

**CITY OF NEWPORT BEACH  
STAFF ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Planning Department  
Javier Garcia, Zoning Administrator  
[jgarcia@city.newport-beach.ca.us](mailto:jgarcia@city.newport-beach.ca.us)

SUBJECT: Report of actions taken by Planning Department Staff for the week ending August 14, 2008

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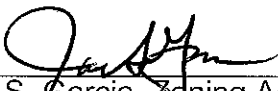
Item 1: Il Fornaio – Planning Director's Use Permit UP2008-008 (PA2008-054)  
545 Newport Center Drive

The Planning Director approved the applicants request to allow the addition of alcoholic beverage service to a full service restaurant currently being remodeled (Type 47 license: beer, wine and distilled spirits). The 9,416 square foot eating and drinking establishment will be in a tenant space formerly occupied by Tutto Mare Italian Restaurant located in the Northeasterly Quadrant of Fashion Island Shopping Center. The proposed hours of food service operation are 11:00 a.m. to midnight, daily. The facility includes two outdoor patio areas totalling 1,033 square feet; a bar/lounge patio of 300 square feet and a dining patio of 733 square feet. The request for off-site sale of alcoholic beverage was limited to the sale of bottled wine only.

Approved 14, 2008

Council District 5

Prepared and submitted by:



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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 Vallercamp, Vice/Narcotics (e-mail)  
Code Enforcement Division (e-mail)



## **USE PERMIT NO. UP2008-008**

(PA2008-054)

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

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

**Application:** Planning Director's Use Permit No. UP2008-008 (PA2008-054)

**Applicant:** Il Fornaio

**Site Address:** 545 Newport Center Drive

**Legal Description:** Parcel 6, PM- 86-399

### ***Request as Modified and Approved:***

Request for a Use Permit to allow the addition of alcoholic beverage service to a full service restaurant currently being remodeled (Type 47 license: beer, wine and distilled spirits). The 9,416 square foot eating and drinking establishment will be in a tenant space formerly occupied by Tutto Mare Italian Restaurant located in the Northeasterly Quadrant of Fashion Island Shopping Center. The proposed hours of food service operation are 11:00 a.m. to midnight, daily. The facility includes two outdoor patio areas totalling 1,033 square feet; a bar/lounge patio of 300 square feet and a dining patio of 733 square feet. The request for off-site sale of alcoholic beverage was limited to the sale of bottled wine only. The property is located in the PC-56 (North Newport Center) District.

**DIRECTOR'S ACTION:** **APPROVED – AUGUST 14, 2008**

### Application Request

In approving this application, the Planning Director analyzed issues with regard to Zoning compliance with the provisions of the North Newport Center Planned Community District Regulations. The Planning Director determined in this case that the use would not be detrimental to persons, property or improvements in the neighborhood. The Planning Director's Use Permit, as approved, would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code based on the findings and conditions below:

### **FINDINGS**

1. The City's Land Use Element of the General Plan designates the site as Regional Commercial (CR); and Districting Maps No. 48 and 49 of the Zoning Code designate the site as PC-56 (North Newport Center), which designates the site for commercial uses. Eating and drinking establishments are a commercial use consistent with the General Plan and the Zoning Code designations.

2. The project has been reviewed, and it qualifies for a categorical exemption pursuant to the California Environmental Quality Act under Class 1 (Minor Alteration of Existing Structures). This exemption allows for the operation, repair, maintenance and minor alteration of existing buildings.
3. The proposed location of the eating and drinking establishment with beer, wine and distilled spirits sales, operated under the conditions of this approval, is consistent with the General Plan and the purpose of the district in which the site is located, will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the City, for the following reasons:
  - a. The restaurant use will be located within a shopping center designated to include such development. The Regional Commercial (CR) designation of the General Plan allows eating and drinking establishments.
  - b. The previous restaurant has been closed for approximately one year and the applicant is proposing to reopen the restaurant with the service of alcoholic beverages. The addition of alcoholic beverage service (beer, wine and distilled spirits) to the facility will not substantially change the operational characteristic of the restaurant.
  - c. The shopping center does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses.
  - d. Adequate parking is provided within the Fashion Island Shopping Center, and the proposed outdoor dining areas and the restaurant area are within the limits of the cumulative floor area allocated for restaurants in the Fashion Island portion of the North Newport Center Planned Community.
  - e. The use authorized by this permit is not a bar, tavern, cocktail lounge, nightclub or an establishment where live entertainment, recreational entertainment or dancing is provided; although, a portion of the restaurant and outdoor dining is devoted to alcoholic beverage service around and adjacent to the bar area. The bar area is open during the regular business hours of the restaurant. The City has experienced land use conflicts, nuisance issues and issues requiring police intervention with these types of activities in the past. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention.
4. The service and consumption of alcohol at the proposed restaurant pursuant to a Type 47 Department of Alcoholic Beverage Control license, under the conditions imposed by this Use Permit that it will be operated and maintained, complies with the provisions of the Zoning Code and the North Newport Center Planned Community District Regulations.

## CONDITIONS

1. Use Permit No. 2008-008 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, or an extension is otherwise granted.
2. Should this alcohol license be transferred, any future license holders, operators or assignees shall be notified of the conditions of this approval by either the current licensee or business operator. Future licensees, operators or assignees shall submit, within 30 days of transfer of the alcohol license, a letter to the Planning Department acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this Use Permit.
3. The Planning Commission or the Planning Director 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.
4. The project shall be in substantial conformance with the approved plot plan, floor plan and elevations dated May 2, 2008.
5. Approval does not permit the premises to operate as a bar tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a Use Permit. Police Department Condition (PD1)
6. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type license 47 for on-sale beer, wine and distilled spirits, eating place for on-site consumption, only in conjunction with the service of food as the principal use of the facility; and for the sale for off-site consumption of alcoholic beverages limited to bottled wine only. The Police Department in conjunction with the review of the request for alcoholic beverage license issued by the Alcoholic Beverage Control Board of the State of California shall recommend, and as joined by the applicant making the license request, that the off-sale activity shall be limited to bottled wine only. No alcoholic beverages shall be consumed on any property adjacent to the and not a part of the licensed premises within the Fashion Island shopping center. Any change in the alcoholic beverage license type shall be subject to the approval of an amendment to this Use Permit and may require the approval of the Planning Commission. (PD2)
7. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when in conjunction with food ordered from the full service menu. (PD3)
8. The applicant and/or operator shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks. (PD4)

9. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department and/or the Planning Department on demand. (PD5)
10. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach. (PD6)
11. There shall be no dancing and/or live entertainment allowed on the premises at any time. (PD7)
12. A security plan shall be submitted for review to the Police Department and shall be approved prior to final of the building permits, unless the security plan is deemed not necessary by the Police Department.
13. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
14. The alcoholic beverage outlet operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the alcoholic beverage outlet and adjacent properties during business hours, if directly related to the patrons of the subject alcoholic beverage outlet. If the operator fails to discourage or correct nuisances, the Planning Commission may review, modify or revoke this Use Permit in accordance with Chapter 20.96 of the Zoning Code.
15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use will be cause for revocation of this Permit.
16. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of this restaurant business 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.

17. The operator of the facility shall be responsible for the control of noise generated by the subject facility. Pre-recorded music may be played in the interior and patio dining areas, provided exterior noise levels outlined below are not exceeded. Use of paging sound equipment is prohibited on the exterior 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. 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

18. There shall be no exterior advertising or signs of any kind, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
19. No temporary "sandwich signs," balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the food establishment, unless specifically permitted.
20. The reciprocal arrangement for ingress, egress and parking that applies to the subject property shall remain in effect for the duration of this food use.
21. The facility shall comply with the provisions of Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal.
22. All signs shall conform to the provisions of the Fashion Island Planned Community District regulations and Chapter 20.67 of the Newport Beach Municipal Code, where applicable.
23. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
24. This Use Permit shall be terminated if the operation is no longer maintained as a "bona fide public eating place" as defined by the California Department of Alcoholic Beverage Control.
25. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
26. Hours of operation shall be limited to between 11:00 a.m. to Midnight, daily.

**APPEAL PERIOD**

The decision of the Planning Director may be appealed by the applicant or any interested party to the Planning Commission within 14 days of the decision date. Any appeal filed shall be accompanied by a filing fee of \$600.00.

*On behalf of Planning Director David Lepo,*



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Zoning Administrator Javier S. Garcia, AICP

JSG/rm

Attachments: Appendix  
Vicinity Map  
Applicant's Project Description  
Statement of Intended Operation  
Site Plan and Floor Plan

## APPENDIX

### Overview & Background:

The Canaletto Ristorante Veneto, is currently being remodeled and was formerly the Tutto Mare Ristorante which closed approximately one year ago, is located on the easterly portion of Fashion Island. Restaurants are a permitted use in the Fashion Island Planned Community. The restaurant facility consists of 9,416 square feet with approximately 1,033 square feet of outdoor dining area (300 square foot bar patio and 733 square feet of dining patio) and will provide service for lunch and dinner. The operating hours are daily from 11:00 a.m. to Midnight, daily. The applicant proposes to provide alcoholic beverage service and has requested an alcoholic beverage license from the Department of Alcoholic Beverage Control (Type 47 license - beer, wine and distilled spirits). The outdoor patio areas will operate during the same hours as the main dining room, and alcoholic beverages will be served both inside and outside (approved patio areas).

The applicant modified a portion of their initial request to allow off-sale of alcoholic beverages for off site consumption limited to the sale of bottled wine only. The Police Department and the Planning Department both agreed that limited off-sale activity is appropriate for the proposed use as an eating and drinking establishment.

### Alcoholic Beverage Outlet Ordinance Compliance:

Pursuant to the North Newport Center Planned Community District regulations, the Alcoholic Beverage Outlet Ordinance (Chapter 20.89 of the NBMC) is not applicable within commercial sites within the NNPC District. Therefore, specific information related to those requirements is not addressed within this approval.

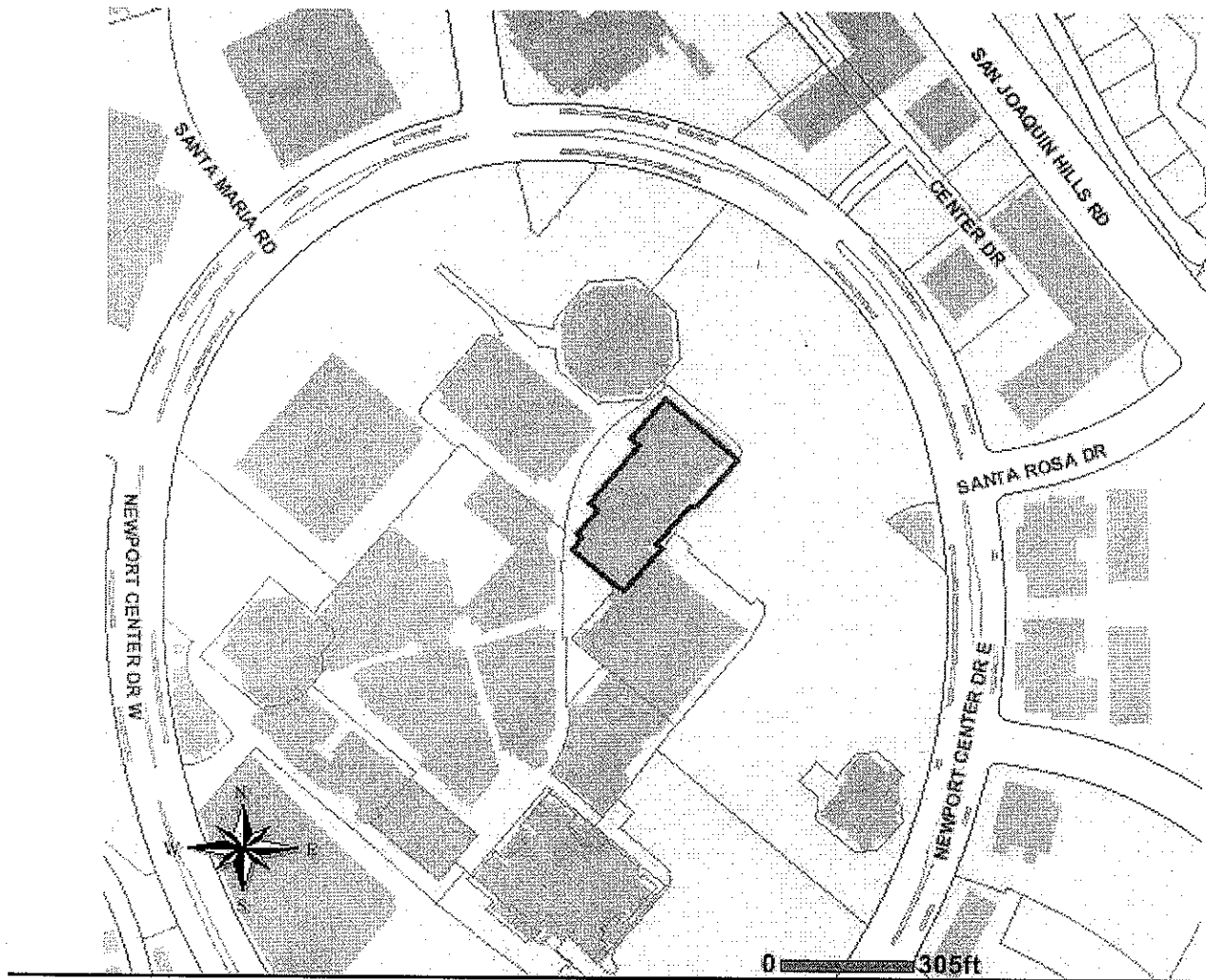
It should be noted that the Police Department in their review of this use permit request has provided conditions that are incorporated into this approval that should address any future concerns.

### Parking:

Parking for the restaurant is within the existing parking facilities for Fashion Island. The Fashion Island Planned Community established a total of 1,633,850 square feet total gross floor area (Not including theaters) for the entire center, and a maximum of 15 percent of the gross floor area allocated for restaurant, bar and theater/nightclub uses. A record of all floor area is maintained by the City, with assistance from the Irvine Company. The total gross floor area and exclusive outdoor dining areas devoted to restaurant uses within Fashion Island remains under the 15 percent allocation ceiling; therefore, the parking demand can be accommodated by the available on-site parking provided.



# VICINITY MAP



Planning Director's Use Permit No. UP2008-008  
(PA2008-054)

545 NEWPORT CENTER DRIVE



March 25, 2008

City of Newport Beach  
Planning Department  
3300 Newport Boulevard  
Newport Beach, CA 92663

Re: Proposed Canaletto Ristorante Veneto at Fashion Island  
545 Newport Center Drive; Newport Beach, CA  
Project Description

To Whom It May Concern;

Canaletto Ristorante is a part of the Il Fornaio restaurant family and its authentic seasonal Venetian menu offers the most complete Venetian dining experience in the country.

This particular restaurant will be located in an existing 9,416 s.f. shell space within the Fashion Island Shopping Center. It will have breathtaking Venetian décor and include handmade Venetian light fixtures and have an exhibition kitchen and fish market. The restaurant will offer a full selection of alcohol beverages in their bar and dining areas.

It should be noted that the preceding occupants of this space have been restaurants with full alcohol licenses. Each of these restaurants has been granted a CUP by the City of Newport Beach. The CUPs granted are attached to the CUP application for reference. We would like for the City of Newport Beach to grant Canaletto an approval for a CUP so that we can complete our restaurant and offer the public a quality dining experience.

Sincerely,

Kelli Schmidtke  
Director of Construction and Facilities

Cc: Mike Beatrice, Il Fornaio  
Scott Eucker, The Nanshe Group  
Dennis Williams, The Nanshe Group  
Brian Kjos, Il Fornaio  
Brandon Mucha, TIC  
Jamie Shorten, BCV Architects  
Ken Catton, BCV Architects  
File

*San Francisco*

*Milano*

*Beverly Hills*

*Firenze*

*Del Mar*

*Venezia*

*Denver*

*Roma*

*Portland*

*Torino*

*Las Vegas*

## **Statement of Intended Operations for Canaletto Ristorante Veneto**

### **Applicant: IL Fornaio (America) Corporation**

Canaletto Ristorante Veneto will offer a unique white table cloth dining experience featuring authentic Italian cuisine. As an Il Fornaio operated restaurant, Canaletto Ristorante Veneto will also sell awarding winning breads and other Italian specialty food products from a small display area at the front of the restaurant. As part of this retail activity, as at many Il Fornaio locations, Canaletto Ristorante Veneto wishes to exercise the additional privilege under their Type 47 license to sell bottles of fine wine for our guests to take home and enjoy. This operation will include a display of a very small variety and quantity of wines that will complement the bread and food items sold to our restaurant guests wishing to take these items home. Many of the wines offered bear a private label, and will only be available locally at Canaletto Ristorante Veneto. These sales will be incidental to the restaurant activity.

Canaletto Ristorante Veneto will not sell beer, malt liquor or any "ready to consume" alcoholic beverages. Because the restaurant has valet parking, there will be no loitering or litter around our restaurant caused by this privilege. This additional license privilege will not create any more traffic or impact on the surrounding area.



