



May 9, 2018

Dr. Daniel Kimbley  
34085 Pacific Coast Highway, Suite 114  
Dana Point, CA 92629

**MINOR CONDITIONAL USE PERMIT CUP18-0006(M)**

**APPLICANT:** Dr. Daniel Kimbley (Nexus Family Chiropractic)

**OWNER:** Blue Lantern Property, LLC.

**LOCATION:** 34085 Pacific Coast Highway, Suite 114  
Assessor Parcel Number (APN): 672-231-06

**REQUEST:** A request to allow the establishment of a new clinical service use in a currently vacant 900 square foot suite located at 34085, Suite 114, within the City's Town Center Mixed Use (TC-MU) District.

**ENVIRONMENTAL:** The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15301 (Class 1 – Existing Facilities).

**DETERMINATION:** The Community Development Director hereby

\_\_\_\_ APPROVES  
\_\_\_\_ DENIES

the requested entitlements described herein subject to the attached findings and applicable conditions.

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Ursula Luna-Reynosa, Director  
Community Development Department

**FINDINGS:**

**A. The proposed conditional use is consistent with the City of Dana Point General Plan and Municipal Code.**

The applicant intends to locate a chiropractic office (Clinical Service Use) into a vacant tenant space (Suite 114) in a multi-tenant building located within the boundaries of the Dana Point Town Center Plan (DPTCP). Chiropractic Offices are "Clinical Service Uses" as noted in the Land Use Matrix of the DPTCP and require approval of a Minor Conditional Use Permit (CUP(M)). Upgrades to the suite include limited interior alterations to make it suitable and more functional for the proposed use and includes of new lighting fixtures, flooring, interior paint, and furniture. No new square footage or exterior alterations, other than signage, (reviewed under separate permit(s)) are proposed.

The subject application has been reviewed and the proposed conditional use is consistent with the General Plan in that it achieves a desirable mixture of land uses to meet the residential, commercial, industrial, recreational, open space, cultural and public service needs of the City residents. As stated above, "Clinical Service Uses", as proposed, are conditionally permitted in the DPTCP. As presented in the application materials, and conditioned herein, the proposed chiropractic office will meet all other requirements of the Municipal Code, specifically those contained in Title 8 (Building and Construction) and Title 9 (Zoning).

**B. The nature, condition, and development of adjacent uses, buildings, and structures have been considered, and that the proposed, conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.**

The proposed Clinical Service Use is to be established within an existing suite of a mixed-use building. The Clinical Service Use would replace a similar use related to parking demand, and all activities will take place within the confines of the referenced suite. The proposed use is accordingly compatible and complimentary to existing development within the project's vicinity as conditioned and would not be materially detrimental to adjacent uses, buildings or structures.

**C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other land use development features prescribed in the Dana Point Municipal Code in order to integrate the use with existing and planned uses in the vicinity.**

The proposed site is adequate in size and shape to accommodate the new Clinical Service Use in that it is a previously developed site with no contemplated changes to the larger existing structure or other uses onsite. The proposed use will be located in an existing vacant suite in a multi-tenant structure. The previous (doctors office) and the proposed (chiropractor) clinical service uses have the same required parking demand of one (1) stall/150 square feet of gross floor area. Consequently, the proposed Clinical Service Use can be integrated with the existing and planned uses in the vicinity.

### **CONDITIONS OF APPROVAL**

**The City of Dana Point hereby grants approval of CUP18-0006(M) for the referenced project. This permit is valid subject to the following conditions of approval:**

#### **A. General:**

1. Approval of this application is to allow the establishment of new Clinical Service Use (chiropractic office) in a vacant 900 square foot suite located in a multi-tenant buildings, located at 34085 Pacific Coast Highway. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Director of Community Development, and in compliance with the applicable provisions of the Dana Point General Plan/Local Coastal Program, and the Dana Point Zoning Code.
2. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may approve the amendment without requiring a new public hearing.
3. This discretionary permit(s) will become void two (2) years following the effective date of the approval if the privileges authorized are not implemented or utilized or, if construction work is involved, such work is not commenced with such two (2) year time period or; the Director of Community Development or the Planning Commission, as applicable grants an extension of time. Such time extensions shall be requested in writing by the applicant or authorized

agent prior to the expiration of the initial two-year approval period, or any subsequently approved time extensions.

4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
5. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the applicant or the applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

6. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
8. The construction site shall be posted with signage indicating that construction not commence before 9:00 AM and must cease by 9:00 PM, Monday through Saturday. No construction activities shall be permitted on Sundays or Federal holidays.
9. The applicant shall obtain all applicable permits for the proposed improvements.

10. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.
11. The applicant shall be responsible for coordination with water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, and telephone and cable television services.

**B. Prior to the issuance of a certificate of occupancy, the applicant shall meet the following:**

12. The applicant shall schedule a final inspection with the Community Development Department at the site that shall include a review of, among other things, landscaping, finish architecture/materials, and compliance with any outstanding project conditions of approval approved through discretionary action.