



**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 May 1, 2015

**ZONING ADMINISTRATOR ACTIONS
APRIL 30, 2015**

- Item 1: Ritual Yoga Facility Minor Use Permit No. UP2015-010 (PA2015-042)
100 W. Coast Highway, Unit R-103
- Action: Approved by Resolution No. ZA2015-021 Council District 3
- Item 2: Annual Review of Development Agreement for Hoag Memorial Hospital
Presbyterian – Development Agreement No. 5 (PA2009-064)
1 Hoag Drive
- Action: Continued to 05/14/15 hearing Council District 1, 2, 3
- Item 3: Annual Review of Development Agreement for Uptown Newport – Development
Agreement No. DA2012-003 (PA2014-039)
4311 – 4321 Jamboree Road
- Action: Receive and File Council District 3
- Item 4: Annual Review of Development Agreement for Pacific View Memorial Park –
Development Agreement No. 7 (PA2009-024)
3500 Pacific View Drive
- Action: Receive and File Council District 6, 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. ZA2015-021

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-010 FOR A YOGA FACILITY LOCATED AT 100 W. COAST HIGHWAY (PA2015-042)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ritual Yoga Arts, LLC., with respect to property located at 100 W. Coast Highway, and legally described as PCL 1, Parcel Map 2010-133 requesting approval of a Minor Use Permit.
2. The applicant proposes a yoga facility within a 3,580-square-foot vacant commercial space located within the Mariner's Pointe shopping center. The facility includes a yoga studio, retail sales, locker rooms, a reception and a lobby with prepackaged beverages.
3. The subject property is located within the Commercial General (CG) Zoning District and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 30, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15301 under Class 1 (Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act.
2. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves interior alterations to improve an existing commercial space to an eating and drinking establishment.
3. A Mitigated Negative Declaration (SCH No. 2011041038) was prepared for the development of the shopping center in accordance with the implementing guidelines of the California Environmental Quality Act (CEQA) and approved by the City Council on August 9, 2011.

SECTION 3. REQUIRED FINDINGS.

Minor Use Permit

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings for a use permit are set forth:

Finding

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

Facts in Support of Finding

1. The General Plan land use designation for the site is CG (General Commercial) which is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. The proposed use is consistent with this designation.
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 within the CG (Commercial General) Zoning District which is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. The proposed yoga facility is consistent with the land uses permitted within this zoning district and the conditions of approval will ensure that the use is compatible with the adjacent residential areas.
2. Pursuant to Section 20.20.020 (Table 2-5 - Allowed Uses and Permit Requirements), the proposed project requires approval of a minor use permit.
3. The health club use requires a parking ratio of 1 space per 200 square feet of gross floor area. Including a proportionate share of the building service area, the gross square footage of the suite is 3,916 square feet, resulting in a total parking requirement of 20 spaces. These spaces are provided within the on-site parking structure.
4. The *Updated Shared Parking Analysis – Mariner's Pointe*, dated March 25, 2015, has been prepared and approved by the Community Development Department to evaluate the on-site parking supply versus the demand that will occur for parking throughout the day based on the current anticipated mix of uses and operational

characteristics, including the proposed yoga facility. The updated shared parking analysis indicates that because of the different peak hours of operation of the assumed mix of tenants, not all of the uses within the project will require their full allotment of parking spaces at the same time. The analysis indicates that the total parking required has two (2) separate peaks: 1) one (1) peak during the early afternoon with a total demand for 117 parking spaces at 1:00 p.m.; and 2) a second peak in the early evening with a total demand of 134 parking spaces at 6:00 p.m. Therefore, there is an anticipated surplus of nine (9) spaces based on the shared parking analysis.

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 project involves improvements within an existing commercial suite to construct a yoga studio, locker rooms and a reception and lobby area.
2. The proposed operation will include an average of six (6) classes per day with a maximum class capacity of thirty-five (35) students.
3. The proposed yoga facility will be complementary to the other uses in the Mariner's Pointe shopping center, which will include retail stores, food services, and other commercial uses. It contributes to making the shopping center a viable commercial node for the neighborhood and visitors.
4. The proposed yoga facility will provide a service for residents of the neighborhood and visitors to the area and provides adequate parking within the parking structure on-site.

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 proposed project will be located in a space within a recently built commercial building and will involve improvements of the space to construct the yoga studio, locker rooms, a reception and lobby area. There are no proposed changes to the site or the exterior façade of the building.

2. Adequate public and emergency vehicle access, public services, and utilities are provided on-site and are accessed from West Coast Highway and Dover Drive.
3. The tenant improvements, including the locker rooms, will comply with 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, 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 project has been reviewed and this approval includes conditions 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.
2. The proposed yoga facility will help the new commercial building establish as a commercial center that serves the surrounding community as well as providing a service to visitors to the area.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Application No. UP2015-010, 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 30th DAY OF APRIL, 2015.



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 including seating plan, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Use Permit No. UP2015-010 shall expire unless exercised within twenty-four (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.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. Prior to implementation of this use permit, all revisions for the shell of the commercial building regarding the subject tenant space shall be permitted and completed.
5. Parking shall be provided at one (1) space per 200 square feet of gross floor area.
6. 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.
7. 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 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.
8. 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.
9. 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

10. 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.
11. 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.
12. 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 Ritual Yoga MUP including, but not limited to, Minor Use Permit No. UP2015-010 (PA2015-042). 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.