



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915  
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**CITY OF NEWPORT BEACH**  
**ZONING ADMINISTRATOR STAFF REPORT**  
May 30, 2013  
Agenda Item No. 2

**SUBJECT:** Jack's Surfboards/Jack's Girls Outdoor Sales - (PA2013-052)  
2727 Newport Boulevard  
▪ Limited Term Permit (Greater Than 90 Days) - No. XP2013-001

**APPLICANT:** Jack's Surfboards

**PLANNER:** Kay Sims, Assistant Planner  
(949) 644-3237 or ksims@newportbeachca.gov

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**ZONING DISTRICT/GENERAL PLAN**

- **Zone:** CV (Commercial Visitor-Serving)
- **General Plan:** CV (Visitor Serving Commercial)

**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. The 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 during August 2013. Each sale may last up to 4 consecutive days, with the exception of the sale requested during December 2013, which may last up to 5 consecutive days.

**RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. \_ approving Limited Term Permit (Greater Than 90 Days) - No. XP2013-001 (Attachment No. ZA 1).



## **DISCUSSION**

- The subject site, 2727 Newport Boulevard, is .94 acres, triangular in shape, and is bounded by Newport Boulevard to the east, Balboa Boulevard to the west, 28<sup>th</sup> Street to the north, and 26<sup>th</sup> 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 and Balboa Boulevards.
- The applicant, Jack's Surfboards, is requesting approval of a limited duration use 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, the outdoor sales would be limited to nine times throughout a 12 month period beginning with the date of the first sale requested during August 2013 (Attachment ZA 3). Each sale may last up to 4 consecutive days, with the exception of the outdoor sale to be conducted in December, which may be up to 5 consecutive days (Attachment ZA 3).
- The outdoor sales area will be located within three parking spaces (under portable canopies) located adjacent to the Jack's Surfboards storefront (see Attachment 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 (see Attachment ZA 3).
- The 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.
- Similar outdoor sales for Jack's Surfboards, as conditioned and in the same location, have been conducted in the past with approval of the City and have not proven detrimental.

**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. 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 prior to the decision date, 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 may be filed with the Director of Community Development within fourteen (14) days following the date of action. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

Prepared by:

  
\_\_\_\_\_  
Kay Sims, Assistant Planner

GR/ks

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Sale Dates Requested
	ZA 4	Site Plan and Outdoor Sales Area Plan

# **Attachment No. ZA 1**

Draft Resolution



## RESOLUTION NO. ZA2013-

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT NO XP2013-001 FOR OUTDOOR SALES FOR JACK'S SURFBOARDS/JACK'S GIRLS LOCATED AT 2727 NEWPORT BOULEVARD (PA2013-052).**

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 26<sup>th</sup> Street, and all -except street-Lots 15 to 19 including all in Block 127, Tract 418, requesting approval of 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. The outdoor sales may take place on various dates, up to nine times throughout a 12 month period beginning with the date of the first sale during August 2013. Each sale may last up to 4 consecutive days, with the exception of the sale occurring in December, which may last up to 5 consecutive days.
2. The subject property is located within the Commercial Visitor-Serving (CV) Zoning District and the General Plan Land Use Element category is Visitor Serving Commercial (CV).
3. 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).
4. A public hearing was held on May 30, 2013, 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 meeting 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 meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 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.
2. This project qualifies for this exemption because there will be no permanent improvements to the site. The two canvas canopies and temporary significant (water-filled or similar) 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.

### 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 times throughout a 12 month period beginning with the date of the first sale during August 2013. Each sale may last up to 4 consecutive days, with the exception of the outdoor sale occurring in December, which may last up to 5 consecutive days.
2. The 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 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 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 proven to be 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 subject site is a commercial property, which is .94 acre in size and developed with two 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 detached buildings, which is located within the southerly portion of the site.
2. The outdoor sales will be conducted within three parking spaces located directly in front of Jack's Surfboards/Jack's Girls storefront. Based upon the site plan, the use of the three parking spaces will not impede traffic circulation on the site, nor will it negatively impact the 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 and Balboa Boulevard to the west, 28<sup>th</sup> Street to the north, and 26<sup>th</sup> 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.*

Facts in Support of Finding:

1. The subject site has two direct driveway approaches, one from Newport Boulevard on the easterly side of the site and one 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 parking spaces (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 use 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 (Commercial Visitor-Serving). 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 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 XP2013-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. Limited Term Permit applications do not become effective until 14 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

**PASSED, APPROVED AND ADOPTED THIS 30th DAY OF MAY, 2013.**

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Brenda Wisneski, AICP, Zoning Administrator

DRAFT

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

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 times throughout a 12 month period beginning with the date of the first sale requested during August 2013. Each sale may last up to 4 consecutive days, with the exception of the sale requested during December 2013, which may last up to 5 consecutive days. The dates requested by the applicant and approved with this permit are as follows: 2013 - August 9, 10, 11; August 16, 17, 18; August 30, 31, September 1, 2; November 29, 30, December 1; December 20, 21, 22, 23, 24; 2014 – April 17, 18, 19, 20; June 12, 13, 14, 15; July 3, 4, 5, 6.
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 week prior to the new date.
5. This Limited Term Permit shall expire 12 months from the date of the first sale requested in August 2013, unless an extension of up to one 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 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 the outdoor sales as an independent use. The sale of snacks, food and beverages shall be prohibited.
7. The 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 day by 10 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 be occupy no more than three parking spaces located directly in front of the Jack's Surfboards storefront as shown on the approve plot plan (approximately 20 feet by 10 feet = 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 include 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, the **XP2013-001 (PA2013-052)**. 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.



# **Attachment No. ZA 2**

Vicinity Map

# VICINITY MAP



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Limited Term Permit (Greater Than 90 Days)  
No. XP2013-001  
PA2013-052

**2727 Newport Boulevard**

# **Attachment No. ZA 3**

Sale Dates Requested



RECEIVED BY  
COMMUNITY  
MAY 08 2013  
DEVELOPMENT  
CITY OF NEWPORT BEACH

16350 Gothard Street, #101  
Huntington Beach, CA 92647  
Phone (714) 536-6567 Fax (714) 536-7861

March 7, 2013

Kay Sims  
City of Newport Beach  
Community Development Department  
Planning Division  
3300 Newport Blvd.  
Newport Beach, CA 92663

Attached please find our application for a Limited Term Permit for Jack's Surfboards at 2727 Newport Blvd., Newport Beach. Our intention is to hold seasonal sales, outside of our stores (both Jack's Surfboards at #101 and Jack's Girls at #100) utilizing three parking spaces in front of the stores. We will be putting up three (3) 10 x 10 pop-up canopies each morning of the sale and taking them down each evening. The hours of the sales are generally 8:00 am to 8:00 pm. As we have always done in the past, water filled barricades will be used in front of the canopies to protect customers from the drive lane traffic. There is ample parking on-site. We no longer need "property owner" approval, as the owners of Jack's purchased the entire center in December, 2012.

The following are the dates we would like to conduct our outdoor sales:

- August 9, 10, 11, 16, 17, 18, 30, 31
- September 1, 2
- November 29, 30
- December 1, 20, 21, 22, 23, 24, 2013
- April 17, 18, 19, 20, 2014
- May 23, 24, 25, 26, 2014
- June 12, 13, 14, 15, 2014
- July 3, 4, 5, 6, 2014

We have always and will continue to honor all conditions of any permit issued. Please review and let us know if there is anything else required to expedite approval of this request.

Sincerely,

  
LJ Soapes  
Property Manager for  
Jack's Surfboards and  
Abdelmuti Development

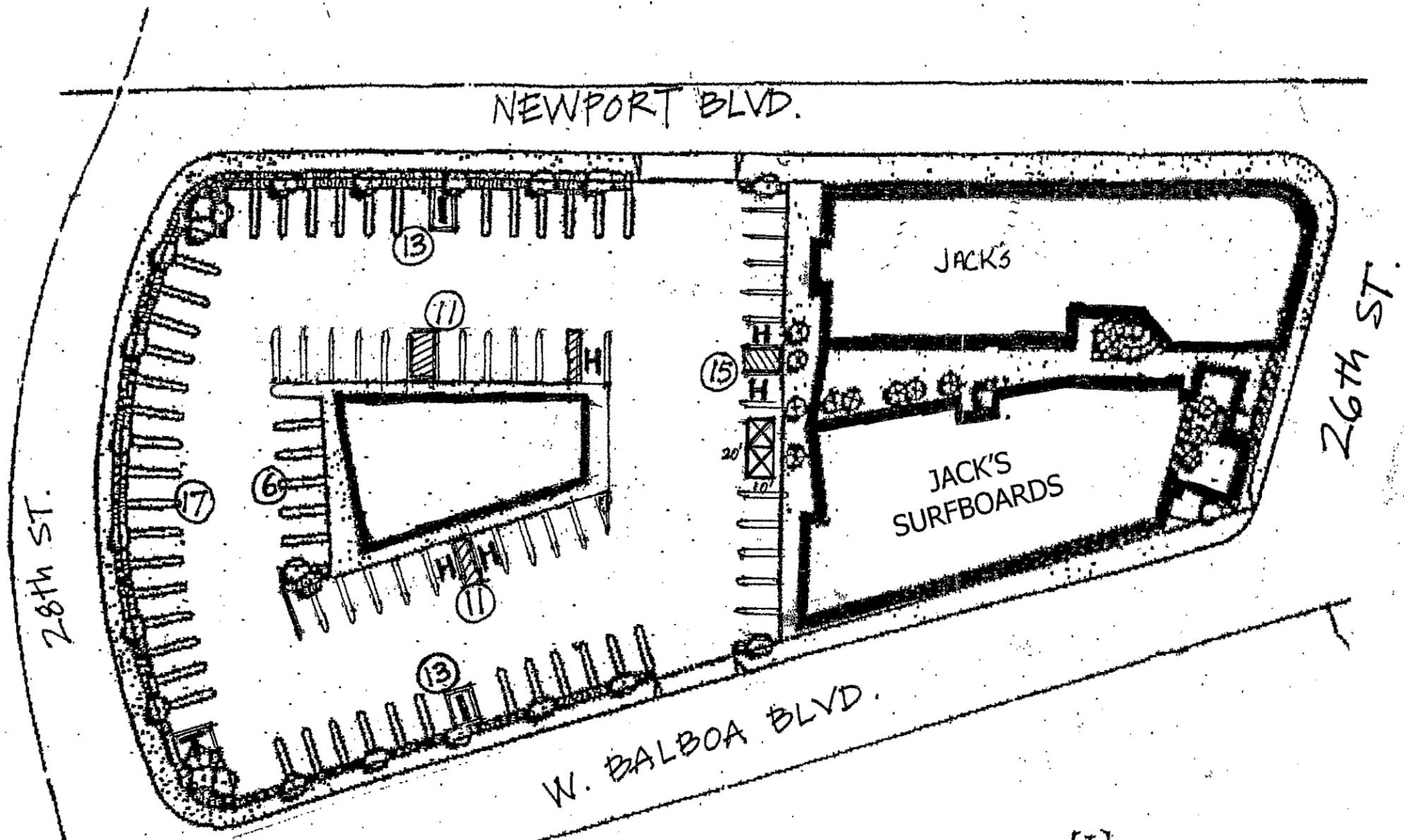
Attachments: Planning Permit Application  
Site Plan

# **Attachment No. ZA 4**

Site Plan and Outdoor Sales Area Plan







On-Site Parking

Standard Spaces	81
Disabled Spaces	5
Total Spaces	86

- H - Disabled Stall
- T - Trash enclosure
- I - Freestanding Sign

**JACKS SURFBOARDS**  
**2727 NEWPORT BLVD. STE. 101**  
**NEWPORT BEACH CA 92663**

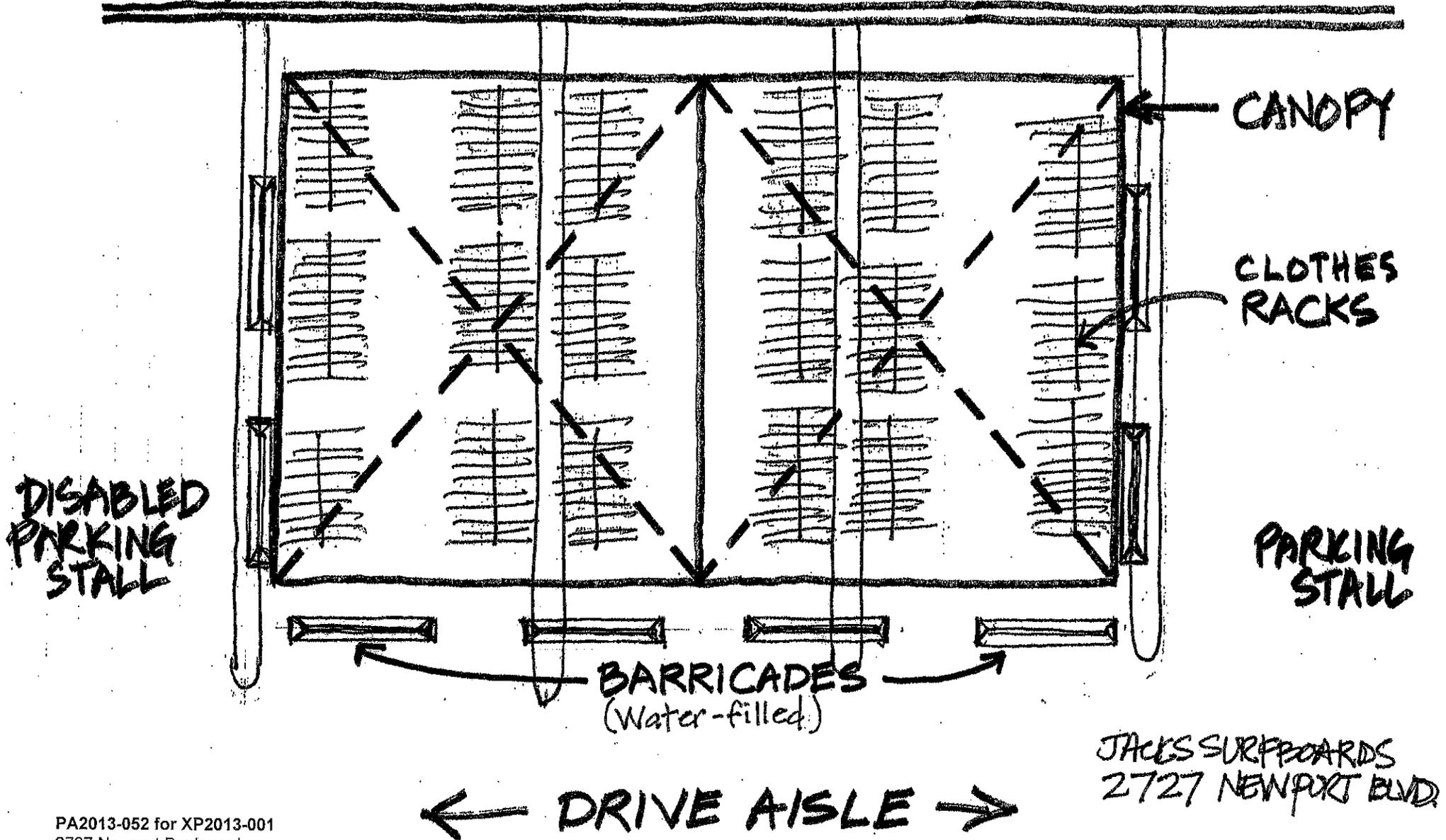
PA2013-052 for XP2013-001  
 2727 Newport Boulevard  
 Jack's Surfboards

8/5/09  
 22

# JACK'S STOREFRONT ENTRY

SIDEWALK

CURB ↘



JACK'S SURFBOARDS  
2727 NEWPORT BLVD.

**John W. Nelson**  
**110 Via Lorca**  
**Newport Beach, CA 92663**  
**949 673-1893**

May 24, 2013

Ms. Kay Sims –

This letter is in regard to Project File No.: PA2013-052, Jack's Surfboards request for a limited term permit to allow outdoor sales of store merchandise at their location at 2727 Newport Blvd. I am unable to attend the Public Hearing on May 30<sup>th</sup>, 2013 at 3:30 due to a prior commitment, but I would like to voice my objection to the granting of this request.

I am objecting to the granting of the applicant's request because of the following concerns:

1. The granting of this request will result in a negative impact on the available parking located within the property. The applicant has in the past abused their current permit. They have left barricades in place beyond the four days they are allowed. They have exceeded the number of parking spaces that they are allowed to block off. They have exceeded the number of times per year they are allowed such outdoor sales. I have personally complained to code enforcement on several occasions. Also, with the handicap parking spaces being located where they are, blocking off the additional adjacent three spaces in the parking area between the two buildings, results in a lack of convenient parking spaces for anyone else who wants to patronize the other businesses within the property. Furthermore, these outdoor sales typically take place during the holiday weekends at that puts a further strain on the available parking. When the original site was planned, I am sure that the city did not intend to allow a site to be developed without adequate parking available for the customers that shop at the property, which will be the case if this request is granted. With that in mind the request should be denied.

2. Any outdoor sale is an eyesore and a blight on the community. Newport Beach has a unique and pleasing character, and outdoor sales only detracts from this character. Outdoor sales are something one would see in the Los Angeles garment district, or in Tijuana. This is not the type of activity that is commensurate with the lifestyle or image of Newport Beach. We don't need to encourage or allow any more "circus activity" anywhere in the city, especially on the peninsula. The applicant has another store at PCH and Avocado. I am sure the city would never grant the applicant a similar permit to conduct outdoor sales at that location. So what makes his location at 2727 Newport Boulevard any different in that regard?

Please do not grant approval for the applicant's request. The residents in the surrounding area deserve better than this.

Thank you for taking the opportunity to hear my objection.

Sincerely,

  
John W. Nelson