



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending April 1, 2016

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS
(Non-Hearing Items)**

Item 1: Newport Downtowner Staff Approval No. SA2016-004 (PA2016-015)
Site Address: 600 E. Bay Avenue

Action: Approved Council District 1

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR **ACTION LETTER**

Application No.	Staff Approval No. SA2016-004 (PA2016-015) The Downtowner Shared Parking
Applicant	Sam Knapp
Site Address	600 East Bay Avenue
Property Owner	NHNM Property Holdings, LLC
Legal Description	Parcel 1 in the city of Newport Beach, county of Orange, state of California, as shown on a Map filed in Book 208, Pages 4 through 6, inclusive of Parcel Maps, in the Office of the County recorder of said county

On April 1, 2016, the Community Development Director approved Staff Approval No. SA2016-004. This approval is based on the following analysis and subject to the following conditions.

PROJECT SUMMARY

The applicant requests to establish a small-scale transportation service as an accessory use¹ on the project site (ExplorOcean), which includes leasing six employee parking spaces to house up to nine small electric vehicles in the existing subterranean parking area. As proposed, the service will operate small electric vehicles, which will respond to patron requests for one-way transportation made by way of a mobile phone application. The project site is within the Balboa Village Parking Management Overlay. The shared use of the ExplorOcean parking is subject to review and approval by the Director.

ZONING DISTRICT/GENERAL PLAN

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

¹ An accessory use is defined by Chapter 20.70 (Definitions) of the Zoning Code as “a use that is at all times a part of, and clearly incidental and secondary to, a principal use; that does not change the character of the nonresidential use; and that does not necessitate an increase in required number of parking spaces.”

PROJECT SETTING

The project site is located in Balboa Village immediately south of the Newport Channel between Washington and Palm Streets. It is approximately 33,644 square feet in area and is developed with three multi-tenant commercial buildings totaling approximately 16,286 square feet in area. The ExplorOcean museum serves as the anchor tenant and land owner. Most of the other tenant spaces are occupied by small-scale restaurants and novelty shops, which see a seasonal fluctuation in patronage. Beneath the buildings is a subterranean parking garage accessed from East Bay Avenue containing 49 parking spaces designated for employee use only. South of the development is the Palm Street Municipal Parking Lot containing 60 public parking spaces. To the west and east are commercial developments with restaurants, retail and service uses primarily aimed at serving visitors to Balboa Village.

BACKGROUND AND PROJECT DESCRIPTION

The Downtowner maintains an existing, smaller operation with three vehicles at the Elks Lodge (3456 Via Oporto) approved by the Planning Commission on April 23, 2015 (UP2015-003). The current service area is generally the upper Balboa Peninsula with service as far south as 12th Street. Since operation began in November 2015, the Downtowner has provided rides to over 3,000 people. The proposed project is for similar use of the ExplorOcean site and would effectively expand the service area to include the remainder of the Balboa Peninsula, south of 12th Street to the Wedge.

The applicant requests to establish a small-scale transportation service as an accessory use on the project site occupying 6 of the 49 employee parking spaces. As proposed, the service will operate up to nine small electric vehicles, which will respond to patron requests for one-way transportation made by way of a mobile phone application. As conditioned, the unloading and loading of patrons will take place in legal parking areas and is prohibited from occurring within the public right-of-way. Although gratuity will be accepted, the service will not charge fares and will not be permitted to operate as a traditional taxi service. The requested hours of operation are from 11:00 a.m. to 11:00 p.m., daily; however, staff is of the opinion that the hours do not need to be restricted due to the nature of the business and the service provided.

DISCUSSION AND ANALYSIS

The project site is located within the Balboa Village Parking Management Overlay. Zoning Code Section 20.28.030 (Parking Management (PM) Overlay District) allows the Director to review and approve the reduction of required parking associated with a shared parking arrangement when in compliance with the following conditions.

- (1) *Shared parking spaces are within one thousand two hundred fifty (1,250) feet as described in subsection (D)(1)(d)(iv)(a).*

- a. The proposed use will operate using six employee parking spaces beneath ExplorOcean in the employee parking area.
- (2) *There is no significant overlap in the hours of operation or peak parking demand of the uses sharing the parking.*
- a. In this case, the hours of the proposed use coincide with the typical hours of operation for the businesses operating on the project site inasmuch as transportation vehicles should be in service and away from the site during most of the daytime hours.
- (3) *The use of the shared parking facility will not create traffic hazards or impacts to surrounding uses.*
- a. The Police and Public Works Departments reviewed the proposed project and did not have concerns.
- (4) *The property owners involved in the shared parking facilities provide a binding agreement or other legal instrument assuring the joint use of the parking facilities subject to the satisfaction of the Director.*
- a. In this case, there is a single property owner and a lease agreement will be maintained between the property owner and the applicant.
- (5) *The Director may require the preparation and implementation of a parking management program to address potential parking conflicts.*
- a. As conditioned, the applicant will prepare a parking management plan to indicate how the transportation vehicles will operate should there be a conflict of use.

Overall, staff believes the shared parking arrangement meets all the required conditions and the proposed use will provide an alternative method of transportation, which could help to alleviate congestion and parking impacts experienced by residents and visitors on the Balboa Peninsula. The hours of operation for the proposed use (11:00 a.m. to 11:00 p.m.) will coincide with the primary operational hours of businesses at the ExplorOcean site; therefore, the majority of the vehicles should be in service and mostly not using the employee parking spaces during the day. As conditioned, the operation will be compatible with uses on the subject site and other uses in the vicinity, provide an additional service of a public convenience nature, and would not be detrimental to the character of the area as it will be an accessory use and amenity to the existing development.

CONDITIONS OF APPROVAL

PLANNING DIVISION

1. Staff Approval No. SA2016-004 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
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 Staff Approval.
4. This Staff Approval may be modified or revoked by the Director should he or she determine 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.
5. Any change in operational characteristics, expansion, or other modification to the approved operation plan, shall require subsequent review and approval and may necessitate a new staff approval or approval of a use permit.
6. The maximum number of vehicles participating in the transportation service from this location at any one time shall be nine (9). Those vehicles shall only park within the employee area designated on the site plan included as an attachment to this staff approval.
7. Prior to beginning the operation, the applicant shall provide a parking management plan to the Planning Division for review and approval by the Director.
8. No outside paging system shall be utilized in conjunction with this establishment.
9. 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 Downtowner Shared Parking including, but not limited to, the Staff Approval No. SA2016-004 (PA2016-015). 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.

BUILDING DIVISION

10. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
11. Use of the electric vehicle charger by the public is strictly prohibited unless an Americans with Disability Act (ADA) accessible charging station is provided.

PUBLIC WORKS DEPARTMENT

12. All passenger pick up and drop off shall occur in legal parking areas or outside the public right-of-way. Said passenger pick up and drop off shall not impact the adjacent streets or public right-of-way.
13. Vehicles participating in the transportation service authorized under this Staff Approval shall be low speed vehicles as defined by California Vehicle Code Section 385.5, or any successor statute. The operator of the low speed vehicle shall comply with all applicable sections of the California Vehicle Code and rules of the road.

REVENUE DIVISION

14. The applicant shall comply with Newport Beach Municipal Code Chapter 5.12 (Vehicles for Hire).


ENVIRONMENTAL REVIEW

This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities). The Class 1 exemption includes 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. The proposed transportation service use will lease six existing parking spaces on a fully developed nonresidential site and will constitute a negligible expansion of use beyond the existing use of those parking spaces.

APPEAL PERIOD

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

On behalf of Kimberly Brandt, AICP, Community Development Director



Benjamin M. Zdeba, AICP
Associate Planner

JWC/bmz

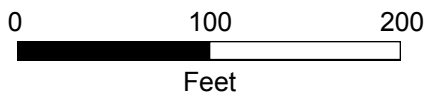
Attachments: CDD 1 Vicinity Map
CDD 2 Applicant's Project Description and Justification
CDD 3 Parking Plan

Attachment No. CDD 1

Vicinity Map



Newport
Beach
GIS



Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

Attachment No. CDD 2

Applicant's Project Description and Justification

NEWPORT BEACH DOWNTOWNER & EXPLOROCEAN

PROJECT DESCRIPTION AND JUSTIFICATION

The following report discusses our analysis associated with the Newport Beach Downtowner (Downtowner) utilizing six parking spaces at the ExplorOcean (www.explorocean.org) underground employee only parking facility (the Parking Facility) located at 600 E Bay Ave, Newport Beach, CA 92661.

PROJECT PROPOSAL

The Newport Downtowner is a community free ride service that operates using electric vehicles (please see our attached business proposal for a much more detailed description). We have been in operations (at the Elks Lodge) since November 3, 2015 and as of the date of this report we have provided over 1,100 rides and transported almost 3,000 people. Currently we are operating with only 3 vehicles and the demand has proven that we need more vehicles in order to service the entire Balboa Peninsula – currently we only service as far southeast as 12th street and are excluding the Balboa end of the Peninsula (Balboa Pier and the Wedge).

We are applying for a Conditional Use Permit in order for the Newport Downtowner to utilize six parking spaces for the storage of nine electric vehicles at the Parking Facility, while they are not on the streets providing rides to city goers in the Balboa Peninsula area.

Over the past couple of months, we have been in close contact with and formed an agreement with David Lugo (owner of ExplorOcean), for the use of the aforementioned parking spaces. Please see the attached letter from ExplorOcean to the City of Newport Beach, outlining our agreement. We would also like to mention that the Parking Facility is for employees only and is not open to the public.

PROPERTY DESCRIPTION – PARKING MAP / PLOT PLAN

After measurements of the property, we have drawn out a proposed parking map (see attached Parking Map / Plot Plan 1). We have labeled all spaces in the Parking Facility for all current business designations and labeled the six open and available spaces as “Downtowner” to indicate where we plan to store the vehicles.

From measurements taken on-site, we have determined the following property dimensions:

Parking Lot Dimensions			Approx. Parking Space Dimensions		
Width (Ft.)	Length (Ft.)	Square Feet	Width (Ft.)	Length (Ft.)	Square Feet
121	206	24,925	8.5	18	153

There are currently 49 striped parking spaces in the Parking Facility. Approximately 17 of these spaces are reserved for ExplorOcean employees and another 6 spaces are open, available and currently unused. (Please see attached Parking Map / Plot Plan 1 and 2). Of the remaining 27 spaces, 18 are leased out to businesses attached to the building and 5 spaces are related to businesses that are not part of the building and 3 are reserved as handicap spaces. There are no parking spaces related to unleased building space that is a part of the building.

Please see the table below for a further breakdown of the parking spaces in the Parking Facility:

Open and Available	6
ExplorOcean	17
Handicap	3
Other businesses part of building	18
Other businesses NOT part of building	5
Total	<u>49</u>

DOWNTOWNER OPERATIONS

The Downtowner plans to have nine carts in operations at the location and we do not anticipate any more than five Downtowner drivers to be on-site at any given period of time. Since the Downtowner electric vehicles are significantly thinner (width wise) than standard vehicles, we are able to fit three vehicles into two parking spaces with an extra foot for each driver to enter and exit when all three vehicles are parked consecutively.

All Downtowner drivers are encouraged to either bike, walk or take public transportation to ExplorOcean in order to further promote our business mission of reducing congestion in the Balboa Peninsula area. We would like to mention that all drivers have not had any difficulty walking or riding a bike to the parking area. No drivers have needed to drive a car to work and we foresee this being true for the new location at ExplorOcean. Regarding drivers or ExplorOcean employees that this is not feasible for, we are willing to accommodate any requirements related to an off-street parking provision. This should simultaneously alleviate any situation where ExplorOcean is in need of extra parking for employees.

In regards to Downtowner operations, we would like to mention that all passenger drop-off and pick-up occur in legal parking areas or outside the public right-of-way. Passenger pick-up and drop-off shall not impact the adjacent streets or public right-of-way. All operators of the Low Speed Vehicles (LSV) will comply with all applicable sections of the California Vehicle Code and rules of the road.

Should a situation arise where an ExplorOcean Employee parking space is blocked, a Downtowner driver should be on site or nearby during the hours that an ExplorOcean employee would need to access the parking space and can move the vehicle. If there is not a driver on-site to move the vehicle we will coordinate with ExplorOcean on how best to alleviate such a situation.

Charging Stations – Please note that the 3 charging stations we plan to utilize for our electric vehicles will be affixed on pedestals in front of our designated parking spaces. We would also like to mention that the charging stations will not be used by the public and we plan to acquire all necessary permits for the installation of the electric charging station.

Current Elks Employees/Volunteers/Members – During the first two months of our operations at the Elks Lodge we have provided numerous rides to Elks Lodge employees, volunteers and members. There are regular employees that we provide rides to at least once a week. We have also arranged special events where we shuttle a group Elks members to locations on the peninsula and back to the Elks in order to relieve parking stress. We foresee our services providing a similar if not greater benefit for ExplorOcean and from our discussions with David Lugo, there are already certain employees we see our service benefitting immediately.

EXPLOROCEAN EMPLOYEES

From our discussions with David Lugo, Owner – ExplorOcean, we noted that there are approximately 12 employees at ExplorOcean, however, all 12 of these employees are rarely ever all on site at the same time; 10 is generally the maximum at any one time. Therefore, ExplorOcean almost never has their 17 employee parking spaces fully occupied. We also noted from our discussions with David Lugo, Owner – ExplorOcean, that from 8am to 5pm there are generally 8 employees on site and from 5pm to close (around 6:30pm in winter and as late as 10pm in the summer) there is a maximum of 2 employees on site.

We have performed an occupied space count at the Parking Facility and documented the number of spaces that were occupied at various times and days. We have summarized our occupied space count below:

Date	Time	Occupied Spots	Total Spots	% Occupancy
Friday, December 18, 2015 (A)	8 pm	34	49	69%
Saturday, December 19, 2015 (A)	315 pm	18	49	37%
Monday, December 21, 2015	1215 pm	18	49	37%
Monday, December 21, 2015	730 pm	21	49	43%
Wednesday, December 23, 2015	130 pm	17	49	35%
Wednesday, December 23, 2015	8 pm	12	49	24%
Saturday, December 26, 2015	715 pm	13	49	27%
Monday, December 28, 2015	2 pm	19	49	39%
Tuesday, December 29, 2015	330 pm	18	49	37%
Wednesday, December 30, 2015	11am	18	49	37%
Friday, January 01, 2016	1030 pm	9	49	18%
Saturday, January 02, 2016	1030 pm	7	49	14%
Sunday, January 03, 2016	230 pm	16	49	33%
Average		17	49	35%

(A) These dates were during the 2015 Boat Parade

We would also like to mention that there will not be a larger fluctuation of employees in the summer. Per David Lugo, Owner – Explore Ocean, “We will not be fluctuating the usage of our ExplorOcean spaces in the summer which is the slower time for our ExplorOcean operations.

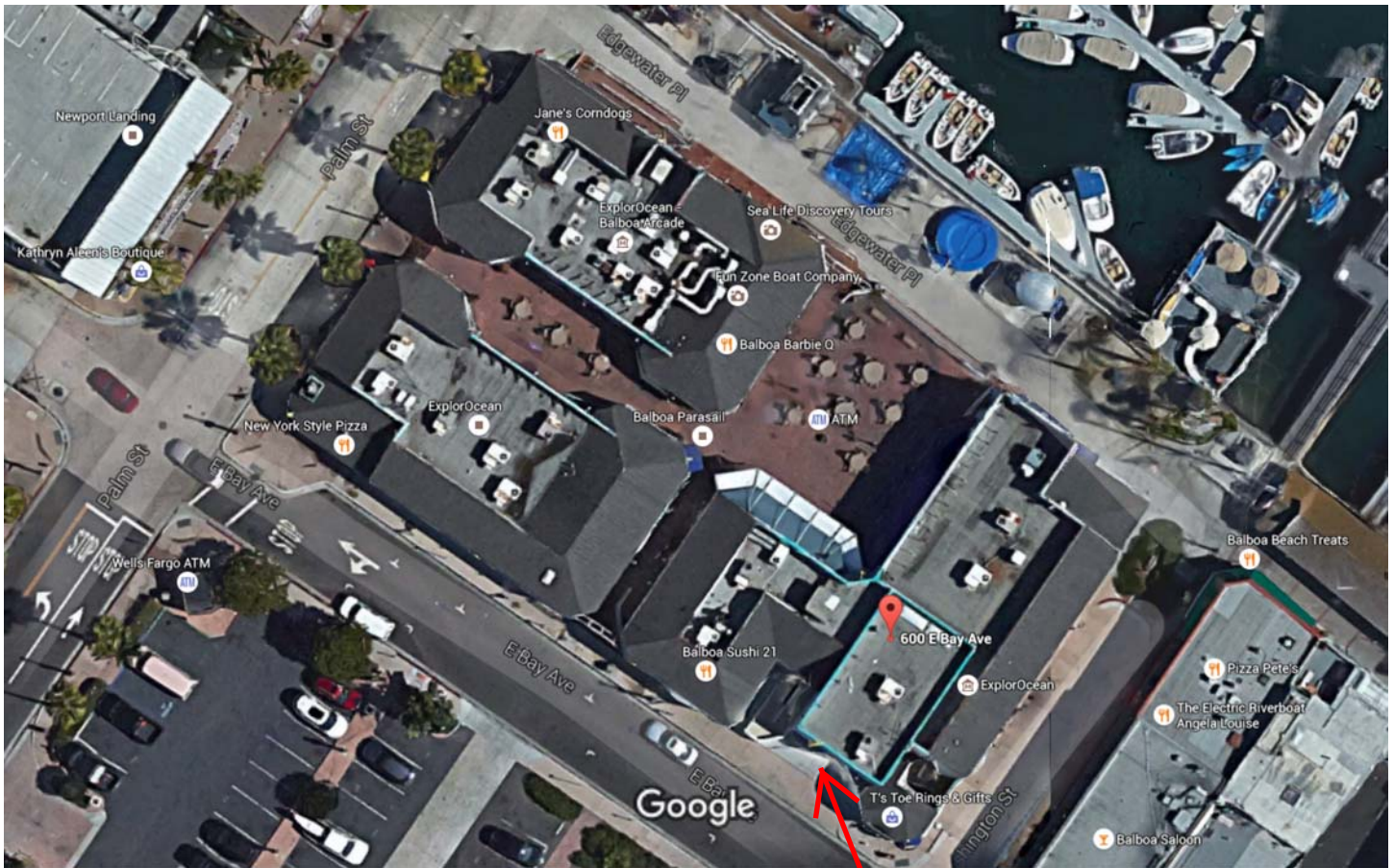
Rarely are ExploreOcean employee vehicles stored overnight at the Parking Facility and the Downtowner will have multiple carts out of the Parking Facility providing rides during all of ExplorOcean’s operating hours. This will help the Downtowner and ExplorOcean work harmoniously together. Furthermore, ExplorOcean feels that the Downtowner utilizing the six unoccupied and available spaces for the vehicles would not only benefit the current employees and visitors, but also the community, which is the ExplorOcean underlying mission.

CONCLUSION

Since we began operations in November 2015, our business has proven that it strongly benefits the Community by providing free rides to residents and visitors while simultaneously providing much needed direct advertising for local businesses. From our discussions with ExplorOcean, they also believe in our benefit to the community and are excited about the opportunity to help support the Downtowner and its

expansion to help provide more rides to even more of the community. We would like to request that the City of Newport Beach approve our conditional use permit application in order to allow the Newport Downtowner to occupy six parking spaces in the ExplorOcean Parking Facility.

Google Maps 600 E Bay Ave



Imagery ©2015 Google, Map data ©2015 Google 20 ft

Entrance to parking structure

Google Maps 692 E Bay Ave

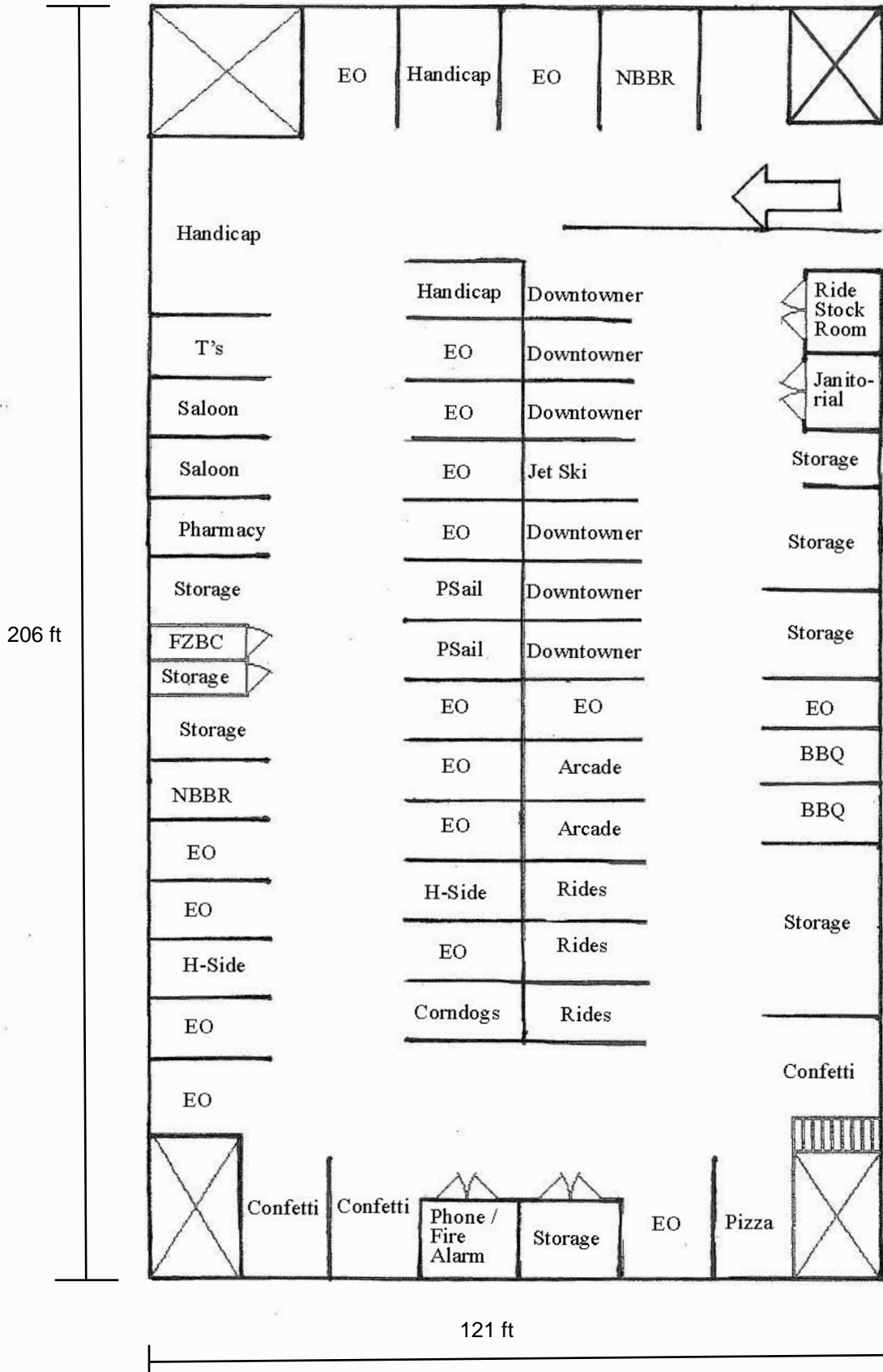


Image capture: Oct 2015 © 2015 Google

Newport Beach, California

Street View - Oct 2015

Parking Map / Plot Plan 1



OPERATING AGREEMENT

OF

NHNM PROPERTY HOLDINGS, LLC

This operating agreement (the "Agreement") of NHNM Property Holdings, LLC (the "Company") is entered into effective as of December 19, 2005, by the Newport Harbor Nautical Museum, a California non-profit corporation, the sole member of the Company (hereinafter sometimes referred to as the "Member").

SECTION 1. LIMITED LIABILITY COMPANY AGREEMENT. This Agreement shall constitute the "limited liability company agreement" of the Company within the meaning of the Beverly-Killea Limited Liability Company Act as set forth in Title 2.5 (commencing with Section 17000) of the Corporations Code of the State of California, as amended from time to time (or any corresponding provision or provisions of any succeeding law) (the "Act") for all purposes including, without limitation, for classification of the Company as a domestic eligible entity that is disregarded as an entity separate from its owner for federal and all relevant state income tax purposes.

SECTION 2. THE COMPANY

2.1 Formation. The Member hereby organizes a limited liability company pursuant to the provisions of the Act and shall cause Articles of Organization ("Articles") conforming to the provisions of the Act to be filed with the Secretary of State of the State of California. The Manager of the Company shall be the Member until such time as the Member shall be a written action remove the Manager and/or designate an additional or substituted Manager(s).

Simultaneously with the execution and delivery of this Agreement, Member shall be admitted as the sole member of the Company. The rights and liabilities of the Member shall be as provided in the Act as the same may be modified by the terms and provisions of this Agreement.

2.2 Name. The name of the Company is NHNM Property Holdings, LLC, and the business of the Company shall be conducted under that name or under such other name, if any, as the Manager shall determine.

2.3 Business. Subject to the restrictions contained in this Agreement and the Articles, the purpose of the Company is to engage in any lawful activity for which a limited liability company may be organized under the Act (the "Business"). The Company shall possess and may exercise all the powers and privileges granted by the Act or by any other law, together with any powers incidental thereto, so far as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the Company. The

10.0 CAPITAL CAMPAIGN CHAIRMAN

The Capital Campaign Chairman ("CCC") shall have authority and responsibility over the Capital Campaign as approved in the budget.

10.1 The CCC shall report to the Executive Committee of the Board.

10.2 The CCC shall be the Chairman of the Capital Campaign Cabinet and set the agenda for the meetings including the time, date and location of all meetings. The CCC shall preside over all Capital Campaign meetings.

10.3 The CCC shall recruit influential people to serve on the Capital Campaign Cabinet who are approved by the Nominating and Governance Committee and the Board.

10.4 The CCC shall develop a multi-year Campaign budget. The CCC shall have the authority to authorize expenditures in accordance with the budget approved by the Board of Directors, except that any authorization of new employment contracts and/or architectural/engineering services or related project studies requires the added approval of the Executive Committee.

10.5 The CCC shall interface with City officials and regulatory authorities and foster improved public relations about the ExplorOcean Project to the community.

10.6 The CCC shall have the authority to negotiate contracts as approved by the Board on behalf of the Corporation of all matters as they relate to the Capital Campaign Strategic Plan.

10.7 The CCC shall be a voting member of the Investment Committee and an ex-officio member of the Executive and Finance Committees. At the discretion of the Chairman or the committee chairman, as the case may be, the CCC may be invited to attend meetings of the Board and other standing committees. However, the presence of the CCC at a Board or committee meeting, except for meetings of the Investment and Capital Campaign Committees, shall not be used to determine a quorum for that committee's ability to conduct a meeting.

10.8 The CCC shall be the official spokesperson for the ExplorOcean Capital Campaign.

10.9 The CCC shall have authority over the hiring, compensation, promotion, termination and determination of job duties of all Capital Campaign staff within the approved budget.

10.10 The CCC shall be invited and encouraged to attend all ad hoc committee meetings which bear upon the building, architectural design, educational programming or financing of ExplorOcean.

11.0 THE PRESIDENT

The Board may employ a highly qualified individual to act as President of the Corporation and ExplorOcean. The Board shall approve the terms and conditions of any written employment contract with the President and the compensation and benefits provided therein.

The President shall have the authority to negotiate and execute contracts and agreements relating to the business and affairs of the Corporation in the ordinary course of business on

behalf of the Corporation, and shall report at each regularly scheduled meeting of the Board regarding such contracts and agreements.

The President shall have primary responsibility for ensuring that the Corporation is operated in accordance with (i) these Bylaws and the Articles of Incorporation of the Corporation, (ii) the ExplorOcean Corporate Governance Guidelines, (iii) the operating policies established from time-to-time by the Board, (iv) the annual operating plan and budget adopted by the Board, (v) rules, procedures and requirements of insurance carriers providing coverage to the Corporation and ExplorOcean, (vi) all agreements between the City of Newport Beach and the Corporation, (vii) contracts and agreements with donors and others from whom artifacts, art, materials, and objects have been received by ExplorOcean, and (viii) all contracts and agreements entered into by or on behalf of the Corporation with third parties.

The President shall have primary responsibility for and authority over all day-to-day operations of ExplorOcean and those Affiliates for which responsibility is assigned by the Board, and shall be responsible for the development and recommendation to the Board of the annual operating plan and budget. The Board shall have final approval over all budget items prepared by the President. The President shall act as a spokesperson for ExplorOcean to the media and in public. The President shall be responsible for all grants in areas supporting operations and educational programs consistent with the Corporation's mission statement.

The President shall represent ExplorOcean in public and professional activities and events in such capacity. The President shall host at least one strategic meeting every fiscal year.

The President shall have authority over all staff appointments, except Capital Campaign Cabinet staff, and the hiring, firing, promotion, compensation, and determination of job duties of all ExplorOcean personnel within the approved budget. The President may act as the primary liaison between the Board (and its various committees) and staff of ExplorOcean. The President's performance shall be evaluated semi-annually by the Board.

The President shall be a voting member of the Investment Committee and a non-voting, ex-officio member of the Executive Committee. However, his or her presence at a Board Committee shall not be used to determine a quorum of that committee's ability to hold a meeting.

It shall be the responsibility of the President to ensure that ExplorOcean is operated in compliance with all local, state and federal laws and regulations and as an Equal Opportunity Employer.

12.0 INDEMNIFICATION BY CORPORATION OF DIRECTORS, OFFICERS, EMPLOYEES, OFFICERS OF SUBSIDIARY(S) AND OTHER AGENTS

12.1 Definitions. For the purposes of this Section 12.0, "Agent" means any person who is or was a Director, trustee, officer, employee or other agent of the corporation, or is or was serving at the request of the Corporation as a Director, trustee, officer, employee or agent of another foreign or domestic Corporation, partnership, joint venture, trust or other enterprise, or was a Director, trustee, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation; "Proceeding" means any threatened, pending or completed action or



Community Free Ride Service

Our mission is to provide residents, visitors and patrons of businesses in Newport Beach a convenient, prompt, free, friendly and 100% green mode of transportation within the congested beach streets and nearby neighborhoods – more specifically, the downtown Balboa Peninsula area. The Downtownner is a company founded on the principle of making “downtown” areas more user-friendly and less congested. *We are committed to utilizing green technology* (100% combustion-free vehicles) to deliver a reliable and free point A to point B transportation option.

Partnership:

We have formed a joint-venture partnership with an already established business from Delray Beach, Florida, called the Delray Downtownner. The Delray Downtownner was established almost four years ago and has been an integral part of the Delray community. We plan to continue the well renowned Downtownner model here in Newport Beach. For more information, please visit our website: www.ridedowntownner.com. We will be in close contact with Stephen, Travis and Ryan (see contact information at bottom of this document) for business advice such as driver management, vehicle performance, charging, sponsorship contracts, advertisement wrapping, door and rooftop mounting, day-to-day operations, etc. We will utilize their expertise on a regular basis.

Vehicle Description:

Our vehicles are American made, 6 passenger Global Electric Motorcars (GEM). The make of the vehicles are GEM and the model is e6. They are classified as Low Speed Vehicles or LSV's, as described in the California Vehicle Code Section 406(a). LSV's are street legal in California on roads with 35mph speed limits and under, and may cross higher speed limit roads. Per California State Vehicle Code Section 21260(b)(1), “The operator of a low-speed vehicle may cross a roadway with a speed limit in excess of 35 miles per hour if the crossing begins and ends on a roadway with a speed limit of 35 miles per hour or less and occurs at an intersection of approximately 90 degrees.” All six seats in the vehicle have 3-Point seat belts.

Area of Service:

Our area of service will be focused specifically on the Balboa Peninsula and Lido Island. All roadways we will be operating on will be 30mph or under. Please see the attached map with our service area outlined in red. Please note that we do not plan to include Balboa Island because the ferry wait will significantly hinder the timing of our pick-ups and drop-offs.

Storage of Vehicles

Currently we are storing our vehicles at the Newport Beach Elks Lodge, located at 3456 Via Oporto, Newport Beach with a lease that ends in October of 2015. Concurrently, we have reached a verbal agreement with the owner of ExplorOcean, located at 600 E Bay Avenue, Newport Beach, CA 92661 to lease 6 parking spaces in order for us to expand our current operations to meet growing demand for our service.

How the service works:

A passenger requests a ride by way of our mobile phone application (see Mobile Application section below for further description). This request is pushed to the appropriate driver, and he/she sets out to pick up the requestor. When at the location the driver will pull over to a safe, legal area and load the passengers. Upon delivering them safely to their destination, the driver will head to the next pickup location. All pickups and drop-offs will be within our service area. All drop-offs will be made in legal areas, with no obstruction of traffic and not in red zones. At no point will our drivers be cruising in search of passengers. Also, no driver will solicit or carry any additional passenger after such vehicle has been engaged or while in use by a passenger, without the consent of initial the passenger. The nature of our business is not that of long runs, typical of a taxi or Uber/Lyft service. Rather, we specialize in quick, local, neighborhood transit.

We would also like to emphasize that all passenger drop-off and pick-up will occur in legal parking areas or outside the public right-of-way. Passenger pick-up and drop-off shall not impact the adjacent streets or public right-of-way. All operators of the LSV's will comply with all applicable sections of the California Vehicle Code and rules of the road.

While our service is free to all passengers, tips/donations are accepted by the drivers for prompt and friendly service. In order to sustain our business we sell advertising, in the form of sponsorships, to local businesses in the Newport Beach area. The doors on the sides of the vehicles are professionally wrapped with the sponsor's business advertisement. We also dedicate a section of our website to our sponsors which include all who have purchased sponsorships with us. We will also include advertisements on our mobile application and be active with social media (Facebook, Twitter and Instagram) which will add value to our sponsorships and help promote Newport Beach.

Hours of Operation:

We operate our business between the hours of 11am and 11pm, Monday through Sunday. 11 p.m. is the last time a passenger may schedule a pick-up. Therefore a pick-up could be requested prior to 11 p.m. and the drop-off could occur subsequently.

When our drivers are not engaged with passengers or en route to pick up passengers, drivers return to the parking area where all vehicles are housed and wait for another ride request. When the vehicles are dispatched to pick up a passenger, they will be required to legally park during a pick-up and drop-off and will not be stopping in red zones. Whenever the vehicles are not in use, drivers sit in the vehicles at the Elks Lodge awaiting passenger ride requests. We do not to utilize any portion of the Elks Lodge building for the business operations.

Sponsorships/Advertisements:

By utilizing sponsorships from nearby businesses, we are not only helping promote local commerce, but providing an opportunity for businesses to support the community by helping to provide free rides for tourists and local residents.

Our vehicles, as produced by the manufacturer, do not have doors. We hire a local company to professionally construct the doors using aluminum and fiberglass. Full detailed instructions of this process have been provided to us by Delray Downtowner. There will be a total of six doors per vehicle; three on each side. Each door will be approximately 3-4 feet wide and 3.5 feet tall and will be flush with the vehicle. Please see the below picture that contains the Delray Downtowner vehicle after advertisement and door construction. The vehicle wrapping/advertisements will not stick out any further than original design of the vehicle. We will add a "Downtowner" advertisement to the roof of the vehicle, as shown in the photo below. This will also be professionally constructed, according to instructions provided by our Delray Downtowner partners.

Our sponsors' advertisements are full color advertisements wrapped along the doors of the vehicle (see photos on next page). The advertisements will include but are not limited to the business names and logos. We will not permit advertisements that are sexual or profane in nature. We also will not allow advertisements that could be deemed to be too distracting to other drivers. Our brand is intended to promote the community and we do not want any company advertisements that would compromise this.



Mobile Phone Application:

With significant investment made by the Downtowner business, we have created an application that is now in full use by our partners in Delray Beach Florida. This application is GPS based and provides full driver and passenger information, location, driver availability and estimated arrivals for pickup. While our business model is different than a taxi service or Uber, our application's technological advancement is comparable to the one that is utilized by Uber. Please see the attached PDF with a screenshot of the mobile application home page.

Community Service:

Since our business model is not fare based, we believe there are numerous opportunities for us to coordinate transportation/delivery services for local charitable organizations, at no charge to them of course. During our off hours (schedule hours of operation are 11am – 11pm every day), we will look into dropping off meals for Meals on Wheels, providing rides for senior citizens, delivering books for the library and any other opportunity related to transportation/delivery within the Balboa Peninsula area. We have not reached an agreement with any organization as we are not fully established yet, but we believe there are significant opportunities that our service and provide to the community. Community service provided by the Downtowner is another opportunity for our sponsors to actively support the Newport Beach community. We will also utilize our website, application and social media presence to promote our community service that will hopefully inspire additional charitable contributions (time/money) for the charitable organizations we team up with.

Advantages for cities with a downtowner:

- Less drinking and driving making the surrounding area a safer place.
- More convenient for people to enjoy beach going, shopping, going out to lunch and dinner (promotes the local economy).
- Frees up parking spaces in congested areas because people are able to take rides from one area to another.
- Tourists are more likely to come back to Newport Beach because it was made easier by the Downtowner to enjoy the area. The Delray Downtowner has visitors calling them before they book a hotel room to make sure the hotel is in the area!
- Our service reflects the community and local businesses' commitment to living in a more sustainable world by supporting a green option to transportation.
- Advances business and city involvement in the community by supporting a more efficient and positive means of transportation.
- Since our business model is not fare based, we believe there are numerous opportunities for us to coordinate transportation/delivery services for local charitable organizations.

Vehicle Charging:

Standard battery charging for the vehicles is approximately 8 hours for a full charge. In order for our business to meet ridership demand, we will need to install a fast-charger at our parking location. The installation related to this charging station is relatively simple and the voltage required is comparable to a washing machine (240V); meaning most already established outlets can provide the charging we need.

Insurance:

We have adequate liability insurance at all times. We currently have minimum coverage of \$1,000,000. We currently have a policy in place with United Specialty Insurance Group through our Farmers Insurance agent, David Torres. We have named the City of Newport Beach and the Elks Lodge as

certificate holders and secondary insureds and will arrange similar insurance requirements with ExplorOcean, upon approval.

Qualifications:

Our business has been successfully operating since November 3, 2015 and has been received with excitement and enthusiasm by the local Newport Beach community. As of the date of this report, we have provided almost 1,100 rides and transported over 3,000 people in our first two and a half months of operations. We have done this with only 3 vehicles and plan to expand to 9 in order to satisfy our demand and include the entire peninsula in our service area.

Our partnership with a well-run, successful organization that has a strong standing with its community in Delray Beach, will provide significant benefit to our business, and give us qualifications to operate our business that no one else would have. We believe to have a business and business model that is very new and it is a two-fold product where we serve the public with free rides and serve local businesses by providing advertising. The type of advertising and the type of free ride system we provide are both very unique and not currently being offered in this form. We have been and will continue communication with Delray Downtowner, receiving day-to-day recommendations and advice about running a community free ride service. The growing pains and pitfalls that they've endured have been passed along thus far and will continue to be passed along. Partnering with a company that has already established itself and firmly planted its business model in a community similar to Newport Beach gives us great access to expertise in this specialized field.

Newport Beach Downtowner Contact Information:

Sam Knapp
samcknapp@gmail.com
503-516-8543

Jake Allsop
prestonallsop@gmail.com
503-752-2616

Delray Downtowner Contact Information:

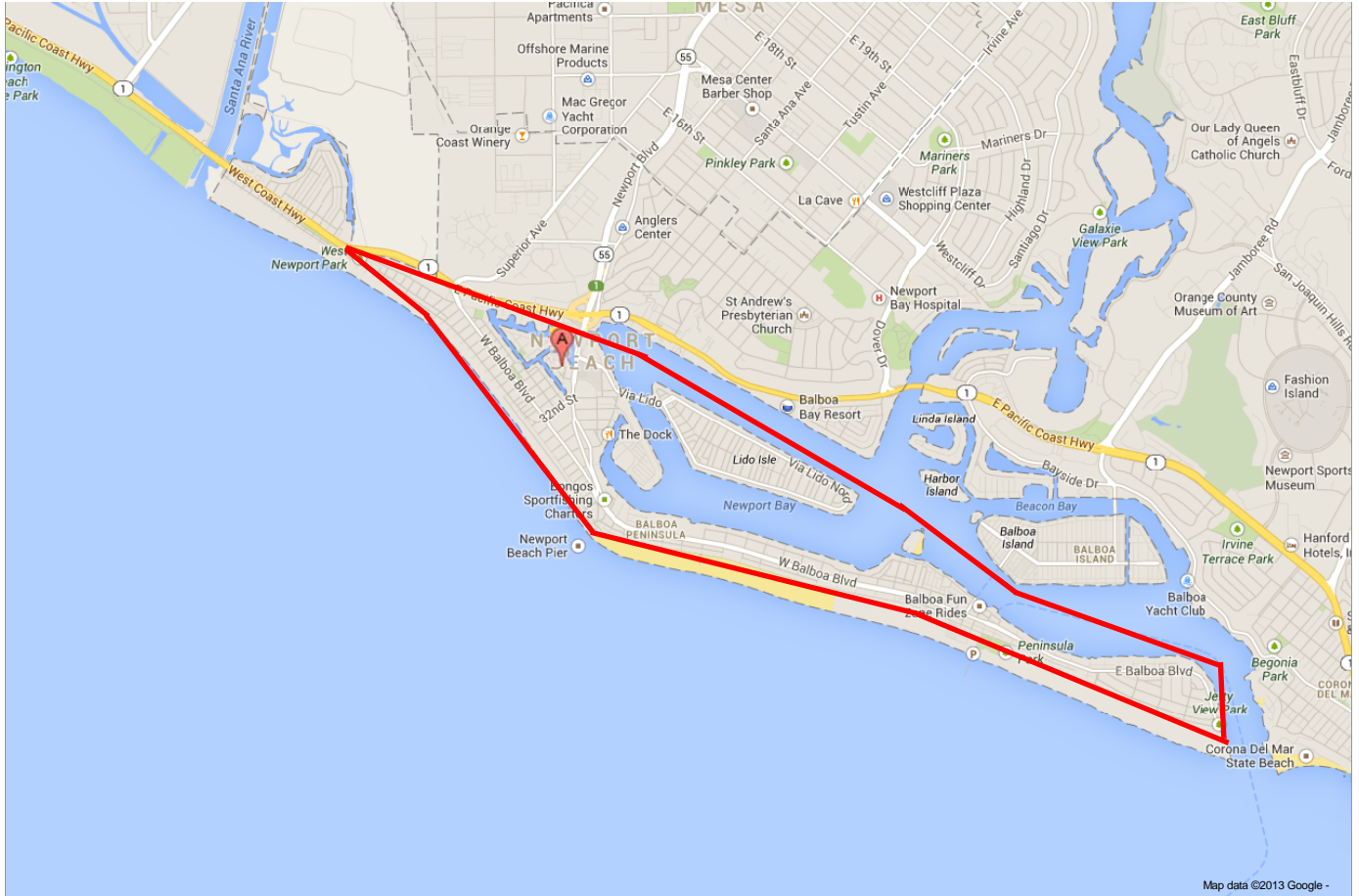
Stephen Murray
Stephen@delraydowntowner.com
561-386-4073

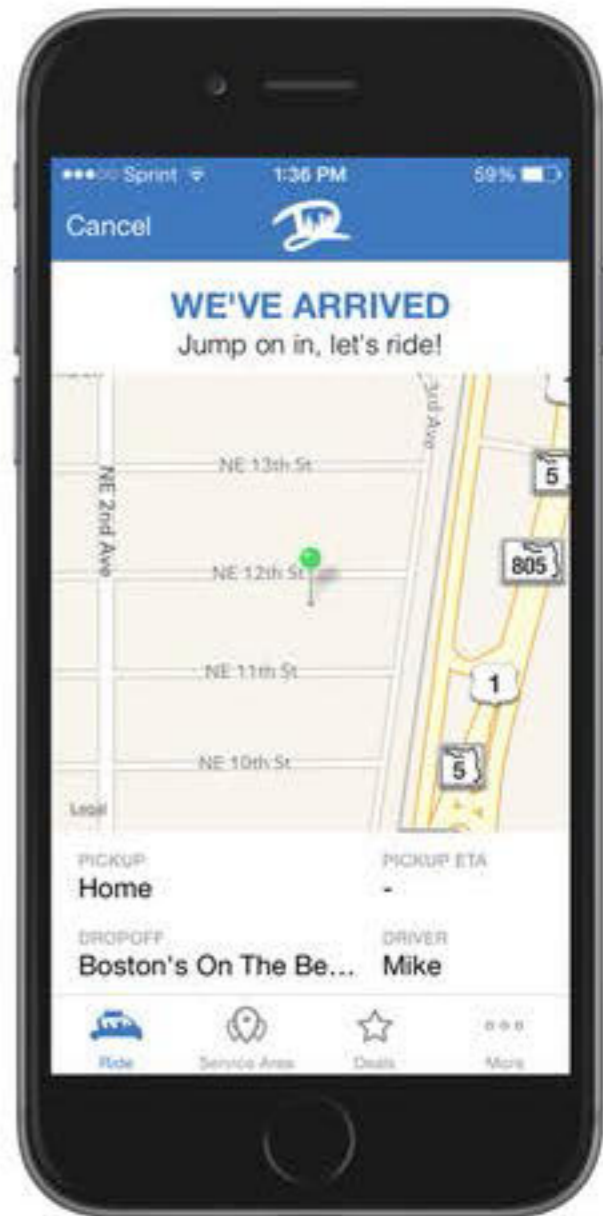
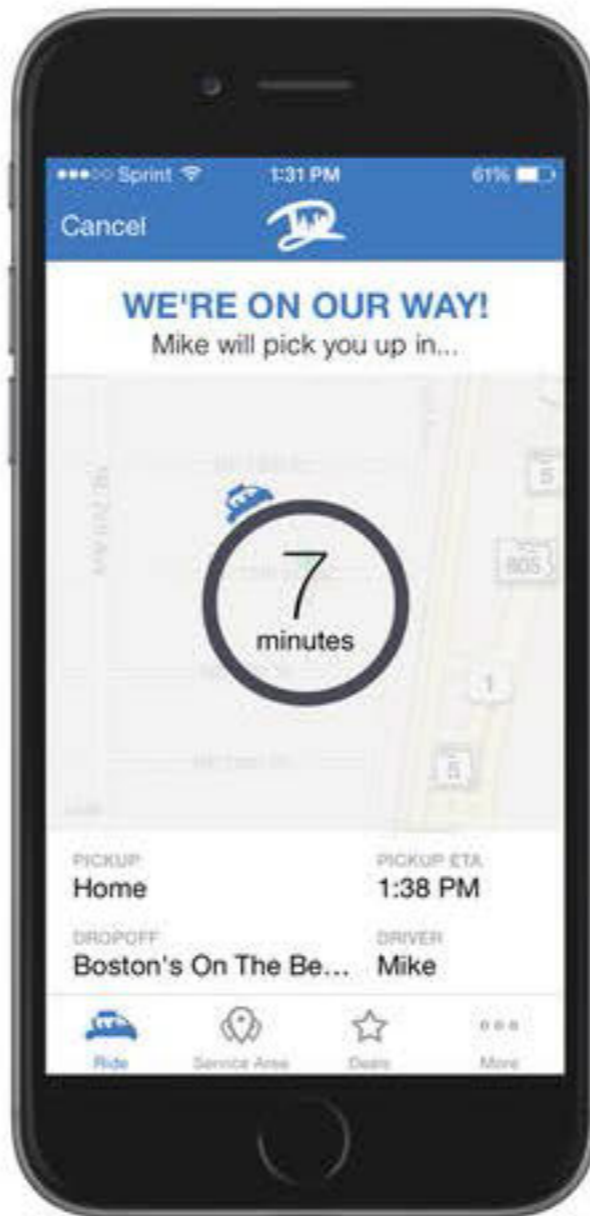
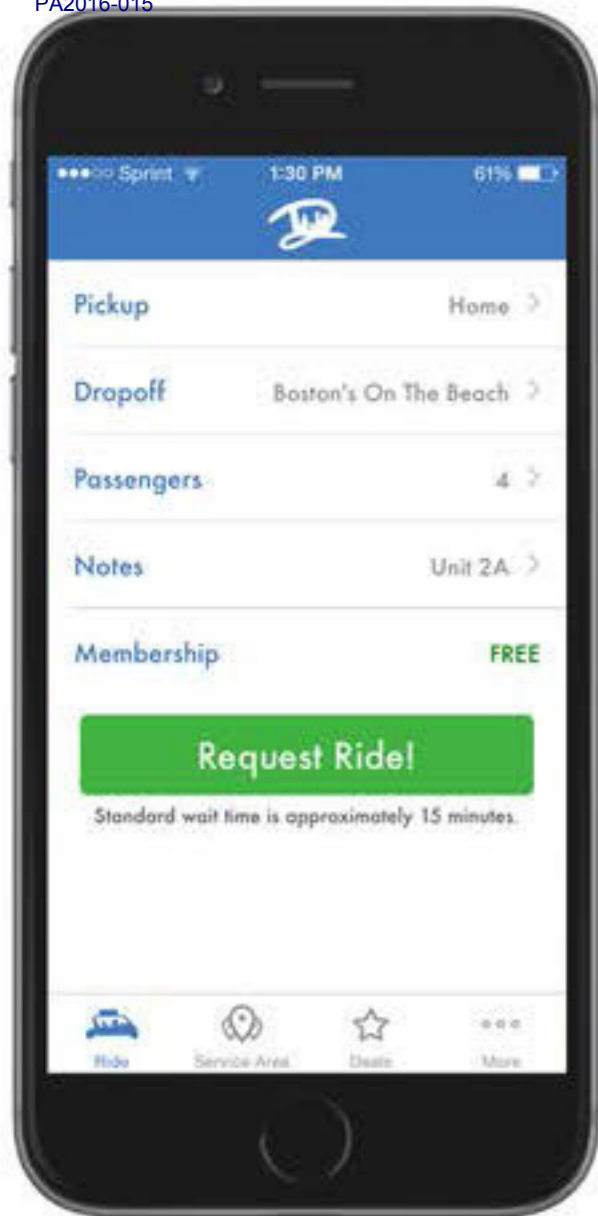
Travis Gleason
Travis@delraydowntowner.com
561-929-1471

Ryan Spaargaren
Ryan@delraydowntowner.com
561-635-0419



To see all the details that are visible on the screen, use the "Print" link next to the map.





City of Boca Raton

201 WEST PALMETTO PARK ROAD • BOCA RATON, FLORIDA 33432-3795 • (561) 393-7708 • FAX (561) 367-7014
INTERNET: www.ci.boca-raton.fl.us



MAYOR
SUSAN HAYNIE

DEPUTY MAYOR
ROBERT S. WEINROTH

COUNCIL MEMBERS
MICHAEL MULLAUGH
JEREMY RODGERS
SCOTT SINGER

November 16, 2015

Stephen A Murray Jr, CEO
Boca Downtowner Inc
250 NE 12th Street
Delray Beach FL 33444-4013

Dear Stephen,

I wanted to drop you a note to tell you how pleased we have been with the service provided to our residents by the Boca Downtowner.

Having your electric shuttles moving our residents and visitors around our downtown has made it less onerous for people to park west of Dixie Hwy (at our municipal lots) while enjoying the amenities of our downtown.

Your service also has afforded downtown residents the ability to get around the downtown without removing their personal vehicle from their residential parking location to compete with visitors coming to our city from the north, south and west.

I have only heard wonderful things about the service, your drivers and the convenience of the iPhone and Android application to summon a shuttle.

Thank you for seeing the opportunity of expanding your service from Delray Beach to Boca Raton.

Best wishes for your continued success.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Weinroth", is written over a large, stylized blue scribble.

Robert Weinroth
Deputy Mayor



November 13, 2015

To Whom It May Concern:

It is with great pleasure I recommend Stephen Murray and the team from the *Downtowner* to your community. We, at the Greater Delray Beach Chamber of Commerce, often site the *Downtowner* as one of our favorite entrepreneurial companies. This business model was “made in Delray/for Delray” and is now being duplicated in other regions to help other communities. The popularity of the *Downtowner* has enhanced the unique vibe of our town, while leaving less of a carbon footprint—all while helping to move locals and visitors around town with ease and safety. I actually believe it is because of businesses like the *Downtowner*, our city of Delray Beach has gotten so many public accolades such as the title of “Most Fun Small Town in America.”

The Delray *Downtowner* is a useful and integral part of our town’s landscape. We don’t know what we ever did without it! Everyone in town recognizes this name and uses this incredible free service often.

We are so proud of Stephen and the local entrepreneurs who have honed their skills and business model here in Delray Beach. We are beyond excited to watch a local company grow and expand into other regions.

Warmly,

A handwritten signature in blue ink that reads "Karen Granger". The signature is fluid and cursive.

Karen Granger

President & CEO

Karen@delraybeach.com

From: Squarespace <customercare@squarespace.info>
Date: January 1, 2016 at 5:55:16 PM EST
To: tierney@ridedowntowner.com
Subject: Form Submission - Contact Form - First Time Rider
Reply-To: fasbuck@yahoo.com

Service Area: Newport Beach, CA

Name: Fred Roman

Email Address: fasbuck@yahoo.com

Subject: First Time Rider

Message: Wow what a great service you are providing in Newport Beach. We took our first ride to a restaurant and have since used the free service several more time. Jake could not have been more friendly to us and we will surely use the Downtowner in the future. Newport Beach needs more of these vehicles. Thanks again Jake !!!!

(Sent via [Downtowner](#))



Sam Knapp <sam@delraydowntowner.com>

Downtowner

Jeff Love <jeffreyalove61@gmail.com>
To: sam@ridedowntowner.com

Fri, Jan 1, 2016 at 7:22 PM

Jeff Love

I rely on downtowner to pick me up and take me to work at lido marina. And bring me home . These guys are great and provide a valuable service to this area. They are always on time and very friendly. I feel they provide a valuable service to this community not only do they cut down on traffic their service helps with parking in the Marina also not to mention the environmental impact in the community less cars less pollution. A win win situation if you ask me.

Thanks again for the great service.

Jeff Love

Attachment No. CDD 3

Parking Plan

Parking Map / Plot Plan 1

