



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending June 14, 2013

**ZONING ADMINISTRATOR ACTIONS
JUNE 13, 2013**

- Item 1: Port Edward Circle Lot Line Adjustment No. LA2013-002 (PA2013-042)
1985 and 1991 Port Edward Circle
Action: Approved by Resolution No. ZA2013-030 Council District 5
- Item 2: Uptown Newport Parcel Map No. NP2013-010 (PA2013-085)
4311 and 4321 Jamboree Road, N/S of Jamboree Road between Birch Street and MacArthur Boulevard
Action: Continued to 06/27/13 Council District 3
- Item 3: Smith Residence Remodel - Modification Permit No. MD2013-009 (PA2013-094)
220 Ruby Avenue
Action: Approved by Resolution No. ZA2013-031 Council District 5
- Item 4: Back Bay Tavern Minor Use Permit - Amendment No. 1 of Minor Use Permit No. UP2012-006 (PA2013-087)
415 Newport Center Drive
Action: Approved by Resolution No. ZA2013-032 Council District 5

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**

- Item 5: Staff Approval No. SA2013-008 (PA2013-117)
2300 Ford Road
Action: Approved Council District 5

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 (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Det. Brian Haas, NBPD (*ABC License*)
Sgt. Chuck Freeman, NBPD (*Massage Therapy - ABC License*)

RESOLUTION NO. ZA2013-030

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2013-002 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 1985 AND 1991 PORT EDWARD CIRCLE (PA2013-042)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Daya Bettadapurra, with respect to property located at 1985 and 1991 Port Edward Circle, and legally described as Lot 19 and Lot 20 of Tract Map No. 7030, respectively, as per map recorded in Book 269, Pages 18 to 22 inclusive of Miscellaneous Maps, in the Office of the County Recorder, requesting approval of a lot line adjustment.
2. The applicant proposes to shift a portion of the interior lot line between contiguous parcels of land, to the north. The boundary adjustment will take land from 1985 Port Edward Circle, Lot 20 of Tract Map 7030, and add to 1991 Port Edward Circle, Lot 19 of Tract Map 7030. The lot line adjustment will increase the area of Lot 19 from 0.36 acres (15,505 square-feet), to 0.39 acres (17,095 square-feet), approximately. It will decrease the area of Lot 20 from 0.32 acres (13,736 square-feet), to 0.28 acres (12,146 square-feet), approximately. The lot line adjustment would allow for a future addition to the existing residence on the proposed Parcel 1, and the minor boundary adjustment will have no impact on access to or use of the affected properties.
3. The subject properties are located within a Low Medium Density Residential Area (Area 7) of the Harbor View Hills Planned Community (PC-3) Zoning District, and the General Plan Land Use Element category for both is Single-Unit Residential Detached (RS-D).
4. The subject properties are not located within the coastal zone.
5. A public hearing was held on June 13, 2013, in the Corona del Mar Conference Room (Bay E-1st Floor), 100 Civic Center Drive, 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.

1. The project has been reviewed, and qualifies for a Class 5 (Minor Alterations in Land Use Limitations) categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act).

2. The Class 5 exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including but not limited to minor lot line adjustments not resulting in the creation of any new parcel. The proposed lot line adjustment will not change the number of existing parcels, will not result in any change in use or density, and is consistent with all of the requirements of the Class 5 exemption.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the lot line adjustment will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot line adjustment is consistent with the legislative intent of this title.*

Facts in Support of Finding:

- A-1. The proposed lot line adjustment will not change the single-unit residential use of the lots affected, and will maintain consistency with the General Plan Land Use Designation, Single-Unit Residential Detached (RS-D), which is intended for detached single-family residential dwelling units on a single lot.
- A-2. The lot line adjustment will not result in a development pattern which is inconsistent with the surrounding neighborhood in as much as the request is to accommodate a future addition to an existing single-unit residential property on the proposed Parcel 1, which is consistent with the General Plan Land Use Plan and zoning designations.
- A-3. The proposed lot line adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustments) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two adjacent lots where the land taken from one lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
- A-4. The subdivision is consistent with the General Plan, does not affect open space areas in the City, does not negatively impact surrounding land owners in as much as it affects an interior lot line between two adjacent lots, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

A-5. Public improvements and infrastructure currently exist within the neighborhood and the lot line adjustment, in and of itself, will not result in the need for additional improvements and/or facilities.

Finding:

B. *The number of parcels resulting from the lot line adjustment remains the same as before the lot line adjustment.*

Facts in Support of Finding:

B-1. The project site consists of Lot 19 and Lot 20 of Tract Map 7030. The proposed lot line adjustment will adjust the interior lot line between two adjacent legal lots, taking land from Lot 20 and adding to Lot 19. No additional lots will result from the adjustment and the number remains the same as before the lot line adjustment.

Finding:

C. *The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

C-1. Lot 19 and Lot 20 are within the Low Medium Density Residential Area of the Harbor View Hills Planned Community, which is intended to provide primarily for single-family residential housing and related community facilities developed under generally level topographic conditions. The proposed lot line adjustment will not change the single-family residential use of the lots affected.

C-2. Low Medium Density Residential Areas of the Harbor View Hills Planned Community require that an average area of 7,000 square-feet shall be provided for each dwelling unit where average area per dwelling shall mean the average of all developed areas (to include parks, recreational and permanent open space) exclusive of areas dedicated for vehicular rights-of-way divided by the total number of dwelling units. In as much as the lot line adjustment will take land from one lot and give to another, the average area provided per dwelling unit remains unaffected.

C-3. The proposed parcels will comply with all applicable regulations of the Harbor View Hills Planned Community text and zoning code, are not more nonconforming as to lot width, depth and area than the parcel that existed prior to the lot line adjustment, and there will be no change in allowed land uses, density, or intensity on the properties.

Finding:

- D. *Neither the lots as adjusted nor adjoining parcels will be deprived of legal access as a result of the lot line adjustment.*

Facts in Support of Finding:

- D-1. Legal access to the subject properties from Port Edward Circle will not be affected by the lot line adjustment.

Finding:

- E. *That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Facts in Support of Finding:

- E-1. The final configuration of the parcels involved will not result in the loss of direct vehicular access from any street for either parcel. Vehicular access to both parcels is taken from Port Edward Circle and the final configuration will not change this.

- E-2. There are no alleys located within or near the subject parcels.

Finding:

- F. *That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Facts in Support of Finding:

- F-1. The final configuration of the parcels does not result in a requirement for revised setbacks since the lots are not proposed to be reoriented. The setbacks shall continue to apply to the adjusted parcels per the Planned Community text development standards in the same way that they applied to the previous parcel configuration. Therefore, the lot line adjustment does not result in the reduction of any existing setbacks.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2013-002 (PA2013-042), 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 ten 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 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 13th DAY OF JUNE, 2013.

BY:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. 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 Port Edward Circle Lot Line Adjustment including, but not limited to, Lot Line Adjustment No. LA2013-002 (PA2013-042). 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.
3. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.

RESOLUTION NO. ZA2013-031

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2013-009 TO ALLOW THE ENCLOSURE OF AN EXISTING EXTERIOR STAIRWAY THAT PROJECTS TWO INCHES INTO THE REQUIRED THREE-FOOT SIDE YARD SETBACK LOCATED AT 220 RUBY AVENUE (PA2013-094)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mark Teale, on behalf of the property owner, Larry Smith, with respect to property located at 220 Ruby Avenue, and legally described as Lot 20, Block 10, Tract Balboa Island, Section 3, requesting approval of a modification permit.
2. The applicant requests approval of a modification permit to enclose an existing 13-foot wide exterior staircase of an existing nonconforming duplex that would encroach two inches into the required three-foot northerly side yard setback. The existing structure is nonconforming due to the number and size of garage parking spaces provided and the south side yard setback projects one inch into the required three-foot side yard setback. The approximate three percent addition (87 sq. ft.) to the existing nonconforming duplex is permitted by right pursuant to Section 20.38.060.2.a (Nonconforming Parking) of the Zoning Code, when consistent with applicable development standards.
3. The subject property is located within the Residential-Balboa Island (R-BI) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E).
5. A public hearing was held on June 13, 2013, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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.

1. The project is categorically exempt under the requirements of the California Environmental Quality Act under Class 1(Existing Structures).
2. This exemption includes additions to the existing structure up to 50 percent of the existing floor area or 2,500 square feet, whichever is less and the proposed scope of work is below these limits.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (Required Findings, Modification Permits) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the findings for a Modification Permit are set forth:

Finding:

- A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

1. The neighborhood is comprised of a development pattern of single-unit and two-unit (duplex) dwellings.
2. Minor side yard encroachments of finish materials (stucco, siding, etc.) are not uncommon for older structures constructed on 30-foot wide lots. The proposed addition will result in a residence that is similar in bulk and scale to others on Balboa Island.

Finding:

- B. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

1. A two-inch encroachment into the side yard setback is necessary to accommodate a required one-hour fire separation wall at the exterior wall to enclose the existing stairway. The stairs would maintain the 3-foot minimum stairway width as required by the Building Code and would provide an entry and hallway connection to both dwelling units.
2. The existing structure and first floor plan configuration limit the area available to enclose the stairway within the buildable area of the lot.
3. The existing and proposed development will comply with the height limit, open volume, and residential design criteria as shown on the proposed plans.

Finding:

- C. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

1. Strict application of the code would require a substantial increase in the scope of the project. The applicant would be required to reconfigure the existing hallway and kitchen adjacent to the exterior stairway, which would involve extensive remodeling of existing improvements.
2. The resulting reconstruction results in a physical hardship where the owner and neighbor would have to live through and endure the corrective construction effort to provide two additional inches of setback area for strict code compliance. The physical hardship of reconfiguring the adjacent kitchen and hallway areas outweigh any tangible benefits to the abutting properties or the community.
3. Enclosing the stairway will provide a secure weather proof entrance for both units.

Finding:

- D. There are no alternatives to the Modification Permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

1. Without this approval, the applicant would be required to reconfigure the existing hallway and kitchen adjacent to the exterior stairway, which would involve extensive remodeling above and beyond the current scope of work.
2. The only other alternative is to maintain the existing open stairway.

Finding

- E. The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Fact in Support of Finding

1. The resulting 2-foot-10-inch setback over a 13-foot wide portion of the side yard provides adequate access for emergency personnel. The remainder of the existing duplex has a three-foot setback at the right side yard.
2. The spatial relationships between existing development and the adjacent property suggest that the light, air, and privacy of the abutting home and property will not be negatively affected.

3. The location of the encroachment is approximately 37 feet back from the street and approximately 30 feet back from the alley, which will reduce the visibility of the encroachment from Ruby Avenue and the alley.
4. The applicant/owner is required to obtain a building permit. The construction will then be inspected prior to final of building permits.
5. The existing development on the property is a duplex. As such, there is no change to the density or intensity under the proposed remodel and addition.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2013-009 (PA2013-094), 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 Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 13th DAY OF JUNE, 2013.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. 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.)
2. Modification Permit No. MD2013-009 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.
3. A copy of the resolution with conditions of approval shall be incorporated into the Building Division and field sets of plans prior to the issuance of building permits.
4. Prior to the issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the 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.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. 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 Modification Permit.
7. The Zoning Administrator may add to or modify the conditions of approval to this Modification Permit or revoke this Modification Permit upon a determination that the operation, which is the subject of this Modification Permit, causes injury, or is detrimental to the health, safety, peace, comfort, or general welfare of the community.
8. 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 the property owner.
9. 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 Smith Residence Remodel including, but not limited to, Modification Permit No. MD2013-009 (PA2013-094). 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 Division and Fire Department Conditions

10. 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.
11. Exterior walls located less than three feet from property lines shall be constructed of approved one-hour fire rated assembly with no openings, including vents in accordance with CRC R302.1.
12. Prior to the issuance of building permits, the project plans shall be revised to address the following comment: The project plans specified the skylight as dual pane, which suggests that the skylight is glazed with glass, which is not the case. Acralight is a plastic unit skylight listed under ESR 2415. Per ESR 2415, plastic skylights are not permitted within 6 feet of exterior walls where protected openings are required.

Public Works Conditions

13. County Sanitation District fees shall be paid prior to the issuance of any building permits.
14. All improvements shall be constructed as required by Ordinance and the Public Works Department.

RESOLUTION NO. ZA2013-032

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING AMENDMENT NO. 1 TO MINOR USE PERMIT NO. UP2012-006 TO EXTEND THE HOURS OF OPERATION FOR BACK BAY TAVERN WITHIN WHOLE FOODS MARKET LOCATED AT 415 NEWPORT CENTER DRIVE (PA2013-087)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mrs. Goochs Natural Foods Markets, Inc., dba Whole Foods Market, with respect to property located at 415 Newport Center Drive, and legally described as Parcel 2 of Lot Line Adjustment No. 2008-004, requesting approval of an amendment to a minor use permit.
2. The applicant proposes an Amendment No. 1 to Minor Use Permit No. UP2012-006 to extend the hours of operation for one of two restaurants, the Back Bay Tavern, within Whole Foods Market from 7:00 a.m. to 11:00 p.m., as recommended by staff. The current hours of operation are from 11:00 a.m. to 10:00 p.m. The restaurant currently operates with a Type 47 (On-Sale General for Bona Fide Public Eating Place) Alcoholic Beverage Control (ABC) license. The hours of operation for the Rotunda Bar within Whole Foods would remain unchanged from 11:00 am. to 10:00 p.m.
3. The subject property is located within the Fashion Island sub-area of the PC-56 (North Newport Center Planned Community) Zoning District and the General Plan Land Use designation is CR (Regional Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 13, 2013 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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 action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that changing the allowed hours of operation at an existing restaurant will have a significant effect on the environment. Therefore, this activity is not subject to CEQA.

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 minor 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

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 alcohol is intended for the convenience of patrons eating in designated dining areas within the market. The existing operational conditions of approval under Minor Use Permit No. UP2012-006 as reviewed and recommended by the Police Department relative to the sale of alcohol will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
2. Due to the high concentration of commercial land uses, the calls for service and number of arrests 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.
3. Fashion Island does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. The proposed use is not located in close proximity to residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools. In accordance with the Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal, the Police Department has reviewed the minor use permit application and recognizes that the existing conditions of approval under Minor Use Permit No. UP2012-006 will ensure that the design and security of the restaurant areas within the market are properly addressed.
4. There are several restaurants in the Fashion Island sub-area, which provide alcohol service as an amenity to customers. The number of alcohol licenses and the type of alcohol service proposed is typical and expected to be found at a regional shopping center such as Fashion Island.
5. The market and included dining areas are permitted in the Fashion Island sub-area of the North Newport Center Planned Community. The on-site consumption of alcohol provides a public convenience by allowing the alcohol in addition to food items offered for sale.

In accordance with Section 20.52.020.F (Conditional Use Permits and Minor Use Permits, 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 property is designated "Regional Commercial" (CR) by the Land Use Element of the General Plan. The retail market use and complementing restaurants within the market are consistent with that designation and are integrated as part of a retail multi-tenant commercial center.
2. The market and accessory restaurants are within the limits of the cumulative floor area allocated for the Fashion Island portion of the North Newport Center Planned Community.
3. The sit-down food and alcohol components of the restaurants within the market are compatible with the land uses found in Fashion Island.
4. 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 PC-56 (North Newport Center Planned Community, Fashion Island Sub-Area) zoning district allows restaurant uses by right and alcohol service is permitted with the approval of a minor use permit by the Zoning Administrator. Fashion Island is intended to be a vibrant regional retail and entertainment center and a day/evening destination with a wide variety of businesses that serve visitors, residents and employees of the area. The extended hours for alcohol service at the Back Bay Tavern within the market are compatible with other uses within Fashion Island.
2. The existing conditions of approval under Minor Use Permit No. UP2012-006 and as reflected in Exhibit "A" of this resolution ensure that all conflicts with surrounding land uses are minimized to the greatest extent possible or eliminated.

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 service of alcohol at the Back Bay Tavern will be restricted to the hours between 7:00 a.m. and 11:00 p.m., daily. No late hours of operation (after 11:00 p.m.) are proposed.
2. There are no residential properties in the immediate vicinity of the market.
3. The existing operational conditions of approval under Minor Use Permit No. UP2012-006 and as recommended by the Police Department relative to the sale of alcohol will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The conditions ensure the welfare of the surrounding community so that the business remains a market with accessory dining and does not become a bar, lounge, or nightclub.
4. Back Bay Tavern is characterized by a separate exterior access point from the Whole Foods Market through the existing outdoor dining patio. Thus, the increased hours of operation beyond the 10:00 p.m. closing hour of Whole Foods Market will not impact the primary business operations of the market and will continue to be compatible with surrounding uses within Fashion Island.
5. The market is required to 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 market.

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 project site at Back Bay Tavern is located within an existing retail, market building. The dining areas within the market are designed and developed for food and beverage service and/or casual sit-down areas to consume food.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing infrastructure.
3. The improvements 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 nuisance areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the market.
2. The extended hours proposed for alcohol service at Back Bay Tavern are provided as a public convenience to market patrons utilizing this designated dining area within the market. The service of alcohol will provide an economic opportunity to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.
3. As conditioned, the owners, managers and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Amendment No. 1 to Minor Use Permit No. UP2012-006 (PA2013-087), 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 Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 13th DAY OF JUNE, 2013.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan and floor plan dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This minor use permit may be modified or revoked by the Zoning Administrator upon a finding of failure to comply with the conditions set forth in Chapter 20.68 (Enforcement) of the Municipal Code, other applicable conditions and regulations governing alcohol service, or should the Zoning Administrator 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 as they relate to alcohol sales, unless determined to be in substantial conformance by the Community Development Director, shall require an amendment to this minor use permit or the processing of a new use permit.
4. Amendment No. 1 to Minor Use Permit No. UP2012-006 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.
5. Should the alcoholic beverage control (ABC) license be transferred, any future license holders, operators or assignees shall be notified of the conditions of this approval by either the current licensee, business operator, or the leasing company. Future licensees, operators or assignees shall submit, within 30 days of transfer of the ABC license, a letter to the Planning Division acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this minor use permit.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. 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 minor use permit.
8. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control (ABC) shall be a Type 47 (On-Sale General for Bona Fide Eating Place) in conjunction with the market, which is the principal use of the facility.

9. The hours of operation for sales, service and consumption of alcohol at Back Bay Tavern within Whole Foods Market are limited from 7:00 a.m. to 11:00 p.m., daily. Any increase in the hours of operation shall be subject to the approval of an amendment to this minor use permit and may be subject to approval by the Zoning Administrator.
10. The hours of operation for sales, service and consumption of alcohol for the Rotunda Bar are limited from 11:00 a.m. to 10:00 p.m., daily. Any increase in the hours of operation shall be subject to the approval of an amendment to this minor use permit and may be subject to approval by the Zoning Administrator.
11. The alcoholic beverage sales for the purpose of on-site consumption shall be limited to the designated dining areas indicated on the floor plan submitted with the application. Any change in the operation of on-sale alcoholic beverage sales or increase in the dining area devoted to alcohol sales for customers shall be subject to the approval of an amendment to this minor use permit issued by the Zoning Administrator.
12. The operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the alcoholic beverage outlet and adjacent properties during business hours. If the operator fails to discourage or correct nuisances, the Zoning Administrator may review, modify, or revoke this minor use permit in accordance with Chapter 20.96 of the Zoning Code.
13. The area outside of the retail market shall be maintained in a clean and orderly manner. 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. The operator of the retail market use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
14. All trash shall be stored within dumpsters inside the mall buildings.
15. 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 Whole Foods Market Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-006 (PA2012-050) and Back Bay Tavern MUP Amendment No. 1 to Minor Use Permit No. UP2012-006 (PA2013-087). 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.

Police Department Conditions

16. This approval does not permit the premises to operate as a bar, lounge, or nightclub as defined by the Newport Beach Municipal Code.
17. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
18. The applicant shall post and maintain professional quality signs measuring 12 inches by 12 inches with lettering no smaller than 2 inches in height that read, "No Alcoholic Beverages Beyond This Point" at all exits leading from the dining areas to the market area.
19. The 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.
20. A Live Entertainment Permit issued by the Revenue Division, when required by the procedures set forth in Chapter 5 of the Municipal Code, shall be required to allow live entertainment as incidental and accessory to the primary uses of the facility as a restaurant/retail market.
21. Dancing shall be prohibited, unless otherwise approved in conjunction with a Special Events Permit.
22. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol 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 retail market 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.
23. 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 alcohol 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.



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

Application No. **Staff Approval No. SA2013-008 (PA2013-117)**
Applicant **Lindley Marcus**
Site Address **2300 Ford Road**
Legal Description **Parcel 1 of Resubdivision 1043**

On **June 12, 2013**, the Community Development Director approved Staff Approval No. SA2013-008. This approval is based on the following information and findings.

PROJECT SUMMARY

A staff approval to allow two (2) permanent single-story shade structures both measuring 18 feet 4-¼ inches high, associated with a previously approved religious facility use. The proposed structures are to be located in the outdoor courtyard on the interior of the property behind the existing office and parish hall buildings, and will not result in an increase in floor area.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC-50 (Bonita Canyon Planned Community)
- **General Plan:** PI (Private Institutions)

BACKGROUND

On September 10, 1998, the Planning Commission approved Use Permit No. UP3633 to allow the establishment of a religious facility on a vacant site. The approval allowed the church structure to exceed the 50-foot height limit with a steeple and included a parking management plan with a reduction in the number of required parking spaces.

On March 23, 2000, the Planning Commission approved an amendment to Use Permit UP3633 allowing additional square footage, changes to the project plans, and an increase in the preschool capacity from 50 to 60 children.

The Use Permit approvals included two (2) phases of development. Phase 1 included construction of classrooms, the parish hall, and administrative offices. Phase 1 was completed in 2001. The Phase 2 approval included a sanctuary building with a chapel.

Phase 2 was granted a time extension in 2005; however, it was not constructed and the approval expired.

On August 23, 2012, the Planning Commission approved Conditional Use Permit No. UP2012-013 amending Use Permit No. UP3633 (amended) to allow an increase in the preschool capacity from 60 to 76 children. The additional students were accommodated in the existing Sunday school classrooms located in the administration office building.

PROPOSED CHANGES

The applicant requests a staff approval to allow two (2) permanent single-story shade structures each measuring 18 feet 4-¼ inches high for the purpose of providing greater privacy and shelter from the weather. The proposed structures are designed to be open on all sides and include a flame resistant curtain for optional enclosure. Structure one, proposed behind the existing administrative offices, will be used as an outdoor break area for students. Structure two is proposed behind the existing parish hall and will be used primarily on Sundays between the hours of 8:00 a.m. and 2:00 p.m. for social gatherings after worship. The proposed shade structures will also be used at other times during the week for smaller gatherings.

The establishment of the two shade structures will not change the existing operational characteristics or use, as the outdoor area will be used for the same purposes for which it is currently used. The conditions of approval Use Permit No. UP3633 (amended) and Conditional Use Permit No. UP2012-013 are still applicable to the subject use and property.

FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, and waive the requirement for a new use permit application. This staff approval is based on the following findings and facts in support of the findings. In this case, the Director determined the proposed changes:

Finding:

- A. *The proposed changes are consistent with all applicable provisions of the Zoning Code.*

Facts in Support of Finding:

1. The subject property is located within the Bonita Canyon Planned Community (PC-50) Zoning District. Within PC-50, the subject property is located within Residential Subarea 4, which is intended to provide for a wide variety of residential housing types and also allow for community service facilities. A church facility is an allowed use within Subarea 4 with the approval of a Use Permit.

2. Shade structures for the church facility do not change the approved use which is consistent with the land use and zoning designations.

Finding:

- B. The proposed changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. In approving Use Permit No. UP3633 and Use Permit No. UP3633 (amended) approved March 23, 2000, the Planning Commission determined that all significant environmental concerns associated with the establishment of a religious facility, parish hall and sanctuary, classrooms, fellowship hall, and administrative offices for St. Matthew's Church had been addressed in a previously certified environmental document (EIR No. 154, certified by the City of Irvine on November 25, 1995) and that there were no additional reasonable alternatives or mitigation measures that should be considered in conjunction with the project. When approving Conditional Use Permit No. UP2012-013, the Planning Commission determined the project to be categorically exempt under the California Environmental Quality Act Class 1 exemption.
2. The proposed shade structures qualify for an exemption from environmental review pursuant to Section 15301 (Class 1 Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act (CEQA), which exempts minor alterations to existing facilities involving negligible expansion of use beyond that existing at the time of the lead agency's determination.
3. The proposed shade structures were not a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report.

Finding:

- C. The proposed changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The proposed shade structures were not specifically addressed, considered, or the subject of a condition of approval in staff reports or minutes for UP3633, UP3633 (amended), or UP2012-013. The courtyard area was considered in these previous approvals as an area that would serve as an informal gathering space for use between services.

Finding:

- D. *The proposed changes do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed shade structures will not change the nature or use of the existing courtyard area, as the area is currently used as a gathering space after services on Sunday. The courtyard area will be used primarily on Sundays between the hours of 8:00 a.m. and 2:00 p.m. The use of the shade structures will not likely occur concurrently with the use of the other facilities.
2. The addition of two new shade structures to the outdoor courtyard area is minor in nature and does not represent a substantial change in the operational characteristics of the existing religious facility, preschool, parish hall, and administrative offices.
3. Conditions of approval specifying days and hours of operation, maximum number of attendees, and number of seats permitted for use as specified by UP3633 (amended), and Conditional Use Permit No. UP2012-013 will remain the same.
4. Noise concerns are addressed by Condition No. 7 of Conditional Use Permit No. UP2012-013 which states that noise generated by the use which include the use of musical instruments, pre-recorded music and/or singing shall be confined to the interior of the structure and all windows and doors within the facility shall be closed. The facility is also obligated to comply with the requirements of Municipal Code Chapter 10.26 (Community Noise Control).

ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15301, of the California Environmental Quality Act ("CEQA") Guidelines – Class 1 (Existing Facilities), which exempts minor alterations to existing facilities involving negligible expansion of use. The proposed project is for accessory shade structures with no changes to the existing use or floor area.

DETERMINATION

This staff approval has been reviewed and the determination has been made that the proposed shade structures are in substantial conformance with the original plans and nature of the previously approved use.

APPEAL PERIOD

An appeal may be filed with the Director of Community Development, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



Fern Nueno, Associate Planner

GBR/fn/jvp

Attachments: CD 1 Vicinity Map
 CD 2 Applicant's Project Description
 CD 3 Conditions of Approval from previous Use Permit No.
 UP3633, UP3633A, and UP2012-013.
 CD 4 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2013-008
PA2013-117

2300 Ford Road

Attachment No. CD 2

Applicant's Project Description

transmittal

Date: May 8, 2013
To: Fern Nueno
City of Newport Beach Building and Safety
P: 949.644.3200
3300 Newport Blvd, Newport Beach, CA 92658
Re: Planning Permit Application – Project Description – PC# 0911-2013

pages 1

Details of Proposed Use:

The outdoor area in question will be used for same purposes for which they are currently being used. The rooms will enable these areas to be used more efficiently and effectively by providing greater privacy and protection from weather. Proposed exterior structures to be used as additional square footage to existing buildings and to be used as shown on proposed plans; Structure #1 (smaller structure) to be used as outdoor break area for existing classrooms and to be posted as use of B occupancy. Structure #2 (larger structure) to be used as an assembly area for existing parish hall and to be posted as use of A occupancy.

Physical Description:

Both structures to be covered by Class A – shingled roof GAF/BLK Timberline Ultra HD in color Weatherwood with grey stucco finished columns to match existing building. Weather enclosure walls to be Firesist curtains in charcoal color 88049-0000 with clear plastic windows. Both structures will include Sunpak gas-fired infrared heaters and LED lighting from above. Structure #1 – 33'-1/2" x 26'-0" x 18'-4" H (1,060 SF) and Structure #2 – 40'-3" x 42'-0" x 18'-4" H (2,038 SF).

Hours of Use:

Courtyard will be used mainly on Sundays from approximately 8:00 a.m. to approximately 2 p.m. for parish social gathering after worship and at various times during the week for smaller gatherings.

Potential Noise Impacts:

The area is currently being used for these same social purposes so there will not be an increase in noise from the current use. The side pull down walls on the new structure may actually result in a net decrease in noise. The speakers will be used to bring the music and speaking of the worship into the outdoor rooms for mothers with children who cannot be in church. They will also be used for background music in the social space. The volume will be low so that sound from the room will not leave the property.

Limitations of Use:

The room will not be in full use during the worship as its primary use is for the social gathering after worship. The outdoor area in question will be used for same purposes for which they are currently being used. The rooms will enable these areas to be used more efficiently and effectively by providing greater privacy and protection from weather.

Feel free to contact me if you should have any questions.

Thanks!



Lindley Marcus
714.825.8888 x.114
marcus@rhainc.net

PA2013-117 for SA2013-008
2300 Ford Road
Lindley Marcus (St. Matthews Church)

A California Corporation
19762 MacArthur
Boulevard, Suite 120
Irvine, California 92612

Attachment No. CD 3

Conditions of Approval from previous Use
Permit No. UP3633, UP3633A, and
UP2012-013

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6. The waiver of 16 required parking spaces is appropriate since a parking management plan has been accepted and approved by the Planning Commission.

 7. The height of the steeple/bell tower is appropriate in this case because:
 - The design is in keeping with the architecture of the church.
 - The structure will not obstruct public views.
 - The lighting of the steeple structure will be limited to levels consisted with the surrounding area.

 8. The approval of Use Permit No. 3633 will not, under the circumstances of the case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City, for the following reasons:
 - A waiver of 16 parking spaces will not be detrimental to the neighborhood because a parking management plan has been approved and compliance with the plan is a condition of approval.
 - The height of the steeple/bell tower is appropriate for this site.
 - The noise associated with the proposed use is not anticipated to create any adverse impact on the surrounding uses since the worship services occur during off-peak evening hours and on the weekend and the conditions of approval imposed require that the noise be confined to the interior of the building.

Conditions:

1. Development shall be in substantial conformance with the approved site plan, floor plans and elevations, except as noted below.

2. The operation of the project shall comply with the parking management plan described below:
 - A minimum of 88 parking spaces shall be provided on site for the proposed facility. An additional 16 parking spaces shall be made available on the adjacent lot on weekends.
 - The pre-school shall be limited to a maximum of 50 children and operation during weekday daytime hours **in Phases 1 and 2**. Any increase in the number of attendees shall not be permitted without approval of an amendment to this use permit. Childcare in conjunction with worship services in the evening and on weekends is permitted.

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- The sanctuary shall be limited to a maximum of 312 seats and 9,000 square feet. Any increase in the seating or size of the sanctuary building shall require an amendment to this use permit.
 - Classes associated with the church shall be limited to Sundays and weekday evenings only. The size of counseling sessions shall be restricted so that no more than 20 persons occupy either the administrative offices or sanctuary facility between the hours of 8:00 a.m. and 5:30 p.m., during the week **at any time day time worship services are scheduled, unless otherwise approved by the Planning Director and the City Traffic Engineer.**
 - Worship services **shall be permitted** during the week ~~shall not be permitted~~ prior to 6:00 p.m. **provided that seating is limited to a maximum of 156 seats. This limitation is established at a ratio of 3 seats for each parking space, based on a 52 space weekday parking demand surplus.** ~~without approval of an amendment to this use permit.~~
 - All employees shall park on-site.
 - **Concurrent use of on site facilities for worship services shall be limited to 312 seats.**
3. Noise generated by the use **which include the use of musical instruments, pre-recorded music and/or singing** shall be confined to the interior of the structure and all windows and doors within the facility shall be closed, except when entering and leaving by the main entrance of the facility.
 4. The church structure steeple/bell tower shall be limited to a maximum height of 75 feet.
 5. A landscape and irrigation plan for the project shall be prepared by a licensed landscape architect. The landscape plan shall integrate the installation of landscaping with each phase of the project. The landscape plans shall be subject to the approval of the Planning, Public Works, and General Services Departments. Prior to occupancy, a licensed landscape architect shall certify to the Planning Department that the landscaping has been installed in accordance with the approved plan.
 6. All trash areas shall be screened from adjoining properties and streets.
 7. No outdoor loudspeaker or paging system shall be permitted in conjunction with the proposed operation.
 8. The project shall be designed to eliminate light and glare onto adjacent properties or uses. The plans shall be prepared and signed by a licensed Electrical Engineer acceptable to the City. Prior to the issuance of any

building permit the applicant shall provide to the Planning Department, in conjunction with the lighting system plan, lighting fixture product types and technical specifications, including photometric information, to determine the extent of light spillage or glare which can be anticipated. This information shall be made a part of the building set of plans for issuance of the building permit. That prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of light and glare specified by this condition of approval.

9. Exterior illumination of the church structure shall comply with the recommended sign luminances established for illuminated signs in Chapter 20.67.025 of the Municipal Code. Additionally, the Planning Director may order the dimming of any illumination found to be excessively bright, based on that criteria.
10. ***The applicant shall provide executed, reciprocal parking agreement that provides the maintenance required off-street parking on an adjacent lot for the duration for the proposed uses on the site prior to the issuance of a building permit.***

Standard Requirements:

1. All signs shall conform to the provisions of Chapter 20.06 of the Municipal Code.
2. The project shall comply with State Disabled Access requirements.
3. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. The on-site parking, vehicular circulation and pedestrian circulation systems shall be subject to further review by the City Traffic Engineer.
5. The operator of the church facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than depicted below for the specified time periods:

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	Between the hours of 7:00 a.m. & 10:00 p.m.		Between the hours of 10:00 p.m. & 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

6. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the facility to insure compliance with these conditions, if required by the Planning Director.
7. The Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
8. This Use Permit for Phase 1 of the project as described in the staff report shall expire unless exercised within 24 months from the effective date of approval, as specified in Section 20.91.050A of the Newport Beach Municipal Code. The Use Permit for Phase 2 of the project shall expire unless exercised within 60 months from the date of approval, as allowed by Section 20.91.050A of the Code.

SUBJECT: Fletcher Jones Motorcars
 3300 Jamboree Road
 • Use Permit No. 3565 A

**Item No. 2
 UP 3636**

Request to approve a use permit for the construction of an off-site parking lot for employees on vacant land beneath the State Route 73 (San Joaquin Hills Tollway) bridges spanning San Diego Creek along the future extension of Bayview Way. The construction consists of an access road from the dealership, a parking lot and a new riding and hiking trail. The surface parking lot will accommodate approximately 246 parking spaces. The parking lot will be used for employee parking only, and is not intended to be used for inventory storage.

**Continued to
 9/24/1998**

Staff requests that this hearing be continued to September 24, 1998, to allow

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- The approved waiver of 16 parking spaces will not be detrimental to the neighborhood because a parking management plan has been approved and compliance with the plan is a condition of approval.
- The noise associated with the proposed uses, as revised, is not anticipated to create any adverse impact on the surrounding uses since the worship services occur during off-peak evening hours and on the weekend and the conditions of approval imposed require that the noise be confined to the interior of the building.

Conditions:

1. Development shall be in substantial conformance with the approved revised site plan, floor plans and elevations, except as noted below.
2. The operation of the project shall comply with the parking management plan described below:
 - A minimum of 88 parking spaces shall be provided on site for the proposed facility. An additional 16 parking spaces shall be made available on the adjacent lot on weekends.
 - The pre-school shall be limited to a maximum of 60 children and operation during weekday daytime hours in Phases 1 and 2. Any increase in the number of attendees shall not be permitted without approval of an amendment to this use permit. Childcare in conjunction with worship services in the evening and on weekends is permitted.
 - The sanctuary shall be limited to a maximum of 312 seats and 9,372 square feet. Any increase in the seating or size of the sanctuary building shall require an amendment to this use permit.
 - Classes associated with the church shall be limited to Sundays and weekday evenings only. The size of counseling sessions shall be restricted so that no more than 20 persons occupy either the administrative offices or sanctuary facility between the hours of 8:00 a.m. and 5:30 p.m., during the week at any time day time worship services are scheduled, unless otherwise approved by the Planning Director and the Traffic Engineer.
 - Worship services shall be permitted during the week prior to 6:00 p.m. provided that seating is limited to a maximum of 156 seats. This limitation is established at a ratio of three seats for each parking space, based on a 52-space weekday parking demand surplus.
 - All employees shall park on-site.
 - Concurrent use of on-site facilities for worship shall be limited to 312 seats.
3. Noise generated by the use which include the use of musical instruments, pre-recorded music and/or singing shall be confined to the interior of the structure and all windows and doors within the facility shall be closed,

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- except when entering and leaving by the main entrance of the facility.
4. The church structure steeple/bell tower shall be limited to a maximum height of 75 feet.
 5. A landscape and irrigation plan for the project shall be prepared by a licensed landscape architect. The landscape plan shall integrate the installation of landscaping with each phase of the project. The landscape plans shall be subject to the approval of the Planning, Public Works, and General Services Departments. Prior to occupancy, a licensed landscape architect shall certify to the Planning Department that the landscaping has been installed in accordance with the approved plan. The landscaping shall be maintained by the applicant.
 6. All trash areas shall be screened from adjoining properties and streets.
 7. No outdoor loudspeaker or paging system shall be permitted in conjunction with the proposed operation.
 8. The project shall be designed to eliminate light and glare onto adjacent properties or uses. The plans shall be prepared and signed by a licensed Electrical Engineer acceptable to the City. Prior to the issuance of any building permit the applicant shall provide to the Planning Department, in conjunction with the lighting system plan, lighting fixture product types and technical specifications, including photometric information, to determine the extent of light spillage or glare which can be anticipated. This information shall be made a part of the building set of plans for issuance of the building permit. That prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of light and glare specified by this condition of approval.
 9. Exterior illumination of the church structure shall comply with the recommended sign luminances established for illuminated signs in Chapter 20.67.025 of the Municipal Code. Additionally, the Planning Director may order the dimming of any illumination found to be excessively bright, based on that criteria.
 10. The applicant shall provide executed, reciprocal parking agreement that provides the maintenance required off street parking on an adjacent lot for the duration of the proposed uses on the site prior to the issuance of a building permit.
 11. The project shall include the installation of a new perimeter wall, six feet in height and be constructed with materials to match the existing wall along Bonita Canyon Road on the adjacent preschool property. The wall location shall be begin at the point where the existing wall on the adjacent preschool

terminates along Bonita Canyon Road, continue west to the corner, then south along Prairie Road and terminate into the south side of the church preschool building. The perimeter wall shall be constructed concurrent with the Phase One improvements and shall be designed to accommodate the required sight distance setbacks at the intersections.

12. The project shall include the installation of a new perimeter wall, six feet in height and be constructed with materials to match the existing wall along Bonita Canyon Road on the adjacent preschool property. The wall location shall begin at the point where the existing wall on the adjacent preschool terminates along Bonita Canyon Road, continue west to the corner, then south along Prairie Road and terminate into the south side of the church preschool building. The perimeter wall shall be constructed concurrent with the Phase One improvements and shall be designed to accommodate the required sight distance setbacks at the intersections. The wall in the area of the Sanctuary may be removed during Phase Two construction, as depicted on the approved site plan.
13. The portion of the wall along Bonita Canyon Road from the existing fence to the eastern edge of the sanctuary shall be an additional 1 foot in height.

Standard Requirements:

1. All signs shall conform to the provisions of Chapter ^{20.67}~~20.06~~ of the Municipal Code.
2. The project shall comply with State Disabled Access requirements.
3. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. The on-site parking, vehicular circulation and pedestrian circulation systems shall be subject to further review by the City Traffic Engineer.
5. The operator of the church facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than depicted below for the specified time periods:

typo JW←

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	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

6. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the facility to insure compliance with these conditions, if required by the Planning Director.
7. The Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this amendment to the use permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
8. This Use Permit for the revised Phase 1 of the project as described in the staff report shall expire unless exercised within 24 months from the effective date of approval, as specified in Section 20.91.050A of the Newport Beach Municipal Code. The Use Permit for Phase 2 of the project shall expire unless exercised within 60 months from the date of approval of the Revised Phase One, as allowed by Section 20.91.050A of the Code.

(3/23/05)

**SUBJECT: Rothschild's Restaurant
 2407 East Coast Highway
 • Use Permit No. 1851 Amended**

**Item No. 3
 UP 1851A**

A request to upgrade the existing Alcoholic Beverage Outlet approval to allow for the sale of general alcoholic beverages for on-site consumption (Type 47 License).

**Continued to
 04/20/2000**

Ms. Temple noted that the applicant has requested a continuance to the end of April.

Motion was made by Commissioner Kranzley to continue this item to April 20, 2000 as requested by the applicant

Ayes: Kiser, Ashley, Selich, Kranzley and Tucker
 Noes: None
 Absent: Fuller, Gifford

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. 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.)
2. 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.
3. Conditional Use Permit No. 2012-013 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.
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. This Use Permit may be modified or revoked by the City Council or Planning Commission 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.
6. Any change in operational characteristics, 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.
7. Noise generated by the use, which include the use of musical instruments, pre-recorded music and/or singing, shall be confined to the interior of the structure and all windows and doors within the facility shall be closed, except when entering and leaving by the main entrance of the facility.
8. 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. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

-
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 Division.
 10. 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.
 11. 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 St. Matthew's Preschool Capacity Increase including, but not limited to, the Conditional Use Permit No. UP2012-013 (PA2012-081). 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.

Attachment No. CD 4

Project Plans



robinson hill architecture, inc.
 A California Corporation
 3195-B Airport Loop Dr.
 Costa Mesa, CA 92626
 tel. 714-825-8888
 fax 714-825-8889
 web www.rhainc.net

Michael David Robinson: C-20731
 John Steven Hill: C-23553

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Project Name / Type

AN EXTERIOR DESIGN PACKAGE FOR:

ST. MATTHEW'S CHURCH
 2300 FORD ROAD
 NEWPORT BEACH
 CALIFORNIA 92660

Client

Stamp

Submittal Dates	
PC Submittal	04.24.13
PC Resubmittal	05.23.13

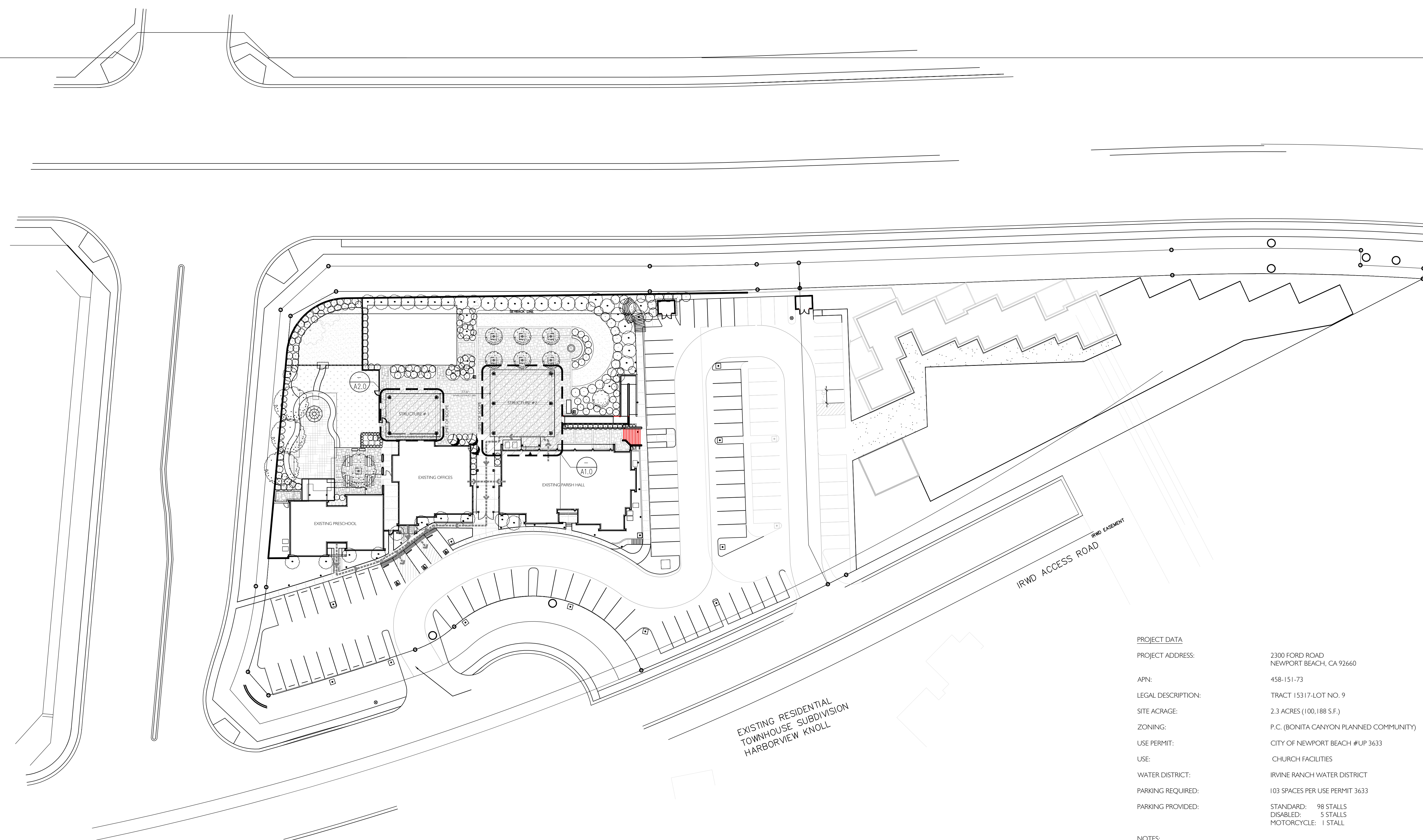
Rev.	Description	Date
1	PC Corrections	05.23.13

Job Number:
12RH-A385.C1

Date:
05.23.13

Sheet Title:
EXISTING SITE PLAN

Sheet No.:



PROJECT DATA

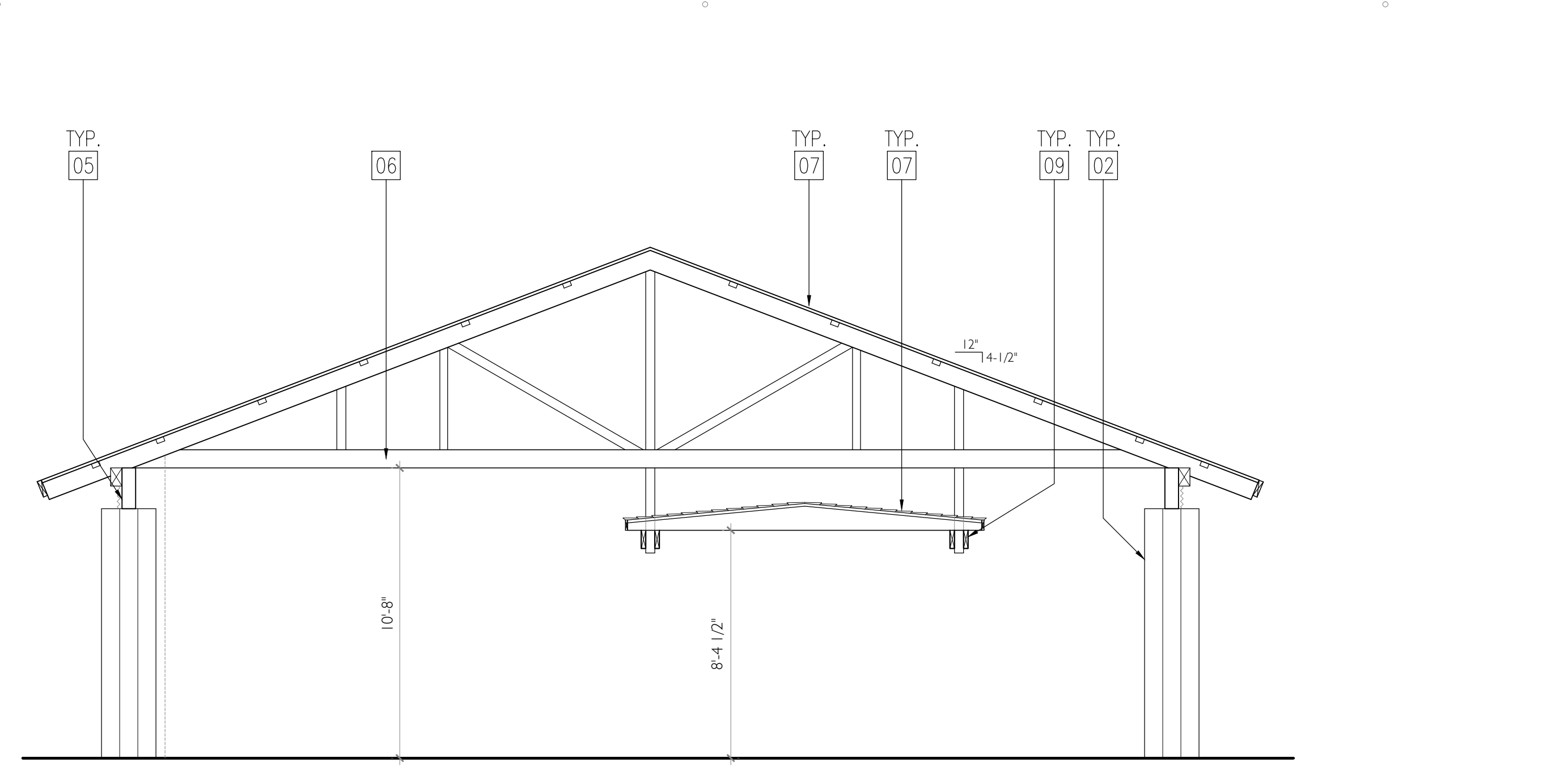
PROJECT ADDRESS:	2300 FORD ROAD NEWPORT BEACH, CA 92660
APN:	458-151-73
LEGAL DESCRIPTION:	TRACT 15317-LOT NO. 9
SITE ACRAGE:	2.3 ACRES (100,188 S.F.)
ZONING:	P.C. (BONITA CANYON PLANNED COMMUNITY)
USE PERMIT:	CITY OF NEWPORT BEACH #UP 3633
USE:	CHURCH FACILITIES
WATER DISTRICT:	IRVINE RANCH WATER DISTRICT
PARKING REQUIRED:	103 SPACES PER USE PERMIT 3633
PARKING PROVIDED:	STANDARD: 98 STALLS DISABLED: 5 STALLS MOTORCYCLE: 1 STALL

NOTES:

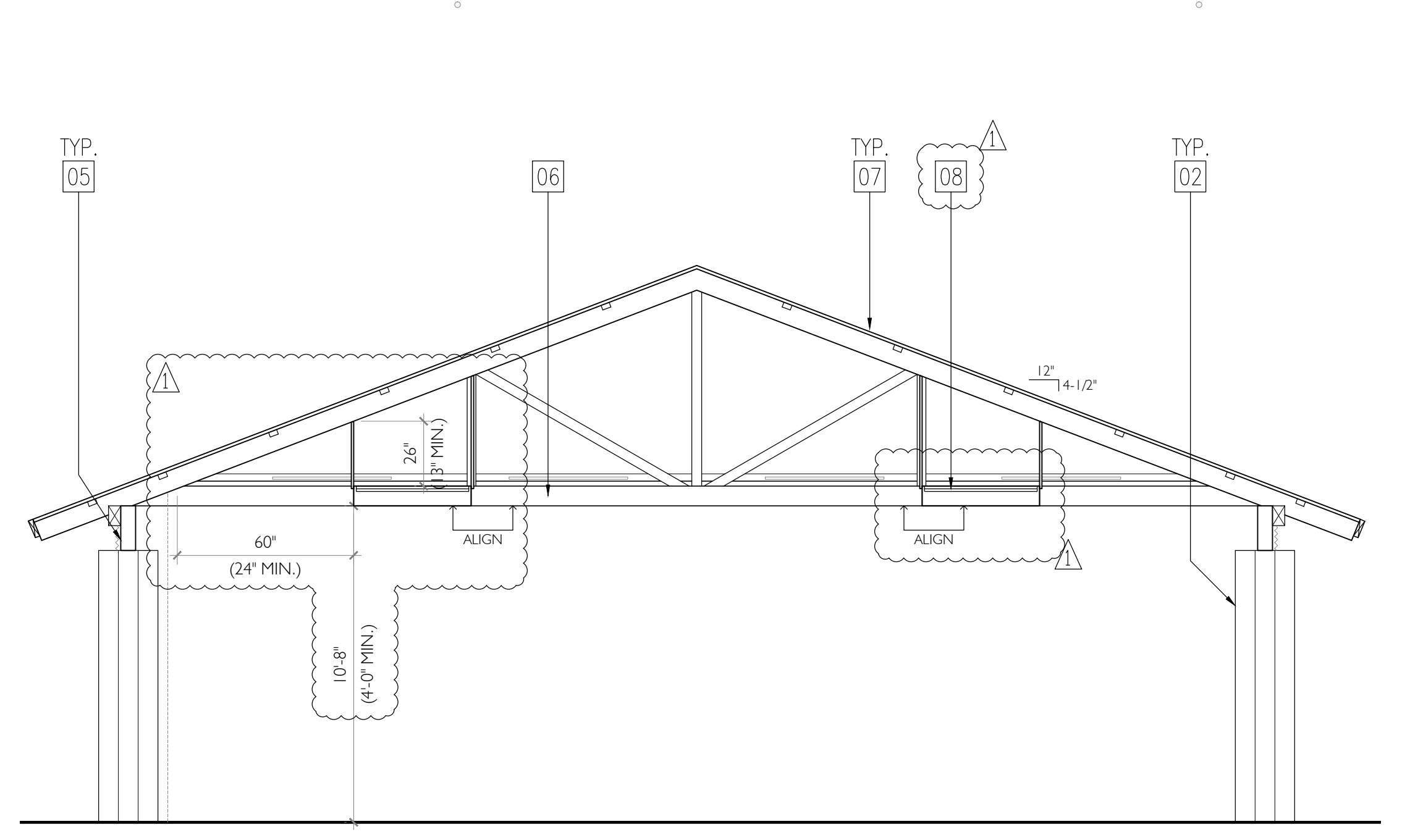
- THERE IS NO INCREASE IN AREA OF BUILDING, ADDITIONAL SPACES OR REMOVAL OF SPACES IS NOT NEEDED.
- SHARED PARKING AGREEMENT WITH ADJACENT PROPERTY-SEE USE PERMIT.



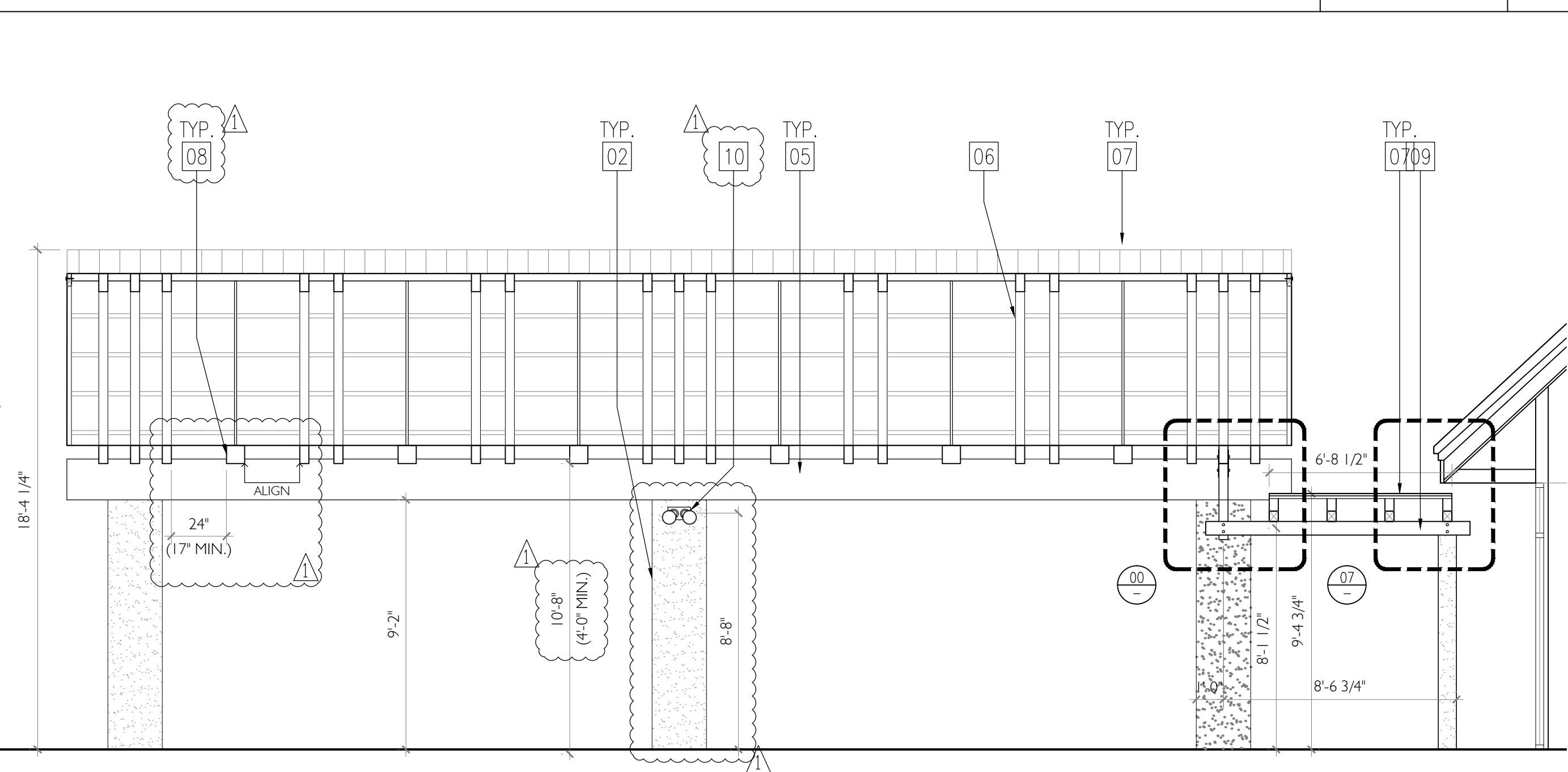
ACCESSIBLE PATH OF TRAVEL
 4'-0" WIDTH MIN. AND SLOPE
 AND CROSS SLOPE NOT TO
 EXCEED 2%.



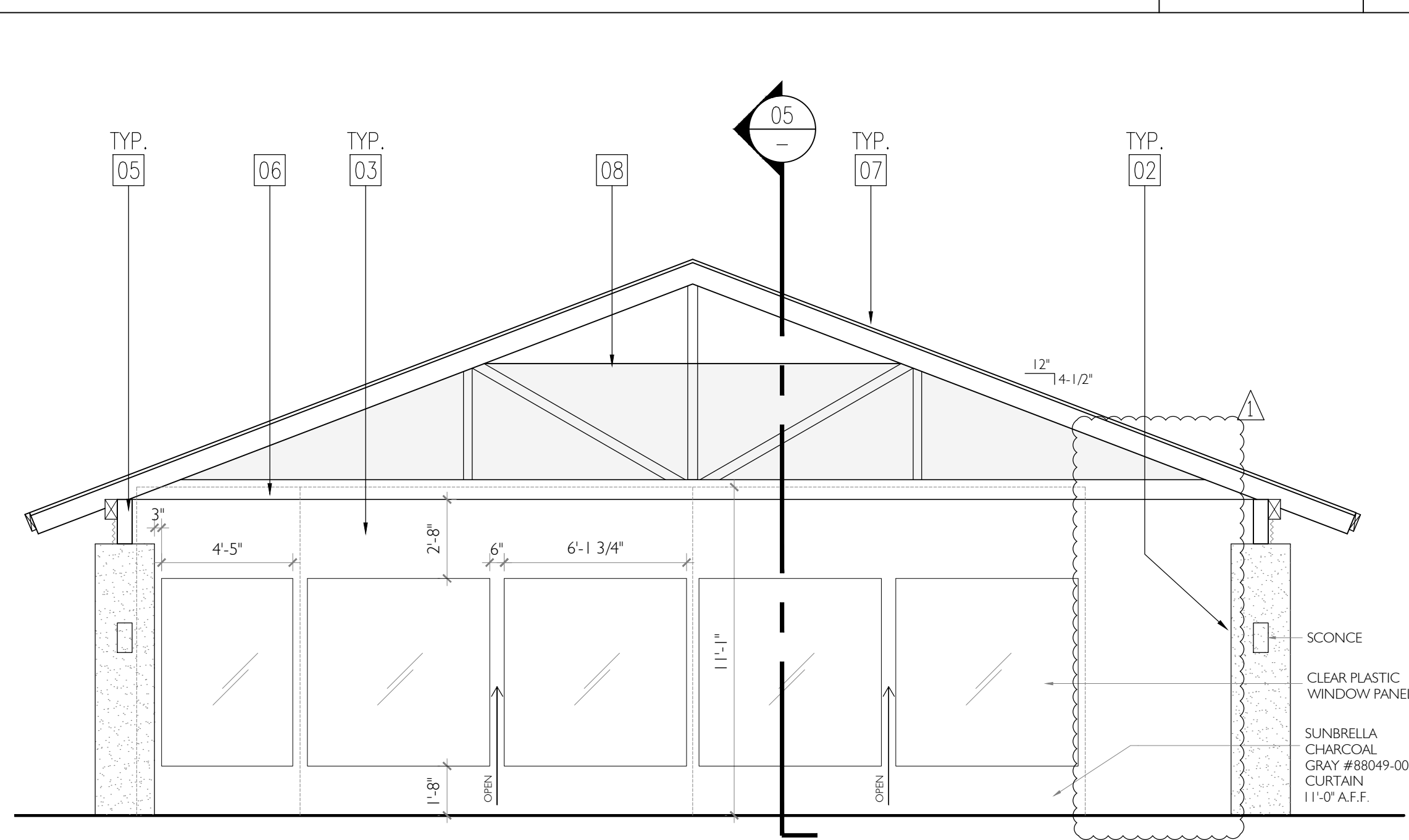
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SECTION SCALE: 1/4" - 1'-0" 03

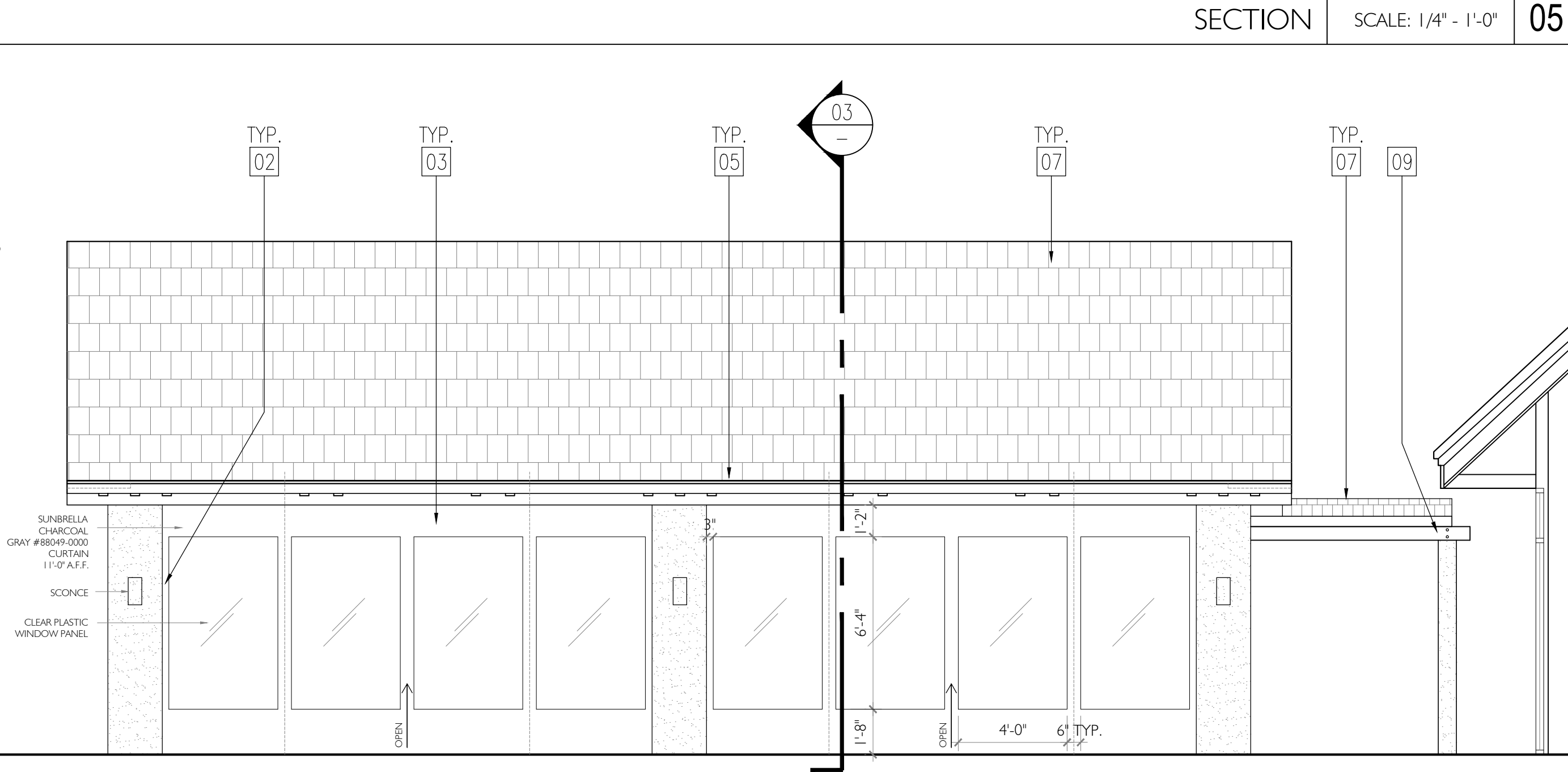


SECTION SCALE: 1/4" - 1'-0" 05

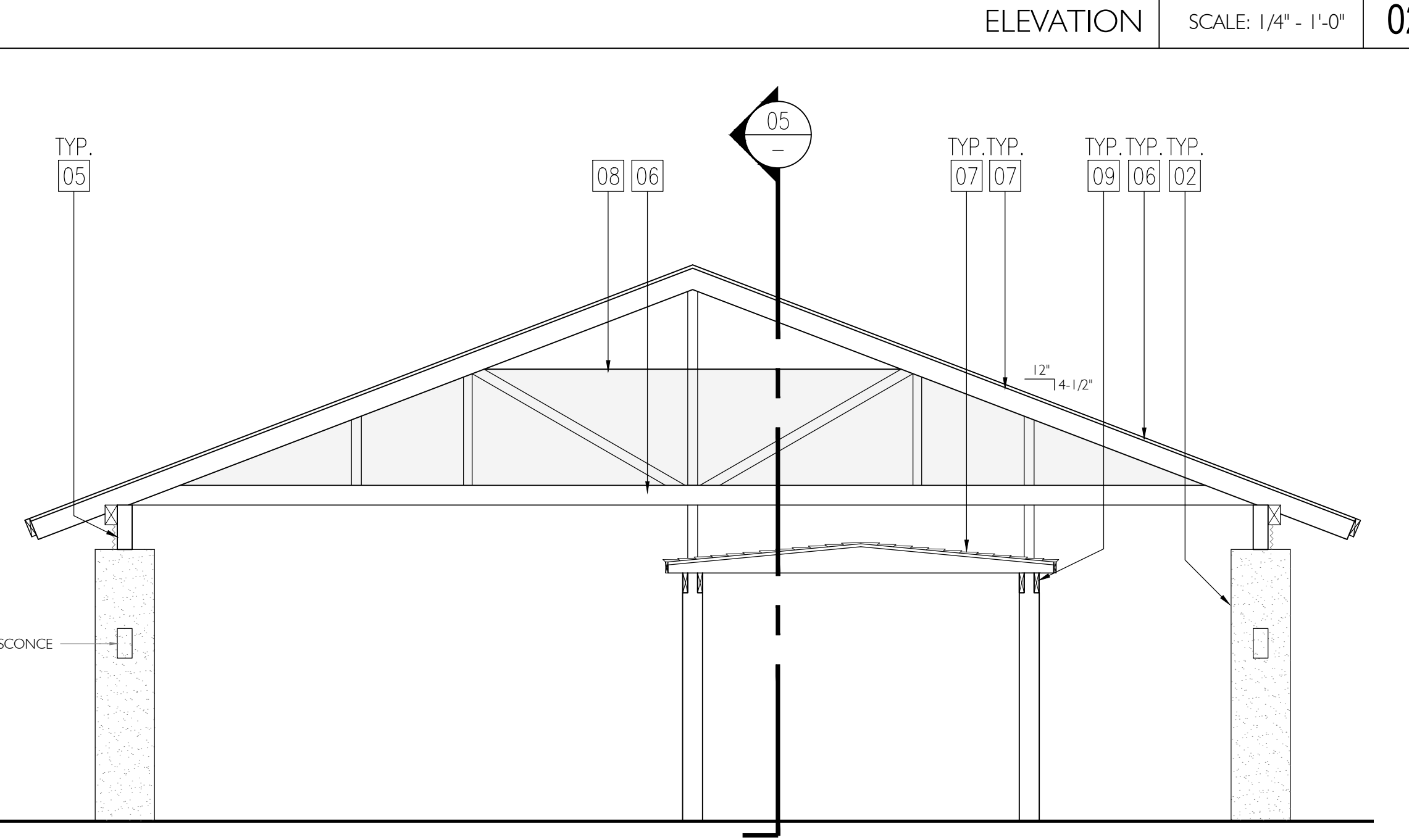


ELEVATION SCALE: 1/4" - 1'-0" 02

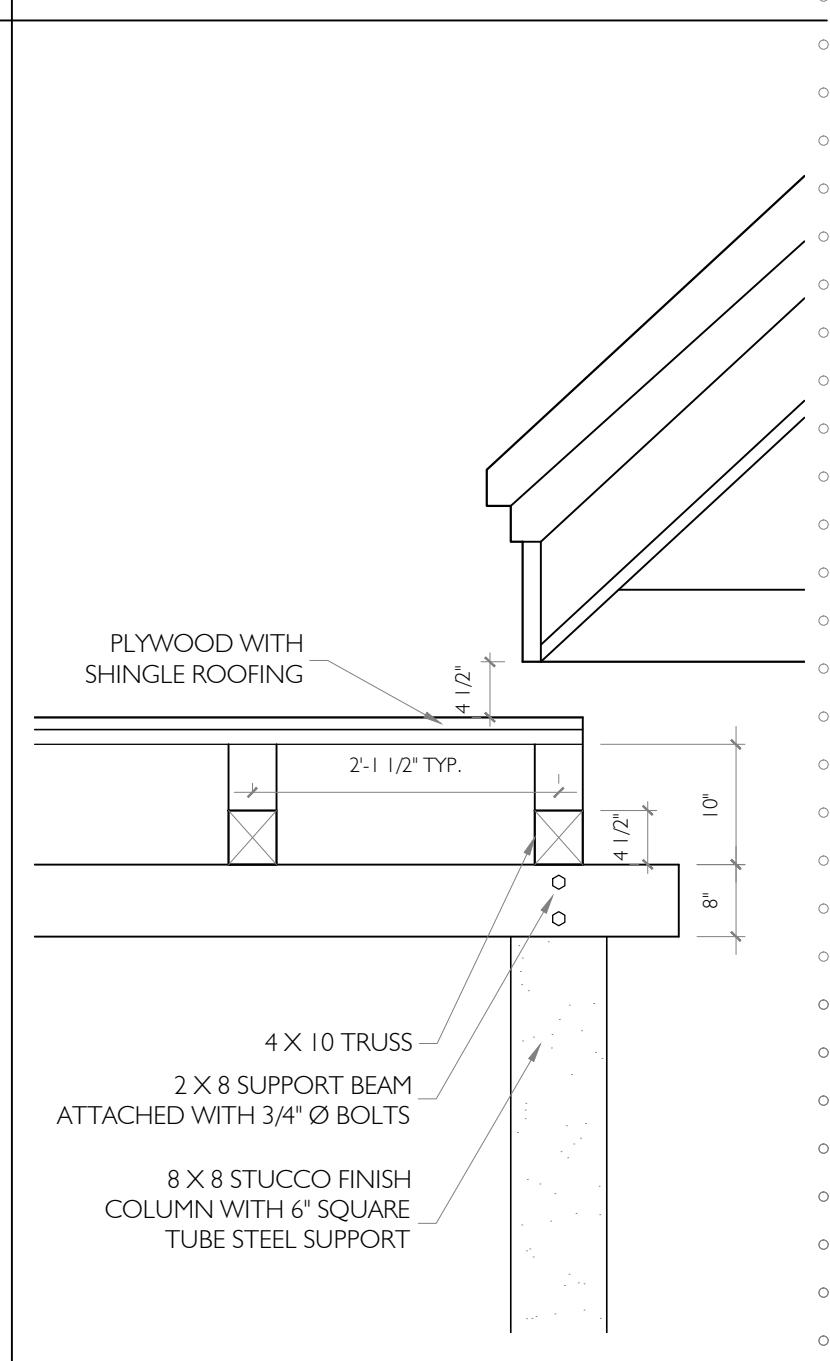
- KEYNOTES**
- 01 NEW POWER AND DATA LOCATED ON INTERIOR OF NEW COLUMN.
 - 02 NEW SQUARE 24"x24" STUCCO FINISH CONCRETE COLUMN WITH 8" SQUARE TUBE STEEL SUPPORT.
 - 03 NEW SUNBRELLA FIREST CURTAIN WITH CLEAR WINDOWS. ASTM-E-84-03. VOLUES FOR FLAME SPREAD AND SMOKE DENSITY IS CLASS A - TYPE I BUILDING MATERIAL.
 - 04 (N) 8" X 8" STUCCO FINISH COLUMN WITH 6" SQUARE TUBE STEEL SUPPORT.
 - 05 (N) 5-1/8" X 18" SUPPORT BEAM.
 - 06 (N) 4" X 8" TRUSSES.
 - 07 (N) SHINGLED ROOF. GAF/BLK TIMBERLINE ULTRA HD COLOR: WEATHERWOOD OVER 1/2" SLB FELT. INSTALLATION OF ROOFING SHALL BE IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
 - 08 (N) SUNPAK S-34 GAS-FIRED INFRARED HEATER SUSPENDED 10'-8" A.F.F. TO UNDERSIDE OF UNIT, (6) TOTAL. INSTALL PER HEAT AND VENTILATION SPECIFICATIONS PROVIDED BY MANUFACTURER.
 - 09 (N) 15 WATT 3500K LED LIGHT TUBE ATTACHED TO (N) TRUSS. SEE 07 FOR DETAIL. (12) TOTAL.
 - 10 (N) EMERGENCY LIGHTING TO BE MOUNTED ON CENTER COLUMN FACING INSIDE STRUCTURE LOCATED TO THE CENTER OF FIXTURE 8'-8" A.F.F.



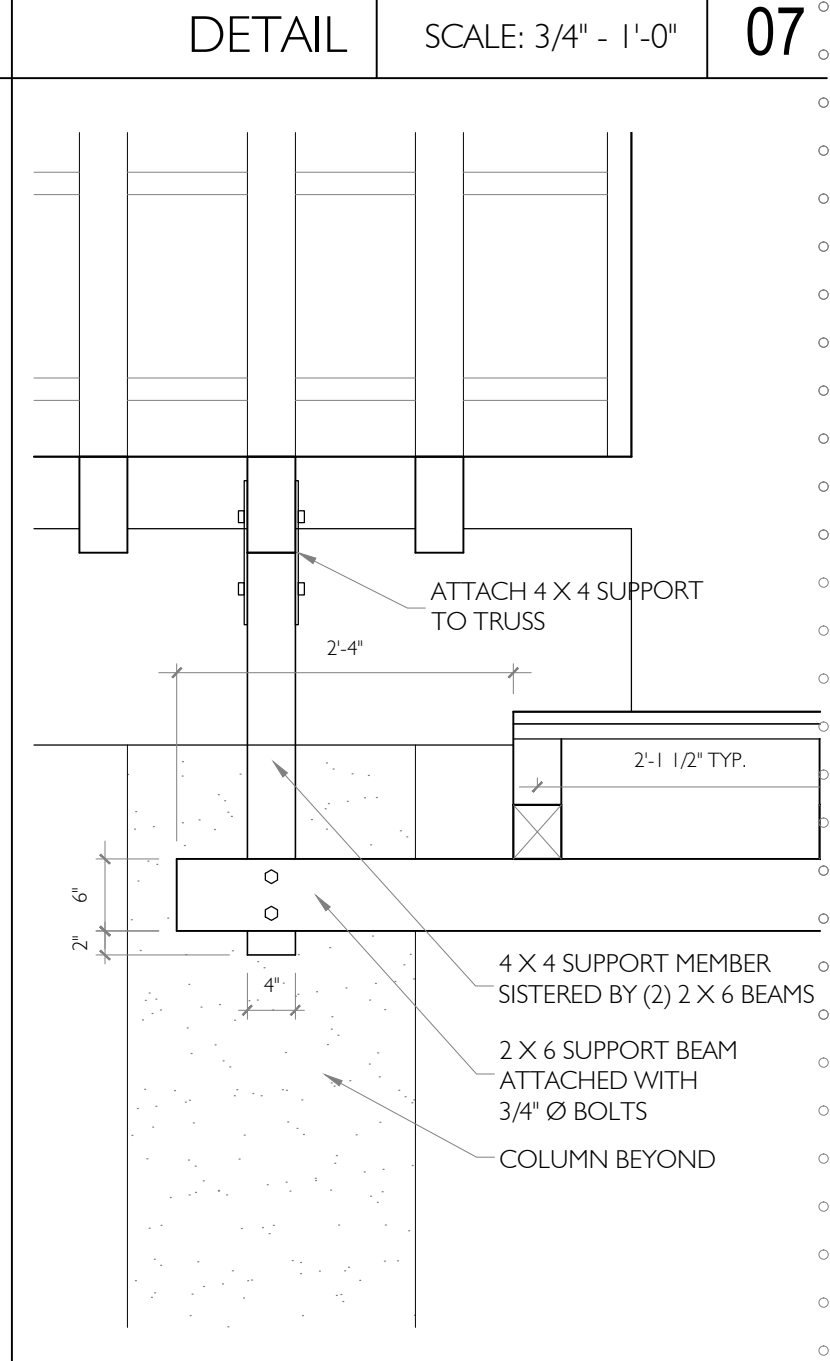
ELEVATION SCALE: 1/4" - 1'-0" 04



ELEVATION SCALE: 1/4" - 1'-0" 01



DETAIL SCALE: 3/4" - 1'-0" 07



DETAIL SCALE: 3/4" - 1'-0" 00

r h a
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This document has been prepared to describe proposed new work and does not necessarily represent as-built or existing conditions. The Architect does not warrant, in any way, the accuracy of this information and shall not be responsible for any discrepancy between this document and the existing conditions.

Project Name / Type
AN EXTERIOR DESIGN PACKAGE FOR:
ST. MATTHEW'S CHURCH
 2300 FORD ROAD
 NEWPORT BEACH
 CALIFORNIA 92660

Client _____

Stamp _____

Submittal Dates

PC Submittal	04.24.13
PC Resubmittal	05.23.13

Rev. Description Date

PC Corrections	05.23.13
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Job Number:
 12RHA385.C1
Date:
 05.23.13

Sheet Title:
 ELEVATIONS AND SECTIONS

Sheet No.:

Submittal Dates	
PC Submittal	04.24.13
PC Resubmittal	05.23.13

Rev.	Description	Date
△	PC Corrections	05.23.13

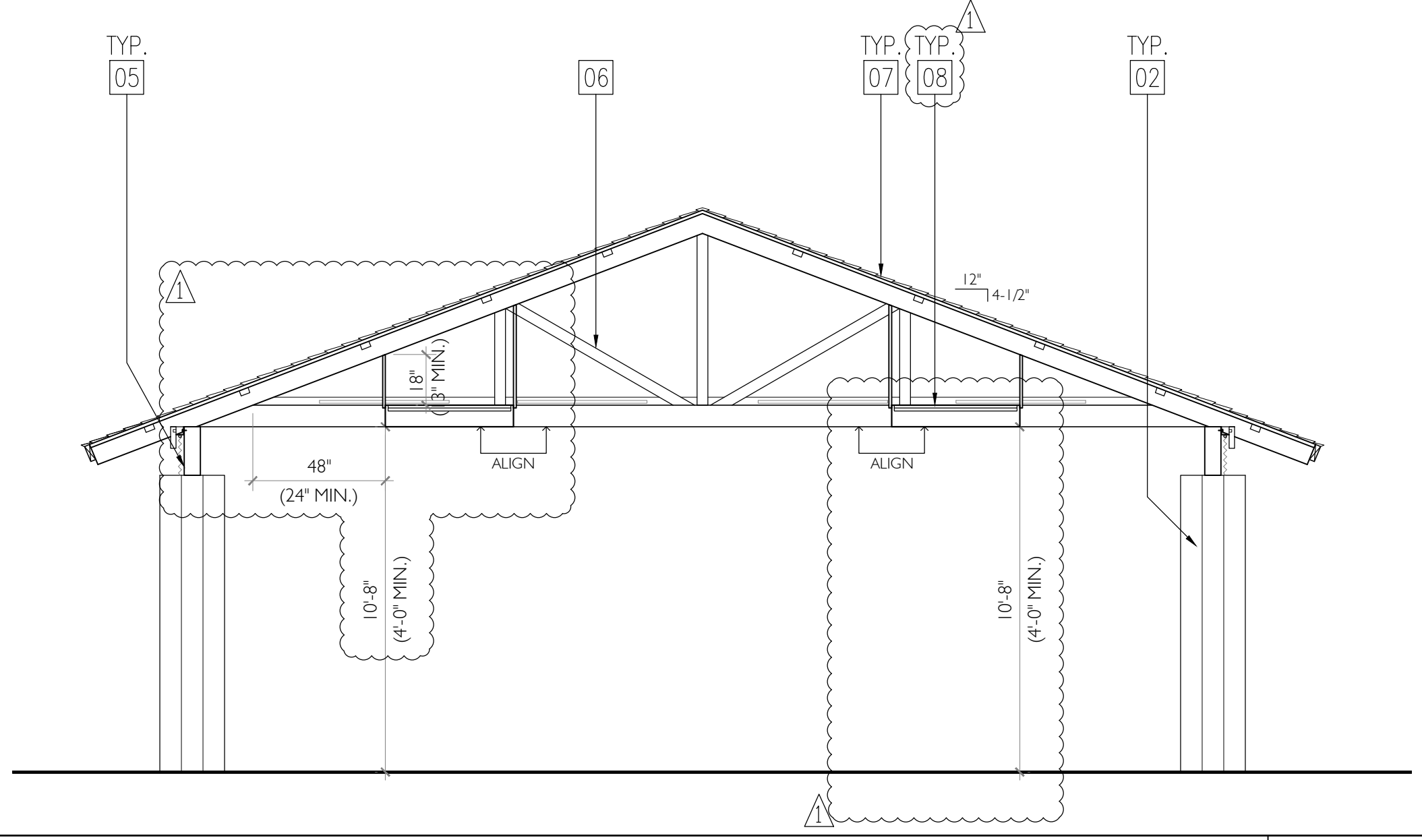
Job Number:
12RHA385.C1

Date:
05.23.13

Sheet Title:
ELEVATIONS AND SECTIONS

Sheet No.:

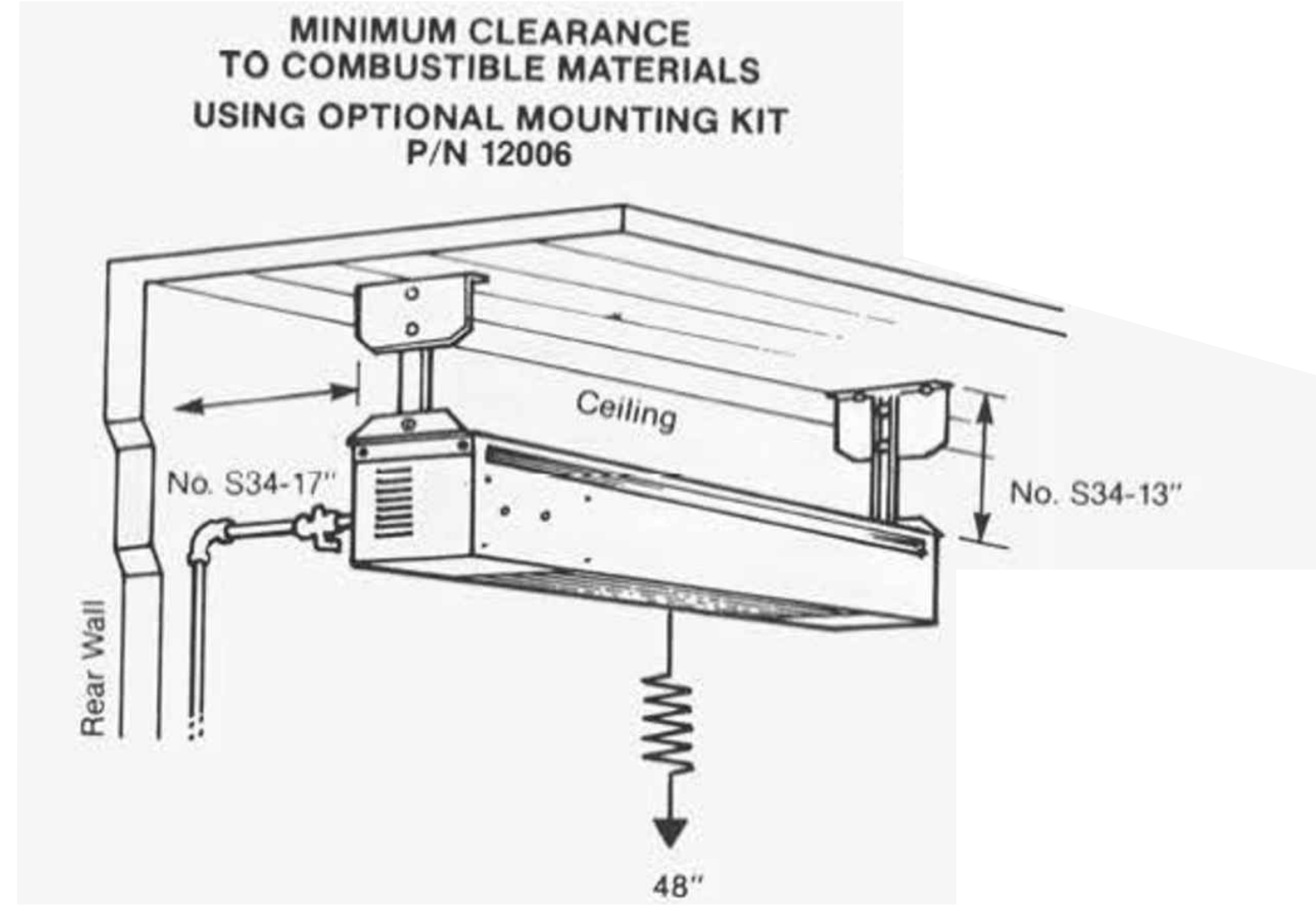
- 01 NEW POWER AND DATA LOCATED ON INTERIOR OF NEW COLUMN.
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- 08 (N) SUNPAK S-34 GAS-FIRED INFRARED HEATER SUSPENDED 10'-8" A.F.F. TO UNDERSIDE OF UNIT, (6) TOTAL. INSTALL PER HEAT AND VENTILATION SPECIFICATIONS PROVIDED BY MANUFACTURER.
- 09 (N) 15 WATT 3500K LED LIGHT TUBE ATTACHED TO (N) TRUSS. SEE 02 FOR DETAIL. (12) TOTAL.
- 10 (N) EMERGENCY LIGHTING TO BE MOUNTED ON CENTER COLUMN FACING INSIDE STRUCTURE LOCATED TO THE CENTER OF FIXTURE 10'-4" A.F.F.



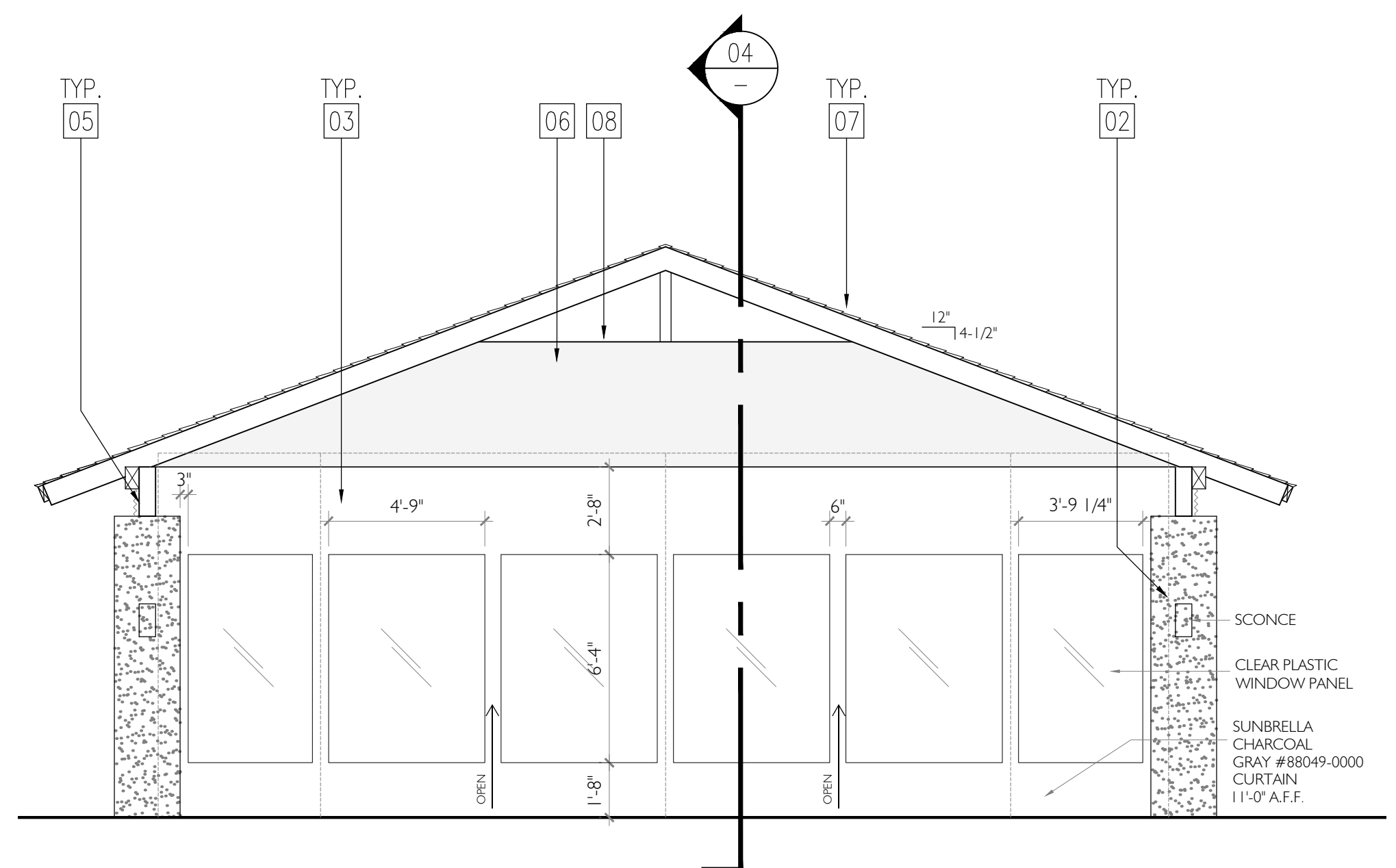
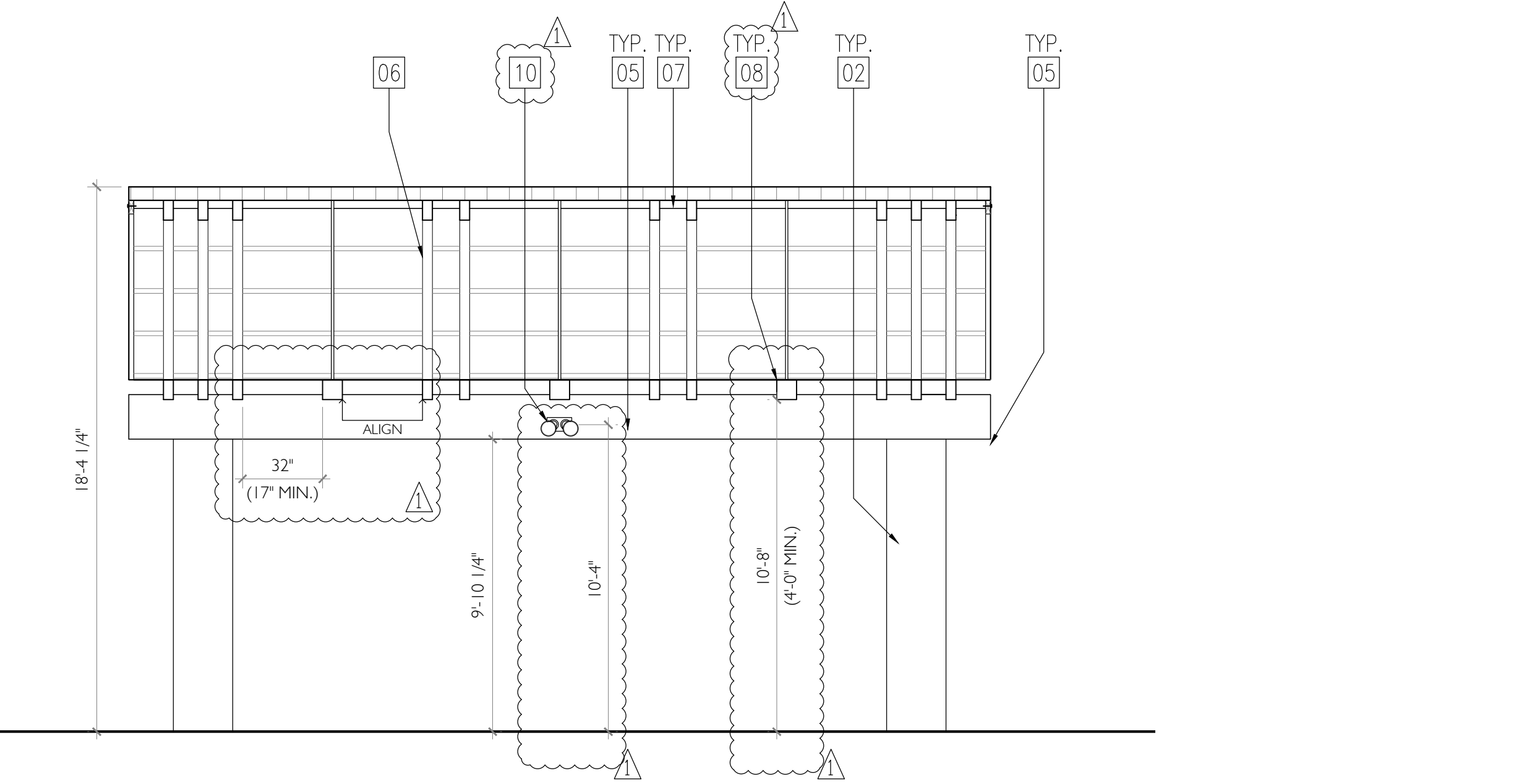
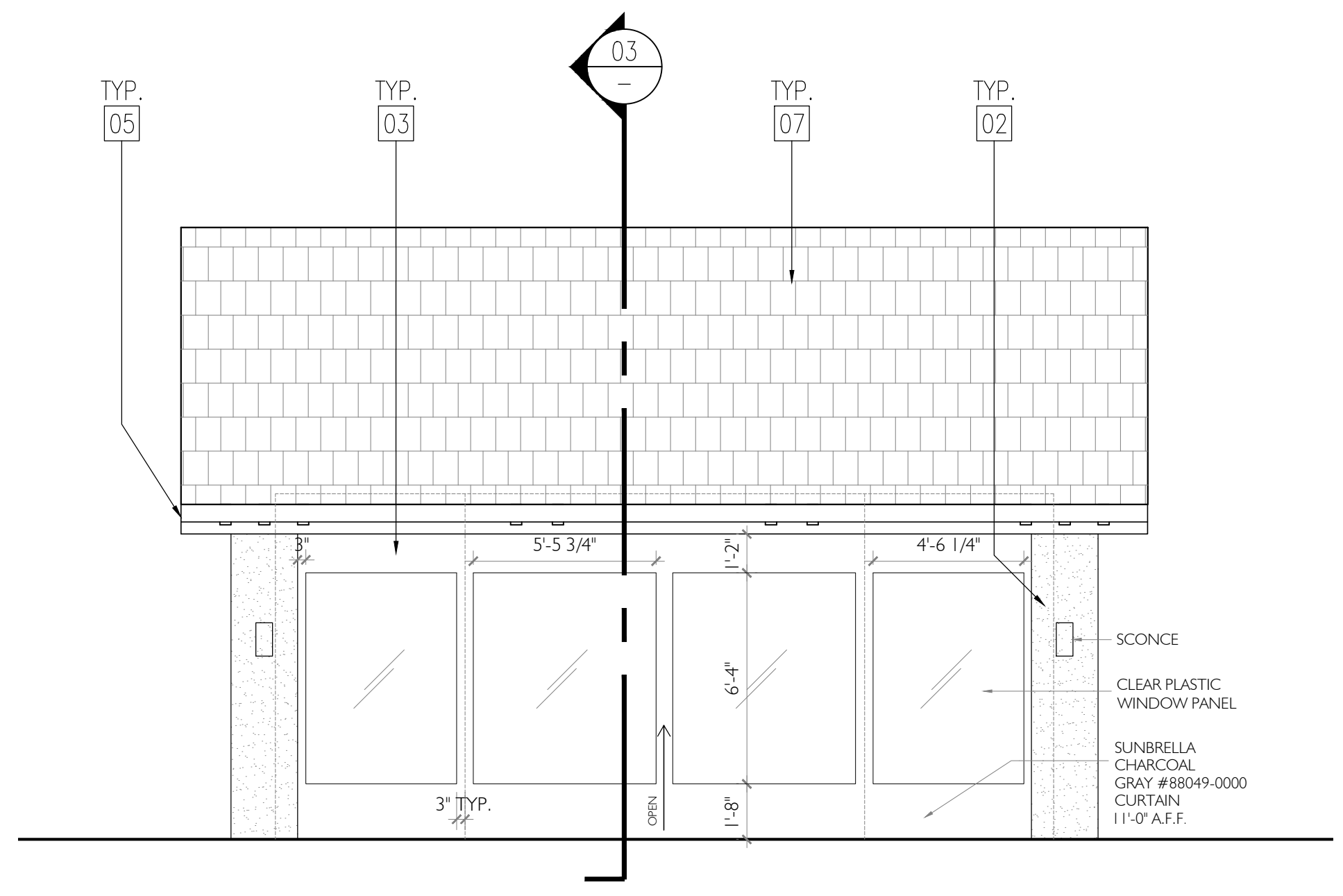
NOT USED SCALE: N/A 06 SECTION SCALE: 1/4" = 1'-0" 03

NOTES
 1. PROPOSED STRUCTURE MEETS THE MIN. OPENABLE AREA TO THE OUTDOORS OF 4% OF THE FLOOR AREA BEING VENTILATED PER CBC SECTION 1203.4.1
 2. SEE P-1 FOR FURTHER HEATER DETAILS AND COMPLIANCE. HEATERS APPROVED UNDER PREVIOUS PERMIT. PLAN CHECK NUMBER 0106-2013. PLANS PROVIDED FOR REFERENCE ONLY.

Model	Input BTUH	Side In	Rear In	Ceiling In	Below In	Mtg. Angle
S34	34,000	24"	17"	13"	48"	HORIZ
S34	34,000	24"	8"	18"	48"	30° MAX



HEATER DETAIL SCALE: N/A 05 ELEVATION SCALE: 1/4" = 1'-0" 02



SECTION SCALE: 1/4" = 1'-0" 04 ELEVATION SCALE: 1/4" = 1'-0" 01

KEYNOTES