

**CITY OF NEWPORT BEACH
PLANNING DEPARTMENT ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: James W. Campbell, Acting Planning Director
SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending January 28, 2011.

ACTIONS TAKEN AT JANUARY 27, 2011 ZONING ADMINISTRATOR HEARING

- Item 1:** TD Building Design - Modification Permit No MD2010-016 (PA2010-130)
8 Via Burrone

This item was approved as modified. Council District 6
- Item 2:** Crow Burger Kitchen - Use Permit No. UP2010-036 (PA2010-155)
3107 Newport Boulevard

This item was approved as modified. Council District 1

On behalf of James W. Campbell, Acting Planning Director:



Patrick J. Alford, Planning Manager

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

Email Dana Smith, Assistant City Manager
Leonie Mulvihill, Assistant City Attorney
David Keely, Public Works Senior Civil Engineer
Code Enforcement Division
Bryan Moore, NBPD
Sgt. John Freeman, NBPD



ZONING ADMINISTRATOR ACTION LETTER

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

Application No. **Modification Permit No. MD2010-016 (PA2010-130)**
Applicant **TD Building Design**
Site Address **8 Via Burrone**
Legal Description **PCL 14 of LL 2000-011**

On January 27, 2011, the Zoning Administrator approved, as stated in the findings and modified in the conditions of approval, the following application: a modification permit to allow retention of an over-height "as built" privacy wall, entry gate, and related elements which encroach to 10 feet into the required 10-foot front yard setback. As measured from natural grade, the accessory structures consist of the following elements: stucco-finished walls (to 7-feet 8-inches high), 2 stucco-finished pilasters (each to 8-feet 10-inches high, one located on each side of the wrought-iron entry gate), 4 stucco finished pilasters (each to 9-feet 11-inches high, one located on each side of the two driveway entrances), 6 wrought-iron, decorative lamps (one lamp attached to each of 4 pilasters 8-feet 8-inches high and one lamp attached to each of 2 pilasters 7-feet 8-inches high), a wrought-iron entry gate (to 8-feet 10-inches high), and 2 fountains (each to 5-feet 8-inches high) inches. The property is located in the PC-52 (Newport Coast, Planning Area 2A) District. The Zoning Administrator's approval is based on the following findings and conditions of approval.

FINDINGS:

1. **Finding:** The Land Use Element of the General Plan designates the site as PC-52 (Newport Coast, Planning Area 2A). Planning Area 2A was established to provide medium and high density residential areas of development within the Newport Coast Planned Community. The subject site is developed with a single-family residence, which is consistent with permitted land uses within this planning area, and the "as-built" privacy wall, entry gate, and related elements are accessory structures which are commonly found in residential areas.
2. **Finding:** This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15311 Class 1 (Existing Structures), that exempts repair, maintenance, or minor alteration of existing structures.

The Zoning Administrator determined in this case that the proposed Modification Permit is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved, as modified, based on the following findings per Section 20.93.030:

3. **Finding:** The granting of the application is necessary due to the practical difficulties associated with the property and the strict application of the Zoning Code would result in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

Facts in Support of Finding:

- The irregular front property line of the subject site, its location at the end to two cul-de-sacs, and the slope of the lot downward toward the street along the width of the front property line create practical difficulties on the lot. The "as-built" privacy wall, entry gate, and related elements provide screening from potential noise and light glare from traffic exiting both cul-de-sacs. Strict application of the Zoning Code would require removal of the "as-built" elements which would result in physical hardships inconsistent with the purpose and intent of the Zoning Code.

4. **Finding:** The requested modification will be compatible with existing development(s) in the area.

Facts in Support of Finding:

- The design and materials of the subject "as-built" privacy wall, entry gate and elements are compatible with the Tuscan theme of the subject neighborhood.
- Although constructed of stucco, the design of the "as-built" privacy wall is open in nature with large, oval-shaped openings with wrought-iron grill-work in the center of each opening. The entry gate is constructed in a similar wrought-iron design, and gates, which were originally attached to pilasters located at either side of the driveway openings, have been removed.
- Because the "as-built" privacy wall curves and varies in height and location within the required 10-foot front yard setback, it does not create a "fortress" look to the front of the property.
- The location of the over-height "as-built" privacy wall, entry gate, and related elements within the required 10-foot front yard setback is similar to others located on properties within the neighborhood constructed under County jurisdiction. Staff has located approved plans and permits submitted to the County on some of the those properties; but was unable to locate permits that specifically called-out the nonconforming walls and gates, and has been unable to verify whether or not they were specifically permitted by the County.

5. **Finding:** The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

Facts in Support of Finding:

- In order to eliminate any potential sight distance problem, which could create a safety issue for pedestrians or bicyclists, the Zoning Administrator has conditioned the approval of this modification request to require that the "as-built" privacy wall and pilasters on either side of the driveways must be removed or lowered to a maximum height of 36 inches within five feet of the front property line.

CONDITIONS

1. The development shall be in substantial conformance with the revised, approved site plan and elevations, except as noted in the following conditions.
2. The "as-built" privacy wall and pilasters located on either side of the driveways shall be either removed in their entirety or lowered to a maximum height of 36 inches within an area measured to five feet from the front property line.
3. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
4. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the revised approved architectural plans for inclusion in the Modification Permit file. 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 Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
6. A building permit shall be obtained prior to commencement of the construction.
7. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
8. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private

construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.

9. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
10. 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 8 Via Burrone Modification including, but not limited to, the MD2010-016 (PA201-130). 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.
11. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By: 
Gregg Ramirez, Zoning Administrator

GR/ks

Attachments: Vicinity Map

VICINITY MAP



Modification Permit No. MD2010-016
PA2010-130

8 Via Burrone

OK w/ Public Works
D. Kelly

CITY OF NEWPORT BEACH

JAN 27 2011

PLANNING DEPARTMENT

RECEIVED BY

B VIA BURRONE

(6) 8" CONG. CURB

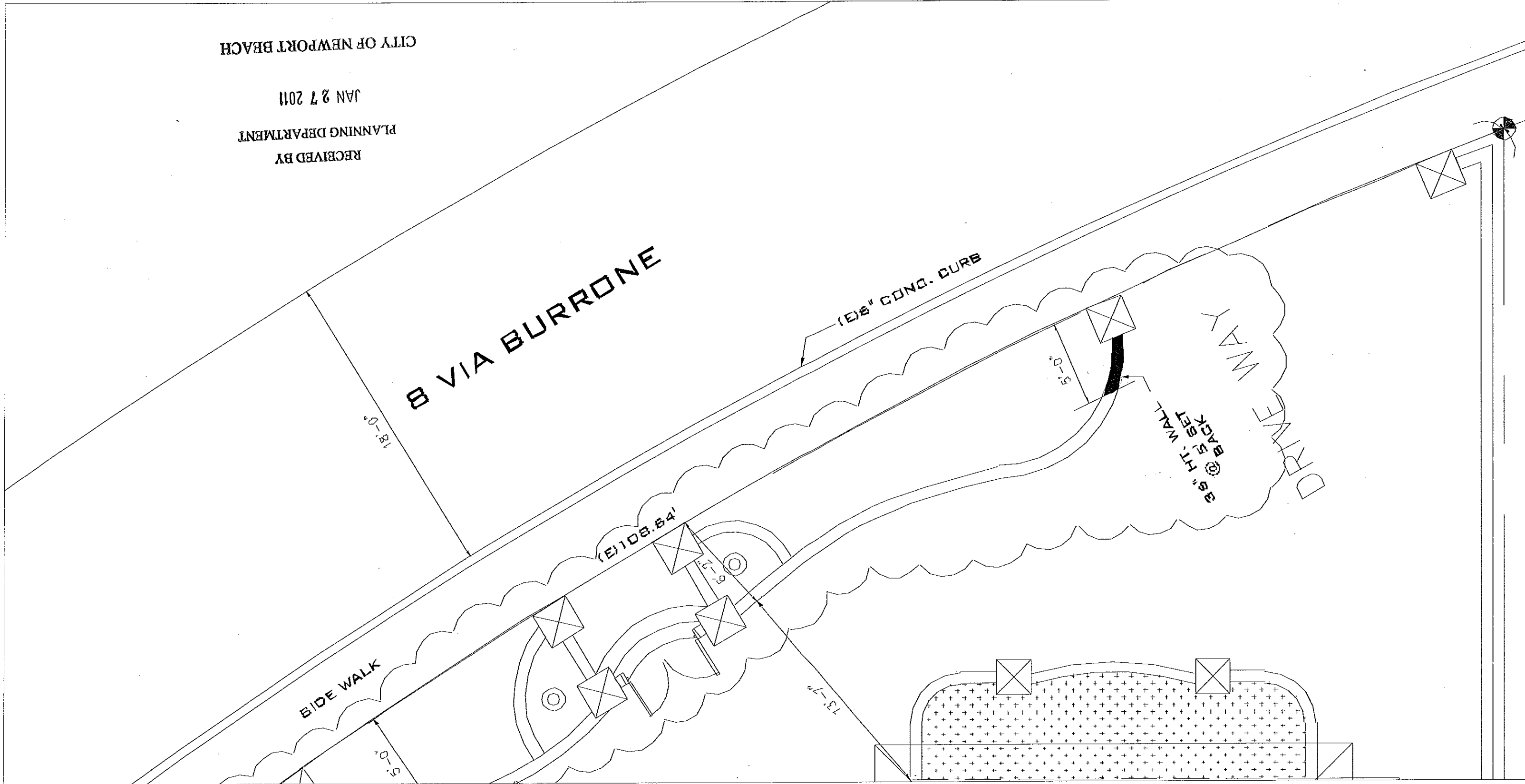
3' HT. WALL
5' SET
BACK
DRYME WAY

(E) 108.64'

BIDE WALK

5'-0"

13'-7"



SITE LEGEND

- PROPERTY AREA LIMITATION
- AREA OF WORK
- EXISTING BRICK PAVING
- EXISTING LANDSCAPE
- EXISTING HARDSCAPE
- EXISTING STREET CENTER LINE

SLOPE RATIO 4:12 SLOPE DIRECTION

EXISTING PROPERTY LINE

EXISTING CMU WALL

EXISTING EXTERIOR WALL OUTLINE

PROPOSAL PRIVACY WALL (AS BUILT)

(E) DORMER VENT W/ NON COMBUSTIBLE WIRE MESH, 1/4" OPENING SHALL NOT EXCEED 1 S.F. OR 144 S.I.

ELECTRICAL & MECHANICAL LEGEND

- RECEPTACLE
- RECESS LIGHT
- SCONCE LIGHT FIXTURE
- DENOTES CEILING HEIGHT
- LIGHT SWITCH
- (E) HVAC SUPPLY AIR GRILLE
- HVAC RETURN AIR GRILLE
- HVAC EXHAUST FAN GRILLE
- (E) ELECTRIC METER
- (E) SMOKE DETECTOR

PLAN KEY NOTES

- EXISTING SWIMMING POOL
- TYP. CMU POST W/ PRECAST CONCRETE CAP [AS BUILT / TO BE PERMITTED]
- TYP. CMU WALL W/ PLASTER FINISHED [AS BUILT / TO BE PERMITTED]
- TYP. PRECAST CONCRETE WATER FOUNTAIN [AS BUILT / TO BE PERMITTED]
- CUSTOM PREFAB. IRON GATE [AS BUILT / TO BE PERMITTED]
- TYP. PRECAST CONCRETE GRU. [AS BUILT / TO BE PERMITTED]
- TYP. 7"(H) & 11"(W) CONCRETE LANDING STEP W/ TRAVERTINE TILE VENEER [AS BUILT / TO BE PERMITTED]
- OUTDOOR BBQ - SEE DETAIL #M/A1 [NEW WORK / TO BE PERMITTED]
- CRIPPLE WALL / HARDSCAPE [AS BUILT / TO BE PERMITTED]
- LANDSCAPE / WATER FOUNTAIN- SEE ORANGE COUNTY PERMIT # ELO200733 & PERMIT # PBO20066 [AS BUILT / TO BE PERMITTED]

FIRE NOTES

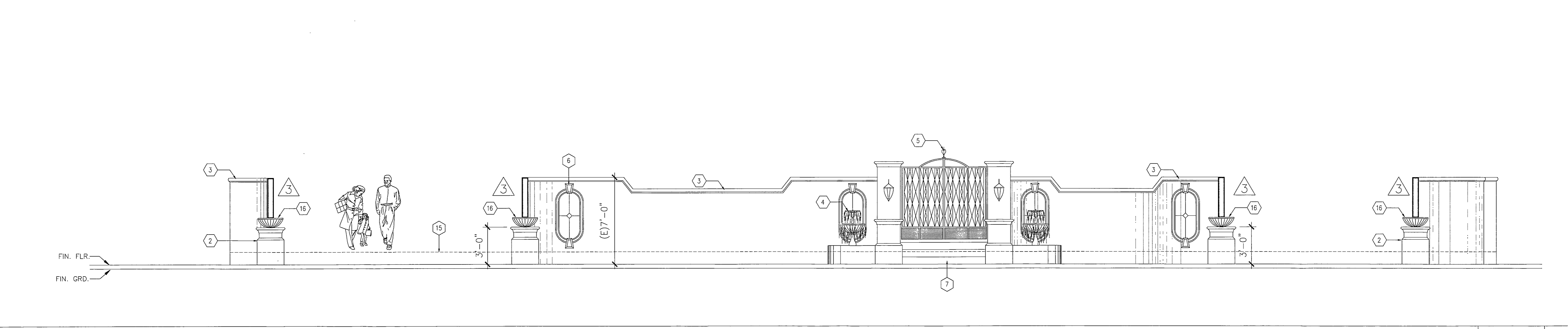
- EXISTING OUTDOOR FIREPLACE- SEE DETAIL # R/A2 - PERMIT # RSO20818 [TO BE PERMITTED]
- EXISTING RESIDENCE
- EXISTING POOL HOUSE - SEE ORANGE COUNTY PERMIT #RSO32112 & RSO12519 [AS BUILT / TO BE FINALIZED]
- EXISTING 10' SETBACK FROM PROPERTY LINE
- EXISTING FINISHED GRADE SLOPE UP & 12" RETAINING SOIL @ WALL & PILASTER
- REMOVABLE PLANT POT
- EXISTING WALL TO BE CUT DOWN TO 36" @ 60" SET BACK FROM PROPERTY LINE

LICENSED FIRE SPRINKLER CONTRACTOR TO PULL PERMIT TO FINISH THE JOB.
 FIRE SPRINKLER PLANS NOT REQUIRED.
 FIVE YEAR CERTIFICATION OF THE POOL HOUSE AND A BUCKET TEST WILL BE REQUIRED AT FINISH INSPECTION.

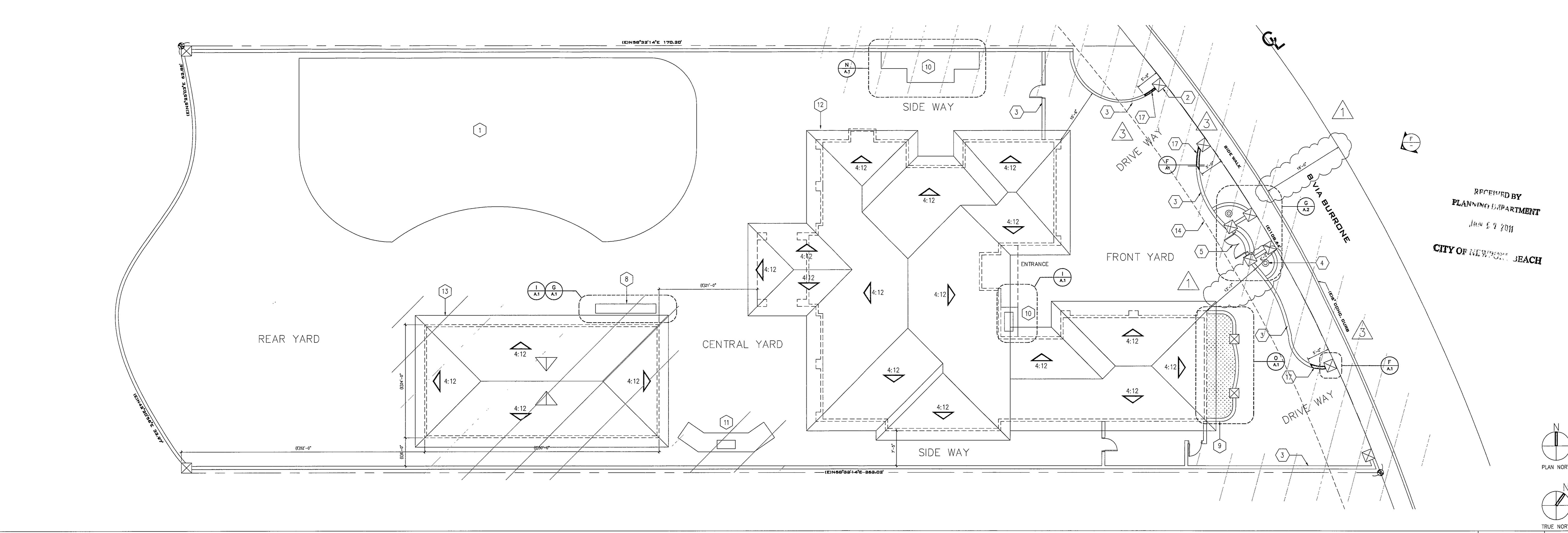
TD BUILDING
 BUILDING DESIGN + BUILD

10612 TRASK AVE #A1
 GARDEN GROVE CA 92840
 PHONE (714) 262-0903
 FAX (714) 262-0904

SITE LEGEND **A ELECTRICAL & MECHANICAL LEGEND** **B PLAN KEY NOTES** **C FIRE NOTES** **D**



ELEVATION OF ENTRY GATE & PRIVACY WALL **SCALE: 1/4" = 1'-0"** **F**



EXISTING ROOF & SITE PLAN **SCALE: 3/32" = 1'-0"** **U** 1 2 3

SEALS / APPROVALS (PRINCIPAL)

PROJECT TITLE
LE RESIDENCE
 8 VIA BURRONE
 NEWPORT BEACH,
 CA 92658

AS BUILT LEGALIZATION

REVISIONS

1	PLAN CHECK REVISION 04/22/2010
2	PLAN CHECK REVISION 06/22/2010
3	PLAN CHECK REVISION 01/27/2011
4	
5	
6	

RECEIVED BY
 PLANNING DEPARTMENT
 JAN 19 2011
 CITY OF NEWPORT BEACH

PROJECT IDENTIFICATION TD #019
 DATE 01 / 16 / 2010
 DESIGNED BY TRAN DIEN
 CHECKED BY TRAN DIEN

THESE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF TD BUILDING AND SHALL NOT BE USED ON ANY OTHER PROJECT OR LOCATIONS EXCEPT AS DESCRIBED ON THE DRAWINGS, WITHOUT WRITTEN AGREEMENT WITH TD BUILDING.

SHEET TITLE
EXISTING SITE PLAN

SHEET NUMBER
SP

PRINTED: 10:01 PM MARCH 10 2009

Preliminary Set Check Set Approval Set Construction Set Bid Set



ZONING ADMINISTRATOR ACTION LETTER

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

Application No.	Use Permit No. UP2010-036 (PA2010-155)
Applicant	Steve Geary
Site Address	3107 Newport Boulevard Crow Burger Kitchen Use Permit
Legal Description	Lots E, F, and H on Parcel Map, as per map filed in book 32, page 41 of Parcel Maps, in the office of the County Recorder in the County of Orange, together with that portion of Lake Avenue shown as Parcel "G" on said Parcel Map, vacated and abandoned by Resolution No. 1012 of the City Council of Newport Beach, recorded May 15, 1981 as Instrument No. 40308 in book 14079, page 939 of official records in the office of said County Recorder, also together with a portion of Section 28, Township 6 south, range 10 west, San Bernardino Meridian, as per Parcel Nos. 1, 2, and 3 of the official plat filed in the district land office August 4, 1980

On **January 13, 2011**, the Zoning Administrator approved the following: A minor use permit to allow a food service, eating and drinking establishment with no late hours, a covered outdoor patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet, and the outdoor patio will be 259 square feet in area. The establishment will provide a maximum of 42 interior seats and 22 seats on the patio. The hours of operation are from 9:00 a.m. to 11:00 p.m., daily and 9:00 a.m. to 10:00 p.m. for the outdoor patio. The property is located in the CN (Commercial Neighborhood) zoning district. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

REQUIRED FINDINGS

Finding

- A. *The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15303 of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act.*

Facts in Support of Finding

- A-1. The Class 3 exemption includes a store, motel, office, restaurant or similar structure not involving significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. This exemption also includes accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The proposed project involves the establishment of a restaurant in an existing retail tenant space and the construction of a new outdoor patio. The proposed use is less than 2,500 square feet. Therefore, proposed use and outdoor patio qualifies for a categorical exemption under Class 3.

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

- B. *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

- B-1. 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 beer and wine 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.

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

Finding

- C. *The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

- C-1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. An eating and drinking establishment with alcohol sales and accessory outdoor dining is a consistent use within this land use designation. Restaurant uses can

be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

- C-2. Eating and drinking establishments are common in the vicinity along the Balboa Peninsula and are frequented by visitors and residents alike. The establishment is compatible with the land uses permitted within the surrounding neighborhood. The new establishment will improve and revitalize the existing retail building and the surrounding neighborhood.
- C-4. The subject property is not part of a specific plan area.

Finding

- D. *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

- D-1. The site is located in the CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed food service, eating and drinking establishment with beer and wine alcohol service and an outdoor patio is consistent with land uses permitted by the CN Zoning District.

Finding

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

Facts in Support of Finding

- E-1. The operation of the restaurant will be restricted to the hours between 9:00 a.m. and 11:00 p.m., daily. The operation of the outdoor patio will be restricted to the hours between 9:00 a.m. and 10:00 p.m., daily.
- E-2. A restaurant has been operated in this location since 1971 pursuant to Use Permit No. 1551 and has not proven detrimental to the area. The tenant space within the shopping center 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.
- E-3. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. The restaurant is oriented toward the parking lot and is located approximately 225 feet from residential properties across 32nd Street. The use permit has been conditioned to require the folding

doors and the outdoor patio area to be closed by 10:00 p.m. so that the establishment will comply with exterior noise standards and shield the restaurant activity from the residential uses across 32nd Street. The applicant is also required to control trash and litter around the subject property.

- E-4. 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 the welfare of the surrounding community so 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.
- E-5. The applicant is required to install a grease interceptor, obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

Finding

- F. *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

- F-1. The project site is located within an existing retail 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.
- F-2. Adequate public and emergency vehicle access, public services, and utilities are provided within the renovated shopping center.
- F-3. The tenant improvements to the project site 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

- G. *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

- G-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. The outdoor patio and louvered folding doors must be closed by 10:00 p.m. to limit the exterior noise to the surrounding residents.
- G-2. The food service, eating and drinking establishment will serve the surrounding residential community. The proposed establishment will provide dining services as a public convenience to the surrounding neighborhood. This will revitalize the project site and provide an economic opportunity for the property owner to update the retail tenants and services, which best serve the quality of life for the surrounding residential community.

CONDITIONS OF APPROVAL

Planning Department Conditions

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This Use Permit may be modified or revoked by the City Council, Planning Commission, or 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.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
4. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
5. Use Permit No. UP2010-036 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.

6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. 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.
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
10. *Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the outdoor dining area in excess of 25 percent of the interior net public area in accordance with Chapter 15.38 of the Newport Beach Municipal Code.*
11. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
12. *The hours of operation for the interior of the eating and drinking establishment are limited from 9:00 a.m. to 11:00 p.m., daily. The hours of operation for the outdoor patio are limited from 9:00 a.m. to 10:00 p.m., daily. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour and no later.*
13. *The doors to the outdoor patio area shall be closed by 10:00 p.m., daily, to limit the impact of interior noise to residents in the vicinity.*
14. *[deleted]*
15. *Live entertainment and dancing shall be prohibited as a part of the regular operation.*
16. *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.*
17. *The patio floor area in excess of the 25 percent allowance will be deducted from the 15 percent of gross floor area limitation for eating and drinking establishment uses.*

18. *The accessory outdoor dining shall be used only in conjunction with the related adjacent establishment.*
19. *The outdoor patio shall be limited to 259 square feet in area and provide seating for twenty two persons maximum.*
20. *The seating and dining in the outdoor area shall be limited to dining table height (approximately 30 inches) and table surface area of 24 inches by 30 inches minimum. The use of elevated counters, tables, and barstools are prohibited in the outdoor dining area.*
21. Prior to issuance of building permits, plans for the outdoor dining/patio areas shall be reviewed and approved by the Planning Department. Final material, height, and location of the fence shall be subject to approval by the Building and Planning Department staff.
22. *The boundary of the accessory outdoor dining area shall be marked through the use of a 36-inch-high rail as shown on the approved plans. Fences, walls, or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.*
23. The material and color of any awning or umbrella located on the outdoor dining/patio areas shall be subject to review and approval by the Planning Department. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor patio dining areas. The outdoor patio dining areas, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.
24. *The installation of roof coverings in addition to the proposed fabric awning shall not have the effect of creating a permanent enclosure. 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 Planning Director and may require an amendment to this permit.*
25. 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.
26. *The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 41 in conjunction with the service of food as the principal use of the facility.*
27. *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.

28. *This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.*
29. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*
30. *No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*
31. *The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
32. *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 command.*
33. *There shall be no on-site radio television, video, film, or other electronic or 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.*
34. *Live entertainment and dancing shall be prohibited as a part of the regular operation of the establishment.*
35. *No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.*
36. *The approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, with the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use.*

37. *Full meal service shall be provided during all hours of operation.*
38. *Strict adherence to maximum occupancy limits is required.*
39. *A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.*
40. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
41. The proprietor shall actively control any noise generated by the patrons of the facility.
42. The operator of the facility shall be responsible for the control of noise generated on the subject facility. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. 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 period 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

43. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
44. [deleted]

45. *No amplified music, outside paging system, loudspeaker or other noise generating device are permitted in conjunction with the outdoor dining area.*
46. No outside paging system shall be utilized in conjunction with this establishment.
47. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
48. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.67 of the Newport Beach Municipal Code.
49. No temporary "sandwich" signs or similar temporary signs shall be permitted, either on-site or off-site, to advertise the restaurant.
50. 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.
51. 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. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
52. Prior to the final of building permits, the refuse storage facilities should be upgraded to meet the requirements specified by Title 20 by providing self-locking gates.
53. The applicant shall provide a minimum of one common trash enclosure evenly distributed throughout the project site. The size, design and location of trash enclosures shall be subject to the review and approval of the Public Works and Planning Departments prior to issuance of a building permit for new construction. The enclosures shall be located on a four inch concrete pad screened by a six foot high decorative concrete block wall that is compatible with the architectural design of the residential buildings. The enclosures shall incorporate a cover of decorative beams or other roofing material to provide security and visual screening from above.
54. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

55. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
56. 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 Department. 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).
57. Prior to final of the building permits, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Department for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code that includes issuance of a citation of violation and monetary fines.
58. 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 Planning Director, and may require an amendment to this use permit.
59. 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.
60. 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 Crow Burger Kitchen including, but not limited to Use Permit No. 2010-036 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. 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.

Building and Fire Department Conditions

61. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Department.
62. A building permit is required to allow the change in use to an eating and drinking establishment. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
63. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Department.
64. *The construction plans must meet all applicable State Disabilities Access requirements.*
65. *Approval from the Orange County Health Department is required prior to the issuance of a building permit.*
66. *A grease interceptor shall be installed prior to the establishment opening for business.*
67. *Complete sets of drawings including architectural, electrical, mechanical, and plumbing plans shall be required at plan check.*
68. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
69. *The applicant shall provide a Type I hood with a kitchen suppression system for cooking equipment.*
70. *Portable propane heaters shall be prohibited on the outdoor patio. Natural gas or electric heaters are allowed if installed per their listing and the California Electrical or Plumbing Code.*
71. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited unless there is an emergency.

72. All exits shall remain free of obstructions and available for ingress and egress at all times.
73. Strict adherence to maximum occupancy limits is required.

Public Works Department Conditions

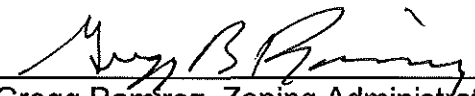
74. County Sanitation District fees shall be paid prior to the issuance of any building permits.

PUBLIC NOTICE

Notice of this application was 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.

APPEAL PERIOD

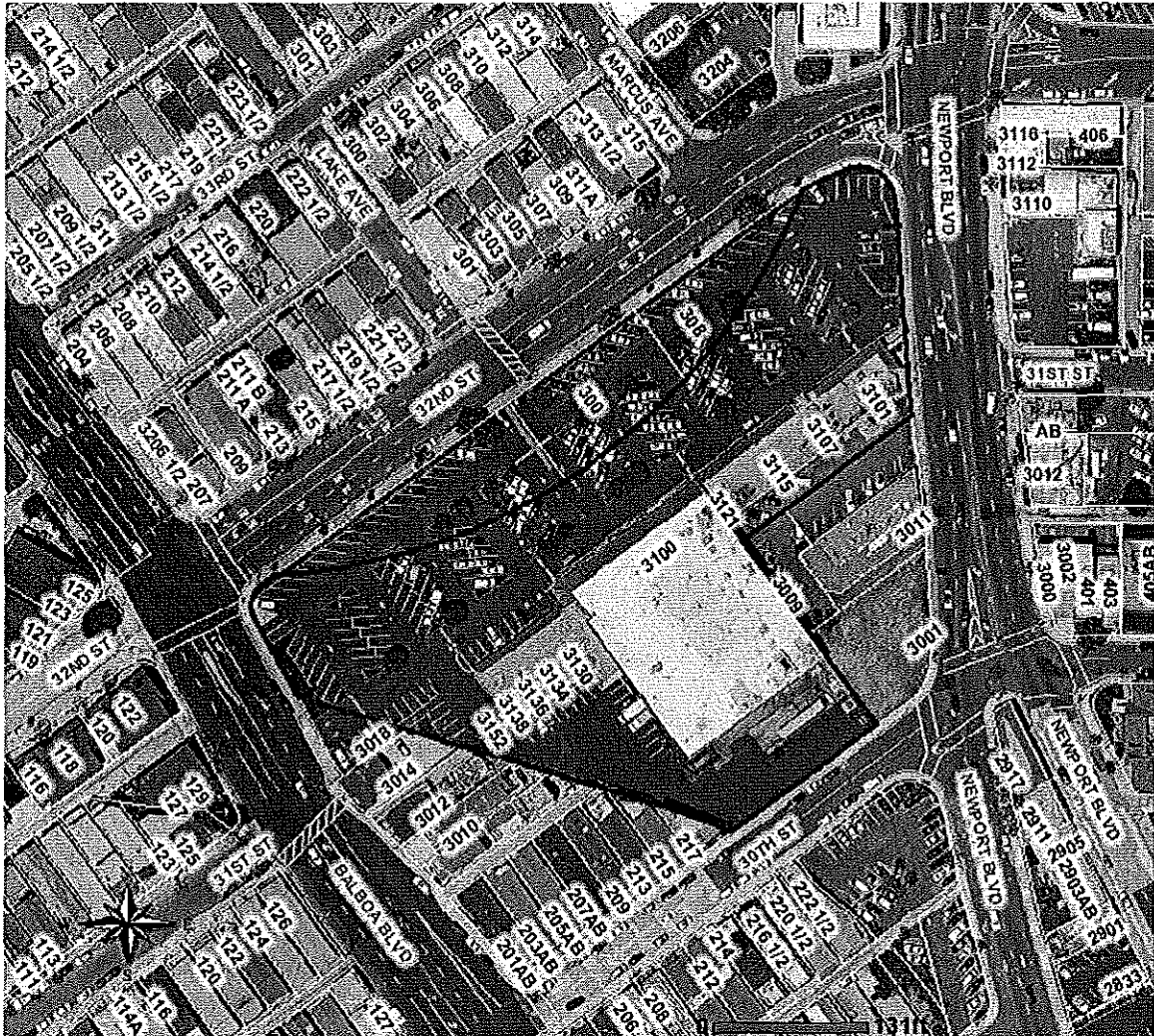
The applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$4,280.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By: 
Gregg Ramirez, Zoning Administrator

GR/mkn

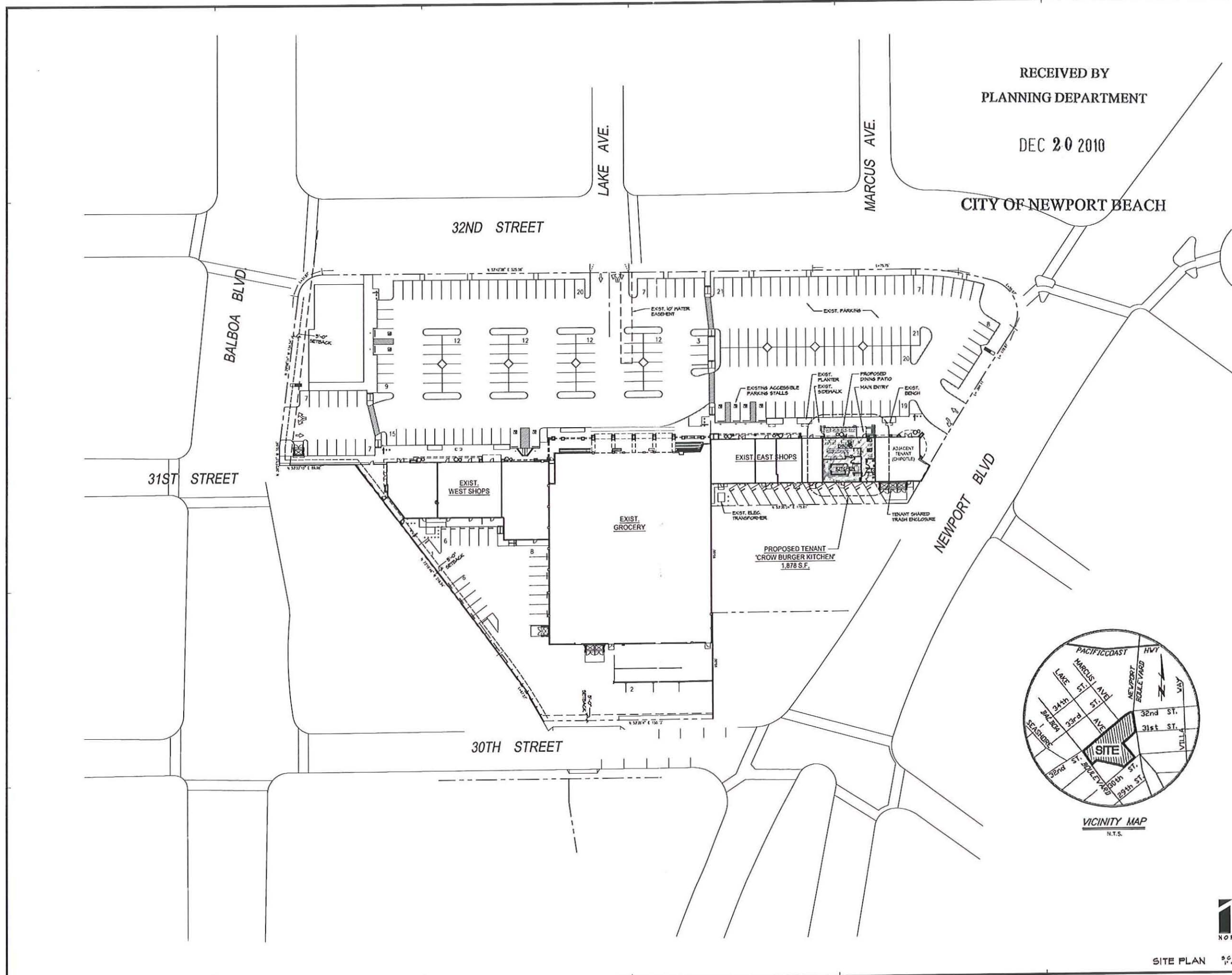
Attachments:
Vicinity Map

VICINITY MAP



Use Permit No. UP2010-036
PA2010-155

3107 Newport Boulevard



RECEIVED BY
PLANNING DEPARTMENT
DEC 20 2010
CITY OF NEWPORT BEACH

ARCHITECTS
DESIGN CONSORTIUM
4875 E. LA PALMA AVE., STE. 607
ANAHEIM, CA 92807
FAX: (714) 777-9733
TEL: (714) 777-9734



THE DRAWING, SPECIFICATIONS AND OTHER INFORMATION PREPARED BY THE ARCHITECT FOR THIS PROJECT ARE HEREBY SUBMITTED TO THE CITY OF NEWPORT BEACH AS A PART OF THE PROJECT'S SUBMITTAL. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY THE ARCHITECT. THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED BY OTHER PROFESSIONALS OR THE ACCURACY OF THE INFORMATION PROVIDED BY OTHER PROFESSIONALS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY THE ARCHITECT.

- 10-20-10 PROGRESS PRINT
- 12-20-10 PLAN CHECK
- BIO SET
- CONSTRUCTION

Crow Burger Kitchen
at The Landing
3107 Newport Boulevard
Newport Beach, Ca 92663



SITE PLAN SCALE 1" = 30'
DRAWN BY: JAG
CHECKED BY: CDD
SCALE: A1.0
JOB NO. 1027 OF SHEETS

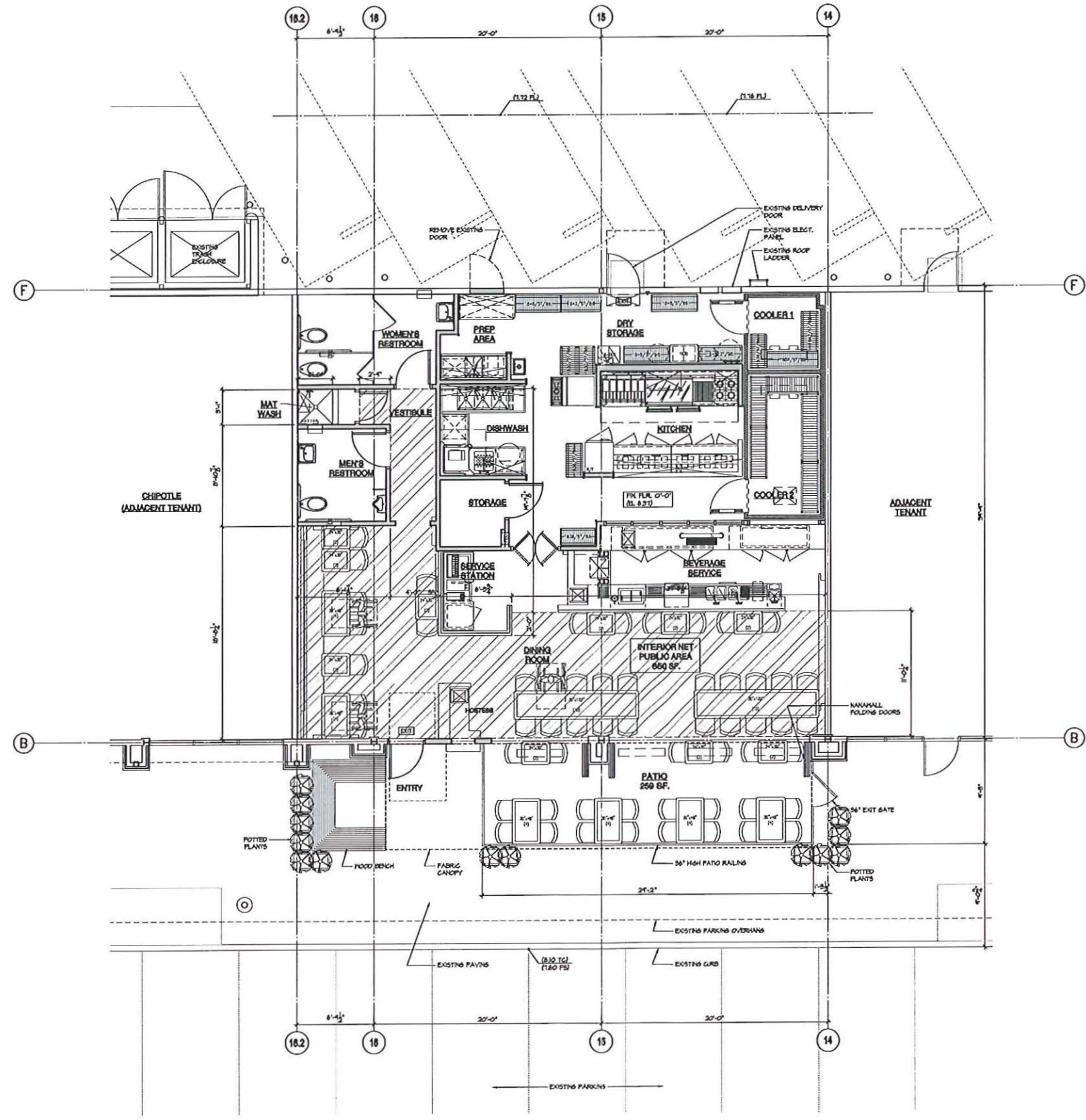


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10-12-10	PROGRESS PRINT
12-20-10	PLAN CHECK
	BID SET
	CONSTRUCTION

PROJECT DATA

GROSS FLOOR AREA	1670 SF
INTERIOR NET PUBLIC AREA (SHOWN HATCHED)	650 SF
PATIO AREA	250 SF
SEATS	
INTERIOR	42
PATIO	22
TOTAL	64



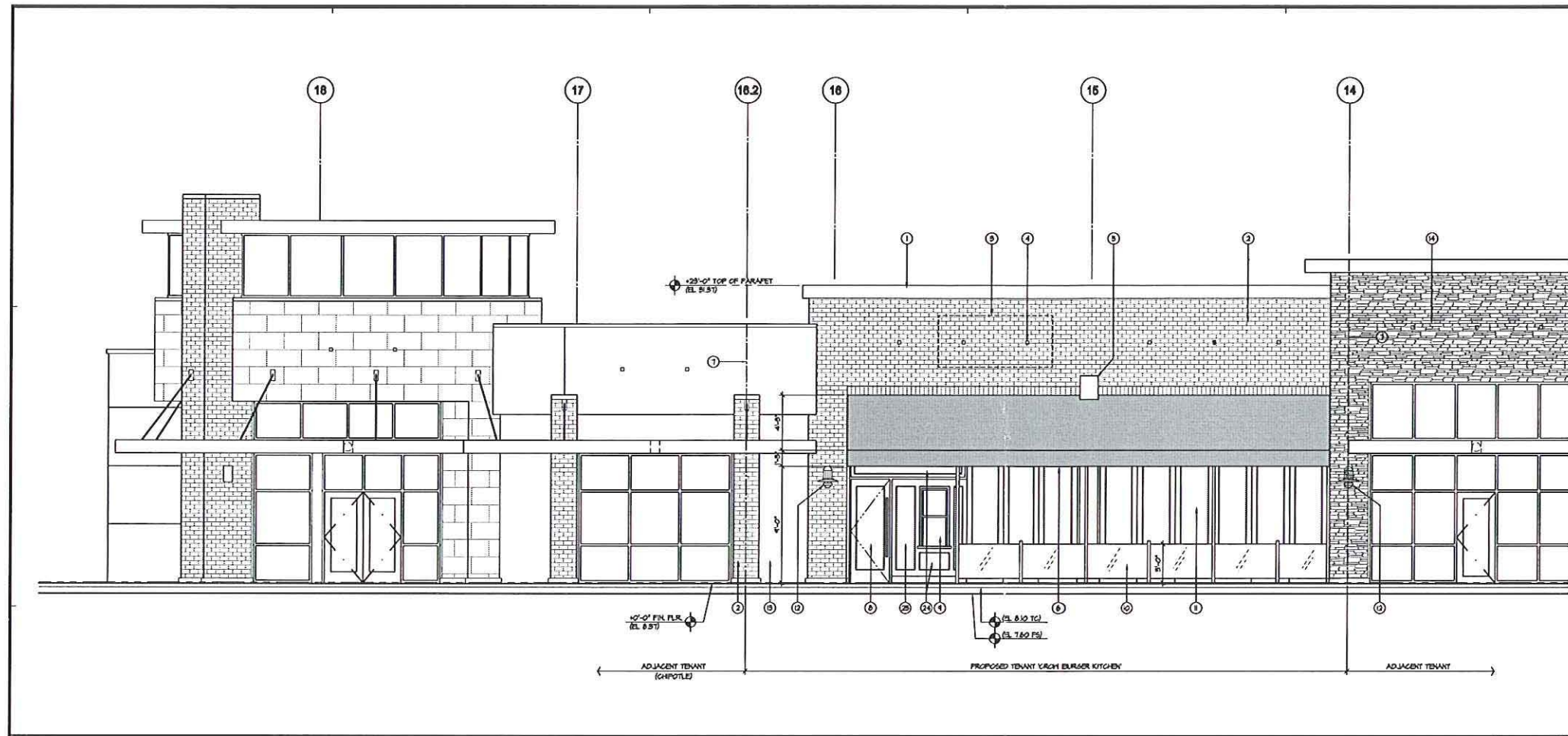
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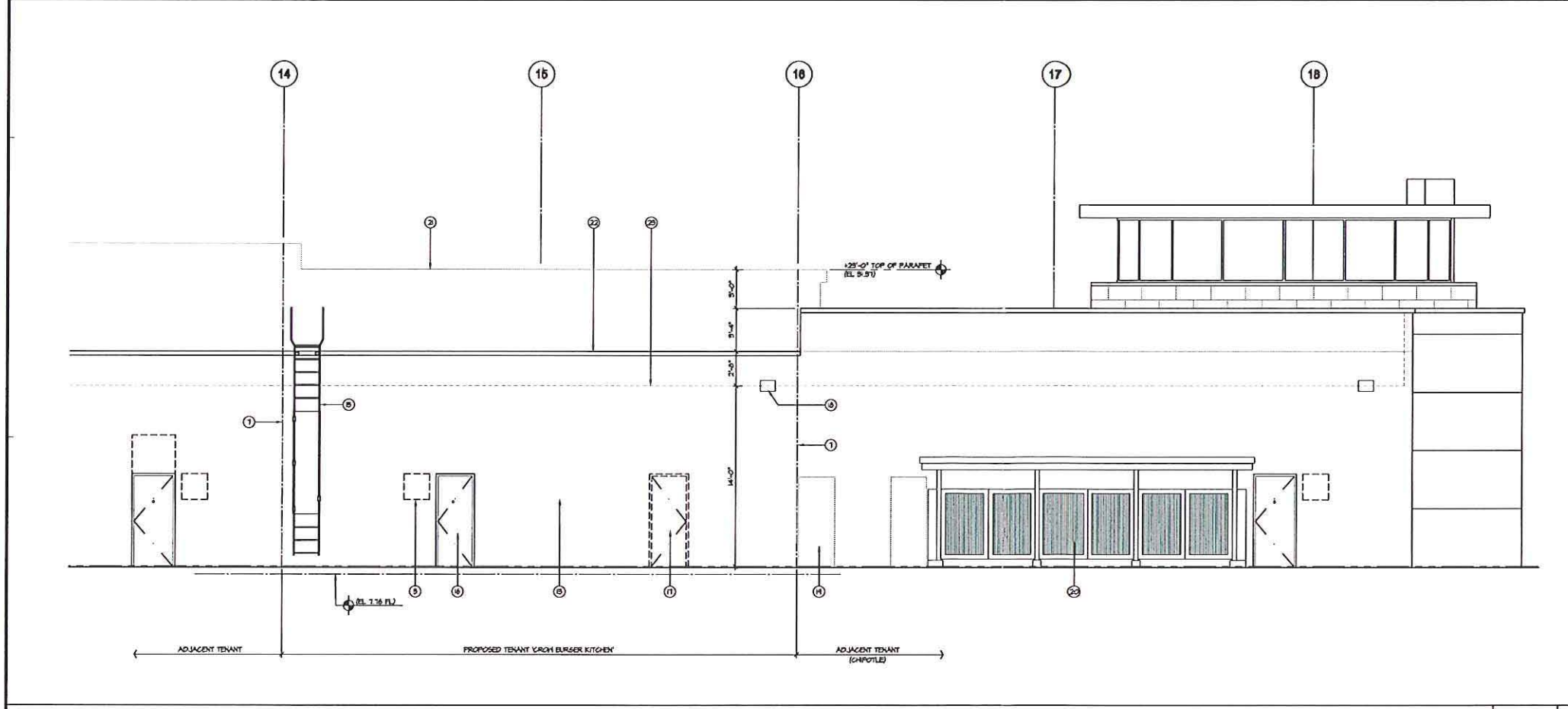
SHEET TITLE
FLOOR PLAN



DRAWN BY	SHEET NUMBER
CHECKED BY	
SCALE	A2.0
JOB NO.	
1021	OF SHEETS



NORTH ELEVATION SCALE 1/4" = 1'-0" 8



SOUTH ELEVATION SCALE 1/4" = 1'-0" 10

EXTERIOR ELEVATION KEYNOTES

- 1 EXISTING BUILDING FASCIA
- 2 EXISTING TRIM BRICK VENEER
- 3 TENANT SIGNAGE LETTER SEPARATE PERMIT
- 4 SIGNAGE POINT OF CONNECTION
- 5 EXISTING BUILDING COLUMN
- 6 BLACK FABRIC ANNING
- 7 CENTERLINE OF TENANT DESIGN WALL
- 8 ENTRY DOOR
- 9 WINDOW
- 10 84" HIGH TAPERED GLASS PATIO RAILING
- 11 "NANA WALL" FOLDING DOORS
- 12 EXISTING DECORATIVE WALL SCORING
- 13 EXISTING CEMENT PLASTER FINISH
- 14 EXISTING STONE VENEER
- 15 EXISTING ROOF LACER
- 16 EXISTING DOOR & FRAME
- 17 REMOVE EXISTING DOOR & FRAME. PATCH WALL OPENING TO MATCH ADJACENT WALL FINISH
- 18 EXISTING LIGHT FIXTURE
- 19 EXISTING ELECTRICAL EQUIPMENT
- 20 EXISTING TRASH ENCLOSURE
- 21 EXISTING BUILDING PARAPET BEYOND
- 22 EXISTING BUILDING PARAPET
- 23 EXISTING ROOFLINE BEYOND
- 24 FOOD PANEL STOREFRONT
- 25 FIXED SIGELITE

- NOTES:
- ALL ROOFTOP EQUIPMENT SHALL BE SCREENED FROM VIEW.
 - TENANT SIGNS ARE SUBJECT TO THE REVIEW AND APPROVAL OF A COMPREHENSIVE SIGN PROGRAM AND REQUIRE SEPARATE BUILDING PERMITS. AN APPLICATION FOR A COMPREHENSIVE SIGN PROGRAM HAS BEEN SUBMITTED FOR THE SHOPPING CENTER. HOWEVER, THE APPLICATION IS STILL IN PROCESS AND HAS NOT YET BEEN APPROVED. PLEASE CONTACT JOSE WRIGHT AT (714) 204-0078 TO COORDINATE SIGNAGE PLANS FOR THIS TENANT SPACE WITH PLANS FOR THE SHOPPING CENTER.

ARCHITECTS
DESIGN
CONSORTIUM

4875 E. LA PALMA AVE, STE. 607
ANAHEIM, CA 92807
FAX: (714) 777-9733
TEL: (714) 777-9734



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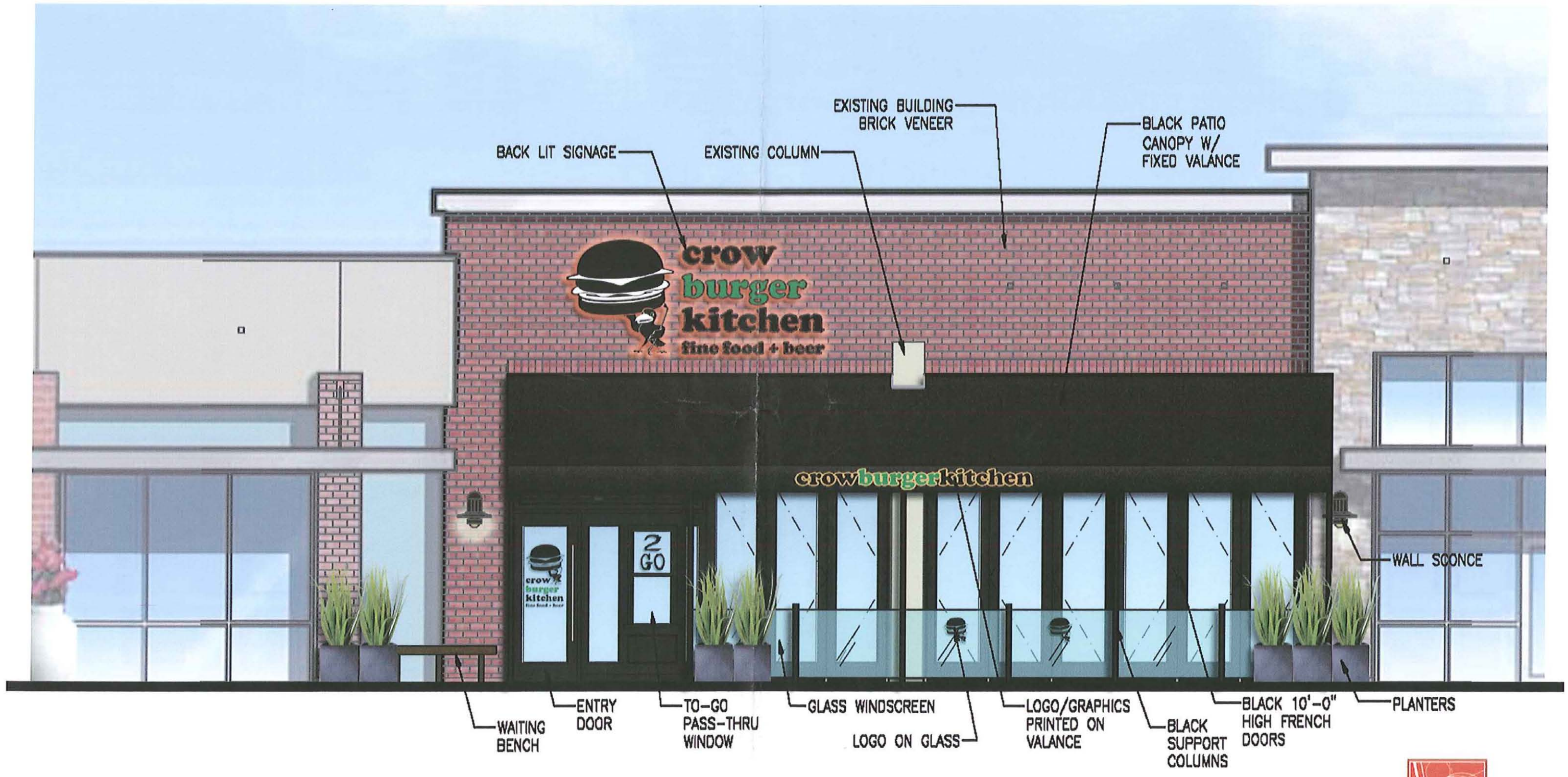
10-12-10	PROGRESS PRINT
12-20-10	PLAN CHECK
	BID SET
	CONSTRUCTION

Crow Burger Kitchen
at The Landing
3107 Newport Boulevard
Newport Beach, Ca 92663



SHEET TITLE
EXTERIOR
ELEVATIONS

DRAWN BY: SHEET NUMBER
AUG
CHECKED BY:
EGG
SCALE: **A5.0**
JOB NO.
8.1027 OF SHEETS



EXTERIOR STOREFRONT ELEVATION

