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January 13, 2010

Honorable Jose Huizar, Chair
Public Works Committee
Los Angeles City Council

c/o Adam Lid
City Clerk
City Hall, Room 1060

Dear Councilmember Huizar and Honorable Members:

Subject: Discussion of Parking Requirements Related to Outdoor and Sidewalk Dining – Council File No. 08-3167

RECOMMENDATION

That the PW Committee to refer the subject matter of sidewalk dining parking requirements to Planning Department and consider the sidewalk dining fees as a separate matter for council action.

DISCUSSION

This report is in response to comments made by Public Works Committee members during the October 7, 2009 meeting. The committee asked the Bureau of Engineering (BOE) to report back on the following items: 1) What the City of LA can do to require off site parking as a part of the revocable permit; and 2) Requirements for off-site parking by other cities. Since parking requirements are under the jurisdiction of the Departments of City Planning and Building and Safety, it is recommended that the matter be referred to the City Planning Department for further review.

The Bureau of Engineering did review the following issues for your information:



- Current Parking Requirements & Revocable Permit (for Sidewalk Dining) Parking Requirements
- Parking Requirements of Other California Cities

CURRENT PARKING REQUIREMENTS

In general, parking requirements fall under the Los Angeles Municipal Code (LAMC) and are under the jurisdiction of the Departments of Planning and Building and Safety. The parking requirements fall under LAMC Section 12.03, Definitions, "Outdoor Eating Areas" or a Zoning Administrator's Interpretation (ZAI) 1808. Sidewalk dining in the public right-of-way, issued under a revocable permit by the Department of Public Works, is required to comply with these parking requirements but in most cases, additional off-street parking would not be required.

- LAMC Section 12.03, Definitions: **OUTDOOR EATING AREA** - When used in Sections 12.12.2, 12.13, 12.14, 12.21.1 and 12.24, this term shall refer to a covered or uncovered portion of a ground floor restaurant which is not completely enclosed within the building; is used primarily for the consumption of food and/or drinks by the patrons of the restaurant; and is not larger than 50 percent of the dining area of the ground floor restaurant. A "**ground floor**" restaurant refers to any restaurant with an average finished floor elevation either below or not more than three feet above natural grade as measured from any point along the exterior building wall closest to the restaurant. There are no parking requirements associated with this code section. (Transmittal No. 1).
- ZAI 1808: Permits outdoor dining in the C2, C4, CM and M zones as an incidental activity to a restaurant or food establishment. ZAI 1808 has no limitations regarding the dining area and has no parking requirements if the dining area is within an unroofed location (Transmittal No. 2).

The City Council specifically adopted a parking code for outdoor eating areas on private property in order to provide an incentive for outdoor dining. Outdoor dining that does not exceed 50% of the dining area of a ground floor restaurant is not considered "floor area" and therefore is not subject to the code's parking standards. The intent was to encourage the use of outdoor dining in furtherance of the General Plan's goal to activate the street and encourage pedestrian activity.

A revision to these current regulations for outdoor dining parking requirements requires amending the zoning code. The Planning Department would have to conduct a study, prepare a draft ordinance, submit to the City Planning Commission, and then to the City Council for adoption. The Bureau of Engineering does not have the authority to require additional parking under the revocable permit at this time.

However, there may be an opportunity for the City to address the parking issues surrounding sidewalk dining. The Department of City Planning is currently drafting a new parking management district ordinance Citywide for City Planning Commission consideration next year. This proposed ordinance would provide the "tool" to vary outdoor/ sidewalk dining parking requirements in specific parking impacted areas, rather than on a citywide basis.

PARKING REQUIREMENTS OF OTHER MUNICIPALITIES

Several nearby cities were contacted to survey their requirements and policies for parking with regard to sidewalk dining. The agencies that responded were surveyed and results are summarized as follows:

- City of Burbank
Per Resolution No. 24,927, the City of Burbank allows tables and chairs for sidewalk dining in the public right-of-way, based on the number of existing parking spaces provided by the restaurant building. For example, if the restaurant building provides 5 parking spaces, or less, per 1,000 sf, up to 8 chairs are allowed. If the restaurant building provides at least 5 parking spaces, but, less than 10 parking spaces per 1,000 sf, up to 16 chairs are allowed. Restaurants located within the Downtown Burbank Village Parking District are exempt from these parking requirements since this area provides public parking structures with free parking to the public.
- City of Santa Monica
The City of Santa Monica allows sidewalk dining without restrictions for restaurants that request an outdoor dining area of less than 200 square feet. Restaurants requesting a sidewalk dining area of more than 200 square feet must abide by performance standards under Santa Monica Municipal Code Section 9.04.10.08.040, that may include parking requirements based on the size of the restaurant and the location's zone. The City of Santa Monica website indicates that several parking structures exist within the downtown area that provides public parking for a fee.
- City of Fullerton
In the City of Fullerton, restaurants requesting sidewalk dining within the Restaurant Overlay District, in the downtown area are exempt from any parking requirements. According to the City of Fullerton's Outdoor Dining Guidelines, the City provides several parking structures and surface lots with free parking in the downtown area. Parking requirements for restaurants outside of the downtown area are considered on a case-by-case basis.

Honorable Jose Huizar, Chair
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The City of Burbank, the City of Santa Monica and the City of Fullerton all provide public parking in structures located in or nearby their respective downtown areas. All three cities state that restaurants within these areas were exempt from additional parking requirements when proposing to add outdoor dining. The City of Los Angeles currently has not identified special areas that exempt restaurants from additional parking requirements.

TRANSMITTALS

1. Los Angeles Municipal Code Section 12.03, Definition of Outdoor Eating Area.
2. Zoning Administrator's Interpretation (ZAI) 1808.

If you require additional information, please contact Shahin Behdin at (213) 482-7044 or Wesley Tanijiri at (213) 482-7062.

Sincerely,



Gary Lee Moore, P.E.
City Engineer

GLM/MEK/LMP/SB:wkt/tlwJ:MEK\Rpt to PWC on Sidewalk Dining-parking 01132010.doc

Attachments

cc: Cynthia M. Ruiz, President, Board of Public Works
James A. Gibson, Board of Public Works
Tom Rothmann, Department of City Planning
Glenn Ogura, LADOT
Rene Sagles, LADOT
Michael E. Kantor, BOE
Lemuel Paco, BOE
Julia Moye, BOE

LAMC Section 12.03 - Definitions

OUTDOOR EATING AREA.

When used in Sections 12.12.2, 12.13, 12.14, 12.21.1 and 12.24, this term shall refer to a covered or uncovered portion of a ground floor restaurant which is not completely enclosed within the building; is used primarily for the consumption of food and/or drinks by the patrons of the restaurant; and is not larger than 50 percent of the dining area of the ground floor restaurant. A "ground floor" restaurant refers to any restaurant with an average finished floor elevation either below or not more than three feet above natural grade as measured from any point along the exterior building wall closest to the restaurant. (Amended by Ord. No. 165,403, Eff. 2/17/90.)

CITY OF LOS ANGELES

CALIFORNIA

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MAYOR

DEPARTMENT OF
CITY PLANNING

OFFICE OF
ZONING ADMINISTRATION

361 CITY HALL
LOS ANGELES 12
MADISON 4-5211

August 18, 1961

Department of Building and Safety
Room 212, City Hall

Walter C. Peterson
City Clerk
Room 195, City Hall

Re: Z. A. I. CASE NO. 1808
Dining Terraces or Outdoor
patios for Serving and
Consuming Food and Refresh-
ments in connection with
Restaurants, Cafes, etc.
C2 and Less Restrictive
Zones

Greetings:

In the matter of the verbal request made by officials of the Department of Building and Safety and by several interested restaurant operators for an interpretation of the zoning regulations as they apply to the provision of dining terraces or outdoor eating patios in connection with restaurants, cafes, and other eating and refreshment establishments located in the C2 Zone, please be advised that the Chief Zoning Administrator has made the following interpretation and ruling that in the C2 or less restrictive zones it would be permissible to have dining terraces or outdoor eating patios for the serving and consuming of food and refreshment in connection with various eating and refreshment establishments, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building.

INTERPRETATION AND RULING

There is some ambiguity, contradiction, and conflict between some of the provisions of the Comprehensive Zoning Ordinance as they concern activities of a restaurant, cafe, or other eating establishment when located in the C2 Zone, particularly as to the extent which food and refreshment may be served outside of buildings. No such conflict exists with respect to such establishments when located in the more restrictive C1 Zone since the limitations which apply to all commercial uses in said zone very clearly provide that "all activities are conducted wholly within an enclosed building." The C2 Zone, however, is somewhat ambiguous and open to interpretation on this particular point. Said C2 Zone in addition to permitting all C1 Zone uses subject to the limitation

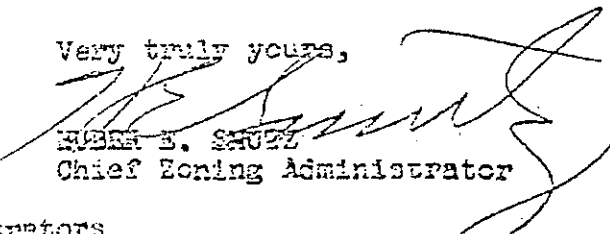
TRANSMITTAL NO. 2

that "all activities other than incidental storage shall be conducted wholly within a completely enclosed building" also provides in paragraph 14 of Section 12.14-A that there may be drive-in businesses which among other things includes refreshment stands, restaurants, and the like. In any such drive-in restaurant or refreshment stand persons are served food and refreshment while sitting in their automobiles. It is common practice in connection with many restaurants, eating establishments, and refreshment stands, particularly during the summer months in our salubrious climate, to provide tables either on dining terraces, outdoors, or under shade-covered patios where persons may be served their food and drink. Such activity would be little different than the serving of food and refreshment to persons seated in their cars in a drive-in restaurant facility and would be no more objectionable to the public welfare than some of the other open type of uses permitted in the C2 Zone, provided any entertainment and dancing is conducted wholly within a completely enclosed portion of the building. Other provisions of the C2 Zone clearly indicate the intent that all dancing and entertainment type of facilities other than the modern drive-in motion picture theater, be conducted within completely enclosed buildings. It is apparent that in most instances the conduct of open-air entertainment or dancing in connection with restaurant and cafe facilities would be a source of annoyance to occupants of adjacent premises, particularly residential and hotel developments.

Therefore, by virtue of authority contained in Section 12.21-A, 2 of the Municipal Code, it is hereby determined that restaurants, cafes, eating establishments, or refreshment stands with incidental dining terraces or outdoor eating patios for serving and consuming of food and refreshments would be similar to and no more objectionable than other uses permitted in the C2 Zone, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building. Furthermore, the List of Uses Permitted in Various Zones adopted under Z. A. I. Case No. 1350 is amended by inserting in its proper alphabetical order among the uses permitted in the C2 Zone, the following:

"Restaurant, Cafe, Eating Establishment or Refreshment Facility with incidental dining terrace or outdoor eating patio with tables for serving and consuming food or refreshments, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building."

Very truly yours,


 HUBERT S. SAUER
 Chief Zoning Administrator

HES:at

cc: Associate Zoning Administrators
 Branch Offices, Planning
 William Dove - c/o Tahitian Restaurant
 19010 Ventura Boulevard, Studio City

TRANSMITTAL NO. 2

Section 12.03 Non-conforming Building. Definition.

See section 12.23A3(a)3 of this manual.

Section 12.03 Nurseries - Netted Horticultural Structures (floor area)

Q - Does the area beneath a Netted Horticultural Structure (NHS) constitute Floor Area for off-street automobile parking and other Zoning Code requirements?

A - An NHS is a structure used to accommodate the growing or display of fruits, vegetables, flowers or plants. The surface material shall be open meshed or twisted fabric approved by the Fire Department. Such types of materials are not considered to provide housing or shelter to the use below (see definition of "Building" in Sec. 12.03) and therefore they do not constitute a Building. Since the use of these materials do not define a Building, they do not introduce Floor Area. Their use, however must be in compliance with other applicable Zoning Code requirements such as height, zone requirements etc..

For construction and Building Code requirements, see the Information Bulletin listed below.

(Information Bulletin No. P/ZC 2002-003)

Section 12.03 Outdoor Dining and Eating Areas - Definition.

Section 12.03 defines "Outdoor Eating Area" as a "...covered or uncovered portion of a ground floor restaurant which is not completely enclosed... and is not larger than 50 percent of the dining area of the ground floor restaurant..." These "Outdoor Eating Areas" are first permitted in the CR zone.

ZAI 1808 on the other hand, allows uncovered outdoor dining starting in the C2 zone.

This item consists of two questions related to outdoor eating areas.

Q₁ - Under what conditions and in what zones are outdoor dining areas permitted in conjunction with restaurants?

A₁ - By authority of ZAI 1808, outdoor dining is permitted in the C2, C4, CM and all the M zones as an incidental activity to a restaurant or similar food establishment, (remember that in the MR Zones, restaurants are permitted only when incidental to the industrial use on the lot.) The ZAI has no limitation regarding the area of the open use and has no parking requirements attached to it. In all these instances, the outdoor dining area must be open to the sky and must

be located outside of any required yards such as in MR Zones or when the lot contains residential use (Yards are defined as unoccupied space in Sec. 12.03.)

"Outdoor Eating Areas" as defined in Sec. 12.03 and in conformity with the limitations specified therein and summarized above are first permitted in the CR zone. "Outdoor Eating Areas", may be located in a side, rear or front yard as first specified in Section 12.12.2A4.13. In the CR, C1 and C1.5 zones however, an "Outdoor Eating Area" can be located in a side or rear yard only when the yard is along a street. This is true whether it is roofed or unroofed.

Q₂ - Which provision takes precedence; that contained in the Code or that in the ZAI?

A₂- These provisions overlap in some cases but do not supersede one another. An unroofed area used for dining in conjunction with a restaurant may be permitted per ZAI 1808 in the C2 and less restrictive zones. A roofed, though not completely enclosed "Outdoor Dining Area", must comply with the limitations in the Code specified above and those contained in each zone or else, the floor area must be computed in the normal manner. In the CR, C1 and C1.5 zones, "Outdoor Eating Areas" are permitted only if they comply with the definition in Section 12.03 and the regulations contained in each zone. (Continues on next page)

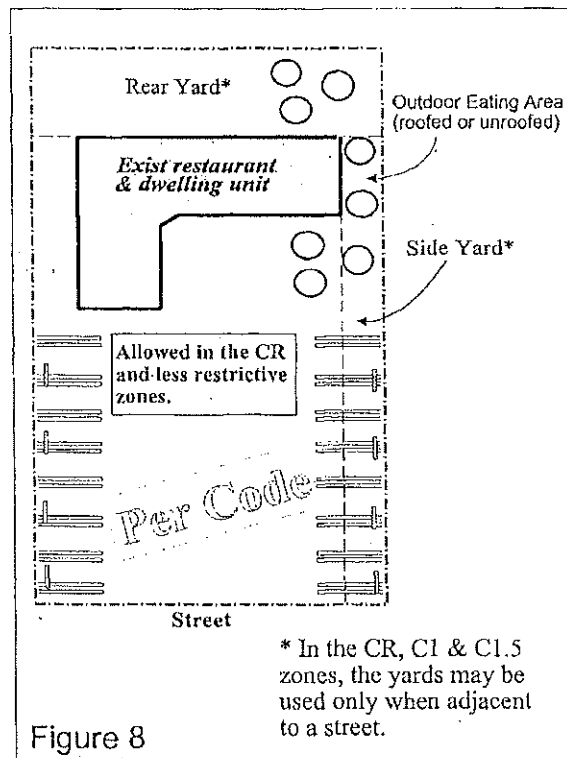


Figure 8