

**CITY OF NEWPORT BEACH
STAFF ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Planning Department
Javier Garcia, Zoning Administrator
igarcia@city.newport-beach.ca.us

SUBJECT: Report of actions taken by Planning Department Staff for the week ending May 23, 2008.

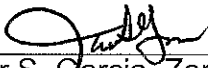
Item 1: Sabatino's Lido Shipyard Sausage Co. on behalf of property owner Lido Peninsula Company LLC – Accessory Outdoor Dining Permit OD2008-002 (PA2008-055)
251 Shipyard Way, Cabin D

The Planning Director approved the applicants request for 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.

Approved – May 23, 2008

Council District 1

Prepared and submitted by: -



Javier S. Garcia, Zoning Administrator

APPEAL:

The decision of the Planning Director 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.

c: David Lepo, Planning Director (e-mail)
Sharon Wood, Assistant City Manager (e-mail)
David Keely, Public Works Senior Civil Engineer (e-mail)
Kay Sims, Assistant Planner (e-mail)
Sgt. Ron Vallercomp, Vice/Narcotics (e-mail)
Code Enforcement Division (e-mail)
Erin Steffen, Office Assistant (e-mail)
Iris Lee, Public Works (e-mail)
Evelyn Tseng, Revenue (e-mail)



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

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.

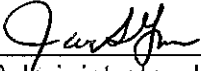
10. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.
11. The project shall comply with State Disabled Access requirements. Tables and chairs for the outdoor 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

APPENDIX

Discussion

The location of the proposed outdoor dining area can be easily accommodated by the large area located between the existing buildings and still provide more than adequate passage area for pedestrians.

Parking Requirement

In accordance with Chapter 20.82 of the Newport Beach Municipal Code, accessory outdoor dining requires no additional parking if it is less than 25 percent of the interior net public area. The subject facility complies with that requirement. Therefore, based on the recommended restrictions (maximum added outdoor dining area of 287 square feet for an overall total of 772 square feet) and the parking characteristics of the use, adequate parking is provided on site to serve the proposed use.

Restroom Facilities

The facility, as proposed, provides adequate public sanitation facilities with the provided interior separate sex restrooms in the existing building. Any increase in the interior seating may require an increase in the number of fixtures or provision of separate sex restrooms, as required by the Newport Beach Municipal Code and in compliance with the provisions of the Health Code (Orange County).

