



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

August 15, 2019
Agenda Item No. 3

SUBJECT: Jack's Surfboards/Jack's Girls Outdoor Sales Limited Term Permit
(Greater Than 90 Days) (PA2019-125)
▪ Limited Term Permit No. XP2019-008

SITE LOCATION: 2727 Newport Boulevard

APPLICANT: Jack's Surf & Sport, LLC

OWNER: Abdelmuti Development Company

PLANNER: Melinda Whelan, Assistant Planner
949-644-3221, mwhelan@newportbeachca.gov

LAND USE AND ZONING

- **General Plan:** CV (Visitor Serving Commercial)
- **Zoning District :** CV (Commercial Visitor-Serving)
- **Coastal Land Use Category:** CV-A Visitor-Serving Commercial
- **Coastal Zoning District:** CV Commercial Visitor-Serving

PROJECT SUMMARY

A Limited Term Permit for a period of 12 months to allow outdoor sales of store merchandise within three parking spaces of the on-site parking lot in front of the Jack's Surfboards/Jack's Girls location. Outdoor sales may take place on various dates requested by the applicant, up to nine times throughout the 12-month period beginning with the date of the first sale requested in August 2019. Each sale would last up to four consecutive days.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 (Minor Alterations to Land) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Draft Zoning Administrator Resolution No. _ approving Limited Term Permit No. XP2019-008 (Attachment No. ZA 1).

DISCUSSION

- The site is 0.94 acres, triangular in shape, and is bounded by Newport Boulevard to the east, Balboa Boulevard to the west, 28th Street to the north, and 26th Street to the south. It is a commercial site developed with two detached buildings occupied by various commercial and service uses. Jack's Surfboards/Jack's Girls occupies most of the square footage of the larger building, which is located within the southerly portion of the site. The two detached buildings have associated parking areas and there are a total of 86 parking spaces on the site. Vehicular access is provided via driveway approaches from Newport Boulevard and Balboa Boulevard.
- The applicant is requesting approval of a limited term permit for a period of 12 months for the purpose of conducting outdoor sales of typical merchandise from their retail stores. Limited duration uses that are in excess of a 90 day period are allowed within the Commercial Visitor-Serving (CV) Zoning District with approval of a Limited Term Permit by the Zoning Administrator.
- As requested and recommended by staff, outdoor sales would be limited to nine times throughout a 12-month period beginning with the date of the first sale requested in August 2019 (Attachment No. ZA 3). Each sale may last up to 4 consecutive days (Attachment No. ZA 3).
- The outdoor sales area will be located within three parking spaces (under portable canopies) located adjacent to the Jack's Surfboards storefront (Attachment No. ZA 3).
- The applicant has provided, and the City Traffic Engineer has approved, a plan which illustrates the placement of significant barricades that would be placed around the perimeter of the outdoor sales area in order to delineate the sales area from the adjacent parking spaces and drive aisles, and ensure the safety of customers of the outdoor sale (Attachment No. ZA 3).
- Outdoor sales would take place in conjunction with the normal hours of operation of Jack's Surfboards/Jack's Girls; typically, from 8:00 a.m. to 9:00 p.m. Set-up for the sale would occur prior to opening of the store. All unsold merchandise would be removed from the outdoor sales area at the end of each sale date by 10:00 p.m.
- Similar outdoor sales for Jack's Surfboards/Jack's Girls, as conditioned and in the same location, have been conducted in the past with approval of the City and have not proven detrimental.
- The property is within the Coastal Zone however, these temporary events authorized by a Limited Term Permit are exempt from the requirement of a Coastal Development Permit pursuant to Section 21.52.035 D. (Special and Temporary Events) of the Municipal Code.

ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15304, of the California Environmental Quality Act (CEQA) Guidelines - Class 4 (Minor Alterations to Land), which exempts minor temporary uses of land having negligible or no permanent effects on the environment of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. The project qualifies for this exemption because there will be no permanent improvements to the site. The canvas canopies and temporary water barricades permitted to delineate the temporary sales area within three parking spaces of the on-site parking lot during the sales are conditioned to be removed at the end of each sale.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD:

An appeal or call for review may be filed with the Director of Community Development within 14 days following the date of action. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:



Melinda Whelan
Assistant Planner

JM/msw

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Site Plan and Outdoor Sales Area Plan

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2019-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT NO. XP2019-008 FOR OUTDOOR SALES FOR JACKS SURFBOARDS/JACK'S GIRLS LOCATED AT 2727 NEWPORT BOULEVARD (PA2019-125)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jack's Surfboards, with respect to property located at 2727 Newport Boulevard, and legally described as Lake Tract, Lot 4 Block 127, and Lots 5 to 14 including portion of Lots 2/3 lying northerly of 26th Street, and all -except street- Lots 15 to 19, including all in Block 127, Tract 418, requesting approval of a Limited Term Permit for more than 90 days.
2. The applicant proposes a Limited Term Permit for a period of 12 months to allow outdoor sales of store merchandise within three (3) parking spaces of the on-site parking lot in front of the Jack's Surfboards/Jack's Girls location. The outdoor sales may take place on various dates, up to nine (9) times throughout a 12-month period beginning with the date of the first sale in August 2019. Each sale may last up to four (4) consecutive days.
3. The subject property is designated Visitor-Serving Commercial (CV) by the General Plan Land Use Element and is located within the Commercial Visitor-Serving (CV) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Visitor-Serving Commercial (CV-A 0.00- 0.75 FAR) and it is located within the CV Coastal Zone District.
5. A public hearing was held on August 15, 2019 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 hearing 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 hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 under Class 4 (Minor Alterations to Land) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The project qualifies for this exemption because there will be no permanent improvements to the site. The two (2) canvas canopies and significant (water-filled or similar) barricades

are permitted to delineate the temporary sales area within three (3) parking spaces of the on-site parking lot during the sales and are conditioned to be removed at the end of each sale.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.040.G (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a Limited Term Permit are set forth:

Finding:

- A. *The operation of the requested limited duration use at the location proposed and within the time period specified 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 requested limited duration.*

Facts in Support of Finding:

1. The limited term permit will allow outdoor sales, which will be limited to nine (9) times throughout a 12-month period beginning with the date of the first sale in August 2019. Each sale may last up to four (4) consecutive days.
2. Outdoor sales will be limited to the sale of typical store merchandise and will be conducted in conjunction with the normal hours of operation of Jack's Surfboards/Jack's Girls, typically from 8:00 a.m. to 9:00 p.m.
3. Set-up for each sale day will occur prior to opening of the store, and all unsold merchandise will be removed from the outdoor sales area at the end of each sale day.
4. The outdoor sales area will be limited to a maximum of three (3) parking spaces located adjacent to the Jack's Surfboards/Jack's Girls storefront. Portable canopies (approximately 10 feet by 10 feet) may be erected within the three (3) parking spaces. As conditioned, no ADA parking spaces will be utilized as part of the outdoor sales area.
5. In order to enhance patron safety from vehicular traffic, the applicant has provided and the City Traffic Engineer has approved, a plan illustrating the placement of significant barricades around the perimeter of the outdoor sales area to delineate it from the adjacent parking spaces and drive aisles.
6. Similar outdoor sales for Jack's Surfboards, as conditioned and in the same location within the adjacent parking area, have been conducted in the past with approval of the City and have not been proven detrimental.

Finding:

B. The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot.

Facts in Support of Finding:

1. The site is a commercial property, which is .94 acres in size and developed with two (2) detached buildings occupied by various retail and service uses. Jack's Surfboards/Jack's Girls are retail sales stores which occupy most of the square footage of the larger of the two (2) detached buildings, which is located within the southerly portion of the site.
2. Outdoor sales will be conducted within three (3) parking spaces located directly in front of Jack's Surfboards/Jack's Girls storefront. Based upon the site plan, the use of the three (3) parking spaces will not impede traffic circulation on the site, nor will it negatively impact required parking for other uses on the site. As conditioned, no ADA parking spaces will be utilized as part of the outdoor sales area.
3. The subject site is bounded by Newport Boulevard to the east, Balboa Boulevard to the west, 28th Street to the north, and 26th Street to the south. The adjacent rights-of-way (Newport Boulevard and Balboa Boulevard) serve as buffers between the nearby residential properties within the R-2 (Two-Unit Residential) Zoning District.

Finding:

C. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate.

Fact in Support of Finding:

1. The subject site has two (2) direct driveway approaches, one (1) from Newport Boulevard on the easterly side of the site and one (1) from Balboa Boulevard on the westerly side. The location of the outdoor sales area will not impede access to the site, and no traffic issues resulting from the outdoor sales are anticipated.

Finding:

D. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator.

Facts in Support of Finding:

1. As conditioned, a maximum of three (3) parking spaces (eighty-six (86) parking spaces on site) will be utilized for the outdoor sales area, and no ADA parking spaces will be utilized as part of the outdoor sales area.
2. It is anticipated that, in addition to customers whose destination would be Jack's Surfboards/Jack's Girls, the outdoor sales could attract both pedestrian and vehicular customers of other uses on the site as well as in the surrounding area.
3. Per City Code Enforcement records, previous outdoor sales conducted with approval of a limited term permit by the City and conditioned similarly to this permit have not negatively impacted the parking for neighboring uses on the subject site.

Finding:

E. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, Municipal Code, and other City regulations.

Facts in Support of Finding:

1. The General Plan Land Use Element category for the site is CV (Visitor-Serving Commercial). The CV designation is intended to provide for accommodations, goods, and services intended to primarily serve visitors to the City. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation.
2. The site is located in the CV (Commercial Visitor-Serving) Zoning District. The CV zoning designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation. The CV zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The property is within the Coastal Zone. Temporary events authorized by a Limited Term Permit are exempt from the requirement of a Coastal Development Permit pursuant to Section 21.52.035 D. (Special and Temporary Events) of the Municipal Code. Pursuant to 21.52.035 D., this Limited Term Permit meets the following criteria: will not significantly impact public use of roadways or parking areas or otherwise impact public use or access to coastal waters; will not occupy any portion of a public sandy beach or the location is remote with minimal demand for public use; and there is no potential for adverse effect of sensitive coastal resources; a fee will not be charged for general public admission; and does not involve permanent structures or structures that involve grading or landform alteration for installation.
4. The site is not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2019-008, 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 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 15th DAY OF AUGUST, 2019.

Rosalinh Ung, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. The outdoor sales shall be limited to nine (9) times throughout a 12-month period beginning with the date of the first sale requested in August 2019. Each sale may last up to four (4) consecutive days, provided the number of sale days does not exceed thirty (30) within the 12-month period. The dates requested by the applicant and approved with this permit are as follows: 2019 - August 30, 31; September 1, 2; November 29, 30; December 1, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 26, 27; 2020 – April 10, 11, 12; May 22, 23, 24, 25; July 2, 3, 4, 5. Any changes to the dates specified shall require that the City be notified in advance.
4. To request a change to the sale dates approved with this Limited Term Permit, the applicant shall submit a letter to the Community Development Director requesting the change at least one (1) week prior to the new date.
5. This Limited Term Permit shall expire twelve (12) months from the date of the first sale requested in August 2019, unless an extension of up to one (1) additional period of 12 months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions) of the Zoning Code. A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days prior to the expiration date of this permit.
6. The Limited Term Permit shall be limited to outdoor sales of merchandise associated with Jack's Surfboards/Jack's Girls only and does not permit outdoor sales as an independent use. The sale of snacks, food and beverages shall be prohibited.
7. Outdoor sales shall take place in conjunction with the normal hours of operation of Jack's Surfboards/Jack's Girls, typically from 8:00 a.m. to 9:00 p.m. Set-up for the sale shall occur before the store opens. All areas shall be kept clean throughout the day. Any unsold merchandise and any related items shall be removed from the outdoor sales area at the end of each sale date by 10:00 p.m. The significant (water-filled or similar) barricades may remain until the end of the last date of each sale.
8. The outdoor sales area shall occupy no more than three (3) parking spaces located directly in front of the Jack's Surfboards storefront as shown on the approved site plan (approximately 20 feet by 10 feet for a total of 200 square feet) and shall not extend into the public right-of-way. No ADA parking spaces shall be utilized as part of the outdoor sales area.

9. The outdoor sales area shall be separated from the adjacent building by a minimum of 20 feet.
10. No activities related to the outdoor sales are permitted on public property including any portion of a public street or public sidewalk.
11. The outdoor sales shall not create a pedestrian or traffic hazard. The sales area shall be surrounded by significant barricades (i.e. water-filled barricades or other barricades approved by the Planning Division and Public Works Department) to delineate the sales area and provide patron safety from adjacent vehicular traffic.
12. Any change to the approved plot plan/site plan delineating the location of the outdoor sales area, barricade locations, and barricade type shall be reviewed and approved by the Planning Division and City Traffic Engineer prior to the sale date and shall be submitted to the Planning Division to be included in the project file.
13. The sales area shall be signed to clearly identify that the area is closed for vehicular parking.
14. No posting of promotional signs is permitted on any portion of public property, including trees, utility poles, street signs, etc. All signage located on-site shall comply with Chapter 20.42 (Sign Standards) of the Zoning Code.
15. No amplified sound is permitted.
16. No smoking or open flames are permitted inside the canopies.
17. The sales area and vicinity will be kept clean at all times.
18. 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 Jack's Surfboards/Jack's Girls Outdoor Sales including, but not limited to, XP2019-008 (PA2019-125). 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.

FIRE

19. Tents and canopies having an aggregate area in excess of 400 square feet will not require a permit if the following is provided: a. fabric tent is open on all sides, individual tent does not exceed a maximum size of 700 square feet, tents placed side-by-side to not exceed an aggregate area of 700 square feet, and a minimum clearance of twelve (12) feet is maintained to all structures and other tents.
20. Provide a 2A-10BC extinguisher outside.
21. No outdoor heaters are permitted.

PUBLIC WORKS

22. All vehicles shall be lawfully parked. No fire lane exemptions.
23. No activity is permitted within the public right-of-way.
24. No posting of promotional signs is permitted on any portion of the public right-of-way, including trees, utility poles and street signs, etc.
25. No exclusive use of public parking areas is permitted.
26. Activities shall not create a pedestrian or traffic hazard. Prevent crowds from blocking sidewalks or standing in drive aisle.
27. Sales event area shall be surrounded by significant barricades (i.e. water-filled barricades), to delineate the sales area and provide patron safety from adjacent vehicular traffic within the parking lot.
28. The sales area shall be clearly signed to identify that the sales area is closed to vehicular traffic and parking.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



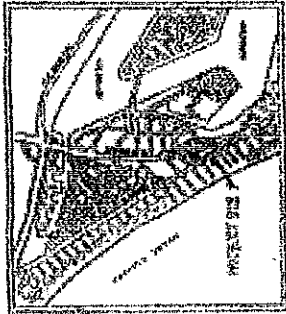
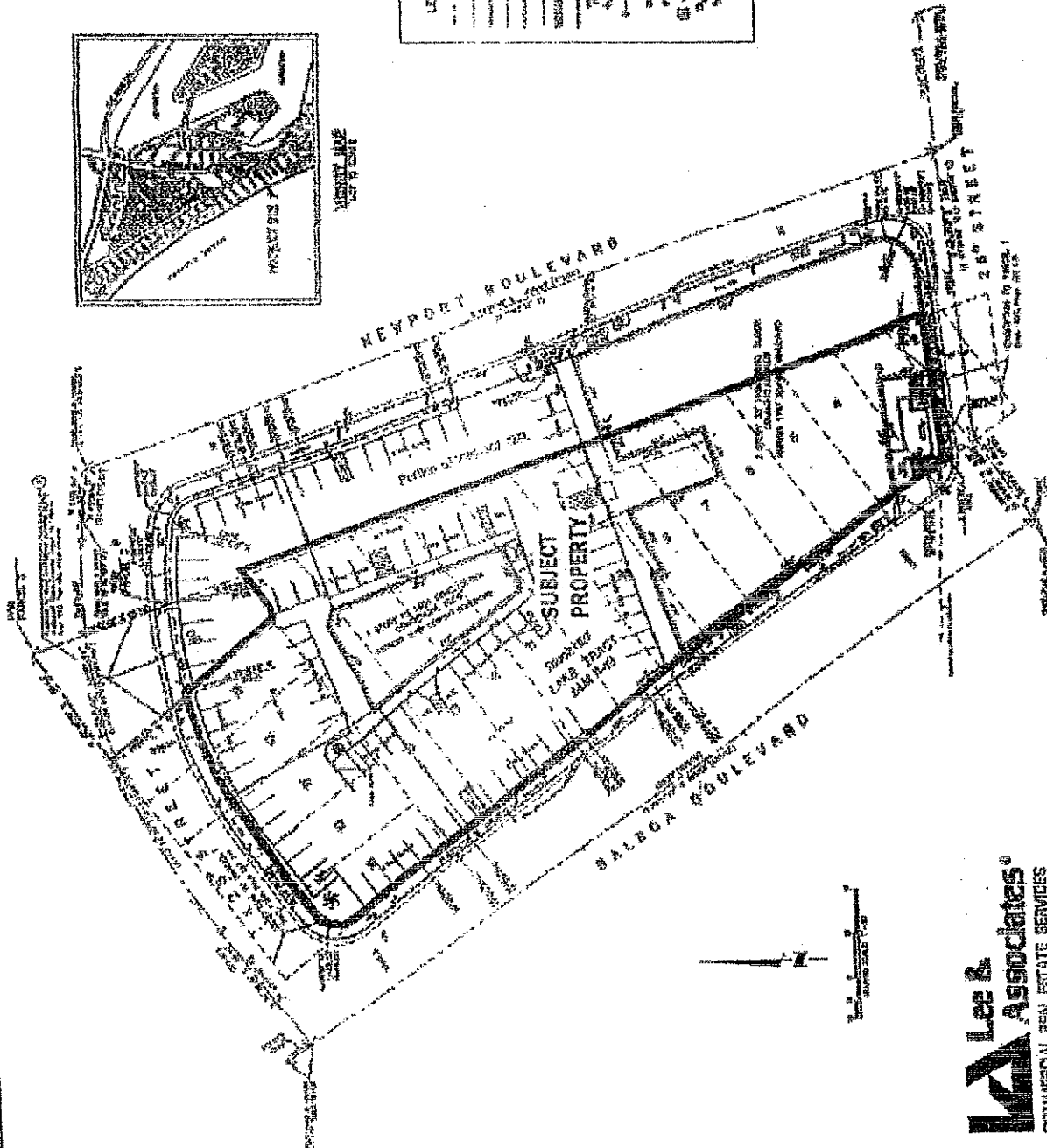
Limited Term Permit No. XP2019-008
PA2019-125
2727 Newport Boulevard

Attachment No. ZA 3

Site Plan and Outdoor Sales Area Plan

BALBOA PENINSULA, NEWPORT BEACH, CA,
2027 & 2727 Newport Boulevard

SITE PLAN



LEGEND

1. EXISTING LOT LINE	11. EXISTING LOT LINE
2. EXISTING LOT LINE	12. EXISTING LOT LINE
3. EXISTING LOT LINE	13. EXISTING LOT LINE
4. EXISTING LOT LINE	14. EXISTING LOT LINE
5. EXISTING LOT LINE	15. EXISTING LOT LINE
6. EXISTING LOT LINE	16. EXISTING LOT LINE
7. EXISTING LOT LINE	17. EXISTING LOT LINE
8. EXISTING LOT LINE	18. EXISTING LOT LINE
9. EXISTING LOT LINE	19. EXISTING LOT LINE
10. EXISTING LOT LINE	20. EXISTING LOT LINE

Lee & Associates
COMMERCIAL REAL ESTATE SERVICES
CAPITAL MARKETS
INVESTMENT GROUP
CREATING VALUE THROUGH INNOVATION

PA2019-125 for XP2019-008
2727 Newport Boulevard, Suite 101
Jack's Surf & Sport, LLC

JACK'S STOREFRONT ENTRY

SIDEWALK

CURB

CANOPY

CLOTHES RACKS

PARKING STALL

DISABLED PARKING STALL

BARRICADES
(Water-filled)

← DRIVE AISLE →

JACK'S SURFBOARDS
2727 NEWPORT BLVD