



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjjs, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending April 3, 2020.

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

Item 1: Medical Office Uses within the Professional and Administrative (PA) District of the Santa Ana Heights Specific Plan (SP-7) – Director’s Determination No. DD2020-001 (PA2020-051)
Site Address: Professional and Administrative Office (PA) District of the Santa Ana Heights Specific Plan (SP-7)

Action: Approved

Council District 3

APPEAL PERIOD: An appeal or call for review 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.



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660

949 644-3200

newportbeachca.gov/communitydevelopment

Director's Determination

To: Planning Division
From: Seimone Jurjis, Community Development Director
Date: April 1, 2020
Re: Medical Office Uses within the Professional and Administrative (PA) District of the Santa Ana Heights Specific Plan (SP-7) – Director's Determination No. DD2020-001 (PA2020-051)

Summary

On February 20, 2020, the Planning Commission directed the Community Development Director to prepare a determination that medical office uses, and similar uses, are consistent with the purpose and intent of the Professional and Administrative Office (PA) District of the Santa Ana Heights Specific Plan (SP-7) and are therefore allowable subject to approval of a Minor Use Permit.

Background

Medical office uses do not typically require a use permit, or any discretionary approvals, in order to operate in the City of Newport Beach if there is adequate parking. They are usually either permitted by right or prohibited in commercial or office districts.

Conversely in the regulations for SP-7, a medical office use requires the approval of at least a minor use permit in the Business Park (BP) District and is not listed as an allowed use within the PA District. However, in the PA District, a conditional use permit may be approved by the Planning Commission for any unlisted use if it is determined to be consistent with the District's purpose and intent. The stated purpose and intent is to provide for the development and maintenance of an optimal environment for moderate intensity professional and administrative office uses and related uses on sites with large landscaped open spaces and off-street parking facilities. This district is intended to be located on heavily traveled streets or adjacent to commercial or industrial districts, and may be used to buffer residential areas.

To date, the Planning Commission has found a medical office use consistent with the purpose and intent on three occasions with its approval of three conditional use permits for medical offices for sites within the PA District:

- Chiropractic office (PA2017-171) on November 9, 2017,
- Plastic surgery center (PA2019-025) on May 9, 2019, and
- Medical spa (PA2019-171) on February 20, 2020.

In each of these cases, the Planning Commission acknowledged that the uses operate with standard business hours (i.e., 8:00 a.m. to 5:00 p.m.), are relatively small in scale, and conduct business on an appointment-only basis, which is compatible with the surrounding tenants and the intent and purpose of the PA District.

Director's Determination

In this case, it is reasonable to find a medical office to be an allowed use (subject to approval of a minor use permit) provided it maintains certain operating characteristics that are similar in nature to a professional or administrative office.

Characteristics of allowable medical offices include but are not limited to:

- Operate similarly to the surrounding tenants, specifically similar hours and similar days of the week
- Have a limited number of staff and limited number of patients or function as appointment only as to maintain a moderate intensity of use
- Have adequate parking available onsite

Please note that a call for review or appeal may be filed within 14 days following the date of this determination. For additional information on filing an appeal or should you have any questions, please contact our office at 949-644-3200.


Seimone Jurjis, PE, CBO
Community Development Director

Attachments: Planning Commission Minutes of February 20, 2020
NBMC Section 20.90.130 (Professional and Administrative
Office District: SP-7 [PA])

ITEM NO. 3

**BONAKDAR INSTITUTE (PA2019-171)
Site Location: 20321 Irvine Avenue, Unit F3**

Summary:

A conditional use permit to operate a 3,314-square-foot medical office that provides nonsurgical aesthetic treatments focusing on facial and body contouring.

Recommended Action:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment;
3. Adopt Resolution No. PC2020-005 approving Conditional Use Permit No. UP2019-045; and
4. Direct the Community Development Director to prepare a Determination that medical office uses and similar uses are consistent with the purpose and intent of the SP-7/PA district and are, therefore, allowable.

Assistant Planner Joselyn Perez reported the project is located on Irvine Avenue, across the street from the Newport Beach Golf Course, and is abutted by residential uses. The site is zoned Santa Ana Heights Specific Plan - Professional and Administrative Office (SP-7/PA). The zoning district permits no uses by right; rather, the Zoning Code contains a list of allowable uses that are subject to the approval of a minor use permit. Professional and administrative office is a part of the list, but medical office is not; however any use which the Planning Commission finds consistent with the purpose and intent of this district is permitted subject to the Planning Commission's approval of a use permit. The Planning Commission approved similar applications in 2017 and 2019. The applicant proposes to operate a 3,314-square-foot medical office between the hours of 9 a.m. and 5 p.m. Monday through Friday with two employees and adequate parking. The office complex is required to provide 301 parking spaces, which it provides. The main floor accommodates a reception area and four treatment rooms, and the upper level accommodates administrative space only. The project is conditioned to permit only administrative space on the upper level because there is no accessible elevator. Staff believes the use is consistent with the Zoning Code and compatible with surrounding uses; the site is adequate for the use; and approving the use will not be detrimental to the area. A Determination by the Community Development Director will allow the Zoning Administrator to hear future applications for medical office uses.

In reply to Chair Koetting's inquiries, Deputy Community Development Director Campbell advised that during site visits, staff did not observe any issues with parking. Staff provided notice of the application to property owners in the area. With Planning Commission approval, the Director's Determination would find that a medical office is consistent with the purpose and intent of the district. A hearing before the Zoning Administrator rather than the Planning Commission saves the applicant time and money. Should future changes in uses cause a shortfall in parking, the issue would be presented to the Planning Commission for review.

In answer to Vice Chair Weigand's question, Deputy Community Development Director Campbell indicated a definition of uses will be included in the Determination, which will be provided to Commissioners. Staff is currently planning to define uses as small-scale facilities such as a chiropractic office, outpatient surgery center, and cosmetic treatment facility. Vice Chair Weigand preferred the Planning Commission review applications for facilities that involve large numbers of patients that might disrupt surrounding businesses. Assistant City Attorney Yolanda Summerhill added that staff will ensure the definition is consistent with state and federal law and addresses his concerns.

Secretary Lowrey disclosed a conversation with the applicant. Vice Chair Weigand, Chair Koetting, and Commissioners Ellmore, Klaustermeier, and Rosene disclosed no ex parte communications.

Chair Koetting opened the public hearing.

Phil Greer, applicant's attorney, explained that a medical facility with a large number of patients is not feasible in the office complex because of Code restrictions. The proposal is a low-key medical facility that provides outpatient services.

In reply to Chair Koetting's query, Mr. Greer advised that the number of patients per day will be five to seven.

Jim Mosher noted the Planning Commission can call for review an application heard by the Zoning Administrator. Perhaps the Planning Commission should determine whether a zoning district within the Santa Ana Heights Specific Plan allows medical uses. A future owner of the facility could operate it at a much higher volume of patients because the use permit runs with the land.

Chair Koetting closed the public hearing.

In response to Vice Chair Weigand's inquiry, Deputy Community Development Director Campbell indicated the Director's Determination would apply to the subject office complex only, which is designated Professional and Administrative Office (PA) within the Santa Ana Heights Specific Plan. The Business Park designation (BP) within the Santa Ana Heights Specific Plan is already appropriate for medical office uses.

Chair Koetting remarked that parking requirements for medical office uses are too low, and staff should review the standards.

Motion made by Commissioner Klaustermeier and seconded by Secretary Lowrey to adopt Resolution No. PC2020-005 approving Conditional Use Permit No. UP2019-045; and direct the Community Development Director to prepare a Determination that medical office uses and similar uses are consistent with the purpose and intent of the SP-7/PA district and are, therefore, allowable.

AYES: Koetting, Weigand, Lowrey, Ellmore, Klaustermeier, Rosene
NOES:
ABSTAIN:
ABSENT: Kleiman

ITEM NO. 4 ACCESSORY DWELLING UNIT ORDINANCE (PA2019-248)
Site Location: Citywide

Summary:

Amendments to Title 20 (Zoning Code) and Title 21 (Local Coastal Program Implementation Plan) updating regulations pertaining to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) to conform with revisions to Government Code Sections 65852.2 and 65852.22 that went into effect on January 1, 2020.

Recommended Action:

1. Conduct a public hearing;
2. Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA;
3. Adopt Resolution No. PC2020-006 recommending the City Council approve Zoning Code Amendment No. CA2019-009 modifying regulations pertaining to accessory dwelling units; and
4. Adopt Resolution No. PC2020-007 recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-008 to the California Coastal Commission.

Planning Consultant Blumenthal reported as of January 1, 2020, the City's existing accessory dwelling unit (ADU) Ordinances were voided by new state laws; therefore, the State's minimum default standards apply until the City adopts an ordinance compliant with state laws. In explaining the difference between ADUs and junior accessory dwelling units (JADU), he noted ADUs are allowed in all residential and mixed-use zones. The maximum size for an ADU is 850 square feet for a one-bedroom unit and 1,000 square feet for a two-bedroom unit. Existing space within a residence can be converted to an ADU or an ADU can be new construction. The State has waived all owner occupancy requirements until January 1, 2025. An ADU may be rented separately from the main dwelling, but it cannot be sold separately from the main dwelling. An ADU is considered a separate unit for application of the Building Code. JADUs are single-family units with a maximum size of 500

20.90.130 Professional and Administrative Office District: SP-7 (PA).

A. Purpose and Intent. The PA District is established to provide for the development and maintenance of an optimal environment for moderate intensity professional and administrative office uses and related uses on sites with large landscaped open spaces and off-street parking facilities. This district is intended to be located on heavily traveled streets or adjacent to commercial or industrial districts, and may be used to buffer residential areas.

B. Principal Uses Permitted.

1. The following principal uses are permitted subject to the approval of a minor use permit per Part 5 of this title:

- a. Automobile parking lots per Chapter [20.40](#).
- b. Churches, temples, and other places of worship.
- c. Civic and government uses.
- d. Communication transmitting, reception, or relay facilities.
- e. Day care nurseries.
- f. Educational institutions serving adults.
- g. Financial institutions.
- h. Libraries and museums.
- i. Professional and administrative offices.
- j. Public/private utility buildings and structures.

2. The following principal uses are permitted subject to the approval of a use permit by the Planning Commission per Part 5 of this title:

- a. Any use which the Planning Commission finds consistent with the purpose and intent of this district.

C. Temporary Uses Permitted. Temporary uses, per Part 5 of this title, to include the following:

1. Commercial coaches.

2. Christmas tree sales.
3. Halloween pumpkin sales.

D. Accessory Uses Permitted. The following accessory uses and structures are permitted when customarily associated with and subordinate to a permitted principal use on the same building site.

1. Uses per Chapter [20.30](#), to include:
 - a. Detached buildings.
 - b. Fences and walls.
2. Signs per Chapter [20.42](#).
3. Accessory uses and structures which the Planning Director finds consistent with the purpose and intent of this district.

E. Prohibited Uses. The following uses are specifically prohibited:

1. Adult entertainment businesses and adult-oriented businesses.
2. All uses not listed in this section as permitted.

F. Site Development Standards.

1. Floor Area Ratio (FAR). As specified on Table LU2 and Figure LU11 of the Land Use Element of the General Plan.
2. Building Site Area. Ten thousand (10,000) square feet minimum, except as modified by special symbol, per Section [20.90.040\(B\)](#).
3. Building Site Width. Seventy-five (75) feet minimum.
4. Building Height. Thirty-five (35) feet maximum.
5. Building Site Coverage. Thirty-five (35) percent maximum.
6. Building Setbacks. Ten (10) feet minimum from any property line, ultimate street right-of-way, or alley, except zero feet side setback from alleys.

7. Off-Street Parking.
 - a. Parking shall be provided as required by Chapter [20.40](#).
 - b. Parking on the front half of the lot shall have no direct access to the street and shall be under roof unless adequate screening of open parking can be provided by berming, fencing, or landscaping as shown on an approved site plan or use permit.
8. Lighting. All lighting shall be designed and located so as to confine direct rays to the premises.
9. Trash and Storage Areas. All storage of cartons, containers and trash shall be enclosed by a building or by a wall not less than six feet in height. If unroofed, no such area shall be located within forty (40) feet of any district zoned for residential or agricultural uses.
10. Enclosed Uses. All commercial and office uses and their related products shall be contained entirely within a completely enclosed structure except for parking and loading areas and outdoor uses expressly permitted by an approved modification permit or use permit.
11. Screening. Screening shall be provided per the standards of Section [20.90.110\(F\)](#).
12. Landscaping. Landscaping, consisting of trees, shrubs, vines, groundcover, or any combination thereof, shall be installed and maintained in accordance with the following standards:
 - a. Boundary landscaping is required for a minimum depth equal to the required setback distance or ten (10) feet, whichever is less, along all property lines abutting streets, except for the area required for street openings.
 - b. Landscaping along all streets and boundaries shall be in compliance with Section [20.30.130](#) and Chapter [20.36](#).
 - c. All landscaped areas shall be separated from an adjacent parking or vehicular area by a wall or curb at least six inches higher than the adjacent parking or vehicular area.
 - d. Permanent watering facilities shall be provided for all landscaped areas.
 - e. Required landscaping shall be maintained in a neat, clean and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing and watering as needed, and replacement of plants when necessary.

f. For projects with landscaping of more than one cumulative acre, a landscape and irrigation system plan shall be submitted and approved prior to the issuance of building permits to comply with current water conservation practices.

13. Buffer Area. A minimum six-foot-high slump block wall shall be constructed along property lines abutting the REQ District, except within the front setback area, where the height shall be no greater than three and one-half feet. Landscaping adjacent to this wall shall be in conformance with the provisions of Section [20.90.030](#) and Exhibit 20.90-7 (Design Guidelines). (Ord. 2010-21 § 1 (Exh. A)(part), 2010)