



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

February 13, 2020
Agenda Item No. 9

SUBJECT: SoCal Cycleboats Boat Rental (PA2019-236)
▪ Limited Term Permit No. XP2019-010
▪ Coastal Development Permit No. CD2019-059

SITE LOCATION: 2406 Newport Boulevard and 2000 West Balboa Boulevard

APPLICANT: SoCal Cycleboats

OWNERS: Steven James and The Crab Cooker

PLANNER: Patrick Achis, Planning Technician
949-644-3237, pachis@newportbeachca.gov

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** Mixed-Use Water Related (MU-W2)
- **Zoning District :** Mixed-Use Water Related (MU-W2)
- **Coastal Land Use Plan Category:** Mixed-Use Water (MU-W)
- **Coastal Zoning District:** Mixed-Use Water Related (MU-W2)

PROJECT SUMMARY

A request for a limited term permit (more than 90 days) and associated coastal development permit (CDP) to allow the temporary operation of a charter boat business with off-site parking for up to one year. The boat will be docked within an existing slip accessible from 2406 Newport Boulevard. Hours of operation are from 9 a.m. to 10 p.m. Parking is proposed to be provided as five off-site spaces located at 2000 West Balboa Boulevard, approximately 0.2 miles from the dock site.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) under Class 1 and Class 4, respectively, 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. XP2019-010 and Coastal Development Permit No. CD2019-059 (Attachment No. ZA 1).

DISCUSSION

- SoCal Cycleboats proposes to operate and house one charter boat in an existing dock slip at 2406 Newport Boulevard. More specifically, the watercraft is a captained cycleboat, almost entirely human-powered by cycling passengers. Standard seating is also available for those who do not wish to pedal. Approximately 15 persons, including passengers and employees, are anticipated to occupy the watercraft at any given time. Since no similar marine business exists in the City, the Harbormaster referred this application to the Harbor Commission, which provisionally approved a marine activities permit for the operation on November 11, 2019, subject to obtaining zoning compliance.
- The dock site fronts the Newport Bay, south of 26th Street on the Newport Peninsula, and measures roughly 0.34 acres in size. Present improvements include a restaurant with 2,040 square feet of net public area, a 42-space parking lot, and three accessory dock slips (see Attachment No. ZA 3). Pedestrian access to the dock slips is provided through an on-site walkway.
- At the January 16, 2020 meeting, the Zoning Administrator approved Dolphin Rental Newport Beach Boat Rental (PA2019-074), which allows the temporary use (up to one year) of one of the three dock slips for a boat rental business and a shared on-site parking arrangement with the restaurant. This operation is unaffiliated with the subject application. The subject proposal would use a separate dock slip on-site and will not depend on or conflict with Dolphin Rental Newport Beach whatsoever. Whereas Dolphin Rental Newport Beach rents “duffy” boats and other watercraft to be captained solely by the renter, SoCal Cycleboats would manage a single boat outfitted with a captain and deckhand to attend to the cycling passengers. Each boat outing on the Harbor is prescheduled and lasts approximately 90 minutes. Considering that SoCal Cycleboats has just one boat and would have two dedicated employees at all times to coordinate and direct their passengers, the introduction of the operation is not anticipated to create a conflict with Dolphin Rental Newport Beach.
- Five dedicated off-site parking spaces to serve the proposed operation are located approximately 0.2 miles southeastward of the proposed dock site within the Balboa Fun Tours’ 19-space parking lot located at 2000 West Balboa Boulevard. The off-site parking lot is directly accessible from a driveway approach off 20th Street. Estimations from Google Maps calculate a distance of a five-minute walk between the off-site parking location (2000 West Balboa Boulevard) to the dock slip site (2406 Newport Boulevard), and vice versa. As part of the review for this proposal, the Code Enforcement Division provided Condition of Approval No. 5 that requires signage for the five dedicated off-site parking spaces to be identifiable and used only by SoCal Cycleboat patrons.

- The temporary use would utilize one dock and one boat with approximately 15 passengers, including staff at any given time. Hours of operation are conditioned to between 9 a.m. and 10 p.m., daily. No construction or physical alterations to the site are proposed.
- The proposed boat charter operation will be used and operated independently, but complementary to, the existing uses on-site and others in the vicinity that foster coastal activity for residents and visitors. Condition of Approval No. 4 prohibits food service or alcohol sales bayward of the property and the designated slip space of this approval will not be used by patrons of the restaurant.
- The General Plan Land Use designation for this site is MU-W2 (Mixed-Use Water Related). The MU-W2 designation is applied to waterfront locations in which marine-related uses may be intermixed with buildings that provide residential uses on the upper floors. Pursuant to Newport Beach Municipal Code (NBMC) Section 20.52.040(D)(2), off-site parking for uses requiring a marine activities permit is permissible with the approval of a limited term permit. The proposed off-site parking arrangement for the boat charter (marine activity) is a visitor-serving use dependent on the harbor, is authorized for a limited duration, and will not impede use of the site consistent with the MU-W2 designation.
- The subject property is located within the Coastal Zone. The Mixed-Use Water (MU-W) Coastal Land Use designation is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent, coastal-related, and visitor-serving uses. The proposed cycleboat business use is a coastal-dependent use that requires close proximity to the bay.
- The proposed boat charter operation will provide additional recreation options to residents and visitors and encourage enhanced access to and usage of the bay.
- While the project sites are located between the nearest public road and the sea or shoreline, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The closest coastal public access opportunity is located less than 80 feet northward from 2406 Newport Boulevard at the east end of 26th Street. Approximately 900 feet southeastward of 2406 Newport Boulevard, on Lido Park Drive, lies the closest designated public viewpoint. From the off-site parking location at 2000 West Balboa Boulevard, the closest coastal public access point is around 480 feet away at the public beach of Marina Park Community and Sailing Center. The nearest designated public viewpoint for 2000 West Balboa Boulevard is also located at Marina Park. The proposed dock to be used for the cycleboat business is existing and no construction or physical alterations are proposed; consequently, the proposal bears no impact on coastal access, views, or recreational opportunities.

- Table 3-10 of NBMC Section 20.40.040 (Off-Street Parking Spaces Required) requires one parking space per each three passengers and crew members for the proposed “Entertainment and Excursion Service” land use. Since about 15 persons would occupy the watercraft, the projected temporary parking demand would be five parking spaces. The site for the dock slip is nonconforming due to parking, and the applicant requests to temporarily use five off-site parking spaces at 2000 West Balboa Boulevard for the limited duration. Balboa Fun Tours presently operates in a 2,320-square-foot office at the 2000 West Balboa Boulevard location as a “Retail Service” land use. Table 3-10 of NBMC Section 20.40.040 requires parking for retail services use at least one parking space for every 250 square feet of gross floor area with a resultant demand of 10 spaces for the existing rental use (250 sq. ft. / 2,320 sq. ft. = 10 spaces). An active plan check is on file to improve the 19-space parking lot at 2000 West Balboa Boulevard, inclusive of restriping and accessibility upgrades. The ultimate lot configuration will provide a surplus of five spaces, which will be dedicated to the proposed use on a temporary basis.
- Because adequate parking will be provided by way of the off-site lot, public parking availability for coastal access will not be affected by project implementation in accordance with NBMC Section 21.40.110(A) (Impact to Coastal Access Prohibited).
- The applicant expressed the anticipation that patrons of the proposed rental operation will rely on carpooling or ride-share services for transportation to the site, which may further assist to minimize the potential for parking impacts on-site.
- The proposal is for a *temporary* use and the operation must conclude one year after the effective date of this approval, unless an extension is granted by the Zoning Administrator in compliance with NBMC Section 20.54.060 (Time Limits and Extensions), or unless a new discretionary application for the continuation of the use is approved. If the use is operated or maintained in a manner that constitutes a public nuisance, or proves to be detrimental to the public health, welfare or materially injurious to the property or improvements in the vicinity, Condition of Approval No. 11 reserves authority for the Zoning Administrator to modify or revoke this approval.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) under Class 1 and Class 4, respectively, 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.

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. Class 4 exempts minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. In this case, the proposal is a limited term permit and associated coastal development permit for the operation of a cycleboat operation at an existing dock and results in no physical alterations.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners and residential occupants of property within 300 feet of the boundaries of 2406 Newport Boulevard and 2000 West Balboa Boulevard (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:

This action shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of NBMC Title 21 (Local Coastal Implementation Plan). Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act. For additional information on filing an appeal contact the Planning Division at 949-644-3200.

Prepared by:



Patrick Achis
Planning Technician

BMZ/pa

Attachments: ZA 1 Draft Resolution
 ZA 2 Vicinity Maps
 ZA 3 Dock Plan and Off-Site Parking Exhibit

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2020-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT NO. XP2019-010 AND COASTAL DEVELOPMENT PERMIT NO. CD2019-059 FOR A LIMITED-DURATION CHARTER BOAT OPERATION LOCATED AT 2406 NEWPORT BOULEVARD AND TEMPORARY USE OF OFF-SITE PARKING LOCATED AT 2000 WEST BALBOA BOULEVARD (PA2019-236)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by SoCal Cycleboats ("Applicant"), with respect to property located at 2406 Newport Boulevard, and legally described as Parcel 1 of Resubdivision No. 375; and 2000 West Balboa Boulevard, legally described as Parcel 1 of Resubdivision No. 649; requesting approval of a limited term permit (more than 90 days) and associated coastal development permit.
2. The Applicant requests a limited term permit (more than 90 days) and associated coastal development permit (CDP) to allow the temporary operation of a charter boat business with off-site parking for up to one (1) year. The boat will be docked within an existing slip accessible from 2406 Newport Boulevard. Hours of operation are from 9 a.m. to 10 p.m. Parking is proposed to be provided as five (5) off-site spaces located at 2000 West Balboa Boulevard, approximately 0.2-miles from the dock site.
3. The subject property is designated Mixed-Use Water Related (MU-W2) by the General Plan Land Use Element and is located within the Mixed-Use Water Related (MU-W2) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water (MU-W) and it is located within the Mixed-Use Water Related (MU-W2) Coastal Zoning District.
5. A public hearing was held on February 13, 2020, 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 Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) under Class 1 and Class 4, respectively, 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. 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. Class 4 exempts minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. In this case, the proposal is a limited term permit and associated coastal development permit for the operation of a cycleboat operation at an existing dock and results in no physical alterations.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

In accordance with Newport Beach Municipal Code (NBMC) Section 20.52.040 (Limited Term Permits), the following findings and facts in support of such findings are set forth:

Finding:

- A. *The operation of the 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, 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 requested limited duration use.*

Facts in Support of Finding:

1. The Limited Term Permit will allow for the temporary operation of a cycleboat boat operation for up to one (1) year. The operation would use an on-site dock slip at 2406 Newport Boulevard and provide parking through an off-site parking arrangement with Balboa Fun Tours at 2000 West Balboa Boulevard.
2. The proposed cycleboat operation will be used and operated independently, but complementary to, the existing uses on-site and others in the vicinity that foster coastal activity for residents and visitors. Food service or alcohol sales bayward of the property would be prohibited, and the designated slip space of this approval will not be used by patrons of the restaurant.

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. SoCal Cycleboats proposes to operate and house one (1) charter boat in an existing dock slip at 2406 Newport Boulevard. More specifically, the watercraft is a captained cycleboat, almost entirely human-powered by cycling passengers. Standard seating is also available for those who do not wish to pedal. Approximately 15 persons, including passengers and employees, are anticipated to occupy the watercraft at any given time. Since no similar marine business exists in the City, the Harbormaster referred this application to the Harbor Commission, which provisionally approved a marine activities permit for the operation on November 11, 2019, subject to obtaining zoning compliance.
2. The dock site fronts the Newport Bay, south of 26th Street on the Newport Peninsula, and measures roughly 0.34 acres in size. Present improvements include a restaurant with 2,040 square feet of net public area, a 42-space parking lot, and three (3) accessory dock slips. Pedestrian access to the dock slips is provided through an on-site walkway.
3. At the January 16, 2020 meeting, the Zoning Administrator approved Dolphin Rental Newport Beach Boat Rental (PA2019-074), which allows the temporary use (up to one [1] year) of one (1) of the three (3) dock slips for a boat rental business and a shared on-site parking arrangement with the restaurant. This operation is unaffiliated with the subject application. The subject proposal would use a separate dock slip on-site and will not depend on or conflict with Dolphin Rental Newport Beach whatsoever. Whereas Dolphin Rental Newport Beach rents “duffy” boats and other watercraft to be captained solely by the renter, SoCal Cycleboats would manage a single boat outfitted with a captain and deckhand to attend to the cycling passengers. The Applicant’s project description explains that each boat outing on the Harbor is prescheduled and lasts approximately 90 minutes. Considering that SoCal Cycleboats has just one boat and would have two (2) dedicated employees at all times to coordinate and direct their passengers, the introduction of the operation is not anticipated to create a conflict with Dolphin Rental Newport Beach.
4. Five (5) dedicated off-site parking spaces to serve the proposed operation are located approximately 0.2 miles southeastward of the proposed dock site within the Balboa Fun Tours’ 19-space parking lot located at 2000 West Balboa Boulevard. The off-site parking lot is directly accessible from a driveway approach off 20th Street. Estimations from Google Maps calculate a distance of a five (5)-minute walk between the off-site parking location (2000 West Balboa Boulevard) to the dock slip site (2406 Newport Boulevard), and vice versa. As part of the review for this proposal, the Code Enforcement Division provided Condition of Approval No. 6 that requires signage for the five (5) dedicated off-site parking spaces to be identifiable and used only by SoCal Cycleboat patrons.
5. The temporary use would utilize one (1) dock and one (1) boat with approximately 15 passengers and staff at any given time. Hours of operation are conditioned to between 9 a.m. and 10 p.m., daily. No construction or physical alterations to the site are proposed.

6. The dock site is surrounded by mixed-use properties to the north and south, Newport Boulevard to the west, and the bayfront to the east. The cycleboat operation use is commensurate with others in the vicinity and will provide additional coastal recreational opportunities. The proposed off-site parking location is existing and the utilization of these spaces by the operator will not result in a new or negative impact to the surrounding properties.
7. Approval of this project will not result in any construction or physical alterations to the site.

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.*

Facts in Support of Finding:

1. Parking for the proposed charter boat operation will be provided in an off-site parking lot located at 2000 West Balboa Boulevard. This off-site parking location has a direct driveway approach taken from west side of 20th Street. The existing dock to be used by the operation is located at the rear of the lot through a walkway from the restaurant parking lot. The proposed temporary boat charter operation will not impede access to the existing lot. There are no anticipated traffic issues.
2. Reference Fact in Support of Finding A.1.

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. Table 3-10 of NBMC Section 20.40.040 (Off-Street Parking Spaces Required) requires one (1) parking space per each three (3) passengers and crew members for the proposed "Entertainment and Excursion Service" land use. Since about 15 persons would occupy the watercraft, the projected temporary parking demand would be five (5) parking spaces. The site for the dock slip is nonconforming due to parking, and the applicant requests to temporarily use five (5) off-site parking spaces at 2000 West Balboa Boulevard for the limited duration. Balboa Fun Tours presently operates in a 2,320-square-foot office at the 2000 West Balboa Boulevard location as a "Retail Service" land use. Table 3-10 of NBMC Section 20.40.040 requires parking for retail services use at least one (1) parking space for every 250 square feet of gross floor area with a resultant demand of 10 spaces for the existing rental use (250 sq. ft. / 2,320 sq. ft. = 10 spaces). An active plan check is on file to improve the 19-space parking lot at

2000 West Balboa Boulevard, inclusive of restriping and accessibility upgrades. The ultimate lot configuration will provide a surplus of five spaces, which will be dedicated to the proposed use on a temporary basis.

2. Applicant expressed the anticipation that patrons of the proposed rental operation will rely on carpooling or ride-share services for transportation to the site, which may further assist to minimize the potential for parking impacts on-site.
3. Because adequate parking will be provided by way of the off-site lot, public parking availability for coastal access will not be affected by project implementation in accordance with NBMC Section 21.40.110(A) (Impact to Coastal Access Prohibited).

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use designation for this site is MU-W2 (Mixed-Use Water Related). The MU-W2 designation is applied to waterfront locations in which marine-related uses may be intermixed with buildings that provide residential uses on the upper floors. Pursuant to NBMC Subsection 20.52.040(D)(2), off-site parking for uses requiring a marine activities permit is permissible with the approval of a limited term permit. The proposed shared parking arrangement for the boat charter (marine activity) is a visitor-serving use dependent on the harbor, is authorized for a limited duration, and will not impede use of the site consistent with the MU-W2 designation.
2. The Mixed-Use Water (MU-W) Coastal Land Use of the subject site is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent, coastal-related, and visitor-serving uses. The proposed boat rental use is a coastal-dependent use that requires close proximity to the bay.
3. The site is not located within a specific plan area.

Coastal Development Permit

In accordance with NBMC Section 21.52.015 (Findings and Decision), the following findings and facts in support of such findings are set forth:

Finding:

F. Conforms to all applicable sections of the certified Local Coastal Program.

Facts in Support of Finding:

1. The MU-W Coastal Land Use is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent, coastal-related and visitor-serving uses. The proposed boat rental use is a coastal-dependent use that requires close proximity to the bay.
2. Reference Fact in Support of Finding E.2.
3. As demonstrated in Fact in Support of Finding D.1 of this resolution, the five (5) parking spaces required by Code will be provided off-site. That being the case, public parking availability for coastal access will not be affected by project implementation in accordance with NBMC Section 21.40.110(A) (Impact to Coastal Access Prohibited.).
4. Landscaping is not proposed as a part of this project, and project approval will not result in any construction or physical alterations to the site.

Finding:

G. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

Facts in Support of Finding:

1. While the proposed sites are located between the nearest public road and the sea or shoreline, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. While the project sites are located between the nearest public road and the sea or shoreline, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The closest coastal public access opportunity is located less than 80 feet northward from 2406 Newport Boulevard at the east end of 26th Street. Approximately 900 feet southeastward of 2406 Newport Boulevard, on Lido Park Drive, lies the closest designated public viewpoint. From the off-site parking location at 2000 West Balboa Boulevard, the closest coastal public access point is around 480 feet away at the public beach of Marina Park Community and Sailing Center. The nearest designated public viewpoint for 2000 West Balboa Boulevard is also located at Marina Park. The proposed dock to be used for cycleboat business is existing and no construction or physical alterations are proposed; consequently, the proposal bears no impact on coastal access, views, or recreational opportunities.
3. The proposed charter boat operation will provide additional recreation options to residents and visitors and encourage enhanced access to and usage of the bay.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) under Class 1 and Class 4, respectively, 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 Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059, 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 NBMC Title 21 Local Coastal Implementation Plan. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF FEBRUARY, 2020.

Jaime Murillo, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***PLANNING**

1. *The parking lot at 2000 West Balboa Boulevard shall maintain five parking spaces designated for the cycleboat operation during the limited term use.*
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 Limited Term Permit and/or Coastal Development Permit.
4. *The restaurant and the boat charter operations are to remain independent uses. Food service or alcohol sales bayward of the property is prohibited.*
5. *Prior to operation, the five (5) required off-site parking spaces shall be designated with signage to the satisfaction of the Code Enforcement Division.*
6. *The hours of operation for the charter boat operation shall be limited to 9 a.m. to 10 p.m., daily.*
7. *The designated slip shall be exclusively for the boat charter operation and shall not be used for the watercraft of restaurant patrons.*
8. *The existing dock system shall not be improved or otherwise modified without review and approval from the City of Newport Beach and/or the California Coastal Commission, including, but not limited to, the acquisition of a new coastal development permit.*
9. *A marine activities permit (MAP) shall be obtained prior to operations.*
10. Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060, unless an extension is otherwise granted.
11. This Limited Term Permit and Coastal Development 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.
12. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may

require an amendment to this Coastal Development Permit and Limited Term Permit or the processing of a new Coastal Development Permit and Limited Term Permit.

13. This Limited Term Permit shall expire twelve (12) months from the issued date of the MAP approval, unless an extension of up to one (1) additional period of twelve (12) months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions). 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.
14. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|---|---|----------|---|----------|
| Location | 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 |

15. 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.
16. No outside paging system shall be utilized in conjunction with this establishment.
17. Trash receptacles for patrons shall be conveniently located to serve the cycle boat patrons, however, not located on or within any public property or right-of-way.
18. The exterior of the business shall be maintained free of litter and graffiti at all times. 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.
19. 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).
20. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of a required trash container enclosure.
21. 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.

22. 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 Newport Beach Municipal Code.
23. 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 SoCal Cycleboats Boat Rental including, but not limited to, Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059 (PA2019-236). 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.

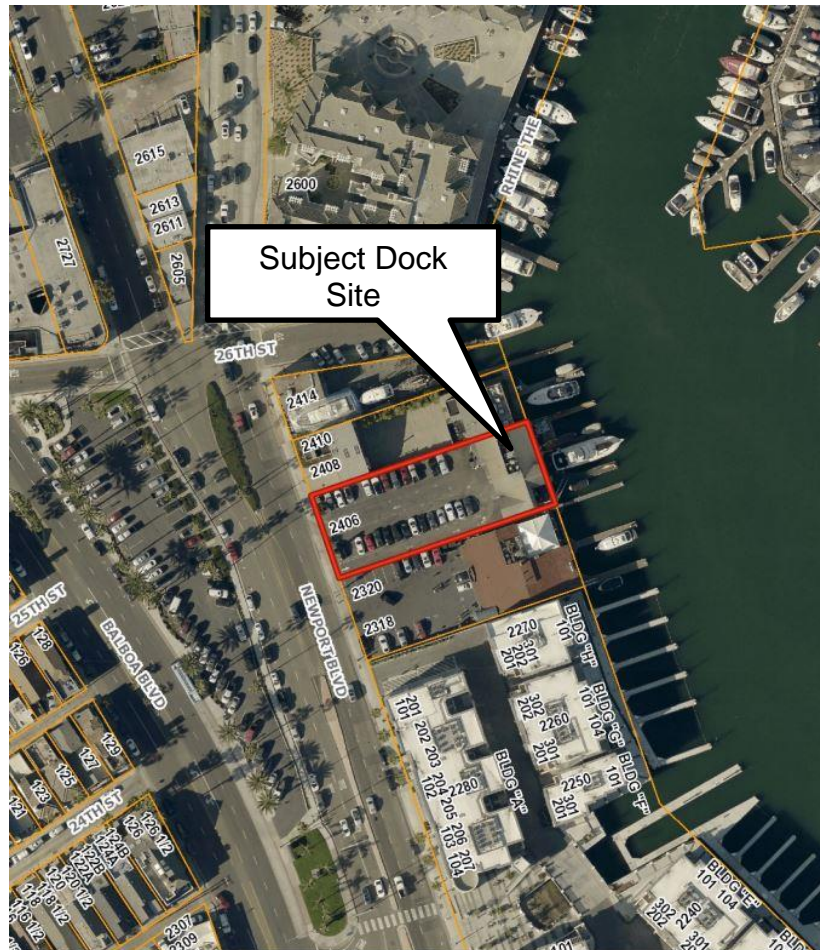
FIRE

24. Multiple Berthing shall be prohibited as per Amendment 9.04.400 to California Fire Code Section 3603.6.1 which states: "All vessels in marinas shall be arranged such that a vessel occupying a slip can be readily removed in an emergency without the necessity of moving other vessels."

Attachment No. ZA 2

Vicinity Map

VICINITY MAP 1

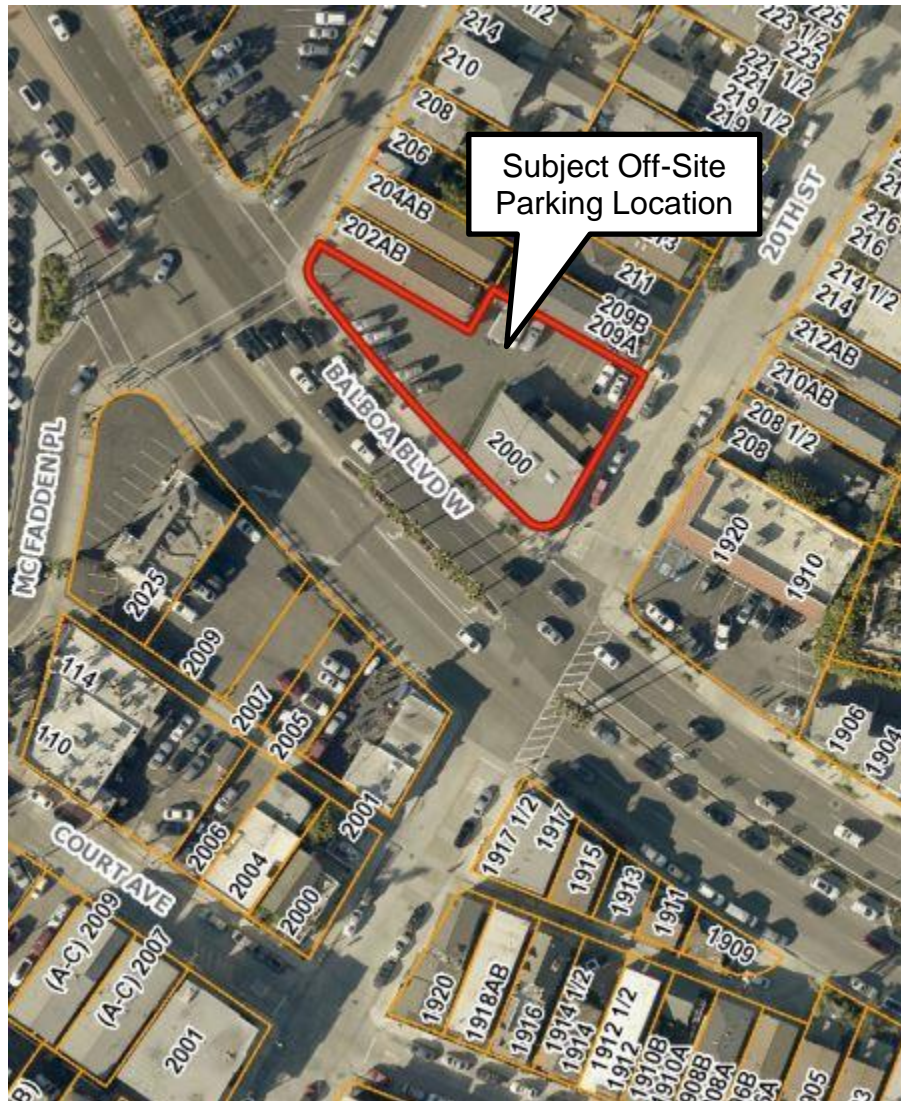


Limited Term Permit No. XP2019-010 and
Coastal Development Permit No. CD2019-059

PA2019-236

2406 Newport Boulevard

VICINITY MAP 2

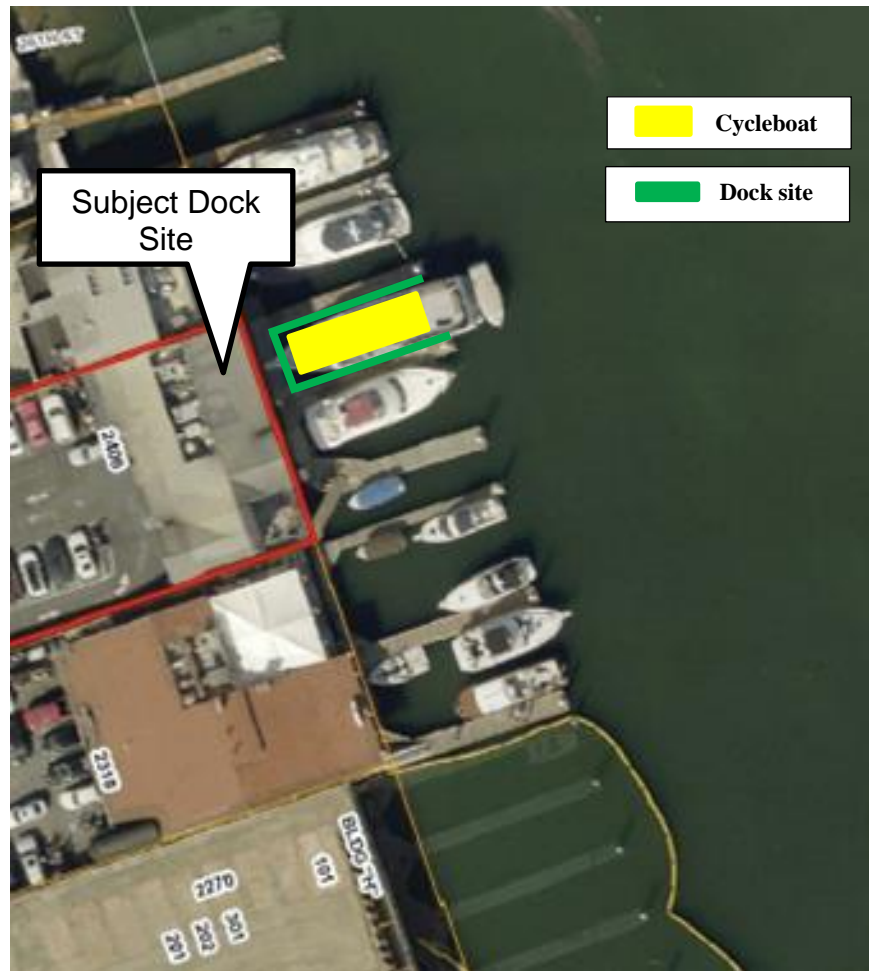


Limited Term Permit No. XP2019-010 and
Coastal Development Permit No. CD2019-059
(PA2019-236)

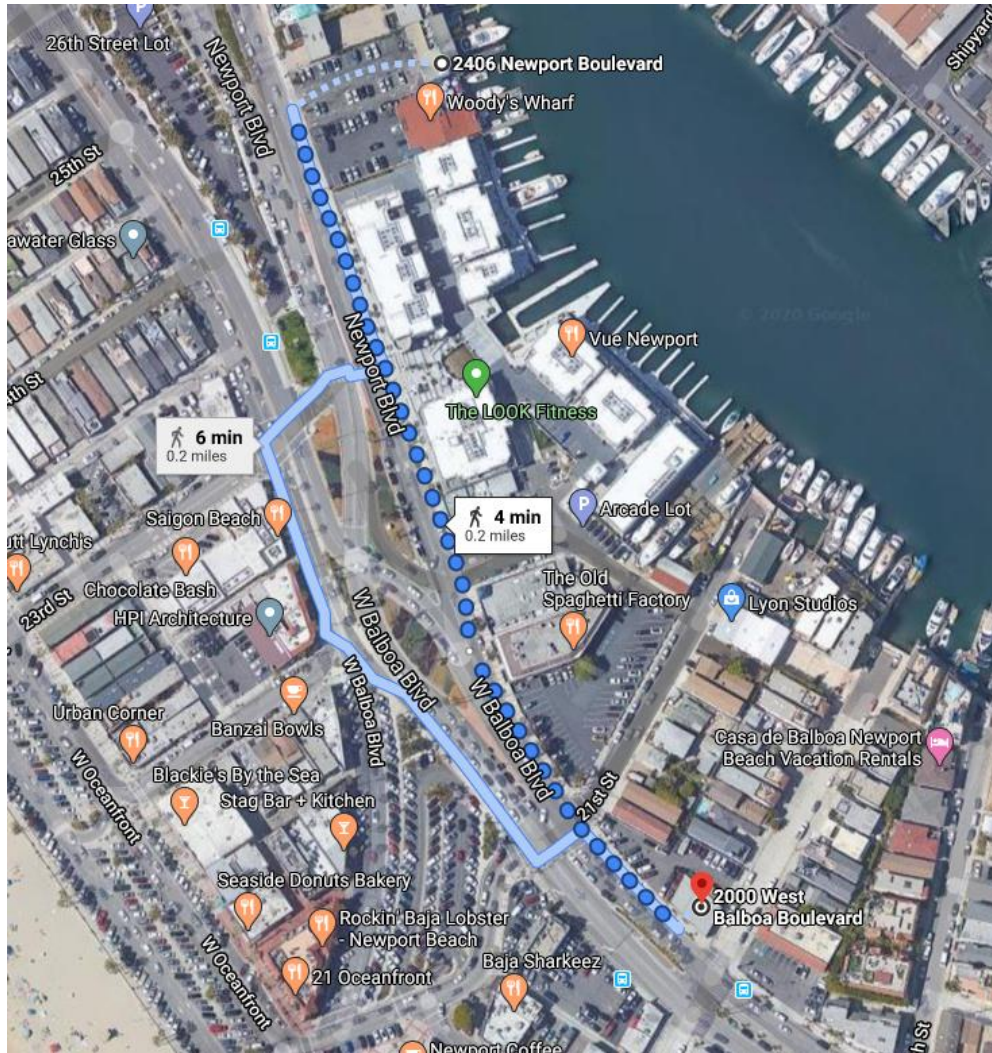
2000 West Balboa Boulevard

Attachment No. ZA 3

Dock Plan and Off-Site Parking Exhibit



SoCal Cycleboats
Dock Plan
2406 Newport Boulevard



Credit: Google Maps

SoCal Cycleboats
Off-Site Parking Exhibit
2406 Newport Boulevard