general office use to one space per 200 square feet as medical office use. A total of 106 parking spaces are required for the subject site based on the current and proposed mix of tenant uses, resulting in a surplus of four parking spaces (Attachment No. ZA 3).

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 proposed medical office is located on the second floor within an existing 2,352-square-foot vacant tenant space. No increase in floor area and no interior improvements are proposed.
2. The project will be located in an area intended specifically for nonresidential uses. General commercial offices, medical offices, and a fire facility (Santa Ana Heights Fire Station) exist in the vicinity. The operational characteristics of the project are primarily that of a medical office use compatible with other commercial uses in the vicinity.
3. The Newport Mesa Wellness Center will be open 8:30 a.m. to 5:30 p.m., Monday through Thursday, which is compatible with surrounding office uses.

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 project site has demonstrated that it is physically suitable to support the existing development. The addition of a medical office use within an existing multi-tenant office building will not alter the site's ability to provide public and emergency vehicle access and public services and utilities.
2. The Public Works Department, Building Division, and Fire Department have reviewed the project proposal and did not have any concerns regarding access, public services, or utilities provided to the existing development.

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 proposed chiropractic service in conjunction with holistic and nutritional support is a medical service, which is consistent with the intent of the Business Park District and will not 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.
2. The proposed medical office will serve the residential community and be compatible with surrounding commercial uses.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2014-021, 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 14<sup>TH</sup> DAY OF AUGUST, 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. All proposed signs shall be in conformance with the provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
3. Minor Use Permit No. UP2014-021 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 is 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. 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.
8. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of any building permits.
9. 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.
10. 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.
11. 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 Newport Mesa Wellness MUP including, but not limited to, the Minor Use Permit No. UP2014-021 (PA2014-091). 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. ZA2014-029

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-027 AUTHORIZING RETAIL, SERVICE, OFFICE, FINANCIAL, TAKE-OUT SERVICE LIMITED EATING AND DRINKING ESTABLISHMENT, AND HEALTH/FITNESS FACILITY USES WITHIN A SINGLE-STORY BUILDING LOCATED AT 2290 BRISTOL STREET (PA2014-111)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Kate Curtin, with respect to property located at 2290 Bristol Street, and legally described as Parcel 1 of Parcel Map 62-2 requesting approval of a minor use permit.
2. The applicant has requested a minor use permit authorizing retail, service, office, financial, take-out service limited eating and drinking establishment, and health/fitness facility uses in conjunction with a 2,111 square-foot expansion and remodel of an existing 4,344 square-foot single-story building in the Santa Ana Heights area of the City.
3. The subject property is located within the General Commercial District (GC) of the Santa Ana Heights Specific Plan (SP-7) Zoning District and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on August 14, 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. This exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. It further includes additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures



before the addition, or 2,500 square feet, whichever is less. The scope of the project includes a 2,111 square-foot addition to an existing 4,344 square-foot single-story building and a request to permit a list of uses within the renovated building which together qualifies for the Class 1 exemption.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) 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 property is designated General Commercial (CG) within the Land Use Element of the General Plan which is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. Other uses may be permitted in accordance with the CG land use designation.
2. The proposed list of uses includes retail, personal service (general), office (business, professional, corporate, medical and dental), financial institution, take-out service limited eating and drinking establishment, and health/fitness facility (small and large) uses which are commercial activities oriented to serve citywide or regional needs, consistent with the CG land use designation.
3. The subject property is located in the General Commercial District (GC) of the Santa Ana Heights Specific Plan (SP-7). The intent of the District is to ensure the continuation of commercial uses which offer a wide range of goods and services to both the surrounding residential and business communities.
4. The proposed list of uses is intended to be for commercial purposes and will serve the needs of the surrounding residential and business communities. The mix of uses permitted will be consistent with the intent of the GC District.

#### 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 uses proposed are allowed within the GC District of the Santa Ana Heights Specific Plan with the approval of a minor use permit.

2. The proposed list of uses does not include uses subject to the approval of a conditional use permit or uses prohibited within the GC District of the Santa Ana Heights Specific Plan pursuant to Section 20.90.110.E (General Commercial District: SP-7 – Prohibited Uses).
3. The project is conditioned requiring that each use, including a change or expansion of a use appropriately maintain off-street parking in compliance with Chapter 20.40 (Off-Street Parking).
4. Uses proposed will comply with all applicable provisions of the Zoning Code, Municipal Code, and Santa Ana Heights Specific Plan.
5. The site is developed with a 4,344 square-foot single story building (2,904 square-foot main level and 1,440 square-foot basement) and 58-space parking lot. A 2,111 square-foot addition, remodel, and façade improvement is proposed as part of the project. In conjunction with these improvements, the parking lot will be reduced to 52 spaces. The proposed improvements will comply with all development standards required in the GC District of the Santa Ana Heights Specific Plan including maximum floor area ratio (FAR), height, and setbacks.

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 proposed addition and remodel are designed to enhance the appearance of the development as well as preserve the integrity of the neighborhood. All unused areas of the property will be landscaped which will enhance the aesthetic quality of the site, and improve water quality.
2. The parking requirement for the proposed uses range between one space for every 200 square feet (medical office, take-out service limited, large health/fitness facility) to one space for every 250 square feet (retail, personal service, business, professional, corporate office, financial institution, small health/fitness facility) of floor area. Based on these ratios, a minimum of 33 spaces would be required ( $4,344 + 2,111 / 200 = 33$ ) to accommodate any combination of uses. The 52-space parking lot proposed will provide more than adequate parking.
3. Nonresidential uses authorized by this Minor Use Permit will be located in an area intended specifically for nonresidential uses. General commercial office, retail, service, and eating and drinking establishments exist in the vicinity and along Bristol Street. Therefore, the proposed mix of uses will be compatible with surrounding uses.
4. Proposed uses will occupy an existing single-story building that fronts Bristol Street and will operate similar to surrounding retail and commercial activities. The purpose of

the Minor Use Permit is to authorize less intensive land uses that meet the intent of the General Commercial District of the Santa Ana Heights Specific Plan.

5. The location and size of the existing trash storage area at the rear of the property is adequate to accommodate a future use of the property including a take-out service limited, eating and drinking establishment and is conveniently located where materials can be deposited and collected, and does not impede with parking access and circulation.

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 project site demonstrated that it was physically suitable to support the previous food service use occupying the property. The proposed list of uses will not alter the site's ability to provide public and emergency vehicle access or public services and utilities because the authorized uses are considered less intensive relative to the previous eating and drinking establishment.
2. The site is expansive and accessible from Bristol Street and Cypress Street, which provides convenient access for emergency service.
3. A surplus of parking will be provided on site minimizing concerns regarding the suitability of the site to accommodate proposed uses and/or the expanded development.
4. The Building Division, Public Works Department, and Fire Department have reviewed the proposal and not have any concerns regarding access, public services, or utilities provided to the existing development.
5. Proposed site improvements will comply with the Zoning Code and all Building, Public Works, and Fire Codes.

Finding:

- E. *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 Minor Use Permit is intended to authorize a list of commercial uses that will service the needs of the community.
2. Use of the property will not be detrimental or constitute a hazard to people residing in the neighborhood because the site is only accessible to vehicular traffic from Bristol Street. Cypress Street is not a through street, and does not provide access to the property from nearby residential properties, thereby limiting the impact on residential uses.
3. The property is buffered from nearby residential properties by an existing commercial building and site walls. Any future commercial activity on the property would be at a distance and in a location such that it will not impact persons residing in the neighborhood.
4. As conditioned, any future eating and drinking establishment shall comply with Zoning Code standards specific to the take-out service limited use classification, which includes a maximum of six seats and no alcohol service.
5. Health Department approval is required for any future take-out service limited, eating and drinking establishment use and improvements shall comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.
6. As conditioned, any future health/fitness facility use shall be required to contain all activities indoors.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2014-111, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 14<sup>TH</sup> DAY OF AUGUST, 2014.**

  
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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

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 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.
3. 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.
4. Proposed uses authorized by this Minor Use Permit are limited to retail, personal service (general), office (business, professional, corporate, medical and dental), financial institution, take-out service limited eating and drinking establishment, and health/fitness facility (small and large) uses.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to the Minor Use Permit or the processing of a new use permit.
6. Use of the property, including a change or expansion of an existing use is required to appropriately maintain off-street parking in compliance with Chapter 20.40 (Off-Street Parking).
7. A valid business license from the City of Newport Beach with a sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.
8. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. A revised landscape plan shall be provided that complies with landscaping requirements pursuant to Section 20.40.070.D.3 (Development Standards for Parking Areas – Required Parking Area Improvements – Landscaping) including the requirement that trees be provided. Trees selected shall be compatible with the plant palette for the Bristol Street rehabilitation project.

10. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
11. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code and the property shall be subject to the approval of a Comprehensive Sign Program if meeting the applicability of Section 20.42.120.B (Comprehensive Sign Program - Applicability).
12. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
13. 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. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between 7:00 a.m and 10:00 p.m.		Between 10:00 p.m. and 7:00 a.m.	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

14. 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.
15. 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.
16. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m.

and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

17. No outside paging system shall be utilized in conjunction with this establishment.
18. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
19. The applicant is required to provide a decorative solid roof above the trash enclosure for aesthetic and water quality purposes.
20. 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.
21. 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.
22. 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).
23. 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 Use Permit.
24. 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.
25. 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.
26. 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.
27. 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 2290 Bristol Street Minor Use Permit including, but not limited to, UP2014-027 (PA2014-1111). 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.

*Personal services, general*

28. Establishments that provide recurrently needed services of a personal nature including but not limited to barbers and beauty shops, clothing rental shops, dry cleaning pick-up stores with limited equipment, Laundromats (self-service laundries), locksmiths, shoe repair shops, tailors and seamstresses are allowed.
29. Personal service restricted uses including but not limited to day spas, healing arts, tanning salons, tattoo services/body piercing studios, as well as massage establishments and accessory massage services shall be prohibited unless a new Minor Use Permit or other required application is first approved in accordance with the provisions of the Santa Ana Heights Specific Plan and Municipal Code.

*Take-out service limited, eating and drinking establishments*

30. Incidental seating of up to a maximum of six (6) seats may be provided for on-site consumption of food or beverage.
31. The sale of alcoholic beverages shall be prohibited unless a new Minor Use Permit or other required application is first approved in accordance with the provisions of the Santa Ana Heights Specific Plan and Municipal Code.
32. The hours of operation are limited to between 7:00 a.m. and 11:00 p.m. daily.
33. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

*Health/fitness facilities*

34. Use of the exterior of the business is prohibited, and all activities shall be contained indoors.



**Public Works Department**

35. An encroachment permit is required for all work activities in the public right-of-way.
36. In case of damage done to public improvements surrounding the development sit by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
37. All damaged or broken sidewalk, driveway approaches, curb and gutters shall be reconstructed along the Cypress Street and Bristol Street frontages.
38. The driveways shall be designed in accordance with the City's sight distance standard STD-110-L.
39. The parking layout shall comply with City Standard STD-805-L-A and STD-805-L-B.

## RESOLUTION NO. ZA2014-030

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-028 FOR A TAKE-OUT SERVICE LIMITED, EATING AND DRINKING ESTABLISHMENT LOCATED AT 1116 IRVINE AVENUE (PA2014-114)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Pirzadeh and Associates, Inc., with respect to property located at 1116 Irvine Avenue, and legally described as a portion of Lot 5 in Tract No. 4824 requesting approval of a minor use permit.
2. The applicant requests a minor use permit to allow the operation of a take-out service limited, eating and drinking establishment within the Westcliff Plaza shopping center. No late hours (after 11:00 p.m.) or alcohol service are proposed as part of the application, and parking for the use will be provided in the shared shopping center parking lot.
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 not located within the coastal zone.
5. A public hearing was held on August 14, 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. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves interior improvements to convert a previous retail use to a take-out service limited, eating and drinking establishment and involves no expansion in floor area or change in parking requirement.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) 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 General Plan designates the site as Neighborhood Commercial (CN) which 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.
2. The proposed establishment will occupy a tenant space within the Westcliff Plaza shopping center and is intended to provide a service not only to visitors, but also to residents within the immediate neighborhood and surrounding area, and is therefore consistent with the CN designation.
3. A variety of eating and drinking establishments exist within the shopping center and the proposed take-out service would be complementary to the surrounding commercial and residential uses.
4. 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 property is located in the Commercial Neighborhood (CN) Zoning District. The proposed establishment which includes kitchen facilities, no seating, no alcohol service, and no late hours is a permitted use subject to the approval of a minor use permit pursuant to Newport Beach Municipal Code Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements).
2. Parking for the proposed establishment is provided within the shared shopping center parking lot. The parking requirement for a take-out service limited, eating and drinking establishment (1 space per 250 square feet) is the same standard required of the previous retail tenant, and does not necessitate additional parking on site.

3. As conditioned, the proposed establishment will comply with Zoning Code standards for eating and drinking establishments, including those specific to the take-out service limited use classification which includes a maximum of six seats.

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 proposed take-out service use is appropriate given the establishment will be located within an existing shopping center accessible from three streets (Irvine Avenue, Westcliff Drive, and Rutland Road), which provides convenient access to motorists, pedestrians, and bicyclists.
2. The shopping center contains various retail, and visitor-serving commercial uses including eating and drinking establishments. The proposed establishment is compatible with the existing and permitted uses within the area.
3. As conditioned, the allowed hours of operation will be 7:00 a.m. to 11:00 p.m. daily, which will minimize any disturbance to residences residing near the property.
4. The existing trash storage area at the rear of the property is adequate to accommodate the proposed food service use and is conveniently located where materials can be deposited and collected, and does not impede with the parking spaces.

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 existing parking lot provides adequate circulation and parking spaces for patrons.
2. The site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided.
3. Proposed site improvements will comply with the Zoning Code and all Building, Public Works, and Fire Codes.

Finding:

- E. 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 take-out service limited, eating and drinking establishment will occupy property within an existing shopping center that has not proven to be detrimental to the occupants of the property or nearby properties.
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. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
3. The applicant is required to obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2014-028, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 14<sup>TH</sup> DAY OF AUGUST, 2014.**

By:



\_\_\_\_\_  
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 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.
3. The 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 is materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
4. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to the Minor Use Permit or the processing of a new use permit.
5. 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.
6. Incidental seating for up to a maximum of six (6) seats may be provided for on-site consumption of food or beverage.
7. The sale of alcoholic beverages shall be prohibited unless an amendment to the Minor Use Permit or other required application is first approved in accordance with the provisions of the Municipal Code.
8. The hours of operation are limited to between 7:00 a.m. and 11:00 p.m. daily.
9. A valid business license from the City of Newport Beach with a sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.
10. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
11. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.

12. 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. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

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. 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.
15. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
16. No outside paging system shall be utilized in conjunction with this establishment.
17. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
18. A gate shall be installed to enclose the existing trash enclosure and shall be locked when not in use.
19. The applicant is required to provide a decorative solid roof above the trash enclosure for aesthetic and screening purposes.
20. 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.

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21. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within twenty (20) feet of the premises.
  22. 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).
  23. 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 Use Permit.
  24. 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.
  25. 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.
  26. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
  27. 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 Pressed Juicery including, but not limited to, UP2014-028 (PA2014-114). 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.



Revised Zoning Administrator Resolution no. ZA2014-031  
for Pacifica Christian High School (PA2014-045)  
forthcoming on Monday, August 18, 2014.

Please direct any questions or concerns to Rosalinh Ung,  
Associate Planner, at 949-644-3208 or  
[rung@newportbeachca.gov](mailto:rung@newportbeachca.gov).

Thank you.