CITY OF NEWPORT BEACH PLANNING DEPARTMENT ACTION REPORT

- TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
- FROM: David Lepo, Planning Director
- SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending July 10, 2009

ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARMENT STAFF

Item 1: Maple Conservatory of Dance – Use Permit No. UP2009-022 (PA2009-082) 301 B Marine Avenue

A use permit for a personal improvement service pursuant to Chapter 20.15 of the Municipal Code. The application includes a 450-square-foot dance studio and a 260-square-foot retail area.

Approved – July 9, 2009

Council District 5

On behalf of David Lepo, Planning Director:

Patrick J. Alford, Planning Manager

APPEAL:

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director *(e-mail)* Sharon Wood, Assistant City Manager *(e-mail)* David Keely, Public Works Senior Civil Engineer *(e-mail)* Code Enforcement Division *(e-mail)*

USE PERMIT ACTION LETTER



PLANNING DEPARTMENT 3300 NEWPORT BOULEVARD NEWPORT BEACH, CA 92663 (949) 644-3200 FAX (949) 644-3229

| Application No. | Use Permit No. UP2009-022 (PA2009-082) |
|-------------------|--|
| Applicant | Maple Conservatory of Dance |
| Site Address | 301 B Marine Avenue |
| Legal Description | Lot 35 and 36, Block 13, Tract Balboa Island Section 4 |

On <u>July 9, 2009</u>, the Planning Director approved the following: A use permit for a personal improvement service pursuant to Chapter 20.15 of the Municipal Code. The application includes a 450-square-foot dance studio and a 260-square-foot retail area. The property is located in the RSC-R (Retail Service Commercial – Residential Overlay Zone) District. The approval is based on the following findings and is based on the following conditions of approval.

FINDINGS

- The City's Land Use Element of the General Plan designates the site as Mixed Use Water Related (MU-W2); and the Zoning Code designates the site as Retail Service Commercial Residential Overlay (RSC-R), which designates the site for commercial uses. Dance studios are a commercial use consistent with the General Plan and Zoning Code designations.
- 2. This project qualifies for a categorical exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Minor Alteration of Existing Structures) of the Implementing Guidelines of the California Environmental Quality Act. This exemption allows for the operation, repair, maintenance and minor alteration of existing buildings. A dance studio will require a tenant improvement, which entails minor alterations to the existing building.
- 3. The proposed location of the dance studio operated under the conditions of this approval, is consistent with the General Plan and the purpose of the district in which the site is located, will not be detrimental to the public health, safety, peace, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or

improvements in the vicinity or to the general welfare of the City, for the following reasons:

- a. The dance studio will be located within a shopping district designated to include such uses. The MU-W2 designation of the General Plan allows for service commercial uses.
- b. The subject property on Marine Avenue abuts residential land uses to the west and no residential uses are located on site. The project site is oriented toward Marine Avenue (to the east) where there is more commercial property, which will limit the effects on abutting residential development across the alley in the rear. The dance studio has been conditioned to regulate exterior noise levels to limit the impact on neighboring land uses.
- c. The existing site does not provide off-street parking. However, personal improvement services have the same parking requirement as retail per the Zoning Code and a retail use legally occupied the tenant space prior to the proposed personal improvement service. Therefore, based on the limited class size during the daytime hours, the legal nonconforming status of the parking demand will not be increased and no adverse impact on neighboring properties is anticipated.

CONDITIONS

- 1. Use Permit No. UP2009-022 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, or an extension is otherwise granted.
- 2. The Planning Director may add to or modify conditions of approval to this Use Permit or revoke this Use Permit upon a determination that the operation, which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, comfort, or general welfare of the community.
- 3. The project shall be in substantial conformance with the approved plot plan, floor plan and elevations stamped approved on July 9, 2009.
- 4. The hours of operation are 8:00 a.m to 10:00 p.m., daily.
- 5. Class size shall be limited to no more fifteen persons (combination of participants and instructors). There shall be fifteen minutes provided between the end of one class and the start of the next class. Based on occupancy and use, sanitation facilities shall be provided in accordance with the provisions of the Building Code;

and may require the provision of separate sex restrooms, unless otherwise approved by the Building Department.

- 6. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use will be cause for revocation of this Permit.
- 7. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of this dance studio that would attract large crowds, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
- 8. The operator of the facility shall be responsible for the control of noise generated on the subject facility. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. 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 |

- 9. The doors and windows shall remain closed at all times that the facility is open for business, music is provided, or noise is generated by the activities of the facility.
- 10. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved final architectural plans for inclusion in the use permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to <u>11-inches by 17-inches</u>. The plans shall accurately depict the elements approved by this use permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director to the Planning Commission by a written request to the Planning Department within 14 days of the action date. A \$1,810.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of David Lepo, Planning Director

Man for Jim Campbell ampbell, Principal Planner By: James

JWC/rwb Attachments: Appendix Vicinity Map Letter from applicant describing use Project Plans

APPENDIX

Off-Street Parking

The commercial center in which the project is proposed provides no on-site parking spaces. There are varying types of retail/commercial uses that occupy the multi-tenant building and their varying hours of peak demand.

The subject property is nonconforming due to deficient off-street parking; however, the nonconforming status is not intensified by the proposed use. Pursuant to Section 20.62.050 (Nonconforming Structures and Uses – Nonconforming Parking) of the Municipal Code, nonconforming uses in nonresidential districts may be continued or changed to a use requiring the same or less on-site parking. The previous retail sales use would require five parking spaces based upon the retail use parking ratio of one parking space per 250 feet of gross floor area required per Chapter 20.66 (Off-street Parking and Loading Regulations) of the Municipal Code. The gross floor area of the subject suite is approximately 1,100 square feet. The proposed use, with limited hours of operation and class size, will not require more parking than the previous retail sales use required. Given the nature of the use and its location, alternate modes of transportation, including walking and carpooling, will likely ensure that actual parking demand will not exceed prior parking demand.

The Zoning Ordinance does not establish a specific off-street parking requirement for private instructional facilities or health and fitness clubs. However, the Planning Commission has required, when instruction is provided on a one-on-one basis, one parking space for each student plus one parking space for each instructor and employee; and when classes are provided, one parking space for each 3 persons attending class, including instructors. Applying the latter standard to the proposed facility would result in a requirement of 5 off-street parking spaces and allow a maximum occupancy of 15 persons (any combination of participants and instructors) during the daytime use. This requirement cannot be satisfied since there is no available on site parking for the commercial uses. Therefore the non-conforming status of the commercial parking will remain unchanged with the introduction of the proposed use.

Therefore, staff has conditioned the facility to limit the class session's size to a maximum of a total of 15 persons (participants and instructors).

Hours of Operation

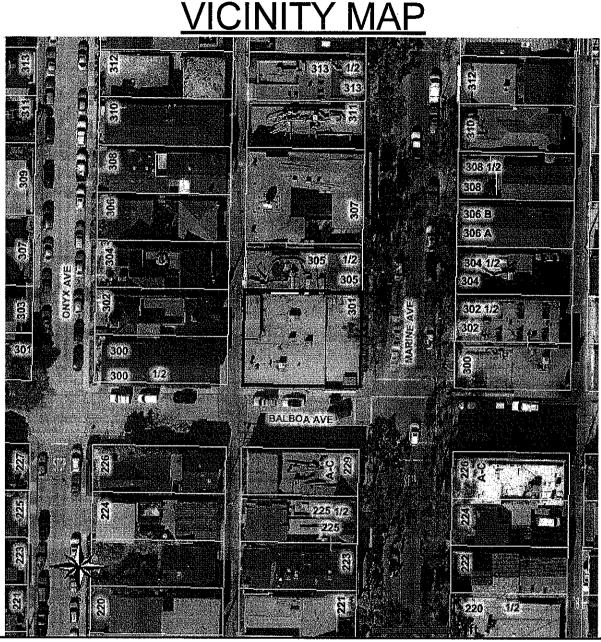
The applicant has indicated that the hours of operation are 10:00 a.m. to 8:00 p.m. daily. The latest sessions are finished by 8:00 p.m. Staff has recommended an opening hour of 8 am and a closing hour of 10:00 p.m. for the facility that should adequately address the current and future needs of the facility.

Noise Concerns

The early sessions have the greatest potential to create adverse noise impacts with neighboring or nearby residential uses. In order to prevent potential noise problems, staff has recommended that the doors of the facility remain closed at all times. This is especially critical during the early morning sessions. The applicant has indicated that music is generally utilized during regular sessions, but that the volume will be limited. Staff believes that the noise issues are adequately addressed by the recommended conditions of approval that include strict compliance with the Noise Ordinance of the Municipal Code and restricted hours of operation. Should noise complaints occur, Conditions of Approval-Standard Requirement No. 2 allows the Planning Director or the Planning Commission to add or modify conditions of approval to address any problem.

Restroom Facilities

The proposed facility provides a single unisex restroom for patrons. However, the Building Department may require additional restroom facilities based on the use or occupancy and may require the addition of separate sex sanitation facilities for patrons, as required by the Newport Beach Municipal Code and in compliance with the provisions of the Health Code (Orange County).



Use Permit No. UP2009-022 PA2009-082

301 B Marine Avenue

(Revised 07-10-09) July 9, 2009 Page 7 F:\Users\PLN\Shared\PA's\PAs - 2009\PA2009-082\UP2009-022 Action

maple youth ballet

1824 Kaiser Avenue Irvine, California 92614 T: (949) 660-9930 F: (949) 660 9932

Kathy R. Crade, Director Charles A. Maple, Director

December 3, 2008

Planning Department City of Newport Beach

To Whom It May Concern:

We have entered into a lease for the property located at 301 B Marine Ave, Balboa Island, California. Subsequently, we have been issued a Business License to conduct business in the City of Newport Beach. Our license number is BT30025868.

It is our intent to use the above location as a 1-room dance studio primarily for young children between the ages of 2 and 7 years. Although, we currently own and operate a highly reputable ballet training conservatory located in the City of Irvine, it is our desire to serve young children, interested in the art of dance, in a uniquely intimate and child friendly space. We feel that the property located at 301 B Marine Ave would be an ideal location. In addition, we feel that our business is complementary to the already existing businesses on Marine Avenue. Although we have not yet started, we have met many of the business owners and residents in the neighborhood who seem very happy about our future plans! There is a real feeling of community and hospitality on the island.

We realize that Marine Avenue has a shortage of parking spaces and ordinarily this might even be a concern for us as business owners. However, we do not envision having many individuals at this location at any one time. We also believe that many of our customers already live in the neighborhood and would walk to our establishment. <u>To preserve the</u> <u>integrity of our instruction</u>, we intend to keep our class sizes very limited. Please visit our website <u>www.mapleconservatory.com</u> for information about our current business in Irvine. It will provide you with a better understanding about the quality of our instruction and how it differs from your average dance studio.

Prior to doing all of the above, we investigated the City of Newport Beach zoning regulations and found that by your definition our business would be classified as an <u>Artists' Studio under General Service Uses.</u>

Under the City of Newport Beach Definitions Chapter 20.84 we found that the following applies to our business located at the Marine Ave address.

Studio-Art, Dance, Martial Arts, Music etc (Land Use). A small scale instructional facility that typically accommodates one student or a group of students at a time, in <u>no</u> more than one instructional space. Examples of these small-scale facilities include: instruction and training in the arts, martial arts, gymnastics, etc.; photography and the

processing of photographs produced only users of the studio facilities; production studios for individual filmmakers, musicians, painters, sculptors, photographers and other artists. Larger facilities are included under the definition of "Schools-Public and Private." These uses may also include accessory retail sales of products related to the services provided.

Ţ)

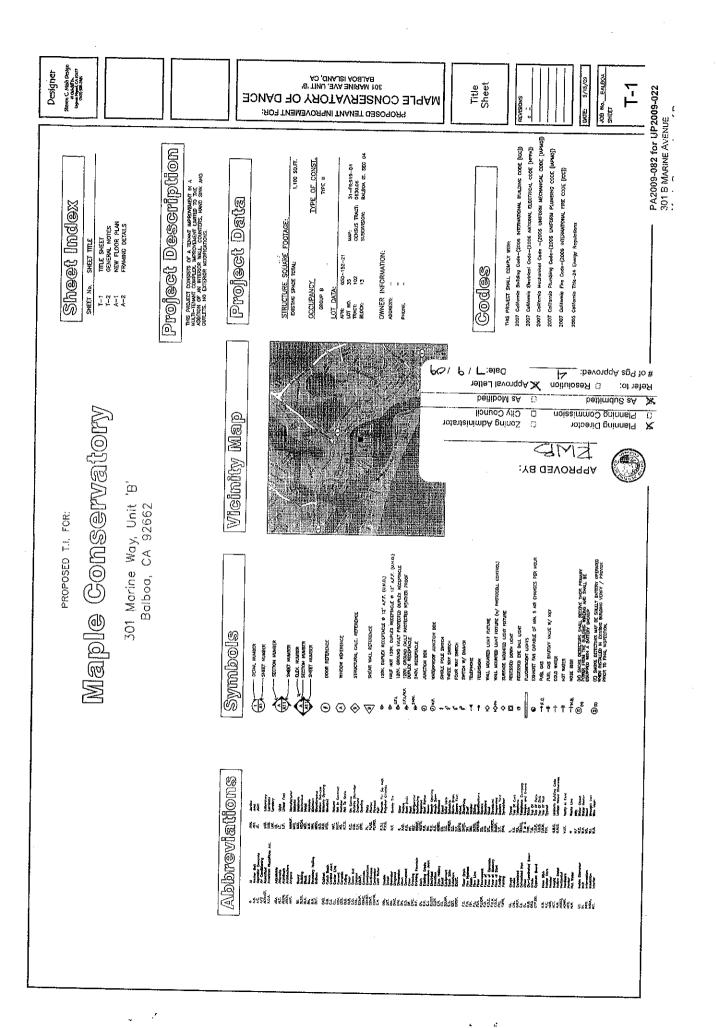
In compliance with the above definition, it is our intent to operate "a small scale instructional facility that accommodates a small group of students at a time in no more than one instructional space."

In order for us to move forward, we will need to do some minor construction to create a space that will meet our needs. We hope that you will grant us the necessary permission to go forward with our plans.

Thank you for your consideration.

Sincerely, alh rada Kathy Grade

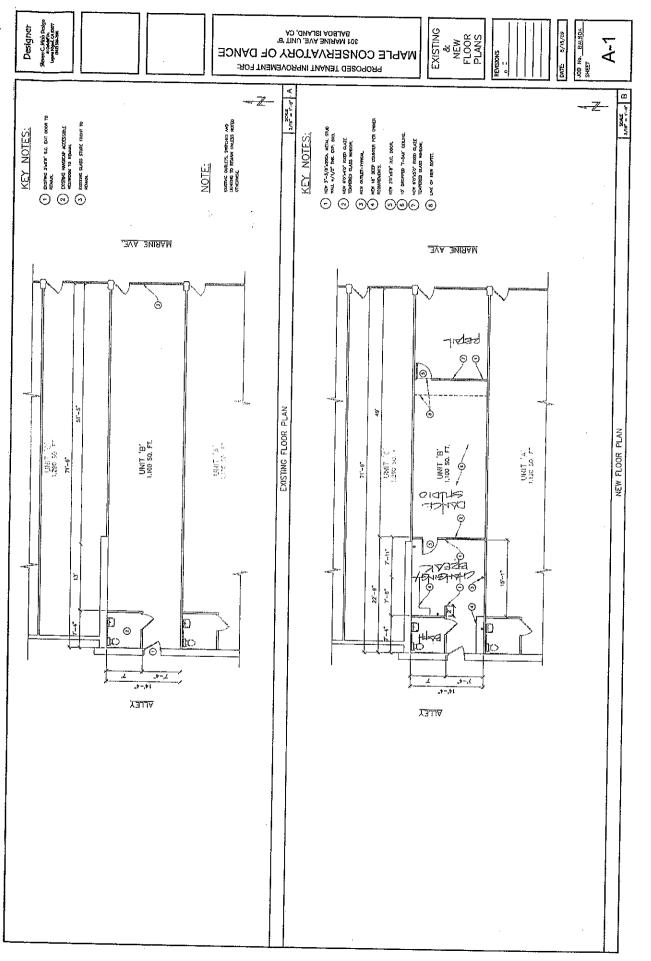
Director, Maple Conservatory of Dance Executive Director Maple Youth Ballet



| Preve C. Kab Degis et al. 201 MAPLE CONSERVATORY OF DANCE State A. C. 101 F. S. 101 MAPLE CONSERVATORY OF DANCE A. C. 101 F. S. 101 MARINE AVE. UNIT 'B. BALBOAFISLAND, CA BALBOAFISLAND, CA BALBOAFISLAND, CA |
|--|
| PLUMBING NOTES Well and prover and prime, and the method of themethod of themethod of the method of themethod of themet |
| CENERAL NOTES-CONT. CENERAL NOTES-CONT. M. SKEP GAME on The service datas is foculated in wardnoors and the service and the service |
| CENTERAL MOTES TFORMAL CONFIGURATION AND MEMOLOGIES AND CONTROLOGIES STREAM OF CONTROL CONTR |
| |

•

•



.* . .

5

