RESOLUTION NO. ZA2022-047

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2021-041 FOR A PERSONAL TRAINING FACILITY, LOCATED AT 847 WEST 16TH STREET (PA2021-247)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Onyx Athletica LLC (Applicant) with respect to property located at 847 West 16th Street and legally described as the West 157 ½ feet of Lot 812 ½ of the First Addition to the Newport Mesa Tract, seeking approval of a minor use permit.

2. The Applicant requests approval to establish a personal training facility and on-line activewear business within an existing 5,920-square-foot tenant space in the IG (Light Industrial) zone. The space will be renovated and improved with nine (9) individual workout stations, a lobby/reception area, administrative offices, restrooms, storage closets and lockers for patrons. The facility will operate by appointment only, between the hours of 5:00 a.m. and 10:00 p.m. daily. The proposed use is permitted in the zone, subject to a minor use permit.

3. The subject property is categorized General Industrial (IG) by the General Plan Land Use Element and is within the Industrial (IG) Zoning District.

4. The subject property is not located in the coastal zone.

5. A public hearing was held on June 30, 2022, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. Class 1 exempts 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 beyond that existing at the time of the lead agency's determination.
3. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. In urbanized areas, this exemption includes a store, motel, office, restaurant or similar structure not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

4. The project involves the establishment of a personal training facility and on-line activewear business within an existing 5,920-square-foot tenant space in the IG (Industrial) zone and improvements are limited to minor tenant improvements within the existing building. The project therefore qualifies for both the Class 1 and Class 3 categorical exemptions.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the NBMC, 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 IG (General Industrial) land use designation is intended to provide for a wide range of moderate to low intensity industrial uses, such as light manufacturing, research and development, and limited ancillary commercial and office uses. The proposed project comports with this intent. Personal training is consistent with the land use designation and the retail component serves as an ancillary commercial use.

2. The 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 IG (Industrial) Zoning District is intended to provide for areas appropriate for a wide range of moderate to low intensity industrial uses and limited accessory commercial and office uses. Health/Fitness Facilities over 2,000 square-feet are specified as an allowed use within this zone, subject to a minor use permit.

2. The project will provide a host facility for private personal trainers who will contract with Onyx Athletica LLC for use of the space and equipment to train individual private clients.
The project would support private trainers by providing a shared location in which to operate, designed and equipped for their work, with adequate on-site parking and operating characteristics consistent with the surrounding adjacent land uses.

3. The operational conditions of approval will promote compatibility with the surrounding land uses, which are predominately industrial uses. The proposed use will comply with all other applicable provisions of the NBMC.

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 project is located within an existing industrial building. The design, size, location, and operating characteristics of the use are compatible with the surrounding existing land uses.

2. Project implementation will consist of tenant improvements to the existing tenant space, in compliance with Building and Fire Code safety and accessibility requirements. The design of the tenant improvements will comply with all Building, Public Works, and Fire Codes.

3. The applicant has provided a parking study, prepared by RK Engineering Group, Inc., dated October 6, 2021, documenting that adequate parking exists onsite for both the existing and proposed uses. The parking study considered the square footage of each existing and proposed business, operating hours, number of onsite parking spaces and applicable City parking requirements. There are fifty-two (52) onsite parking spaces on the project site and thirty-nine (39) spaces are required based on City standards, therefore a surplus of thirteen (13) parking spaces exists.

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. All proposed tenant improvements, with the exception of signage, are limited to the inside of the existing building and will not affect pedestrian circulation, parking spaces, or access to existing tenants. Adequate public and emergency vehicle access is taken from West 16th Street. Public services and utilities are adequately provided for on-site.

2. The design of the improvements will comply with all Building, Public Works, and Fire Codes, and plans will be reviewed prior to the issuance of building permits.
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 project includes conditions of approval to ensure that potential conflicts with the surrounding land uses and City as a whole 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 within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots, during business hours, if directly related to the patrons of the business.

2. The proposed business will be located within an existing tenant space is an existing industrial building and the IG Industrial zone allows the proposed use, subject to a minor use permit. The space has not proven unsuitable for this type of use.

3. The proposal has been reviewed by the Building Division, Public Works, and Fire Departments, and recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-041 subject to the conditions set forth in Exhibit “A,” which is attached hereto and incorporated by reference.

3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review 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 JUNE, 2022.

Jaime Murillo
Zoning Administrator
EXHIBIT “A”

CONDITIONS OF APPROVAL

Planning Division

1. The project shall be in substantial conformance with the approved floor plans 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 Use Permit.

4. The Applicant is required to obtain all applicable permits from the City’s Building Division and Fire Department.

5. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of NBMC Chapter 20.42 (Signs).

6. Minor Use Permit No. UP2021-041 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060 (Time Limits and Exceptions), unless an extension is otherwise granted.

7. This 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.

8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Use Permit or the processing of a new Use Permit.

9. A minimum of thirty (30) onsite parking spaces shall be allocated to the proposed use.

10. Private training sessions shall be scheduled to have a 15-minute time gap between appointments to maintain available onsite parking.

11. All training sessions shall be by appointment only. Walk-ins are not permitted.

12. Trash dumpsters and stored items blocking parking spaces shall be relocated to render all parking spaces available for the parking of vehicles.
13. 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.

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. 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.

16. The exterior of the business shall always be maintained free of litter and graffiti. 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.

17. 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).

18. Storage outside of the building in the front or at the rear of the property shall be prohibited, except for the required trash container enclosure.

19. 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.

20. 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 NBMC.

21. 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 Onyx Athletica LLC including, but not limited to, Minor Use Permit No. UP2021-041 (PA2021-247). 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.

**Building Division**

22. 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.

23. Prior to the issuance of building permits, the project plans shall comply with applicable disabled access requirements.

**Fire Department**

24. The facility is classified as an A-3 Assembly Group Occupancy. A minimum of two (2) exits equipped panic hardware are required. A roll-up door does not qualify as an exit door.