



**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 October 28, 2016

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**ZONING ADMINISTRATOR ACTIONS  
OCTOBER 27, 2015**

- Item 1: The Newport Workout Minor Use Permit No. UP2016-028 (PA2016-108)  
Site Address: 747 Dover Drive
- Action: Approved by Resolution No. ZA2016-058 Council District 3
- Item 2: Rogers Lot Merger No. LM2016-009 (PA2016-158)  
Site Address: 320 and 322 Buena Vista Boulevard
- Action: Approved by Resolution No. ZA2016-059 Council District 1

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

- Item 1: Sabatino's Restaurant – Staff Approval No. SA2016-012 (PA2016-167)  
Site Address: 251 Shipyard Way
- 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.

cc Wendy Joe, Civilian Investigator, NBPD  
Sgt. Brad Miller, NBPD

## RESOLUTION NO. ZA2016-058

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2016-028 FOR A LARGE FITNESS FACILITY WITH ACCESSORY MASSAGE SERVICES LOCATED AT 747 DOVER DRIVE (PA2016-108)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The Newport Workout, Inc., with respect to property located at 747 Dover Drive, and legally described as Lot 2 of Lot Line Adjustment LA2009-010 requesting approval of a minor use permit.
2. The applicant proposes an amendment to Use Permit No. UP3585 to establish a large 5,700-square-foot fitness facility with accessory massage service. The massage service will be provided as an additional amenity and will be limited to a single room at the rear of the tenant space.
3. The subject property is located within the Office General (OG) Zoning District and the General Plan Land Use Element category is General Commercial Office (CO-G).
4. The subject property not located within the coastal zone.
5. A public hearing was held on October 27, 2016 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 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) of the Guidelines for CEQA.
2. The Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the allowance of massage services and does not result in an intensification of use, parking, or expansion in floor area.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Conditional Use Permits and Minor Use Permits – Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The property is designated General Commercial Office (CO-G) in the Land Use Element of the General Plan. This designation is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses. The proposed fitness facility and accessory massage service is consistent with the General Plan as it provides a service to residents and visitors in the area.
2. The subject property is not part of a specific plan area.

Finding:

*B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The subject property is located in the Office General (OG) Zoning District, which is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses.
2. Pursuant to Table 2-4 of Zoning Code Chapter 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements), a large fitness facility is a service use that may be permitted in the OG Zoning District subject to the approval of a minor use permit. Accessory massage service is also permitted subject to the approval of a minor use permit.
3. Pursuant to Table 3-10 of 20.40.040 (Off-Street Parking Spaces Required), a large fitness facility and massage establishment both have a parking rate of one (1) space for every 200 square feet of gross floor area. The fitness facility is 5,700 square feet, resulting in a parking requirement of 29 spaces. Other existing uses on site include a 200-square-foot office building and a 915-square-foot beauty salon. These uses require a total of five (5) spaces based on a parking rate of 1 space per 250 square feet. Therefore, a total of 34 parking spaces are required for the uses on site. Currently, 43 parking spaces are provided, resulting in a surplus of nine (9) parking spaces.

Finding:

*C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The property is currently occupied by the 5,700 square-foot fitness facility, a 915 square-foot beauty shop (personal services, general), and a 200 square-foot office. The surrounding parcels include two religious institutions, a school, and a public community park. The proposed fitness facility and accessory massage service will not adversely impact the surrounding uses and is consistent with the existing and allowed uses in the area.
2. The fitness facility offers personal training services and indoor group cycling classes. Class times operate from 6:00 a.m. to 9:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday and Sunday. The facility has proposed hours of operation that are compatible with the allowed uses in the vicinity, as there will not be any late hours which would contribute to noise in the area.
3. The applicant proposes to add an accessory massage services to the fitness facility. The massage services will be provided as an additional amenity and be limited to a 110 square-foot room in the rear of the tenant space. The massage service will not have any exterior signage or advertisements visible in any manner and will not adversely affect the surrounding religious institutions, school, or playground.
4. The proposed massage service operates by appointment only from Tuesday through Saturday. The operation will consist of a single massage room and will have one massage therapist on-site at any one time.

Finding:

*D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The subject property is located at the intersection of Dover Drive and 16<sup>th</sup> Street and contains three detached one-story buildings with multiple tenants. The site is accessible from both Dover Drive and 16<sup>th</sup> Street. The parking lot provides a surplus of parking and is conveniently located for patrons and employees.

2. Adequate public and emergency vehicle access, public services, and utilities are provided on the property and the proposed massage establishment will not change this.

Finding:

*E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The establishment has been conditioned with hours of operation that will minimize any potential detriment to the area.
2. The subject property is not located in an area with problems of blight and deterioration.
3. The project has been conditioned requiring all doors and windows to remain closed during the use of recorded music, limiting the potential noise related impacts associated with fitness facilities.
4. The fitness facility and accessory massage service will provide additional services to the residents in the surrounding area.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2016-028, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit No. UP3585 as approved by the Planning Commission on June 20, 1996, which upon vesting of the rights authorized by this use permit, shall become null and void.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>th</sup> DAY OF OCTOBER, 2016.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
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 Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Use Permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. The hours of operation shall be limited between 6:00 a.m. to 9:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m., Saturday and Sunday.
8. Aerobic classes shall not be conducted prior to 8:00 a.m. and after 9:00 p.m., daily, and that class size shall be limited to 20 customers during any class.
9. All employees shall park on-site.
10. A maximum of one massage therapist shall be on-site at any one time.
11. A maximum of one room shall be used for massage therapy.
12. All signs shall conform to the provisions of Chapter 20.42 of the Municipal Code.
13. There shall be no exterior signage advertising the massage therapy use.

14. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
15. All noise from the music associated with the fitness facility shall be confined to the interior portions of the building and the doors and windows of the facility shall remain closed when music is playing.
16. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements 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:

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

17. All trash areas shall be screened from adjoining properties and streets.
18. Exterior lighting shall be designed to eliminate light and glare spillage on adjacent uses.
19. No outdoor sound system shall be utilized on-site.
20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
21. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
22. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
23. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.

24. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
25. Strict adherence to the Newport Beach Municipal Code 5.50 must be upheld.
26. The applicant business must immediately apply and obtain an Operator Permit from the Chief of Police, and keep said permit in good standing.
27. All employees of the applicant business who conduct massage on or off premises must be certified by the CAMTC (physicians, physical therapists, and chiropractors exempt).
28. As outlined in Newport Beach Municipal Code 5.50.030, the business must maintain requirements of operation, and submit to inspections by officers of the Police Department.
29. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
30. 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 Newport Workout including, but not limited to, Minor Use Permit No. UP2016-028 (PA2016-108). 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.

## RESOLUTION NO. ZA2016-059

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2016-009 AND A WAIVER OF THE PARCEL MAP REQUIREMENT FOR A LOT MERGER LOCATED AT 320 AND 322 BUENA VISTA BOULEVARD (PA2016-158)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stephen Rogers, with respect to property located at 320 and 322 Buena Vista Boulevard. The lot at 320 Buena Vista Boulevard is legally described as Lot 158 of Subdivision Block A, East Newport. The lot at 322 Buena Vista Boulevard is legally described as Lot 157 of Subdivision Block A, East Newport.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for two properties under common ownership.
3. The subject properties are located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).
5. A public hearing was held on October 27, 2016, 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. The project is categorically exempt under Section 15315, of the State CEQA (California Environmental Quality Act) Guidelines - Class 15 (Minor Land Divisions). Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 and 19.08.030 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title.*

Facts in Support of Finding:

1. The lot merger to combine two existing legal lots by removing the interior lot line between the lots will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. The future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

- B. *The lots to be merged are under common fee ownership at the time of the merger.*

Facts in Support of Finding:

1. The two lots to be merged are under common fee ownership.

Finding:

- C. *The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The merged lots will retain the Single-Unit Residential (R-1) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide

for areas appropriate for a detached single-family residential dwelling unit located on a single lot.

2. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-C), which provides for density ranges from 10.0-19.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
3. The subject property is not located within a Specific Plan area.
4. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. The proposed merger would combine two substandard lots into a 4,650-square-foot parcel that is closer in conformance to the minimum 5,000-square foot interior lot area standard of the Zoning Code. Also, the proposed merger would create one approximately 66-foot-wide parcel, exceeding the minimum 50-foot interior lot width standard of the Zoning Code.

Finding:

- D. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

1. No adjoining parcels will be deprived of legal access as a result of the merger. Legal access is provided from Buena Vista Boulevard and the alley located in the rear, and will remain unchanged.

Finding:

- E. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.*

Facts in Support of Finding:

1. Properties along Buena Vista Boulevard consist of lots of varying shapes and sizes. Although the proposed lot merger will create a larger lot, it will not create an excessively large lot in comparison to many of the existing lots in the area. There are many existing lots in the surrounding development that are similar to the proposed lot area, including 304 Buena Vista Boulevard (4,289 square feet), 328 Buena Vista Boulevard (4,202 square feet), and 350 Buena Vista Boulevard (3,935 square feet).

2. The proposed lot width is approximately 66 feet, which will not create an excessively wide lot in comparison to other existing lots in the area. There are existing lots in the surrounding development similar to the proposed lot width, including 304 Buena Vista Boulevard (approximately 57 feet), 328 Buena Vista Boulevard (approximately 60 feet), and 350 Buena Vista Boulevard (approximately 87 feet).
3. The resulting lot configuration will not change the existing pattern of development since the orientation and access to the parcel would remain from the alley in the rear of the lot.

Finding:

*F. The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, General Plan, and Coastal Land Use Plan.
2. The subject property is not subject to a Specific Plan.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2016-009, and waive the parcel map requirement subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions) of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>th</sup> DAY OF OCTOBER, 2016.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. The map shall be submitted to the Public Works Department for Final Map Review and Approval. All applicable fees shall be paid.
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Prior to the issuance of building permits for construction to cross the existing interior lot line between the two (2) parcels proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
4. Prior to the recordation of the lot merger, a minimum of one existing dwelling unit shall be demolished or modified so that the merged lot will not contain more than one dwelling unit.
5. Lot Merger No. LM2016-009 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
6. 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 Rogers Lot Merger including, but not limited to, Lot Merger No. LM2016-009 (PA2016-158). 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



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

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## **COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER**

**Application No.**                   **Staff Approval No. SA2016-012 (PA2016-167)**

**Applicant**                           **Sabatino's Restaurant**

**Site Address**                   **251 Shipyard Way**  
Sabatino's Restaurant Staff Approval

On **October 28, 2016**, the Community Development Director approved Staff Approval No. SA2016-012 authorizing alterations to an existing eating and drinking establishment and finding said alterations in substantial conformance with Use Permit No. UP3266 as amended, and Outdoor Dining Permit No. OD2008-002. This approval is based on the following findings and subject to the following conditions.

### **ZONING DISTRICT/GENERAL PLAN**

- **Zone:** PC-6 (Lido Peninsula)
- **General Plan:** CM (Recreational Marine Commercial)

### **I. BACKGROUND**

On May 7, 1987, the Planning Commission approved Use Permit No. UP3266 authorizing the establishment of a take-out restaurant serving sandwiches only (no cooking on-site) with incidental interior seating and a waiver of 19 parking spaces.

On November 9, 1988, the Planning Commission approved an amendment of the Use Permit for the take-out restaurant as follows: add outdoor dining; allow cooking on-site; extend the hours of operation from closing at 3:30 p.m. to closing at 9:00 p.m., daily; increase the interior seating from 28 seats to 37 seats; add a Type 41 On-Sale Beer and Wine Alcohol Beverage License, and waive the additional 9 parking spaces required for these changes.

On July 18, 1991, the Planning Commission approved a second amendment authorizing additional changes in the operational characteristics. The amendment expanded both the interior and exterior dining areas and changed the use from a take-out restaurant to a full-service restaurant. This change included the following: expansion of the existing restaurant into the adjacent commercial space allowing a maximum 641 square feet of interior net public area, expanding the outdoor dining

area allowing a maximum of 521 square feet of net public area, and extending the hours of operation to close at 11:00 p.m., daily. The full service restaurant parking requirement of 1 space per 40 square feet of net public area was not waived with the approval and 30 spaces were required to be provided on-site. The parking was provided.

On July 8, 1993, the Planning Commission approved a third amendment of Use Permit No. UP3266 allowing the expansion of the restaurant into the adjacent commercial space. The maximum interior net public area was increased to 1,151 square feet. The approval increased the required parking for the restaurant by 11 spaces and a total of 41 parking spaces were provided on-site.

On May 23, 2008, the Planning Director approved Accessory Outdoor Dining Permit No. OD2008-002 authorizing an expansion to the existing outdoor dining area. The expanded outdoor dining area was increased by 287 square feet for a total of 772 square feet. All findings and conditions of approval for Use Permit No. UP3266 and its amendments remained in effect with the approval of the outdoor dining permit.

## **II. PROPOSED CHANGES**

Sabatino's (Applicant) proposes to expand the kitchen area into existing dining areas and retail service areas of the existing restaurant. To offset the displacement of the dining and service retail areas, the Applicant requests to expand the restaurant into the adjacent commercial suite creating a new dining room and accessory retail space. Additionally, the existing outdoor dining patio will be reconstructed and modernized with planting areas, trees, hardscape and a new permanent canopy. A new trash and recycling enclosure constructed of masonry, doors and a roof will be constructed. Disable access improvements are included and several parking spaces will be modified and relocated. There is no increase in the interior net public area or the dining area on the patio. There will be no decrease in the total parking on-site and the property provided all the required parking for the various uses on site. All of the operational characteristics including the hours of operation are not changing.

## **III. FINDINGS**

Pursuant to Section 20.54.070 (Changes to an Approved Project), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing, and waive the requirement for a new use permit application. In this case, the Community Development Director has determined that the proposed changes to the restaurant are not an expansion of the use and they are in substantial conformance with the Use Permit No. UP3266 as amended and Accessory Outdoor Dining Permit No. OD2008-002.

Finding:

- A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. Restaurants are a permitted use in the Lido Peninsula Planned Community District (PC-6), subject to the approval of a use permit. The proposed changes are consistent with the operational characteristics approved by Use Permit No. UP3266 as amended and Accessory Outdoor Dining Permit No. OD2008-002.
2. The site provides 92 spaces for the mixture of uses on site and 91 spaces are required, therefore, adequate off-street parking is provided in conjunction with the proposed remodel of the existing restaurant. Per the Zoning Code and Use Permit, required parking for the restaurant is based on 1 space per 40 square feet of net public area. Since no changes to the net public area are proposed, no additional parking is required.
3. The proposed floor plan changes remain consistent with the operational characteristics of the previously approved restaurant. The patio will provide no more than 772 square feet of dining area consistent with Accessory Outdoor Dining Permit No. OD2008-002.

Finding:

- B. *Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The proposed changes to the existing restaurant will not compromise the original Class 1 (Existing Facilities) exemption under the California Environmental Quality Act (CEQA) Guidelines since the request involves minor alterations to the floor plan and operational characteristics that will not exceed 50 percent of the existing floor area or 2,500 square feet.

Finding:

- C. *Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The proposed reconfiguration of the interior and upgraded outdoor patio and parking areas were not specific features addressed by the Planning Commission or Planning Director as part of the processing of Use Permit No. UP3266 as amended and Outdoor Dining Permit No. OD2008-002.
2. The operational characteristics, type of alcohol service, size of interior and exterior dining areas, and hours of operation remain unchanged.

Finding:

- D. Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed expansion of the kitchen area, reconfiguration of the interior and outdoor dining areas, and repositioning of the accessory retail sales area are minor in nature and does not represent a substantial change in the operational characteristics of the existing restaurant that was previously authorized.
2. The proposed changes do not result in additional employees. The hours of operation will remain unchanged as conditioned by Use Permit No. UP3266, 5:30 a.m. to 11:00 p.m., daily.

**IV. DETERMINATION**

This staff approval has been reviewed and the determination has been made that the proposed changes to the existing restaurant are in substantial conformance with the original approval actions.

**CONDITIONS**

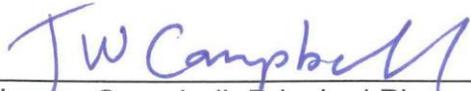
1. All applicable conditions of approval for Use Permit No. UP3266 and its amendments and Outdoor Dining Permit No. OD2008-002 shall remain in effect.
2. The revised floor plans and outdoor dining shall remain in substantial conformance with the approved revised floor plan and outdoor dining found in Attachment No. CD 2.
3. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.

4. The Community Development Director may add to or modify conditions to this staff approval, or revoke this staff approval upon determination that the operations, which is the subject of this staff approval, causes injury, or is detrimental to the public health, safety, peace, or general welfare of the community or if the property is operated or maintained so as to constitute a public nuisance.
5. This staff approval shall expire unless exercised within twenty-four (24) months from the end of the appeal period, in accordance with Section 20.54.060 of the Newport Beach Municipal Code.
6. To the fullest extent permitted by law, the 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 staff approval of the Sabatino's Restaurant Staff Approval including, but not limited to, Staff Approval No. SA2016-012 (PA2016-167). 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.

**APPEAL PERIOD:** An appeal or call for review 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.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:

  
James Campbell, Principal Planner

Attachments:

CD 1 Vicinity Map

CD 2 Plans

CD 3 Use Permit No. UP3266 including amendments and Outdoor Dining Permit No.  
OD2008-002

# **Attachment No. CD 1**

Vicinity Map

## VICINITY MAP

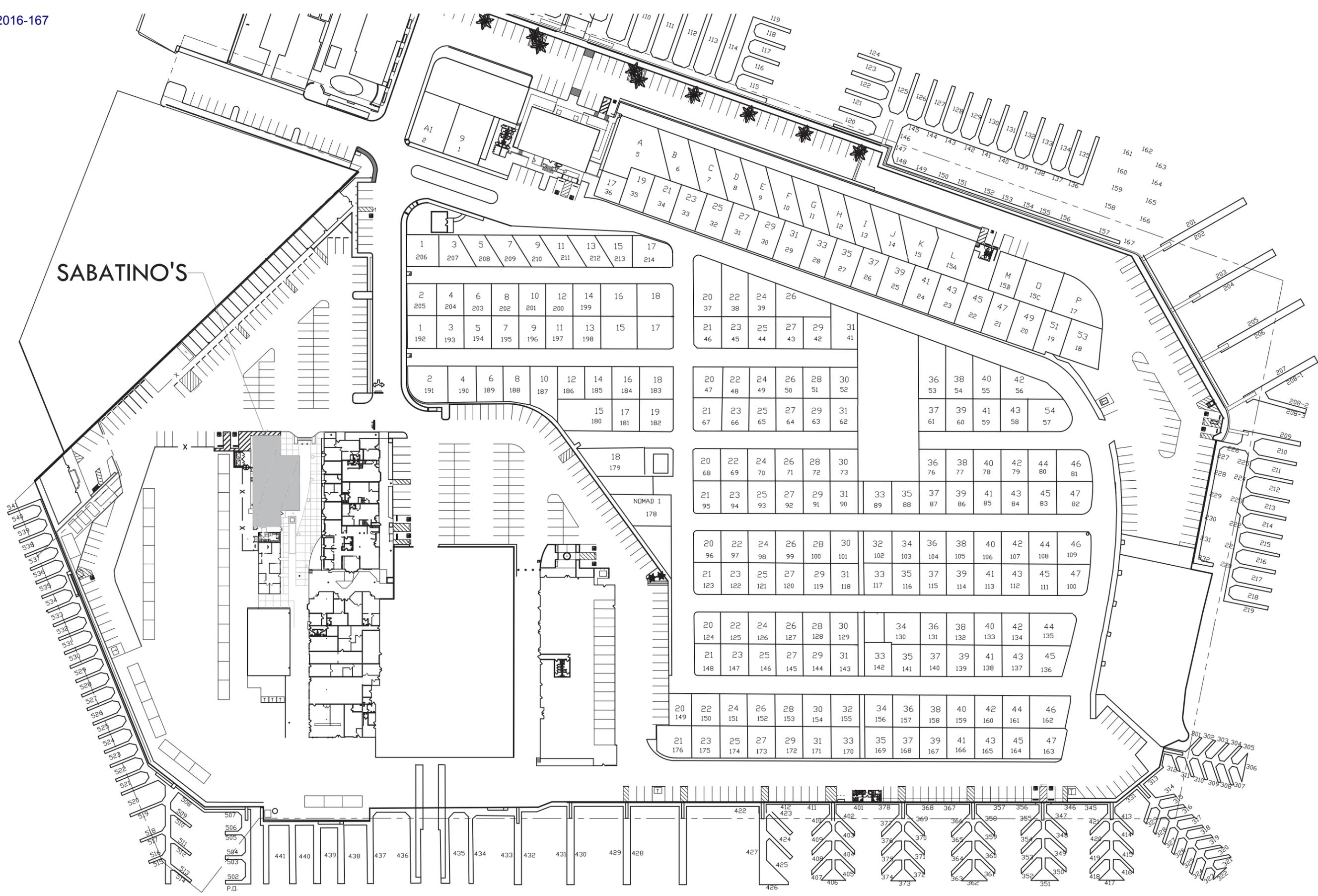


Staff Approval No. SA2016-012  
PA2016-167

**251 Shipyard Way**

# **Attachment No. CD 2**

Plans



SCALE: 1" = 100'-0" @ 11"x17"



# SABATINO'S - Newport Beach, CA

## OVERALL SITE PLAN

ARCHITECTS ORANGE  
[www.architectsorange.com](http://www.architectsorange.com)

09-21-16  
 01  
 2016-307

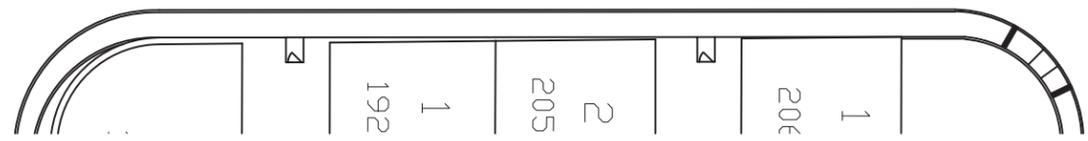
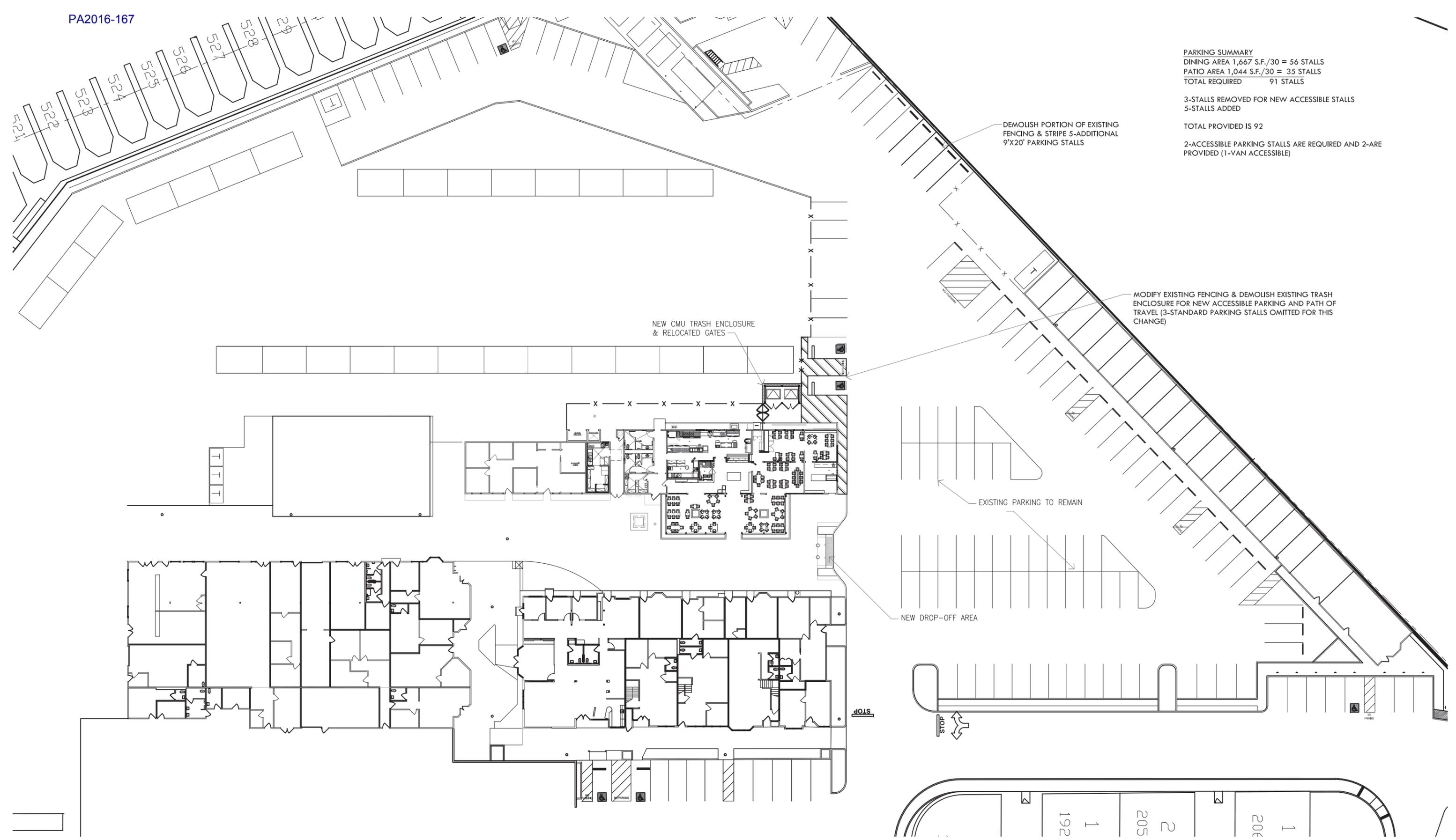
144 N ORANGE ST. ORANGE CA 92866 (714)639 9860

**PARKING SUMMARY**  
 DINING AREA 1,667 S.F./30 = 56 STALLS  
 PATIO AREA 1,044 S.F./30 = 35 STALLS  
 TOTAL REQUIRED 91 STALLS

3-STALLS REMOVED FOR NEW ACCESSIBLE STALLS  
 5-STALLS ADDED

TOTAL PROVIDED IS 92

2-ACCESSIBLE PARKING STALLS ARE REQUIRED AND 2-ARE PROVIDED (1-VAN ACCESSIBLE)

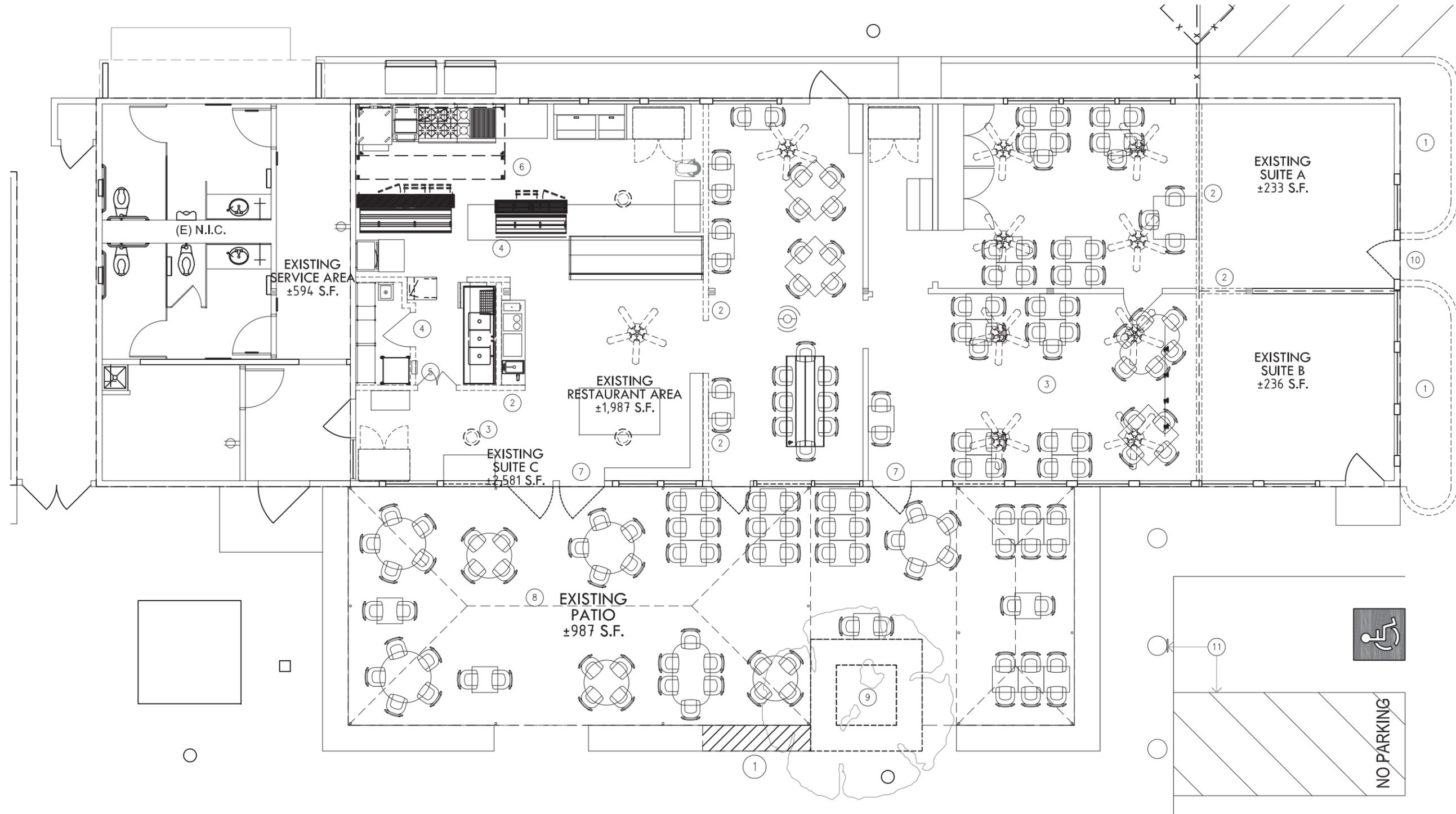


SCALE: 1" = 40'-0" @ 11"x17"  
**ARCHITECTS ORANGE**  
 www.architectsorange.com  
 144 N ORANGE ST. ORANGE CA 92866 (714)639 9860



# SABATINO'S - Newport Beach, CA

## ENLARGED SITE PLAN



1- DEMO PLANTER AREA

2- DEMO (E) INTERIOR WALL, TYP.

3- DEMO (E) LIGHTING & FAN/ LIGHTS TYP.

4- DEMO (E) HARD LID CEILING AT KITCHEN AREA

5- RELOCATE (E) ELECTRICAL PANEL

6- DEMO (E) KITCHEN EQUIPMENT

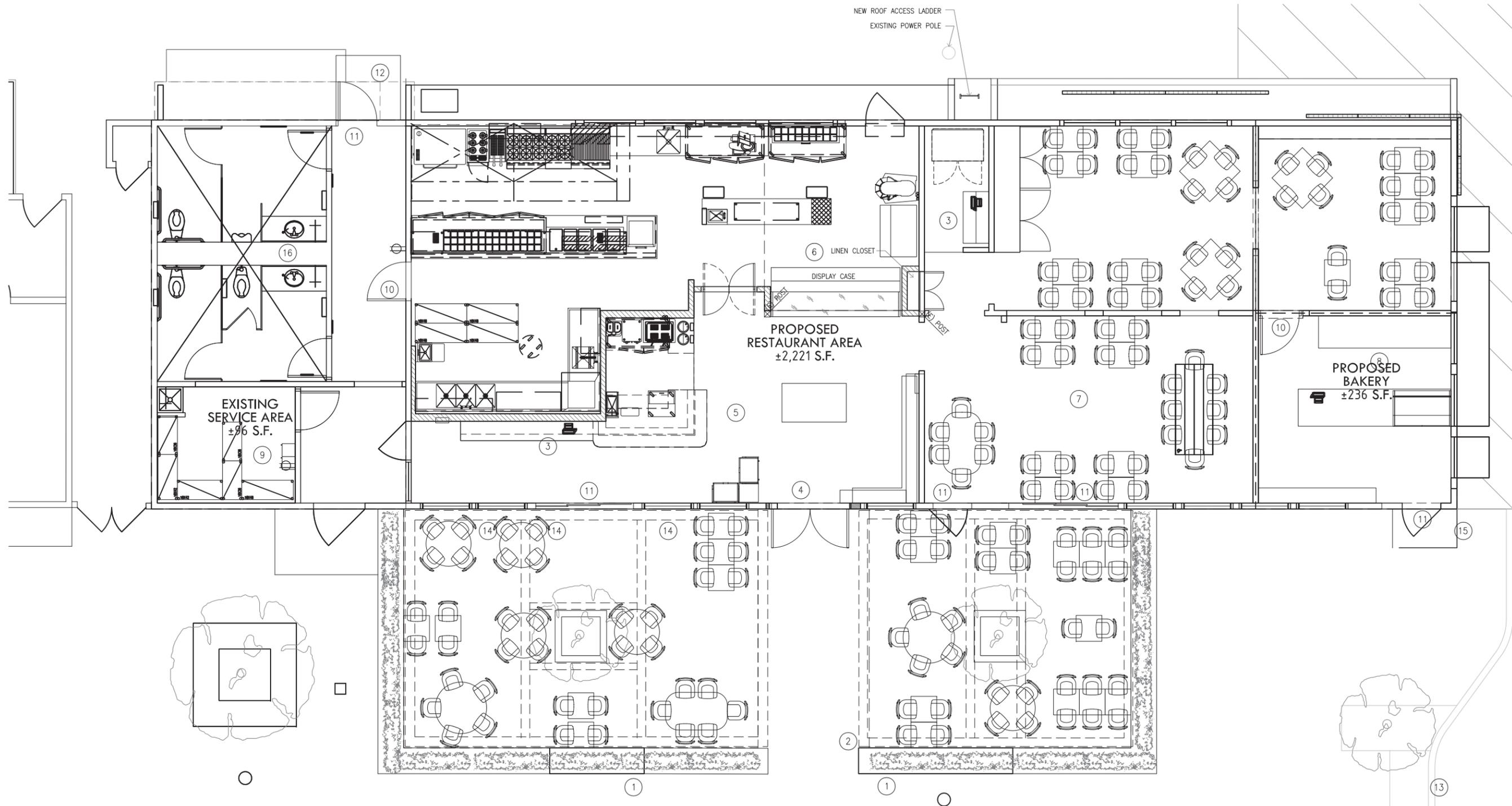
7- DEMO WINDOWS & (E) EXTERIOR DOOR

8- DEMO (E) PATIO SHADE STRUCTURE

9- DEMO TREE & TREE WELL

10- DEMO DOOR & FRAME

11- DEMO STRIPING & BOLLARDS



1- NEW PLANTER AREA TO MATCH EXISTING.

2- NEW PATIO COVER STRUCTURE. STEEL FRAME W/ CORRUGATED TRANSLUCENT PANELS AND CANVAS COVER BELOW

3- NEW SERVER'S STATION

4- NEW MAIN ENTRANCE DOUBLE DOOR

5- NEW BEVERAGE STATION

6- NEW KITCHEN EQUIPMENT

7- NEW PAINT, FLOORING, LIGHTING & STONE VENEER CLADDING AT DINING AREA

8- NEW BAKERY TAKE-OUT AREA W / NEW DOOR, CASEWORK, & FINISHES

9- NEW DRY STORAGE RACKS & EMPLOYEE LOCKERS

10- ( N ) INTERIOR DOOR

11- ( N ) EXTERIOR DOOR

12- PATCH AND REPAIR ( E ) CONCRETE AT NEW DOOR LANDING

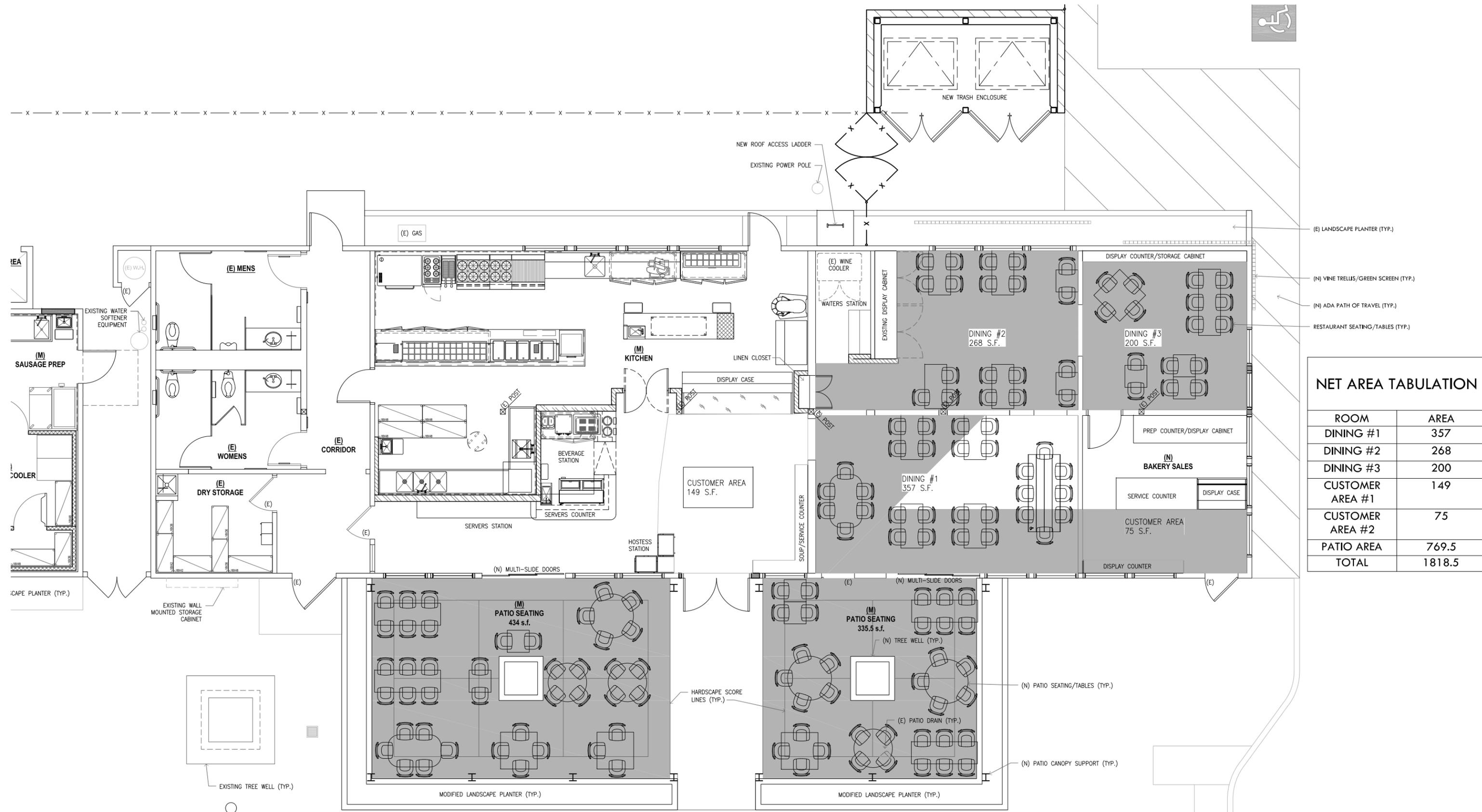
13- ( N ) FLUSH CURB AND SIDEWALK AT COMMON WALK WAY ENTRY

14- ( N ) WINDOW - AWNING STYLE

15- ( N ) METAL AWNING

16- PAINT ( E ) RESTROOMS





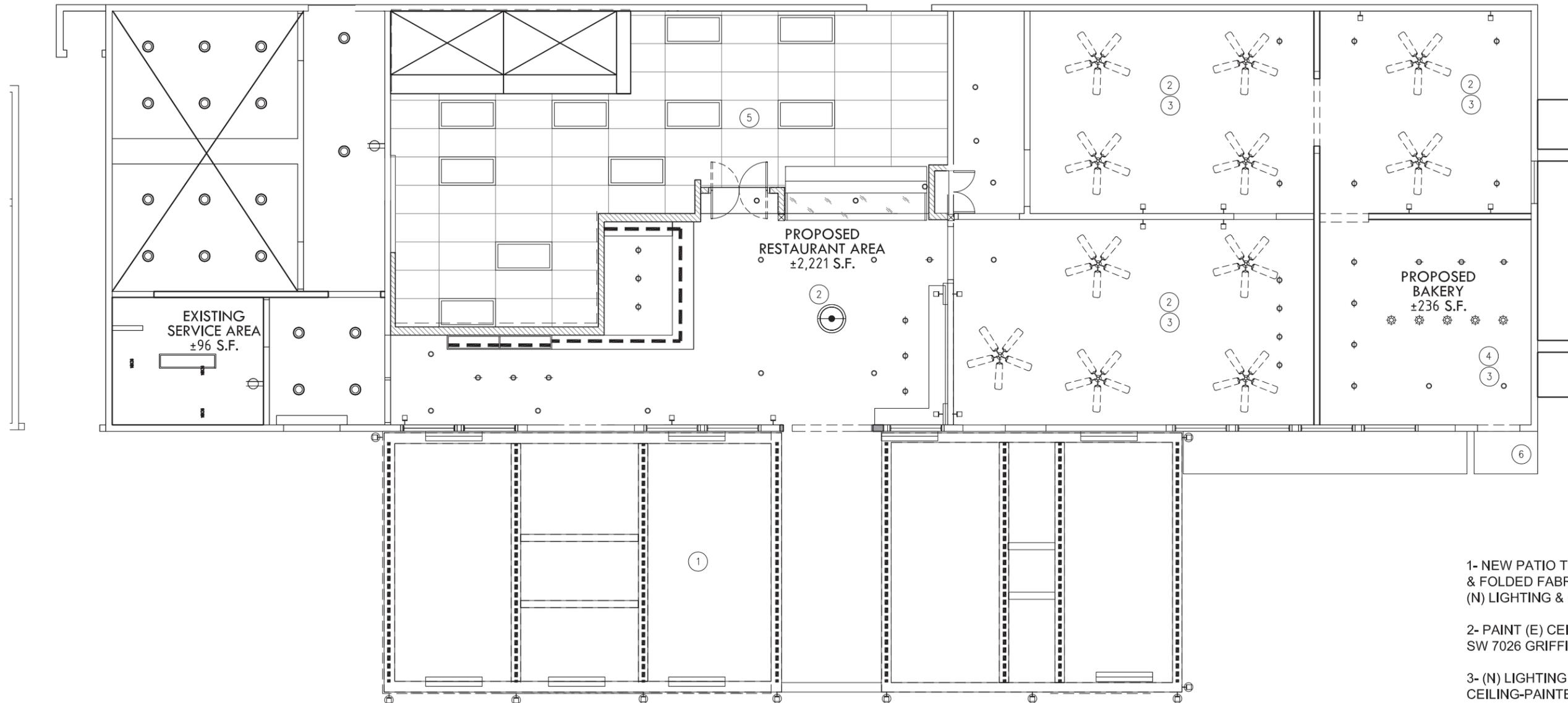
### NET AREA TABULATION

ROOM	AREA
DINING #1	357
DINING #2	268
DINING #3	200
CUSTOMER AREA #1	149
CUSTOMER AREA #2	75
PATIO AREA	769.5
<b>TOTAL</b>	<b>1818.5</b>



Sabatino's - Newport Beach, CA

AREA TABULATION PLAN



DOWN LIGHT ○  
 DIRECTIONAL LIGHT ⊙  
 SMALL DECORATIVE PENDANT ⊛

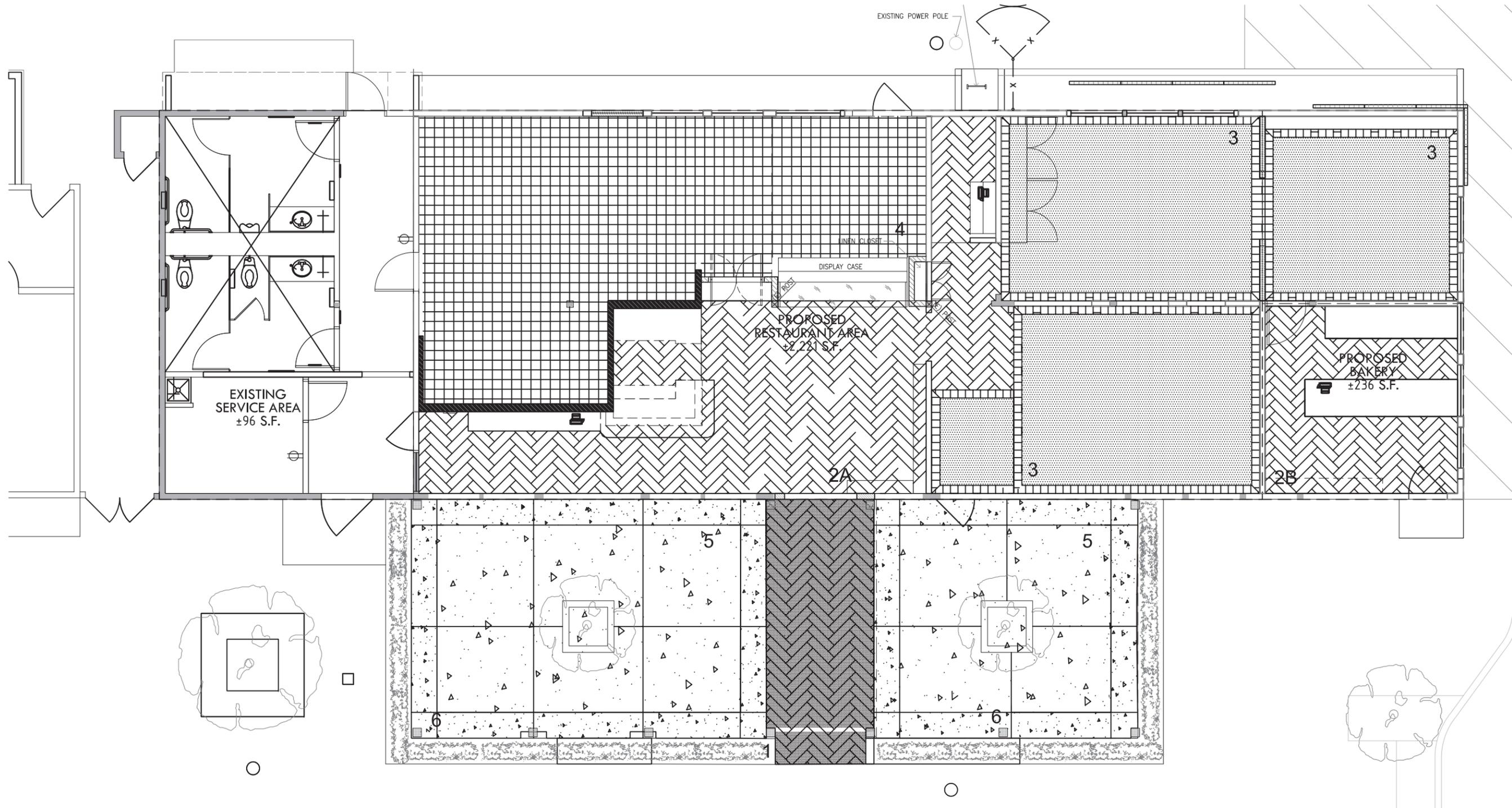
EXT. LANDSCAPE BULLET LIGHT ⊕  
 INT. WALL SCONCE ⊞  
 EXTERIOR CHANDELIER ⊗

INT. CHANDELIER ⊙  
 CEILING FAN/LIGHT ⊛  
 2 X 4 RECESSED LIGHT ⊞  
 2 X 1 SURFACE MOUNTED LIGHT ⊞

GAS HEATER ⊞  
 SHELF LIGHT AT BAR - - -  
 TIVOLI LIGHTS AT PATIO ·····

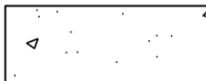
- 1- NEW PATIO TRELLIS COVER & FOLDED FABRIC AWNING. (N) LIGHTING & GAS HEATERS
- 2- PAINT (E) CEILING- COLOR SW 7026 GRIFFIN.
- 3- (N) LIGHTING & CEILING-PAINTED TECTUM PANELS THROUGH-OUT
- 4- PAINT (E) CEILING-COLOR SW 7031- MEGA GREIGE
- 5- NEW ACOUSTIC TILE (WASHABLE/CLEANABLE) AT KITCHEN AREA
- 6- (N) METAL AWNING AT BAKERY SPACE



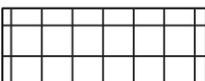


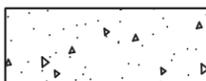
1  CERAMIC TILE: 4"x24" HERRINGBONE LAYOUT BARRIQUE- VERT BY BEDROSIANS TILE APPROX: 200 S.F.

3  LUXURY WOVEN VINYL- COLOR #6 BY INFINITY FABRICS APPROX: 940 S.F.

5  STAINED CONCRETE- COLOR: ADOBE 61078 BY: DAVIS COLORS APPROX: 480 SQ. FT.

2  EMBOSSED LAMINATE FLOORING: 7" X 48" BY CONTRACT LEGEND  
 A. CEDAR ASH: CL-768-7  
 B. COUNTRY PINE CL-751-7

4  QUARRY TILE 8"x8"- COLOR RAVEN BY SPEC CERAMICS W/ MATCHING COVE BASE TILE APPROX: 160 SQ. FT.

6  STAINED CONCRETE- COLOR: SANDSTONE 5237 BY: DAVIS COLORS APPROX: 340 SQ. FT.

NOTE: 6" WOOD BASE AT DINING AND BAR AREAS.





FRONT/SOUTH ELEVATION

1. NEW PATIO ENCLOSURE - PAINTED STEEL STRUCTURE WITH TRANSLUCENT CORRUGATED PANELS "SUNSKY"- BY PARLAM
2. FOLDED HORIZONTAL SHADES : SUNBRELLA CANVAS BEIGE COLOR
3. BAKERY FABRIC AWNING - COLOR COPPER BLACK
4. PAINT EXISTING BUILDING - COLOR: SW7037 BALANCED BEIGE
5. NEW WINDOW WHERE INDICATED ON FLOOR PLAN.
6. NEW FRONT DOOR & SLIDING DOORS AS INDICATED ON FLOOR PLAN.
7. NEW ASPHALT SHINGLE ROOF. COLOR: GRAND CANYON "BLACK OAK" BY GAF
8. NEW VINE TRELLIS



BACK/NORTH ELEVATION



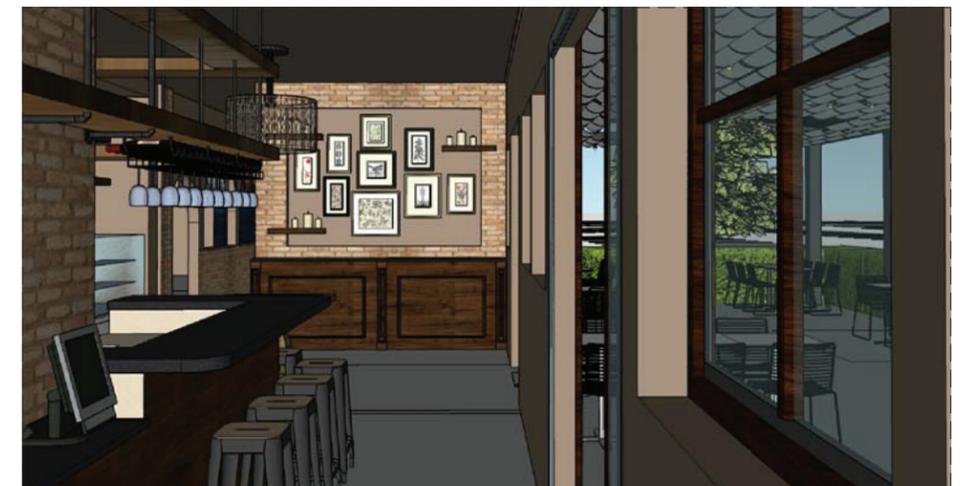
EAST/SIDE ELEVATION

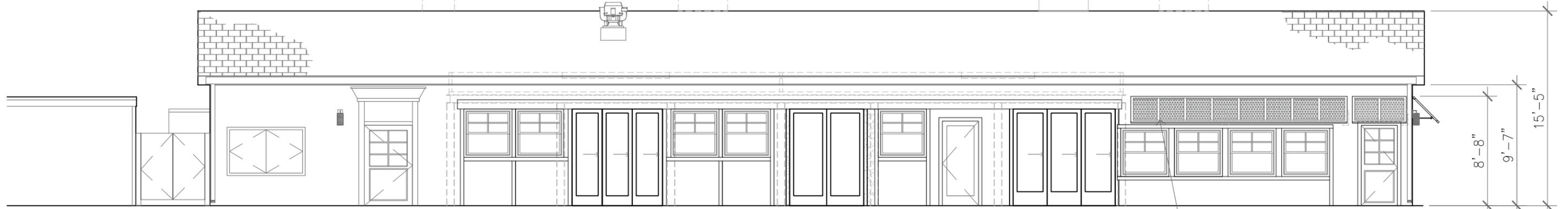


WEST/SIDE ELEVATION

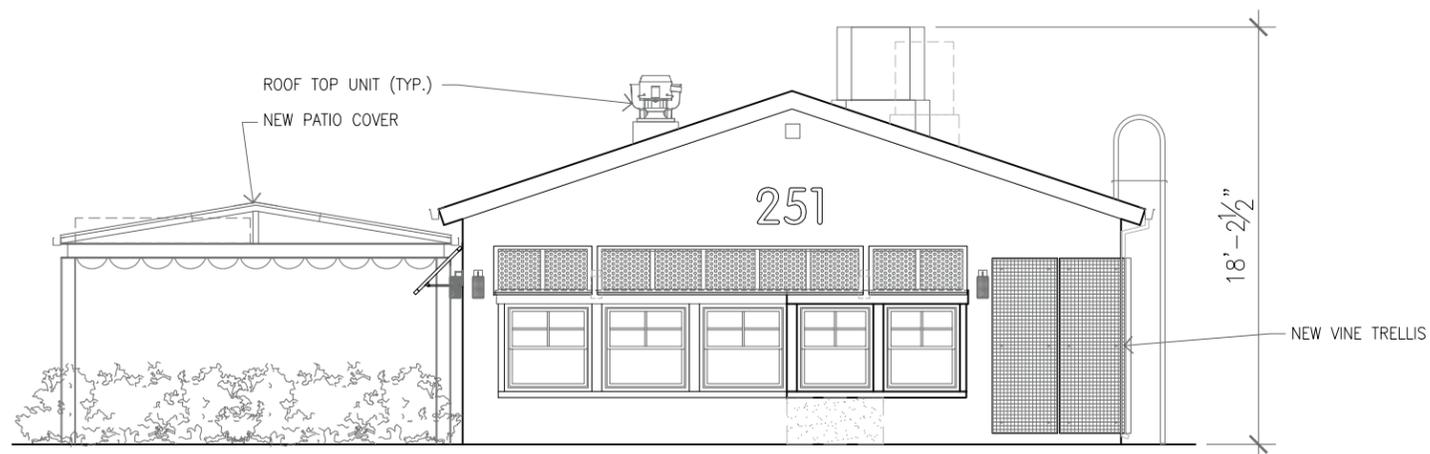
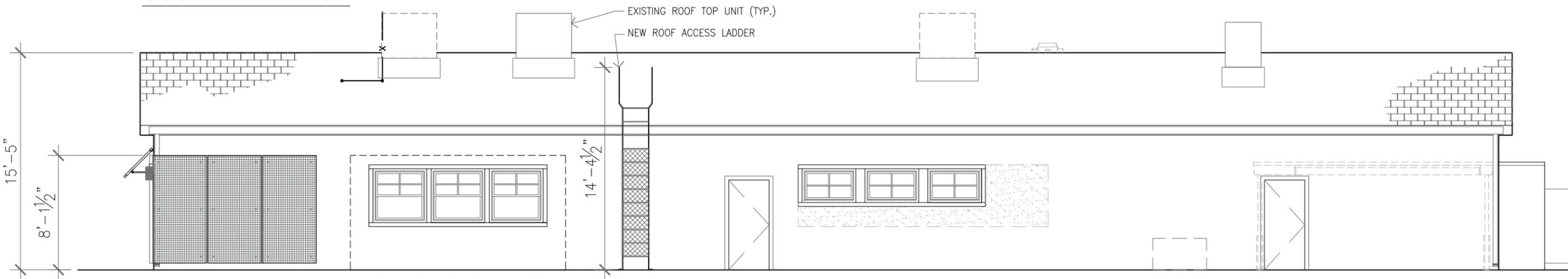


1. NEW PATIO ENCLOSURE - PAINTED STEEL STRUCTURE WITH TRANSLUCENT CORRUGATED PANELS "SUNSKY"- BY PARLAM
2. FOLDED HORIZONTAL SHADES : SUNBRELLA CANVAS BEIGE COLOR
3. BAKERY FABRIC AWNING - COLOR COPPER BLACK
4. PAINT EXISTING BUILDING - COLOR: SW7037 BALANCED BEIGE
5. NEW WINDOW WHERE INDICATED ON FLOOR PLAN.
6. NEW FRONT DOOR & SLIDING DOORS AS INDICATED ON FLOOR PLAN.
7. NEW ASPHALT SHINGLE ROOF. COLOR: GRAND CANYON "BLACK OAK" BY GAF
8. NEW VINE TRELLIS

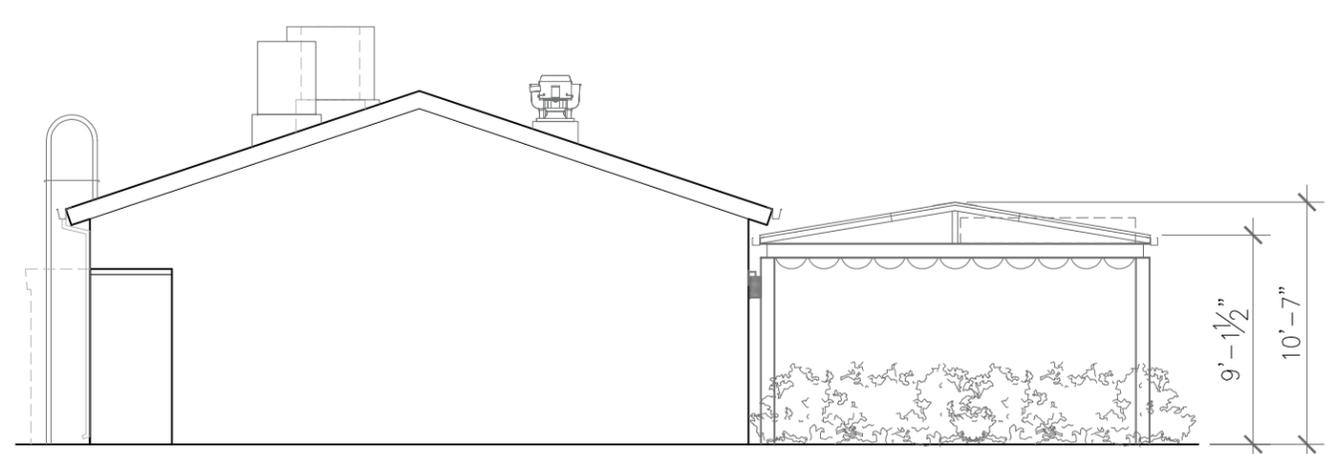




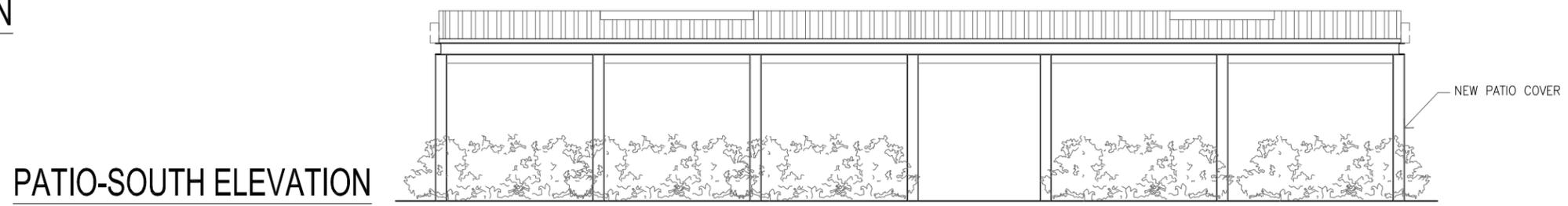
**SOUTH ELEVATION**



**EAST ELEVATION**



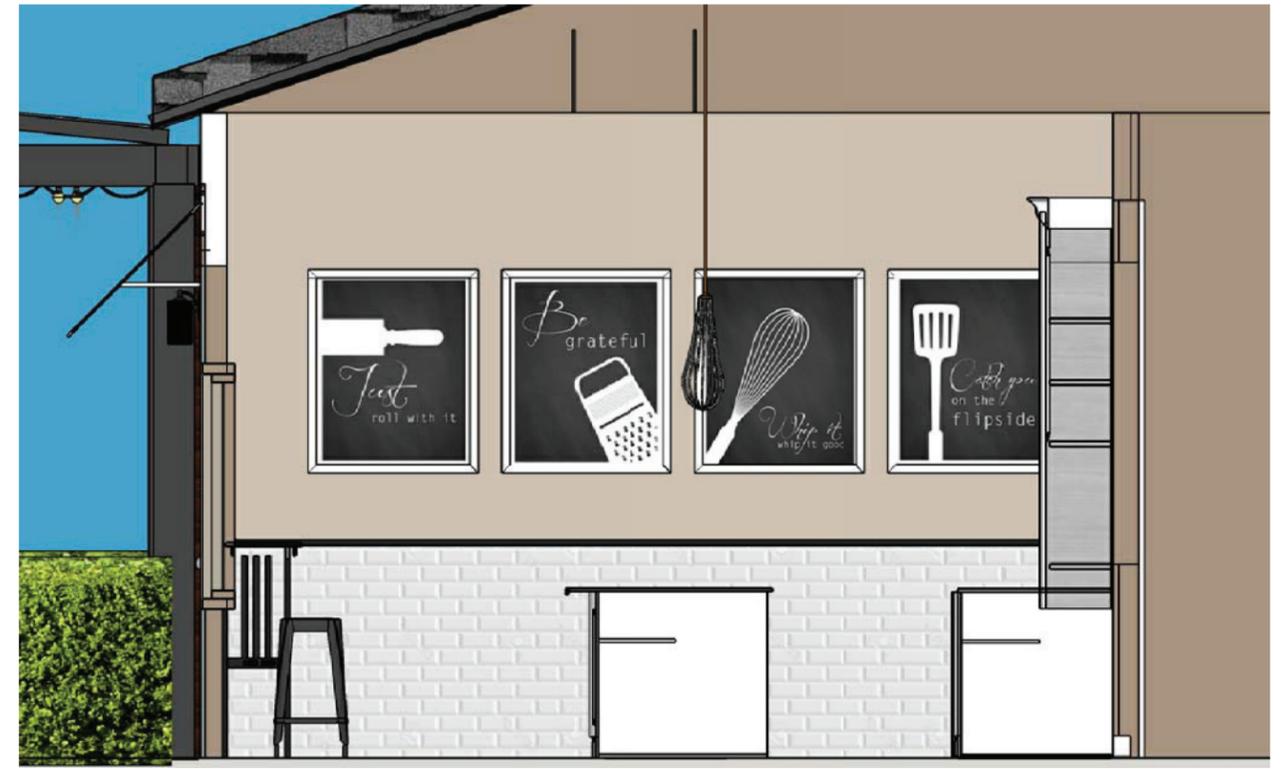
**WEST ELEVATION**



**PATIO-SOUTH ELEVATION**



SCALE: 1/8" = 1'-0" @ 11"x17"



## **Attachment No. CD 3**

Use Permit No. UP3266 including  
amendments and Outdoor Dining Permit  
No. OD2008-002

DEBY  
KOPPELMAN  
KIRLANDER  
METRILL  
PERSON  
POMEROY  
WINGBIEN

CITY OF NEWPORT BEACH

ROLL CALL		INDEX
	<p><u>Use Permit No. 3266 (Public Hearing)</u></p> <p>Request to establish a take-out restaurant with incidental seating on property located in the P-C District where a Planned Community Development Plan has not been adopted. The proposal also includes a request to waive a portion of the required off-street parking spaces.</p> <p>LOCATION: A portion of Record of Survey No. 11-34, located at 251 Shipyard Way, in the southwesterly portion of the Lido Peninsula.</p> <p>ZONE: P-C</p> <p>APPLICANTS: Clarissa and Richard H. Dodd, Newport Beach</p> <p>OWNER: Curci-Turner Co., Newport Beach</p> <p>James Hewicker, Planning Director, stated that the subject take-out restaurant is for the purpose of providing food service for tenants and residents of the Lido Peninsula area. He further stated that because the applicant has advised that there will be no effort to advertise outside of the area, staff is recommending the waiver of a portion of the required off-street parking spaces.</p> <p>The public hearing was opened in connection with this item, and Ms. Clarissa Dodd, applicant, appeared before the Planning Commission, and she presented a brief summary regarding the subject application. Ms. Dodd stated that there is a need for a breakfast and lunch take-out restaurant in the Lido Peninsula area for the local residents and the tenants of the businesses in the surrounding area.</p> <p>Ms. Dodd concurred with the findings and conditions in Exhibit "A" with the exception of Condition No. 3 wherein she requested that the hours of operation be amended so that she may open for business by 6:00 a.m. when many of the employees arrive at the shipyards, and that she be permitted to remain open after 3:30 p.m. on occasion so that she may cater to special events involving Lido Peninsula businesses periodically during the year. Discussion followed between staff and the Planning Commission regarding the opening and closing</p>	<p><u>Item No.1</u></p> <p><u>UP 3266</u></p> <p><u>Approved</u></p>

WINBUERN  
POMEROY  
PERSON  
MERRILL  
KURLANDER  
KOPPELMAN  
DEBAY

# CITY OF NEWPORT BEACH

ROLL CALL		INDEX
	<p>hours of the business and the ample parking spaces. Commissioner Pomeroy suggested that the take-out restaurant be restricted to the hours between 6:00 a.m. and 3:30 p.m. daily except for infrequent evenings for catering purposes.</p> <p>Mr. Richard Dodd, applicant, appeared before the Planning Commission in response to a question posed by Commissioner Merrill regarding parking lot lights. Mr. Dodd replied that only portions of the parking lot are lighted.</p> <p>Ms. Clarissa Dodd reappeared before the Planning Commission and referred to Condition No. 9 regarding the necessity of the installation of a trash compactor. She stated that because the major portion of the food served will be pre-packaged, the take-out restaurant will not be generating a large quantity of trash; therefore, the trash could be disposed of into plastic bags and then transferred into a Dewey Dumpster. Acting Chairman Koppelman explained that the Planning Commission has previously required take-out restaurants to install trash compactors.</p> <p>In response to Ms. Dodd's concerns regarding the installation of a trash compactor, Mr. Hewicker addressed considerations regarding the subject take-out restaurant that are not typical operational characteristics of franchise take-out restaurants; specifically that the take-out restaurant will be occupied within a small space within a building that provides Dewey Dumpster services for all of the tenants.</p> <p>In response to a question posed by Commissioner Debay, Ms. Dodd replied that the take-out restaurant will utilize styrofoam cups. Commissioner Debay stated that because the styrofoam cups are not biodegradable the cups could create a litter problem; therefore, a trash compactor installed inside the restaurant would be a good idea.</p> <p>There being no others desiring to appear and be heard, the public hearing was closed at this time.</p> <p>Motion was made to approve Use Permit No. 3266 subject to the findings and conditions in Exhibit "A", including modified Condition No. 3 which would state "that the operation of the facility shall be restricted</p>	

Motion

x

WINBURN  
POMEROY  
PERSON  
MERRILL  
KURLANDER  
KOPPELMAN  
DEBAY

CITY OF NEWPORT BEACH

ROLL CALL		INDEX
Amendment to Motion	<p>to the hours between 5:30 a.m. and 3:30 p.m. daily except for infrequent occasions for catering purposes." Commissioner Winburn stated that she would recommend that Condition No. 9 regarding the trash compactor remain as a condition because the Planning Commission has been recommending trash compactors with frequency and that she would like to be consistent with that recommendation even though Condition No. 12 states that the Planning Commission may bring back the use permit at a later date if the operation is not operating satisfactorily.</p> <p>Commissioner Pomeroy asked the maker of the motion to consider an amendment that would specify that the trash compactor be installed within 120 days of the opening of the restaurant so that the additional expense could be deployed by the income from the restaurant but would still be a requirement. Commissioner Winburn agreed to the amendment to the motion.</p>	
Ayes	<p>x x x x x x</p>	
Absent	<p>x</p>	
	<p>Motion voted on to approve Use Permit No. 3266 subject to the findings and conditions in Exhibit "A", including aforementioned modified Condition No. 3 and Condition No. 9. MOTION CARRIED.</p> <p><u>FINDINGS</u></p> <ol style="list-style-type: none"> <li>1. That the proposed take-out restaurant is consistent with the Land Use Element of the General Plan and the adopted Local Coastal Program, and is compatible with surrounding land uses.</li> <li>2. The project will not have any significant environmental impact.</li> <li>3. That the waiver of a portion of the required parking spaces for the proposed take-out restaurant is justified inasmuch as said operation is not a destination use which will increase the parking demand for the site.</li> <li>4. That the waiver of the development standards as they pertain to traffic circulation, walls, parking lot illumination, landscaping and utilities will be of no further detriment to adjacent properties inasmuch as the site has been developed and the structure has been in existence for many years.</li> </ol>	

DEBAY  
KOPPELMA  
KURLANDER  
MERRILL  
PERSON  
DOMEROY  
WINBURN

# CITY OF NEWPORT BEACH

ROLL CALL

INDEX

5. The approval of Use Permit No. 3266 will not, under the circumstances of this case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

CONDITIONS:

1. That development shall be in substantial conformance with the approved plot plan and floor plan.
2. That no cooking of food shall be permitted in the take-out restaurant facility unless an amended use permit is approved by the City at a later date. Said amendment could require the addition of kitchen exhaust fans, washout areas for trash containers, and grease interceptors.
3. That the operation of the facility shall be restricted to the hours between 5:30 a.m. and 3:30 p.m. daily, except for infrequent occasions for catering purposes.
4. That the development standards pertaining to traffic circulation, walls, landscaping, utilities, parking lot illumination and a portion of the required parking spaces shall be waived.
5. That no alcoholic beverages shall be sold on the premises unless the Planning Commission approves an amendment to this use permit.
6. That trash receptacles for patrons shall be located in convenient locations both inside and outside the building.
7. That all exterior building lighting and signs shall conform to Chapters 20.06 and 20.72 of the Newport Beach Municipal Code.
8. That all mechanical equipment and trash areas shall be fully screened from view.
9. That a trash compactor shall be installed within 120 days of the opening of the take-out restaurant facility.

DEBAY  
KOPPELMAN  
KURLANDER  
MERRILL  
PERSON  
DOMEROY  
WINEBURN

CITY OF NEWPORT BEACH

ROLL CALL		INDEX
	<p>10. That the subject take-out restaurant shall be limited to 9 tables and 28 chairs for incidental seating purposes.</p> <p>11. That a minimum of two employee parking spaces shall be provided on-site and that employees of the restaurant shall be required to park on-site.</p> <p>12. That the Planning Commission may add to or modify conditions of approval to this use permit, or recommend to the City Council the revocation of 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, morals, comfort, or general welfare of the community.</p> <p>13. That this use permit shall expire unless exercised within 24 months from the date of approval as specified in SEction 20.80.090 A of the Newport Beach Municipal Code.</p> <p style="text-align: center;">* * *</p> <p><u>A. Use Permit No. 3267 (Public Hearing)</u></p> <p>Request to permit the construction of a two unit residential condominium development with related garages and carports, on property located in the R-2 District.</p> <p style="text-align: center;">AND</p> <p><u>B. Resubdivision No. 847 (Public Hearing)</u></p> <p>Request to resubdivide an existing lot into a single parcel of land for residential condominium purposes on property in the R-2 District.</p> <p>LOCATION: Lot 10, Block 736, Corona del Mar, located at 708 Iris Avenue, on the southeasterly side of Iris Avenue, between Fourth Avenue and Fifth Avenue, in Corona del Mar.</p> <p>ZONE: R-2</p>	<p>Item No. 2</p> <p><u>UP 3267</u></p> <p><u>R847</u></p> <p><u>Approved</u></p>

DEBBY  
D. SANC  
EDWARDS  
CLOVER  
GROSS  
MERRILL  
BONEROY

# CITY OF NEWPORT BEACH

ROLL CALL

INDEX

Dolphin-Striker Way in the Newport Place  
Planned Community.

ZONE: P-C

APPLICANT: ALNI Enterprises, Inc., Newport Beach

OWNER: F. M. Vegas, Inc., West Lake Village

James Hewicker, Planning Director, stated that based on the applicant not being able to obtain the necessary off-site parking agreements for a portion of the proposed operation, Use Permit No. 1727 (Amended) has been removed from calendar until such time as the off-site parking agreements have been obtained and reviewed by staff.

\* \* \*

The Planning Commission recessed at 9:20 p.m. and reconvened at 9:30 p.m.

\* \* \*

Use Permit No. 3266 (Amended) (Public Hearing)

Request to amend a previously approved use permit which permitted the establishment of a restaurant with indoor and outdoor seating with on-sale beer and wine, on property located in the P-C District. Said approval also waived a portion of the required off-street parking spaces. The proposed amendment involves: a request to expand the indoor dining area by expanding into an adjoining commercial space; a request to expand the outdoor patio dining area; a request to expand the hours of operation so as to allow a closing time of 11:00 p.m. whereas the existing use permit requires a 9:00 p.m. closing time; and a request to waive the additional required off-street parking in conjunction with the restaurant expansion.

Item No. 10

UP3266A

Approved

DEEBY  
 DI SANDO  
 EDWARDS  
 GLOVER  
 GROSS  
 MERRILL  
 POCHOCKI

**CITY OF NEWPORT BEACH**

ROLL CALL		INDEX
	<p><b>LOCATION:</b> A portion of Record of Survey No. 11-34, located at 251 Shipyard Way, in the southwesterly portion of the Lido Peninsula.</p> <p><b>ZONE:</b> P-C</p> <p><b>APPLICANT:</b> Lido Shipyard Sausage Company, Newport Beach</p> <p><b>OWNER:</b> Curci-Turner Co., Newport Beach</p> <p>The public hearing was opened in connection with this item, and Mr. Jim Sabatino Ognibene, applicant, appeared before the Planning Commission, and he concurred with the findings and conditions in Exhibit "A".</p> <p>In response to a question posed by Commissioner Debay, Mr. Ognibene replied that the requested additional room currently exists; however, the expanded patio area has not been added.</p> <p>There being no others desiring to appear and be heard, the public hearing was closed at this time.</p> <p>Motion was made and voted on to approve Use Permit No. 3266 (Amended) subject to the findings and conditions in Exhibit "A".  <b>MOTION CARRIED.</b></p> <p><b>FINDINGS:</b></p> <ol style="list-style-type: none"> <li>1. That the proposed development is consistent with the Land Use Element of the General Plan and the Local Coastal Program, Land Use plan, and is compatible with the surrounding land uses.</li> <li>2. That the project will not have any significant environmental impact.</li> </ol>	

Motion \*  
 All Ayes

DERBY  
 DI SAANO  
 EDWARDS  
 CLOLER  
 GROSS  
 MERRILL  
 POMEROY

# CITY OF NEWPORT BEACH

ROLL CALL	INDEX
<p>3. That adequate parking is available on-site to accommodate the proposed facility and the other uses existing on the subject property.</p> <p>4. That the waiver of the development standards as they pertain to walls, utilities, parking lot illumination, and landscaping will not be detrimental to adjoining properties given the developed characteristics of the existing facility.</p> <p>5. That the approval of Use Permit No. 3266 (Amended) will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.</p>	
<u>CONDITIONS:</u>	
<p>1. That the proposed development shall be in substantial conformance with the approved plot plan and floor plan, except as noted in the following conditions.</p> <p>2. That the on-site parking lot striping shall be approved by the City Traffic Engineer prior to issuance of building permits for the as-built restaurant expansion.</p> <p>3. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self-parking. One handicapped sign on a post and one handicapped sign on the pavement shall be required for each handicapped space. Unless otherwise approved by the City Traffic Engineer.</p> <p>4. That a building permit shall be obtained for as-built construction as required by the Uniform Building Code and the Building Department.</p>	

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	<p>5. That all signs shall conform to the provisions of Chapters 20.06 of the Municipal Code.</p> <p>6. That the hours of operation of the restaurant facility, including the outdoor dining area, shall be limited to between the hours of 5:30 a.m. and 11:00 p.m., daily, unless an amended use permit is approved by the Planning Commission.</p> <p>7. That all previously applicable conditions of Use Permit No. 3266, approved May 7, 1987 and Use Permit No. 3266 (Amended), approved November 9, 1988, shall remain in effect.</p> <p>8. That parking be provided on-site for the subject restaurant, based on one parking space for each 40 square feet of "net public area". Also that the outdoor dining area shall be limited to a maximum "net public area" of 521± square feet and the interior dining area be limited to a maximum "net public area" of 641± square feet.</p> <p>9. That the pedestrian walkway in front of the facility shall be kept clean and regularly maintained. Said walkway shall be swept, vacuumed, or washed in such a manner that any debris or wastewater does not enter the storm drain system or the Bay.</p> <p>10. That Coastal Commission approval shall be obtained for the expanded dining area of the restaurant facility and prior to issuance of building permits for the tenant improvements associated with this approval.</p> <p>11. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the bay or storm drains unless otherwise approved by the Building Department and the Public Works Department.</p>

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	<p>12. That grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems, unless otherwise approved by the Building Department and the Public Works Department.</p>	
	<p>13. That kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.</p>	
	<p>14. That restaurant development standards pertaining to walls, landscaping and parking lot illumination.</p>	
	<p>15. That live entertainment or dancing shall not be permitted in conjunction with this restaurant unless an amendment to this use permit is first approved by the Planning Commission.</p>	
	<p>16. That all restaurant employees shall be required to park on-site at all times during the time which the restaurant is operating.</p>	
	<p>17. That no temporary "sandwich" signs shall be permitted, either on-site or off-site, to advertise the restaurant facility.</p>	
	<p>18. That all trash areas and mechanical equipment shall be shielded or screened from public streets and adjoining properties.</p>	
	<p>19. That the Planning Commission may add or modify conditions of approval to the use permit, or recommend to the City Council the revocation of 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, morals, comfort or general welfare of the community.</p>	
	<p>20. That this use permit shall expire if not exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.</p>	



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APPLICANT: Lido Shipyard Sausage Company, Newport Beach

OWNER: Curci-Turner Co., Newport Beach

Commissioner Ridgeway asked if the outstanding fair share fee in the amount of \$1,467.18 had been paid. James Hewicker, Planning Director, responded to the affirmative.

In response to a question posed by Commissioner Edwards, Mr. Hewicker explained that the fair share fee that was paid was from the previous expansion and not for the proposed enlargement of the restaurant. If the amended use permit is approved there will be an additional fee that will be computed on the gross square footage.

Commissioner Gifford addressed Condition No. 2, Exhibit "A", stating that the fee shall be paid prior to the issuance of building permits or implementation of the proposed expansion. Chairman Merrill pointed out that the gross square footage does not include the restrooms in this particular case.

The public hearing was opened in connection with this item. Mr. Chris Colvin, 3419 Via Lido, architect for the applicant, appeared before the Planning Commission. He stated that the outstanding conditions have been met and the applicant concurs with the findings and conditions in Exhibit "A". He stated that the applicant has a desire to submit a fee payment plan for the additional fair share fee to the City Council. Mr. Colvin stated that the requested additional seating in the dining area would continue to be used for office space; however, the request would give the applicant the option to convert the office space to a dining area in the future.

Discussion ensued with respect to the payment of the fair share fee. Mr. Colvin stated that the applicant has agreed to the computation of the fair share fee of \$2,946.90; however, the applicant has requested that the fee be paid in three installments.

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Commissioner Edwards and staff stated that the issuance of the building permit for the expansion of the restaurant would not be authorized until the fair share fee is paid in full. Mr. Hewicker stated that the applicant is required to obtain City Council approval if he has a desire to pay the fair share fee in installments.

Mr. Sabatino, applicant, appeared before the Planning Commission regarding the applicant's request to pay the fair share fee in installments.

There being no others desiring to appear and be heard, the public hearing was closed at this time.

Motion was made and voted on to approve Use Permit No. 3266 (Amended) subject to the findings and conditions in Exhibit "A".  
MOTION CARRIED.

Motion  
Ayes  
Absent

\* \* \* \* \*  
\* \* \* \* \*

FINDINGS:

1. That the proposed development is consistent with the Land Use Element of the General Plan and the Local Coastal Program, Land Use plan, and is compatible with the surrounding land uses.
2. That the project will not have any significant environmental impact.
3. That adequate parking is available on-site to accommodate the proposed facility and the other uses existing on the subject property.
4. That the waiver of the development standards as they pertain to walls, utilities, parking lot illumination, and landscaping will not be detrimental to adjoining properties given the developed characteristics of the existing facility.
5. That the approval of Use Permit No. 3266 (Amended) will not, under the circumstances of this case, be detrimental to

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the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

CONDITIONS:

1. That the proposed development shall be in substantial conformance with the approved plot plan and floor plan, except as noted in the following conditions.
2. That prior to the issuance of building permits or implementation of the proposed expansion, the applicant shall pay the appropriate fair share fee contribution in accordance with Section 15.38 of the Newport Beach Municipal Code.
3. That prior to the issuance of building permits or implementation of the proposed expansion, the applicant shall submit an as-built parking plan for the on-site parking which shall be subject to the review and approval of the City Traffic Engineer. Any required alteration to the existing parking design shall be the responsibility of the applicant.
4. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self-parking. One handicapped sign on a post and one handicapped sign on the pavement shall be required for each handicapped space.
5. That a building permit shall be obtained for the proposed changes to the existing tenant and newly expanded tenant space as required by the Uniform Building Code and the Building Department.

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6. That all signs shall conform to the provisions of Chapters 20.06 of the Municipal Code.
7. That all previously applicable conditions of Use Permit No. 3266, approved May 7, 1987 and Use Permit No. 3266 (Amended), approved November 9, 1988 and July 18, 1991, shall remain in effect.
8. That 41 parking spaces shall be provided on-site for the subject restaurant, based on one parking space for each 40 square feet of "net public area". The outdoor dining area shall be limited to a maximum "net public area" of 485± square feet and the interior dining area be limited to a maximum "net public area" of 1,151± square feet.
9. That the pedestrian walkway in front of the facility shall be kept clean and regularly maintained. Said walkway shall be swept, vacuumed, or washed in such a manner that any debris or waste-water does not enter the storm drain system or the Bay.
10. That Coastal Commission approval shall be obtained prior to issuance of building permits for the tenant improvements or implementation of the expansion associated with this approval.
11. That live entertainment or dancing shall not be permitted in conjunction with this restaurant unless an amendment to this use permit is first approved by the Planning Commission.
12. That the Planning Commission may add or modify conditions of approval to the use permit, or recommend to the City Council the revocation of 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, morals, comfort or general welfare of the community.



CITY OF NEWPORT BEACH

Accessory Outdoor Dining Permit No.  
OD2008-002(PA2008-055)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92658  
(949) 644-3200; FAX (949) 644-3229

Staff Person: Javier S. Garcia, 644-3206  
Appeal Period: 14 days after approval date

**Application No:** Accessory Outdoor Dining Permit No. OD2008-002  
(PA2008-055)

**Applicant:** Sabatino's Lido Shipyard Sausage Co.

**Owner:** Lido Peninsula Company LLC,

**Address of  
Property Involved:** 251 Shipyard Way, Cabin D

**Legal Description:** RS-011-34, APN 047-010-09

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**Application Request:**

A request to allow the expansion of an outdoor dining area to an existing full-service restaurant, Sabatino's Lido Shipyard Sausage Co, located on the Lido Peninsula. The expanded patio will increase by 287 square feet for an overall total of 772 square feet. The original outdoor dining area of 485 square feet was approved by Use Permit No. 3266. All conditions of approval of the use permit will apply to the newly expanded area. The property is located in the PC-6 (Lido Peninsula) District.

**ACTION:** APPROVED – MAY 23, 2008;

The Planning Director determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood and that the accessory outdoor dining permit as approved is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code based on the following findings:

**FINDINGS**

1. The Land Use Element of the General Plan and the Land use Plan of the Local Coastal Program designate the property for "General Commercial C-G" land use; and the proposed outdoor dining is accessory to an existing restaurant, a permitted use within that designation.

2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. The approval of this application will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City for the following reasons:
  - Since the use is accessory to and an extension of the existing restaurant use, subject to all the findings and conditions of approval of Use Permit No. 3266 and its amendments, and not an independent use.
  - The proposed outdoor dining area is compatible with the surrounding land uses and its limited hours should prevent noise from adversely impacting the nearby residential uses since the proposal does not include any noise generating activities (i.e., entertainment or amplified sound/music).
  - The proposed accessory outdoor dining will not be located so as to result in a reduction of existing required parking spaces.
  - The restrictions on the use of solid roof structures as applied to this approval are consistent with the intent and purpose of the accessory outdoor dining.
  - The proposal does not include any noise generating activities inside or outside of the facility (i.e., live entertainment is not authorized for the facility) and are specifically prohibited in the outdoor dining area by this approval.

### **CONDITIONS**

1. Development shall be in substantial conformance with the approved site plan and floor plan, except as noted in the following conditions.
2. The accessory outdoor dining shall be used in conjunction with the related adjacent food establishment and shall be limited to 772 square feet maximum (gross area, 25 percent of the indoor net public area, 287 square feet plus the existing outdoor dining area of 485 square feet), unless an amendment to this application is approved to increase the area allowed.
3. The approval of the existing nonpermanent patio cover shall be subject to review and approval by the Building Department and may require the approval of a building permit.
4. Prior to issuance of building permits (if deemed necessary or required by the Building Department), the applicant shall submit to the Planning Department an additional copy of the approved architectural plans that depict the proposed outdoor dining and trellis/cover structure. 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 11-inches by 17-inches. The plans shall accurately depict the elements approved by this permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

5. The seating adjacent to the food use facility shall be limited to the area as delineated on the approved site plan only. The approved outdoor dining area shall be located on a solid surface in accordance with the approved floor plan or seating plan. The rail/fence or screen planting shall be a minimum of 42 inches tall unless otherwise required by the Public Works Department or the Police Department. Prior to implementation, the applicant shall call the Code Enforcement Division (at 949-644-3215) to schedule an inspection of the area enclosed by the specified rail/fence/screen planting.
6. No outside paging system or sound system shall be utilized in conjunction with this outdoor dining establishment.
7. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The use of outside loudspeakers, paging system or sound system shall be prohibited in the outdoor dining area or outside of the building. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Chapter 10.26 provides, in part, that the sound shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

8. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the outdoor dining activity to insure compliance with these conditions, if required by the Planning Director.
9. Trash receptacles for patrons shall be conveniently located outside of the related food service facility to serve the accessory outdoor dining area. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.

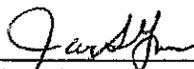
10. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.
11. The project shall comply with State Disabled Access requirements. Tables and chairs for the outdoor dining shall not encroach into the required handicap access area specified on the approved detail seating plan.
12. The use of area heaters shall be approved by the Public Works Department, Building Department and the Fire Department prior to installation or use. The use of propane heaters and the storage of propane containers on the premises are prohibited, unless otherwise approved by the Fire Department.
13. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or the leasing company.
14. The hours of operation of the outdoor dining area is limited to between the hours of 7:00 am and 11:00 pm, daily; and any increase in the hours of operation shall be subject to the approval of an amendment to this application and may require approval of a Use Permit.
15. Alcoholic beverage service shall be prohibited in the outdoor dining areas, unless an amendment to the existing alcoholic beverage license is first amended and approved by the Police Department and the California Department of Alcoholic Beverage Control to increase the licensed premises. Any substantial physical changes required (as determined by the Planning Department) to accommodate alcoholic beverage service shall be subject to the approval of the Planning Department and may require an amendment to this Outdoor Dining Permit.
16. All applicable conditions of approved Use Permit No. 3266 and its amendments shall remain in force (copy on file in the Planning Department).
17. Should problems arise with regard to noise associated with the outdoor dining areas, the Planning Department shall require the removal of all or a portion of the outdoor dining area seating in the areas that contribute or cumulatively contribute to the noise problems or complaints.
18. Deliveries shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily.
19. The Planning Department may add to or modify conditions of approval to this outdoor dining permit, or revoke this approval upon a finding of failure to comply with the conditions set forth in Chapter 20.82 of the Municipal Code or other applicable conditions and regulations governing the food establishment. The

Planning Director or the Planning Commission may also revoke this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

**APPEAL PERIOD**

The Planning Director's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

*On behalf of David Lepo, Planning Director*

By   
Zoning Administrator Javier S. Garcia, AICP

Attachments: Appendix  
Vicinity Map  
Detail Seating Plan