



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

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

www.newportbeachca.gov

CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

August 15, 2012

Agenda Item 1

SUBJECT: Park Stone Kitchen + Taps Minor Use Permit - (PA2012-082)
5180 Birch Street
▪ Minor Use Permit No. UP2012-014

APPLICANT: CA Burger Partners, LLC

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC-15 (Koll Center, Office Site G)
- **General Plan:** MU-H2 (Mixed-Use Horizontal)

PROJECT SUMMARY

A minor use permit to allow a Type 47 (On-Sale General) Alcoholic Beverage Control (ABC) license in conjunction with a food service eating and drinking establishment with no late hours and a drive-through window, previously approved under Use Permit No. UP3635, and an outdoor dining patio, previously approved under Outdoor Dining Permit No. OD65. If approved, this Minor Use Permit would supersede Use Permit No. UP3635 and Outdoor Dining Permit No. OD65.

The gross floor area of the establishment is 2,531 square feet, the interior net public area will be 973 square feet, and the outdoor patio will be 243 square feet in area. The establishment will provide a maximum of 74 interior seats and 12 seats on the patio. The requested hours of operation are from 6:00 a.m. to 11:00 p.m., daily.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _ approving Minor Use Permit No. UP2012-014 No. (Attachment No. ZA 1).

DISCUSSION

- The subject property is bounded by Jamboree Road to the southeast and Birch Street to the northeast. The area in the vicinity of the project site is developed with commercial office uses to the northwest, the County Courthouse across Birch Street, and open space and an arboretum owned by UC Irvine across Jamboree Road. In addition, Jazz Semiconductor, an industrial use, is located 700 feet to the southwest.
- Park Stone Kitchen + Taps will occupy a restaurant pad (currently Burger King) at the east end of an existing restaurant shopping area. Access to the center is obtained through a reciprocal 15-foot wide ingress/egress easement and 15-foot driveway along Birch Street. The area of the subject property is 45,088 square feet (approximately 4.05 acres). The property is developed with two primary buildings facing Jamboree Road. Park Stone would occupy one of these buildings and there are currently two restaurant tenants (Starbucks and Round Table Pizza) within the second building on-site.
- The General Plan designates this site MU-H2 (Mixed-Use Horizontal). The MU-H2 land use category applies to properties located in the Airport Area. It provides for a horizontal intermixing of uses that may include regional commercial office, multi-family residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses. The proposed eating and drinking establishment is consistent with this land use category as an ancillary neighborhood commercial use.
- The site is located in the PC-15 (Koll Center Planned Community) zoning district within the Office Site G sub-area of the Planned Community. The proposed eating and drinking establishment is allowed with the approval of a minor use permit because the food service does not propose late hours of operation after 11:00 p.m.
- The parking requirement is a sliding scale of 1/30 to 1/50 sq. ft. of net public area based on the physical and operational characteristics of the proposed eating and drinking establishment. Based on the characteristics of the proposed restaurant with a combination of fixed-seating, a Type 47 alcohol license, a drive-through window, and no live entertainment or patron dancing proposed, staff recommends a parking rate of one parking space per 40 square feet of net public area.
- The suggested 1 per 40-square-foot parking rate results in a lower parking requirement (25 parking spaces) for the proposed tenant as compared to the required parking under the original use permit (45 parking spaces). This parking requirement results in a total parking requirement of 43 parking spaces (25 and 18) for the project site. The property provides 63 parking spaces on-site. Thus, a reduction in the parking requirement is no longer necessary to accommodate the proposed food service establishment. Refer to Table 1, below, which summarizes

the required parking for the proposed food service use and the existing full-service small scale establishments on-site:

Table 1: Project Characteristics and Parking Analysis Table

	Round Table Pizza and Starbucks, UP3635	Park Stone, UP2012-014 (PA2012-082)	TOTAL
Use Classification	Food service, small scale	Food service, no late hours	N/A
Parking requirement	1/3 seats	1/40 sq ft of net public area*	N/A
Gross Floor Area	2,510	2,531	5,041
Net Public Area	570 each	973	2,113
Number of Seats	25 each	86	186
Required Parking	18	25	43

- The subject property is located within Reporting District No. 15 (RD15). For a map of the City of Newport Beach Reporting Districts, see Attachment No. ZA 3. Alcohol related statistics for the subject application will be incorporated into the staff report prior to the Zoning Administrator hearing as Attachment No. ZA 4. A draft memorandum, which includes the recommendation of the Police Department, is attached in Attachment No. ZA 5. The final memorandum from the Police Department will be incorporated into the staff report prior to the Zoning Administrator hearing. The alcohol related statistics for RD15 will also be incorporated into the factors for consideration in the draft resolution prior to the Zoning Administrator hearing (Attachment No. ZA 1).
- The proposed project complies with the development standards for on-sale alcohol sales and outdoor dining provided in Section 20.48.090 (Eating and Drinking Establishments) of the Zoning Code.
- The existing site complies with the signage, pedestrian and traffic circulation, screening, and landscape standards provided in Section 20.48.080 (Drive-Through and Drive-Up Facilities) of the Zoning Code.
- The project is compatible with existing and allowed uses within the restaurant center. Other uses in the center include two other restaurant tenants (Starbucks and Round Table Pizza) within an adjacent pad building.
- If approved, Minor Use Permit No. UP2012-014 (PA2012-082) will supersede Use Permit No. UP3635 and Outdoor Dining Permit No. OD65.

ENVIRONMENTAL REVIEW

The project qualifies for Class 1 (Existing Facilities) categorical exemption, Section 15301 of the California Environmental Quality Act. The proposed project involves the addition of alcoholic beverages to an existing restaurant with an outdoor dining patio. Therefore, both the interior use and outdoor dining patio qualify for a categorical exemption under Class 1.

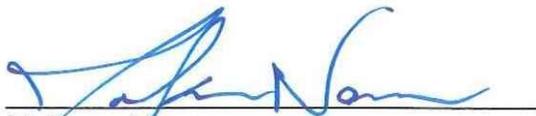
PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared up the agenda for this meeting, which was posted at City Hall and on the City website.

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. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:



Makana Nova
Assistant Planner

BW/mkn

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| Attachments: | ZA 1 | Draft Resolution |
| | ZA 2 | Vicinity Map |
| | ZA 3 | Police Department Reporting Districts |
| | ZA 4 | Alcohol Related Statistics |
| | ZA 5 | Police Department Recommendation |
| | ZA 6 | Site Photos |
| | ZA 7 | Project Plans |

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2012-0##

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-014 TO ALLOW A TYPE 47 (FULL-SERVICE GENERAL) ALCOHOLIC BEVERAGE LICENSE AT AN EXISTING RESTAURANT LOCATION WITH A DRIVE-THROUGH LOCATED AT 5180 BIRCH STREET (PA2012-082)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by CA Burger Partners, LLC, representing Park Stone Kitchen + Taps, with respect to property located at 5180 Birch Street, and legally described as Parcel 3 of Resubdivision No. 557 as recorded in Book 108 Pages 27-28 of Miscellaneous Maps in the County of Orange, California requesting approval of a minor use permit.
2. A minor use permit to allow a Type 47 (On-Sale General) Alcoholic Beverage Control (ABC) license in conjunction with a food service eating and drinking establishment with no late hours and a drive-through window, previously approved under Use Permit No. UP3635, and an outdoor dining patio, previously approved under Outdoor Dining Permit No. OD65. If approved, this Minor Use Permit would supersede Use Permit No. UP3635 and Outdoor Dining Permit No. OD65. The gross floor area of the establishment is 2,531 square feet, the interior net public area will be 973 square feet, and the outdoor patio will be 243 square feet in area. The establishment will provide a maximum of 74 interior seats and 12 seats on the outdoor dining patio. The requested hours of operation are from 6:00 a.m. to 11:00 p.m., daily.
3. The subject property is located within the Koll Center Planned Community (PC-15) Zoning District within the Office Site G sub-area and the General Plan Land Use Element category is Mixed-Use Horizontal (MU-H2).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on August 15, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. 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.

- This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
- The proposed project involves the addition of alcoholic beverages to an existing restaurant with an outdoor dining patio. Therefore, both the interior use and outdoor dining patio qualify for a categorical exemption under Class 1.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. Due to the high concentration of commercial land uses, the calls for service, number of arrests, and crime rate are greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District. (to be updated upon receipt of alcohol-related statistics from the Police Department)
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service, number of arrests, and crime rate are greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District. (to be updated upon receipt of alcohol-related statistics from the Police Department)
- iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
 1. The General Plan designates the site as mixed-use where residential development is permitted above the first floor. The subject and surrounding properties are not currently developed with residential dwelling units. The nearest recreational facility,

Newport Back Bay, is located approximately 6,000 feet to the east of the subject property. The nearest church, Temple Bat Yahm, is located approximately 10,700 feet to the south of the subject property. The project site is located across the street from UC Irvine property and a tutoring facility is located approximately 4,100 feet to the southwest of the subject property along Bristol Street but the project site is not in close proximity to any other daycare center or other school. The proposed use is surrounded by other commercial and office uses in the Koll Center area including several other eating and drinking establishments along Jamboree Road.

- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. There are four comparable establishments along Jamboree which provide alcohol service to patrons. These include Kimera, The Melting Pot, The Daily Grill, and Phans55. The Type 47 (On Sale, General) alcohol license requested is the same as those obtained for said establishments and there is no evidence suggesting these uses have been detrimental to the neighborhood.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions*
1. The property has historically been used by restaurants that did not include alcohol service. As such, there are no current objectionable conditions to be resolved since alcohol service has not previously been a part of the business operation at this location.
 2. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
 3. The hours of operation will minimize the potential effects on land use. The 11:00 p.m. closing hour will ensure the restaurant does not become a late night bar, tavern, or nightclub.
 4. The restaurant pad is adjacent to a highly-traveled commercial area that is occupied by a mixture of office and retail uses. It is anticipated that the establishment will serve employees of the nearby businesses and visitors to stop and eat within the airport area. Adding alcohol service to the menu will compliment the food service and provide for the convenience of customers.

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

Finding

B. The use is consistent with the General Plan and any applicable specific plan;

Facts in Support of Finding

1. The General Plan land use designation for this site is MU-H2 (Mixed-Use Horizontal). The MU-H2 land use category applies to properties located in the Airport Area. It provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses. The proposed eating and drinking establishment is consistent with this land use category.
2. Eating and drinking establishments are common in the vicinity along Jamboree and are frequented by visitors and local employees alike. The establishment is compatible with the land uses permitted within the surrounding neighborhood.
3. The subject property is not part of a specific plan area.

Finding

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

Facts in Support of Finding

1. The site is located in the PC-15 (Koll Center Planned Community) Zoning District within the Office Site G sub-area. The PC-15 district is planned for development with a hotel, banquet and convention facilities, a small retail and service center, service stations, restaurants, bars and theater/nightclubs, a site for the proposed Orange County Courthouse with the balance of the acreage developed as a business and professional office park emphasizing open space. The proposed eating and drinking establishment is consistent with this zoning district.
2. Site improvements, which are required by the conditions of approval for compliance with the Zoning Code, will be checked by the Community Development Department in conjunction with building permit inspections.

Finding

D. 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 operation of the restaurant will be restricted to the hours between 6:00 a.m. and 11:00 p.m., daily.
2. The existing site provides ample parking (63 parking spaces) to accommodate the existing and proposed eating and drinking establishments on-site.
3. A restaurant has been operated in this location since 1979 pursuant to Use Permit No. UP1896, Use Permit No. UP3635, Accessory Outdoor Dining Permit No. OD 18, and Outdoor Dining Permit No. OD65. During this period, the use has not proven detrimental to the area. The tenant space has operated as an eating and drinking establishment in the past and demonstrated the location's capability of operating as a compatible use with other land uses in the vicinity.
4. The applicant is required to provide a solid roof cover for the existing trash enclosure and will control trash and litter around the subject property.
5. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
6. The applicant has a grease interceptor on-site and will obtain Health Department approval. The establishment will comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.

Finding

- E. 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; and*

Facts in Support of Finding

1. The existing on-site vehicle circulation, including the drive-through, has functioned satisfactorily with the existing configuration.
2. The project site is located within an existing restaurant pad building and the tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.

3. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing tenant space.
4. The tenant improvements will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The food service, eating and drinking establishment will serve the surrounding courthouse, office, and business park community. The proposed establishment provides dining services as a public convenience to the surrounding neighborhood. The service of alcohol will provide an economic opportunity for the property owner to maintain a successful business that is compatible with the surrounding community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-014, 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 fourteen 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 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit No. UP3635 and Outdoor Dining Permit No. OD65, which upon vesting of the rights authorized by Minor Use Permit No. UP2012-014 (PA2012-082), shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 15th DAY OF AUGUST, 2012.

Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. This approval supersedes Use Permit No. UP3635 and Accessory Outdoor Dining Permit No. OD65.
2. 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.)
3. 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.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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.
6. 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.
7. One parking space for each 40 square feet of interior net public area shall be provided on-site.
8. All employees shall park on-site.
9. The gross floor area of the food service, no late hours eating and drinking establishment shall be limited to a maximum of 2,531 sq. ft.
10. The net public area of the food service, no late hours eating and drinking establishment shall be limited to a maximum of 973 sq. ft.
11. The hours of operation for the restaurant and outdoor dining patio shall be limited to the hours of 6:00 a.m. and 11:00 p.m., daily.
12. The accessory outdoor dining area shall be used in conjunction with the related adjacent food establishment and shall be limited to 243 sq. ft. in area.

13. Alcohol service shall be limited to a Type 47 (On Sale General) Alcoholic Beverage Control License. Alcohol service shall be prohibited at the drive-thru.
14. There shall be no exterior advertising or signs of any kind or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
15. Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.
16. A special even permit may be required for any even or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form or contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
17. Approval does not permit the restaurant to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Municipal Code.
18. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
19. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
20. Food from the full service menu must be made available during any "happy hour" type of reduced price alcoholic beverage promotion. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.
21. VIP passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order or sale of drinks is prohibited.
22. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas are prohibited.
23. Petitioner 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.
24. 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 on demand.

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25. 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.
 26. There shall be no live entertainment allowed on the premises.
 27. There shall be no dancing allowed on the premises.
 28. Strict adherence to maximum occupancy limits is required.
 29. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
 30. The boundary of the accessory outdoor dining area shall be marked through the use of a 36-inch high boundary rail, unless a higher rail or other marking is otherwise approved by the Community Development Director. Fences, walls, or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.
 31. Prior to issuance of building permits, plans for the outdoor dining/patio areas shall be reviewed and approved by the Planning Division. Final material, height, and location of the boundary rail shall be subject to approval by the Building and Planning Division staff.
 32. The use of umbrellas for shade purposes shall be permitted. The use of any other type of overhead covering shall be subject to review and approval by the Community Development Director and may require an amendment to this permit.
 33. 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.
 34. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
 35. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
 36. The size, design, and location of trash enclosures shall be subject to the review and approval of the Public Works and Planning Division prior to issuance of building permits.
 37. 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).

38. Trash generated by the establishment shall be adequately contained in sealed plastic bags to control odors prior to placement in the trash dumpster.
39. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Minor Use Permit.
40. No live entertainment or dancing shall be permitted in conjunction with the permitted use.
41. No outside loudspeaker or paging system shall be permitted in conjunction with the proposed operation and outdoor dining establishment.
42. Should problems arise with regard to noise associated with the outdoor dining areas, the Planning Division shall require the removal of all or a portion of the outdoor dining area seating in the areas which contribute to the noise problems or complaints.
43. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternate drainage plan.
44. 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 and shall submit a detailed plan for the policing of the surrounding vicinity for compliance with this condition. Additionally, the area outside of the food establishment, including the public sidewalks, shall be maintained in a clean and orderly manner and may be subject to periodic steam cleaning of the public sidewalks as required by the Community Development Department.
45. This Minor Use Permit may be modified or revoked by the Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
46. Use Permit No. UP2012-014 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, unless an extension is otherwise granted.
47. 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 Park Stone Kitchen + Taps Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-014 (PA2012-082). 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.

Fire Department Conditions

48. Exiting requirements for A Occupancies per Chapter 10 CBC shall be met. Panic hardware, door swing and two means of egress shall be required.
49. Illuminated exit signs and emergency lighting shall be provided.
50. A fire extinguisher (2A 10BC) will be required in the seating area. If a hood fire suppression system is required, a "K" type extinguisher shall also be required in the kitchen area.
51. A hood fire suppression system will be required if cooking produces grease laden vapors. Plans will need to be submitted and approved prior to installation.
52. The canopy shall comply with C.B.C. Section 3105. Canopies shall be constructed of a rigid framework with an approved covering that meets the fire propagation performance criteria of NFPA 701 or has a flame spread index not greater than 25 when tested in accordance with ASTM E 84 or UL 723. The canopy shall be labeled by the State Fire Marshall or a certificate will be required indicating the fabric is flame retardant.
53. All fabrics and all interior decorative fabrics or materials shall be flame resistant in accordance with appropriate standards set forth in CCR, Title 19, Division 1, Chapter 8.
54. The use and storage of area heaters and propane containers shall be approved by the Building and the Fire Department prior to installation or use.
55. A "Knox Box" shall be required containing the building keys for emergency personnel use.
56. The trash enclosure shall be located a minimum of 5-feet from any structures.

Building Division Conditions

57. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
58. The proposed restaurant that will be renovated from an existing restaurant shall comply with the requirements of Chapter 10 of the California Building Code 2010.
59. The project shall comply with State Disabled Access requirements.
60. The restaurant shall provide the number of plumbing fixtures to satisfy the requirements of Chapter 4 of the California Building Code, 2010.
61. The site plan shall clearly identify the parking, path of travel, entrance, restrooms, fixed seating, and bar seating to comply with accessibility requirements.
62. Kitchen exhaust fans shall be installed in accordance with the Uniform Mechanical Code prior to the issuance of a Certificate of Occupancy for the subject business and approved by the Building Division. That issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
63. 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 Division.
64. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

Public Works Conditions

65. A new sewer cleanout shall be provided on the existing sewer lateral, installed per STD-406-L.
66. County Sanitation District fees shall be paid prior to the issuance of any building permits.
67. The final design of all on-site parking, vehicular circulation, and pedestrian circulation systems shall be subject to the approval of the City Traffic Engineer.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



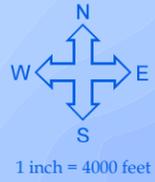
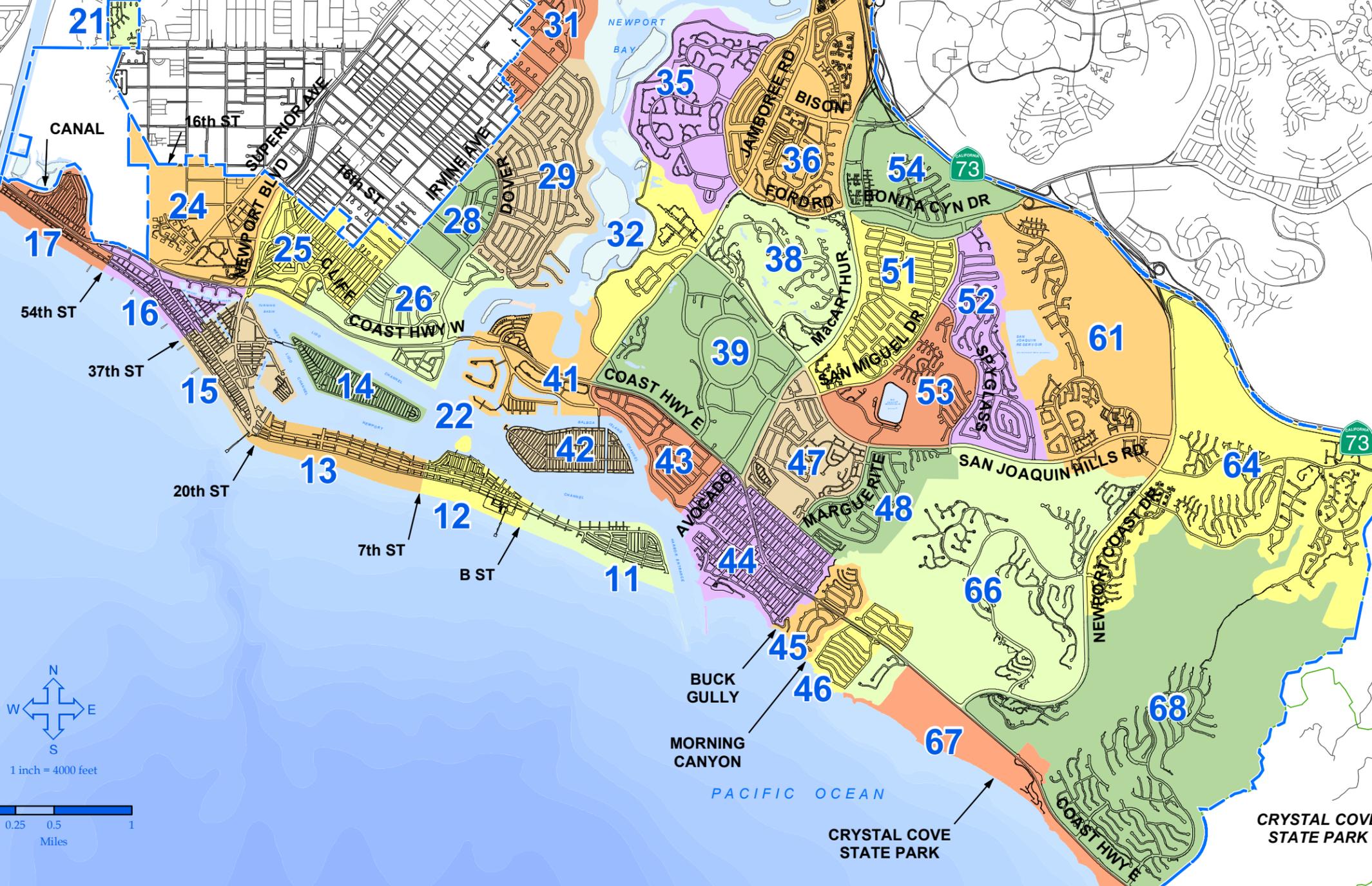
Minor Use Permit No. UP2012-014
PA2012-082

5180 Birch Street

Attachment No. ZA 3

Police Department Reporting Districts

Reporting Districts
 Newport Beach Police Department
 Effective Jan 1, 2008



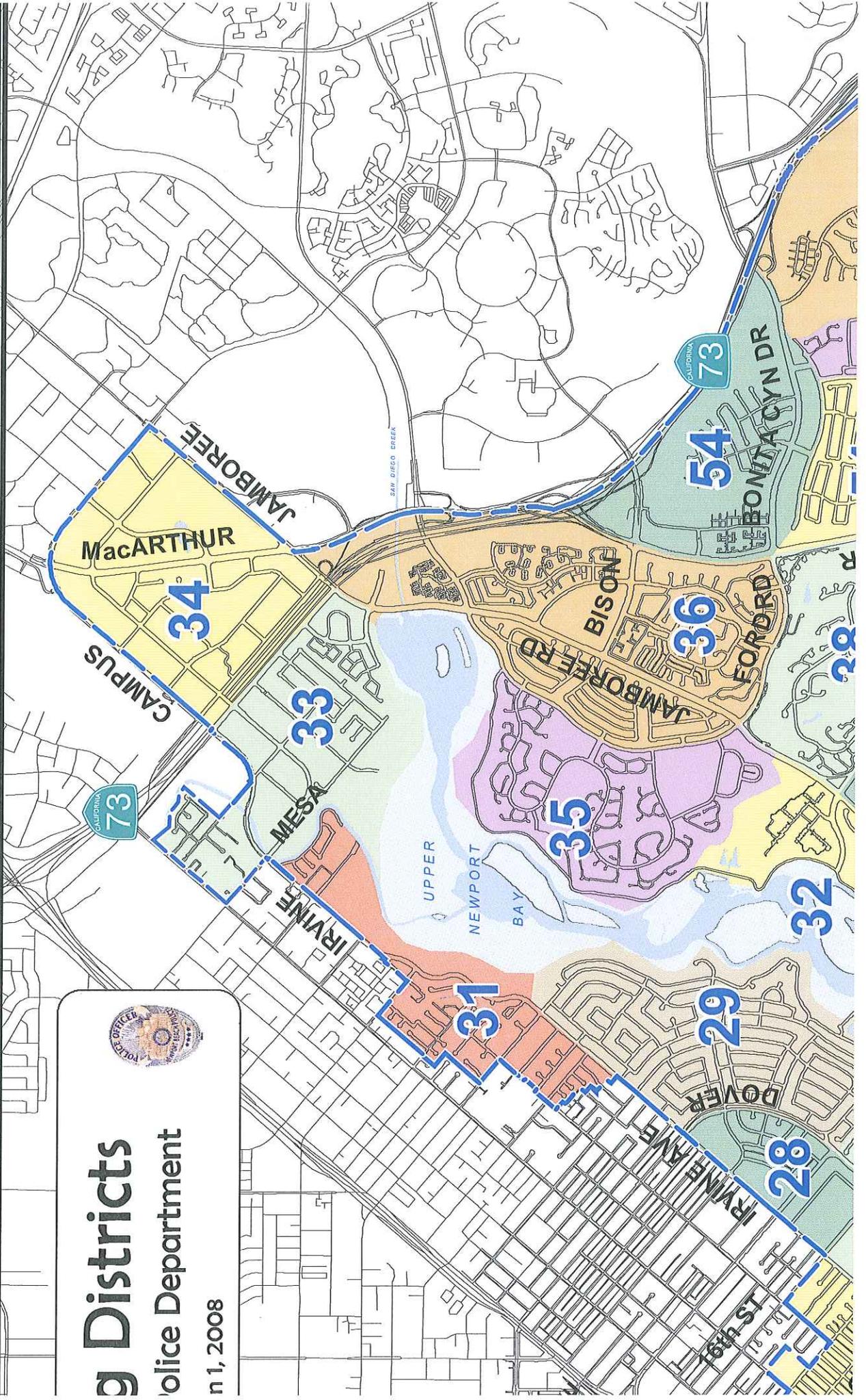
1 inch = 4000 feet



g Districts

olice Department

n 1, 2008



Attachment No. ZA 4

Alcohol Related Statistics

Please Note: Alcohol related statistics from the Police Department will be incorporated into the staff report prior to the Zoning Administrator hearing.

Attachment No. ZA 5

Police Department Recommendation

Please Note: The final Police Department recommendation will be incorporated into the staff report prior to the Zoning Administrator hearing.

**City of Newport Beach
Police Department**

Memorandum

August 7, 2012

TO: Makana Nova, Assistant Planner

FROM: Detective Brian Haas

SUBJECT: Parkstone Kitchen & Taps, 5180 Birch Street, Newport Beach
UP2012-014 (PA2012-082).

At your request, the Police Department has reviewed the project application for *Parkstone Kitchen & Taps*, to be located at 5180 Birch Street, Newport Beach. The applicant is seeking a minor use permit to allow a Type 47 (On Sale General-Eating Place) ABC license for a food service eating and drinking establishment with no late hours. The project includes an outdoor dining patio that was previously approved under Use Permit No. UP635. The establishment will provide a maximum of 74 interior seats and 12 seats on the patio. The proposed hours of operation are 6:00 a.m. to 11:00 p.m., daily.

The applicant will apply for a Type 47 (On Sale General – Eating Place) license with the Department of Alcoholic Beverage Control. The license will be conditioned appropriately to protect the health, safety and welfare of the community.

Applicant History

The applicant, J.D. Gantes, currently operates other eating and drinking establishments such as Ruby's Diner. Gantes wishes to turn an existing Burger King fast food restaurant into the "Parkstone Kitchen & Taps", which will be an upscale eating and drinking establishment that will appeal to the business lunch crowd.

Recommendations

The Police Department has no objection to the operation as described by the applicant.

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Hours of Operation

The proposed hours of operation are 6:00 a.m. to 11:00 p.m., daily.

Security

The Police Department has no recommendations.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Additional Comments

For the purposes of this application, staff may also want to consider establishing conditions that would require a special event permit. A special event permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Other Recommended Conditions

In addition, the Police Department has determined that the following conditions would be appropriate for the Conditional Use Permit for the business:

1. Approval does not permit Parkstone Kitchen & Taps 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.
2. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
3. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
4. Food from the full service menu must be made available during any "happy hour" type of reduced price alcoholic beverage promotion. There shall be no reduced price alcoholic beverage promotion after 9 p.m.
5. VIP passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order or sale of drinks is prohibited.
6. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas are prohibited.

7. Petitioner 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.
8. 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 on demand.
9. 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.
10. There shall be no live entertainment allowed on the premises.
11. There shall be no dancing allowed on the premises.
12. Strict adherence to maximum occupancy limits is required.
13. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.

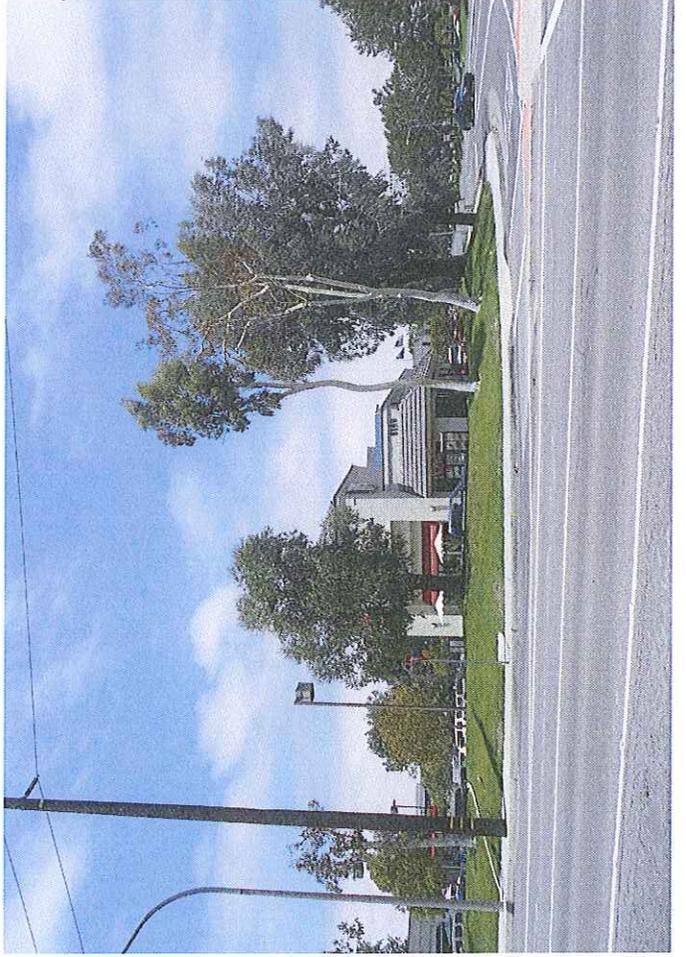
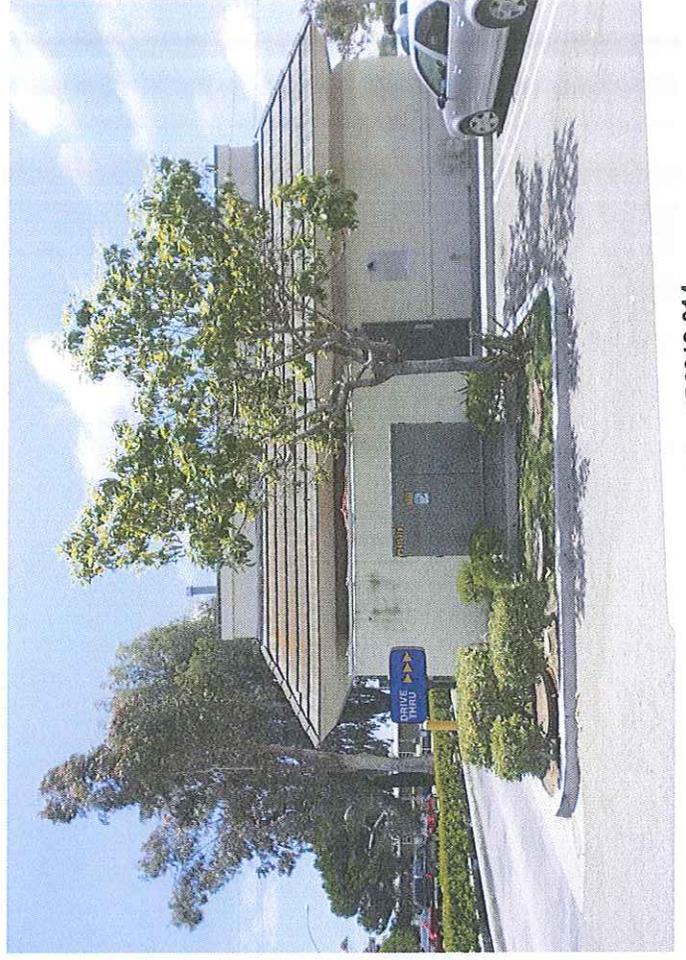
If you have any questions, please contact Detective Brian Haas at (949) 644-3709.

Brian Haas, Vice/ABC
Detective Division

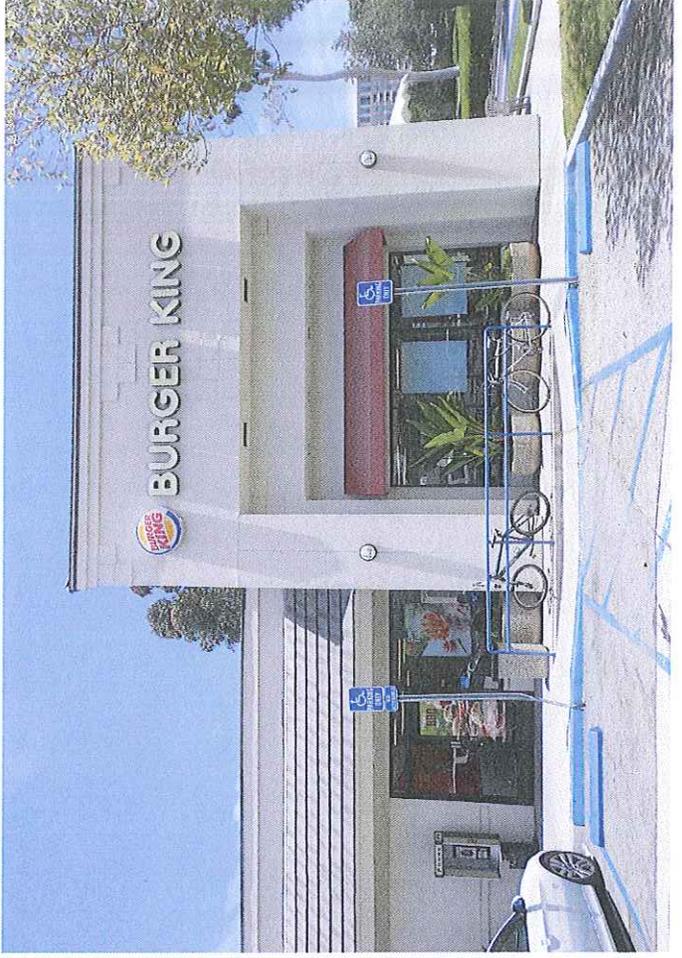
Dale Johnson, Captain
Detective Division Commander

Attachment No. ZA 6

Site Photos

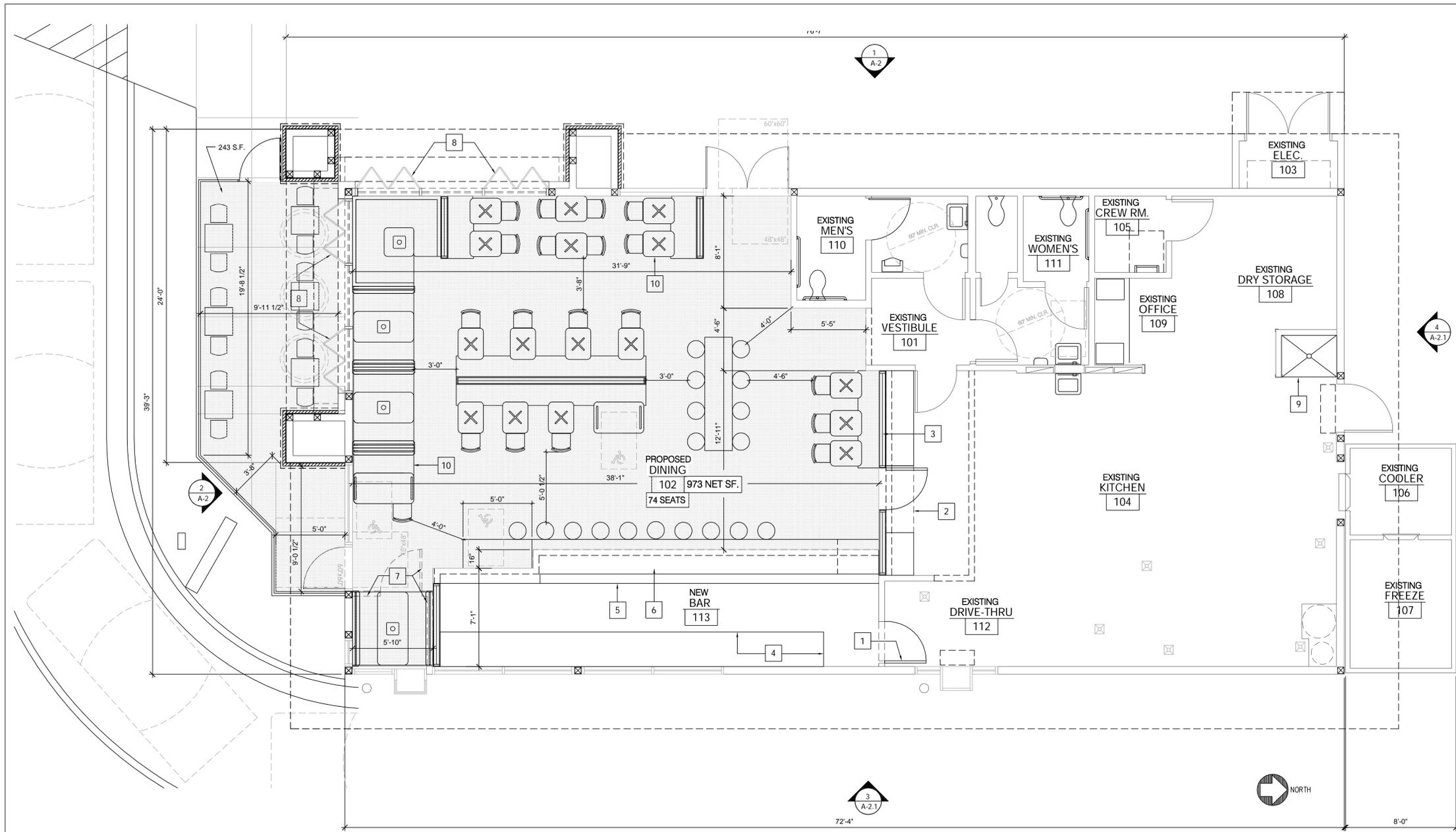


PA2012-082 for UP2012-014
5180 Birch Street
5 Jamboree Partners, LP



Attachment No. ZA 7

Project Plans



KEY NOTES

- 1 NEW DOOR IN EXISTING WALL.
- 2 EXISTING COUNTER TO BE REMOVED FOR NEW DOOR.
- 3 NEW GLASS PARTION ON EXISTING COUNTER.
- 4 NEW BACK BAR EQUIPMENT.
- 5 NEW UNDER COUNTER EQUIPMENT.
- 6 NEW BAR COUNTER
- 7 EXISTING DRIVE-THRU ENCLOSE TO BE REMOVED.
- 8 EXISTING WINDOWS TO BE REMOVED AND INSTALL NEW ALUMINUM FOLDING WINDOWS IN EXISTING OPENING.
- 9 ENLARGE (E) 4' WIDE MOP SINK TO BE 3' DEEP.
- 10 NEW FIXED AND MOVABLE SEATING

CDI Circa Domini International, Inc.
 Programming - Planning - Architecture - Interiors - Engineering
 17852 East 17th Street, Suite 111, Tustin, CA 92780
 Phone: (888) 505-0052 Fax: (888) 505-0052

PARKSTONE
 KITCHEN + TAPS

FLOOR PLAN
 PARKSTONE
 5180 BIRCH STREET
 NEWPORT BEACH, CA

SEATING PLAN 1/4" = 1'-0" 1

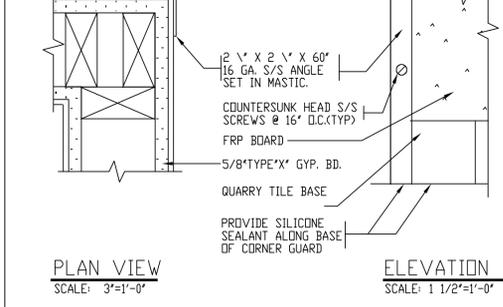
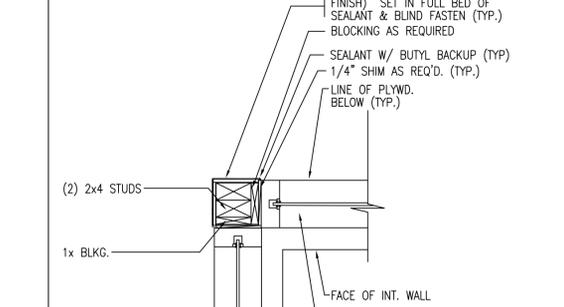
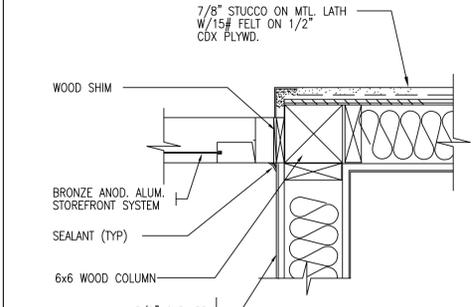
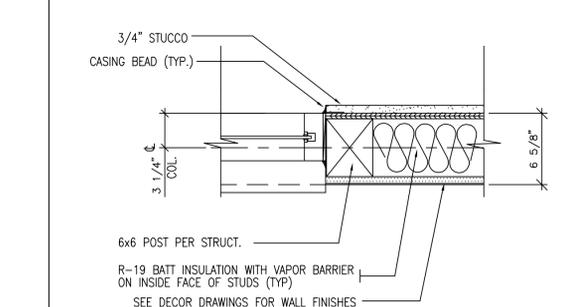
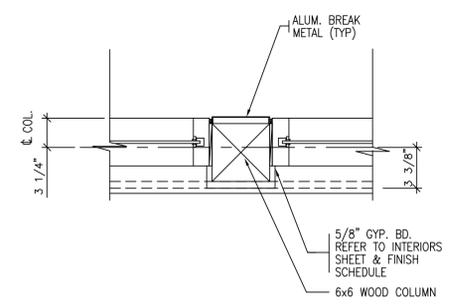
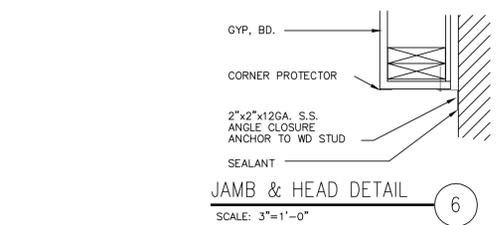
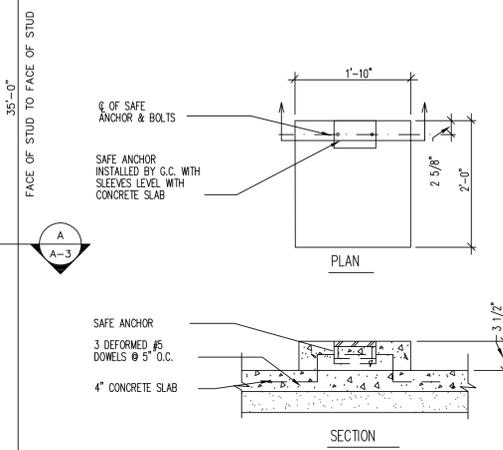
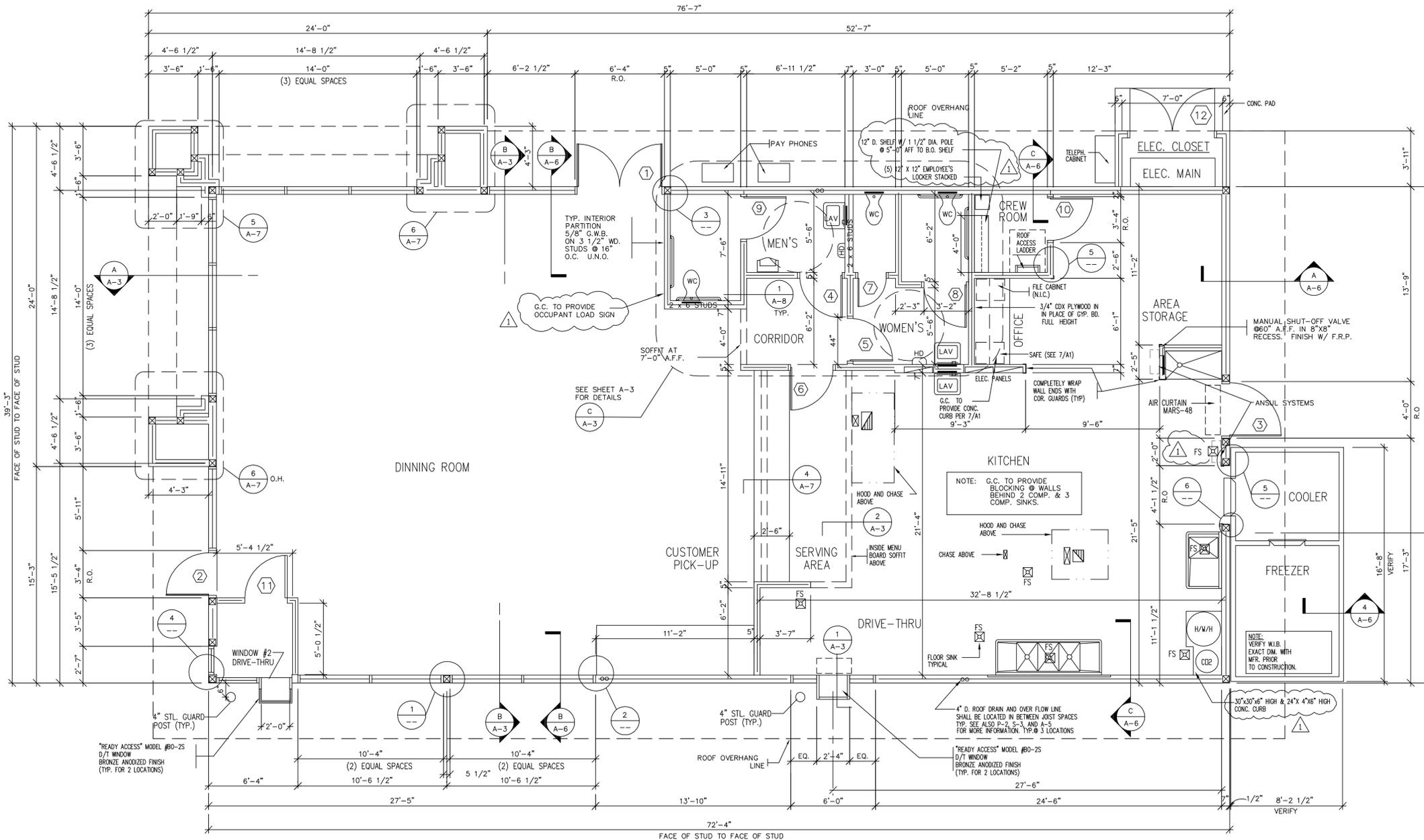
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07/27/12	500.114
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STORE NO.
DRAWING NO.

A-1



WINDOW DETAIL 1 1/2"=1'-0" 1

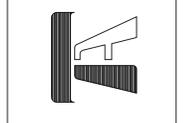
COLUMN AT WINDOW WALL 1 1/2"=1'-0" 2

WALL DETAIL AT MAIN ENTRY 1 1/2"=1'-0" 3

DETAIL AT CORNER WINDOW 1 1/2"=1'-0" 4

TYP. KITCHEN CORNER GUARD 3"=1'-0" 5

TARLOS & ASSOCIATES
ARCHITECTS - ENGINEERS
A.I.A. - A.R.A.
17802 MITCHELL
IRVINE, CA. 92614
FAX (949) 250-1676
(949) 250-4117



BURGER KING
EXISTING FLOOR PLAN
5180 BIRCH STREET
NEWPORT BEACH, CA

FOR REFERENCE ONLY

REVISION	DATE	JOB NO
12-1-98 PLAN CHECK	9-7-98	572.055
	SCALE AS SHOWN	DRAWN BY ABDUL

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BKNBA1



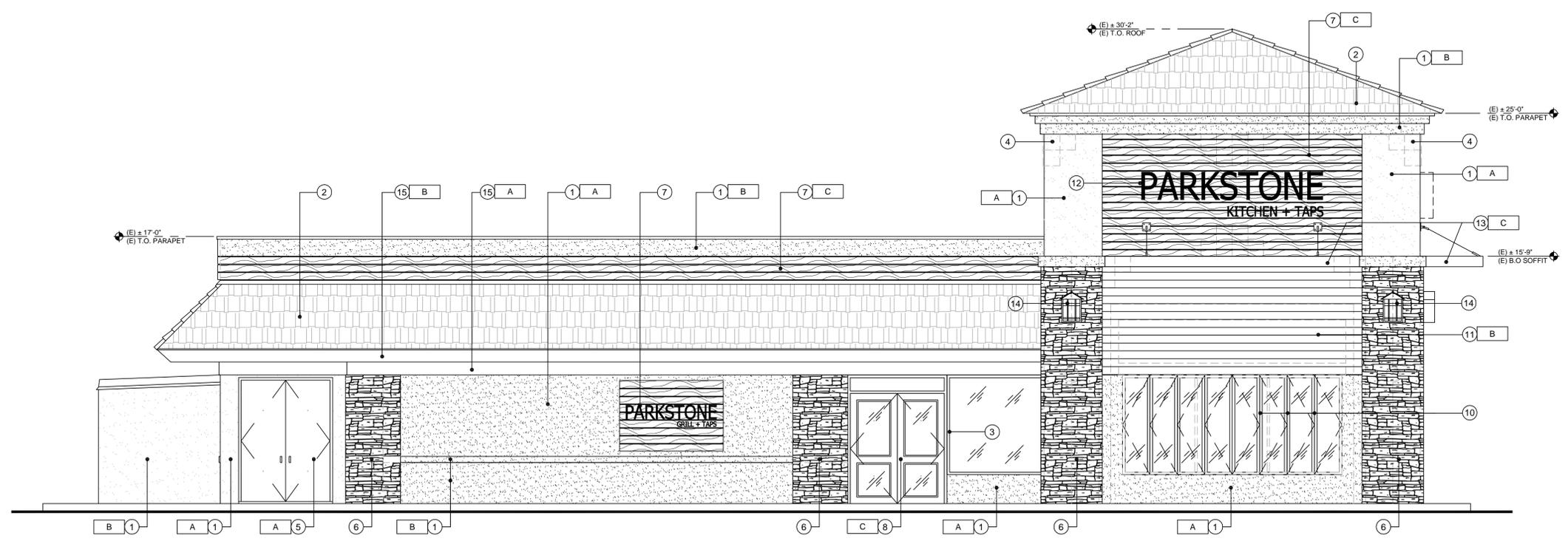
2 FRONT ELEVATION
SCALE: 1/4" = 1'-0"

EXTERIOR FINISH SCHEDULE:

- A BERH 700D-5 "TOFFEE CRUNCH"
- B BERH 160-23 "ESPRESSO BEANS"
- C CLEAR STAIN SEALER.

KEY NOTES:

- 1 EXISTING STUCCO.
- 2 EXISTING CONCRETE ROOF TILE.
- 3 EXISTING DARK BRONZE STOREFRONT.
- 4 EXISTING STUCCO PLANT-ONS TO BE REMOVED.
- 5 EXISTING METAL DOOR.
- 6 NEW EXTERIOR STONE - GOLDEN RAY LEDESTONE.
- 7 NEW 1x6 CEDAR SIDING.
- 8 NEW WOOD DOORS.
- 9 EXISTING DRIVE-THRU WINDOW
- 10 NEW ALUMINUM FOLDING WINDOWS.
- 11 NEW CORRUGATED METAL SIDING.
- 12 SIGNAGE * UNDER SEPARATE PERMIT
- 13 NEW WOOD CANOPY.
- 14 NEW LIGHT FIXTURE.
- 15 EXISTING FASCIA



1 MAIN ENTRANCE ELEVATION
SCALE: 1/4" = 1'-0"

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PARKSTONE
KITCHEN + TAPS

EXT. ELEVATIONS
PARKSTONE
5180 BIRCH STREET
NEWPORT BEACH, CA

REVISION

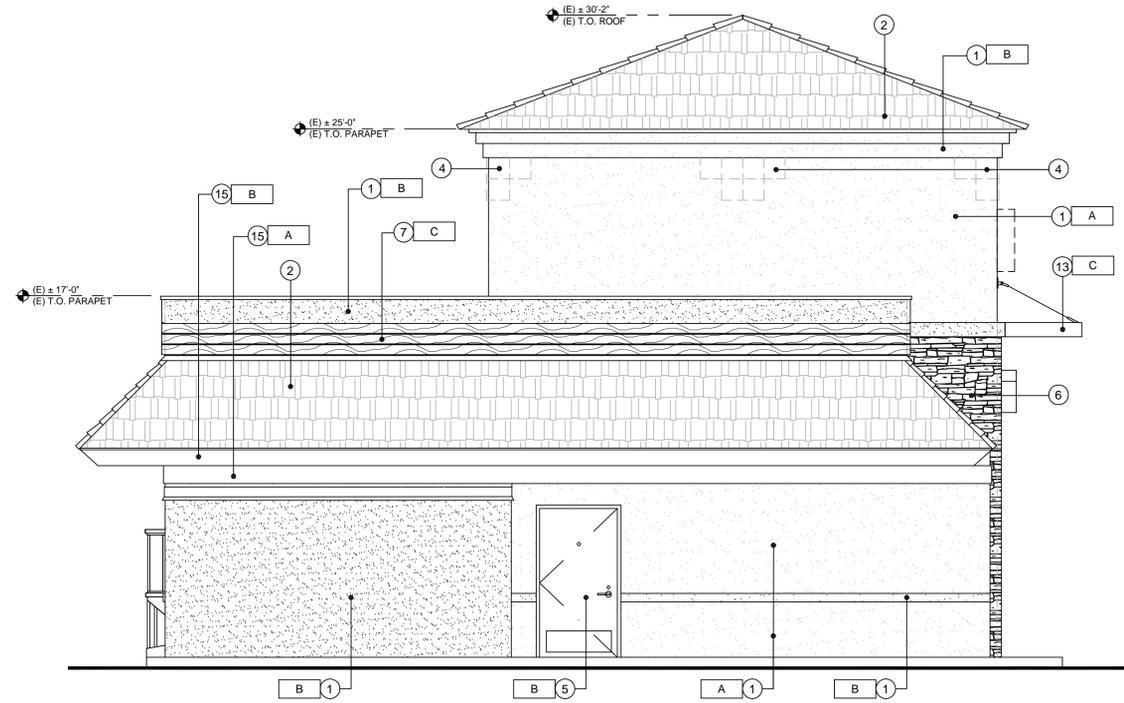


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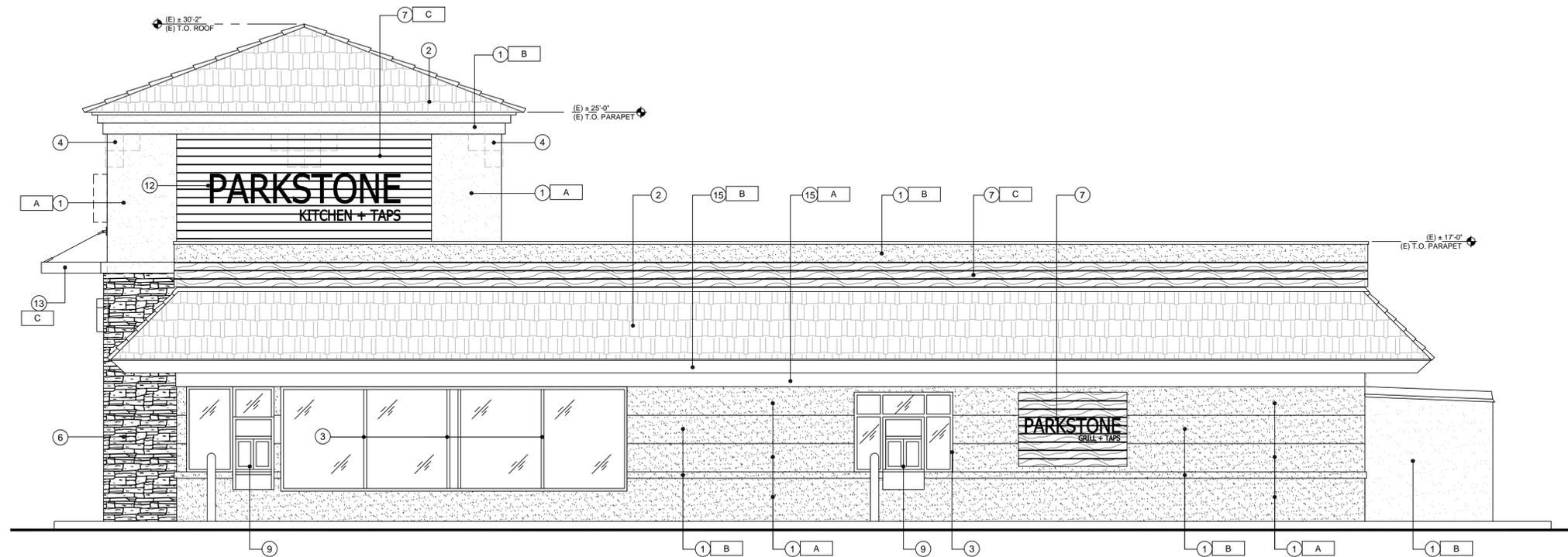
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DRAWING NO.

A-2



4 REAR ELEVATION
SCALE: 1/4" = 1'-0"



3 DRIVE-THRU ELEVATION
SCALE: 1/4" = 1'-0"

EXTERIOR FINISH SCHEDULE:

- A BERH 700D-5 "TOFFEE CRUNCH"
- B BERH 160-23 "ESPRESSO BEANS"
- C CLEAR STAIN SEALER.

KEY NOTES:

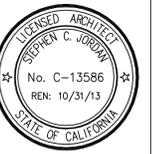
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PARKSTONE
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EXT. ELEVATIONS
PARKSTONE
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REVISION

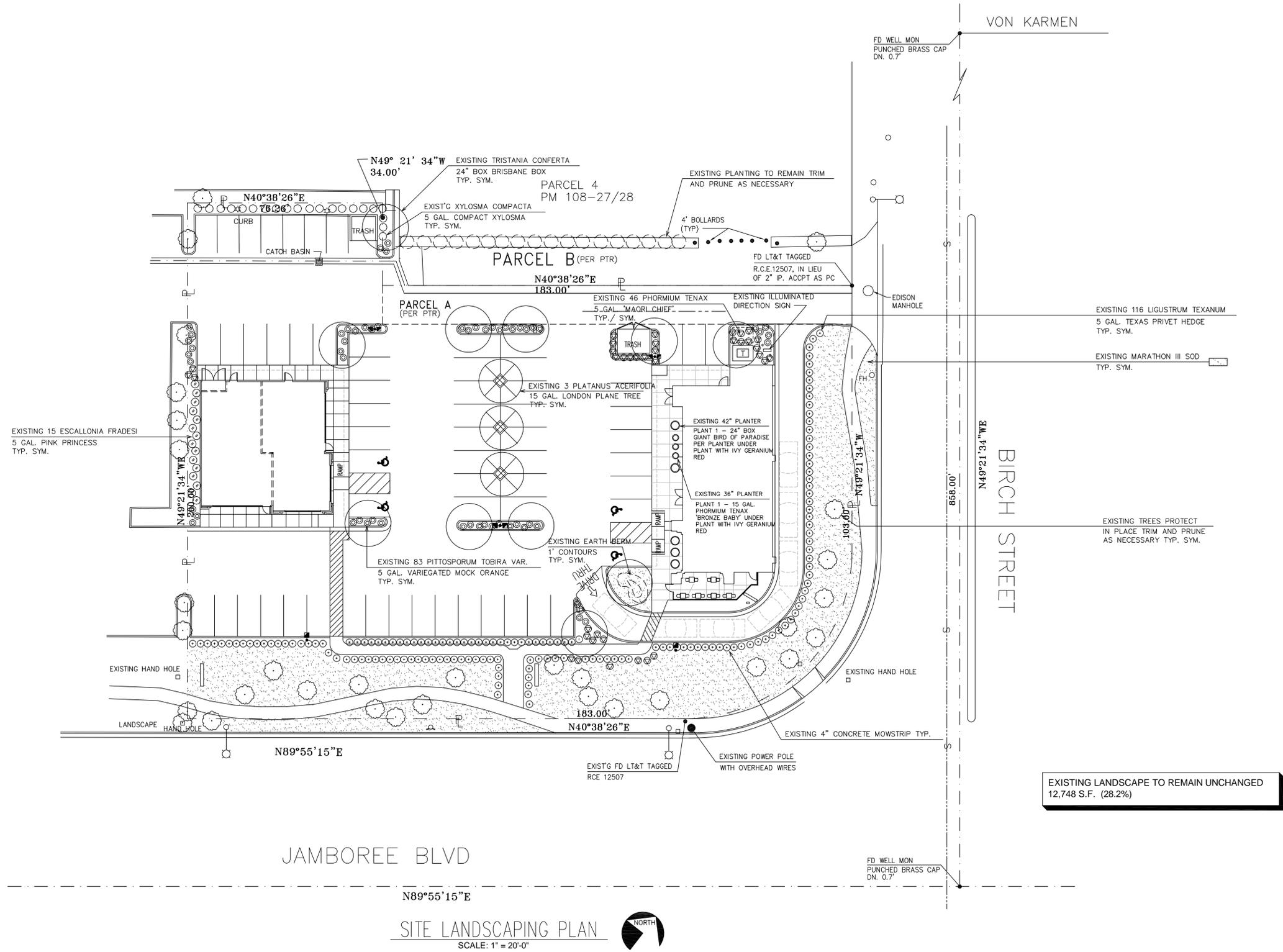


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JAMBOREE BLVD

N89°55'15"E

SITE LANDSCAPING PLAN
SCALE: 1" = 20'-0"



EXISTING LANDSCAPE TO REMAIN UNCHANGED
12,748 S.F. (28.2%)

PARKSTONE
KITCHEN + TAPS

SITE LANDSCAPING PLAN
PARKSTONE
5180 BIRCH STREET
NEWPORT BEACH, CA

REVISION



DATE	JOB NO
07/27/12	500.114
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