



**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, Hearing Officer, and/or Planning Division staff for the week ending January 16, 2015

**ZONING ADMINISTRATOR ACTIONS
JANUARY 15, 2015**

- Item 1: Janes Residence Modification No. MD2014-009 (PA2014-139)
121 Harbor Island Road
Action: Approved by Resolution No. ZA2015-001 Council District 5
- Item 2: Shaoulian Lot Merger No. LM2014-005 (PA2014-218)
328, 332, and 340 Old Newport Boulevard
Action: Approved by Resolution No. ZA2015-002 Council District 2

**HEARING OFFICER ACTIONS
JANUARY 08, 2015**

- Item 1: Kobe Inc. Abatement Extension (PA2014-191)
1499 Monrovia Avenue
Action: Approved by Resolution No. HO2015-001 Council District 2

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS
(Non-Hearing Items)**

- Item 1: Verizon Wireless Staff Approval No. SA2014-029 (PA2014-201)
888 ½ San Clemente Drive
Action: Approved Council District 5
- Item 2: Moulin Restaurant Expansion Staff Approval No. SA2014-032 (PA2014-211)
1000 Bristol Street North
Action: Approved Council District 3

Item 3: 302 Marguerite Avenue Staff Approval No. SA2014-030 (PA2014-203)
302 Marguerite Avenue

Action: Approved

Council District 6

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.

Lt. Dennis Birch, NBPD (*Telecom Permit*)

RESOLUTION NO. ZA2015-001

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2014-009 TO ALLOW A 1,067-SQUARE-FOOT ADDITION TO AN EXISTING SINGLE-UNIT DWELLING WITH NONCONFORMING PARKING LOCATED AT 121 HARBOR ISLAND ROAD (PA2014-139)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Donna and David Janes, property owners, with respect to property located at 121 Harbor Island Road, and legally described as Lot 20 of Tract No. 3285 requesting approval of a modification permit.
2. The applicant proposes a modification permit to allow a 1,067-square-foot addition to an existing 4,803-square-foot single-unit dwelling with nonconforming parking. The property provides a two-car garage measuring 19 feet wide and 21 feet 9-1/2 inches deep where a minimum 20-foot by 20-foot interior dimension is required, and a third unenclosed driveway space measuring 8 feet 3 inches wide and 19 feet deep where an enclosed 10-foot by 20-foot minimum interior dimension is required. As proposed, the garage will be modified to provide an interior width of 19 feet and depth of 20 feet, and the driveway space will be expanded to a width of 10 feet and depth of 19 feet 6 inches.
3. The subject property is located within the single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-A).
5. A public hearing was held on January 15, 2015, 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. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).

2. The Class 1 exemption includes additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The project involves an addition of 1,067 square feet, or approximately 22 percent of the floor area of an existing single-family dwelling.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings 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 generally comprised of a development pattern of one and two-story single-unit and two-unit dwellings. The Modification Permit will allow an addition to a two-story, single-unit dwelling which is compatible with abutting properties, which are single-unit dwellings.
2. The applicant is proposing a 1,067-square-foot addition to the existing dwelling. The proposed addition will comply with all applicable development standards, including floor area limit, height, and setbacks, and will not intensify or alter the existing nonconformities.
3. The proposed two-car garage and expanded driveway space provide three usable spaces which exceed the number and size of spaces required of dwellings (two spaces measuring 17 feet 6 inches wide by 19 feet deep) in the neighborhood which were developed prior to the Zoning Code update in 2010.

Finding:

- B. *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. At the time of original construction and until the Zoning Code change in 2010, the parking provided (two-car garage with interior width of 19 feet and depth of 21 feet 9-1/2 inches) was in compliance with off-street parking standards which required a minimum of two spaces (at least one covered) measuring 17 feet 6 inches wide and 19 feet deep for each single-unit dwelling. However, as a result of amendments to the Zoning Code, three spaces in a garage, each measuring 10 feet wide by 20 feet deep

are currently required for single-unit dwellings in excess of 4,000 square feet and located on lots wider than 40 feet. The existing two-car garage and unenclosed driveway space are substandard due to type (third space not in a garage) and size provided (interior dimensions), and are therefore legal nonconforming.

2. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with off-street parking standards in effect at the time of original construction and up to the Zoning Code change in 2010, and that are adequate to accommodate the parking of three vehicles.
3. The proposed addition is primarily confined to the second floor, with the existing floor plan adjacent to the garage remaining in its current configuration.
4. Widening the interior width of the garage to accommodate three spaces, as required by the current Zoning Code, would significantly impact the existing floor plan.
5. The proposed 10-foot wide by 19-foot-6-inch driveway space maintains an average depth of 21 feet 11 inches which will ensure that a vehicle does not extend into the public right-of-way. The size of the space proposed is the maximum extent feasible given the irregular shape of the lot.

Finding:

- C. *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. Given the scope of work, increasing the width of the garage to accommodate a third space results in a practical difficulty by requiring significant structural alterations to existing living area abutting the garage. Expanding the garage to the north would require reconstruction of an existing bathroom and laundry room, and would impact the location of the gas meter. Expanding the garage to south would require alterations to the existing study and a relocation of the dwelling's mechanical, HVAC, and water heating systems. Expanding the garage to the west would require alterations to the existing library and any expansion to the east is limited by the irregular shape of the lot.
2. The proposed modifications will maintain two useable garage spaces, and result in an expanded driveway space which will limit any obstructions into the right-of-way. The spaces provided will be adequate in size for the parking of vehicles, fulfilling the intent of the Zoning Code by providing three adequate spaces on site. Approval of the Modification Permit allows the applicant to continue the use of the three existing spaces on-site, which to date, have not proven detrimental to the occupants or neighbors of the dwelling.

3. The project is conditioned requiring the applicant to remove the storage cabinets that line the southerly side of the garage for the purpose of maintaining clear unobstructed access to the driver side of a vehicle in the garage. The clearance provided will provide accessible off-street parking to the greatest extent feasible, fulfilling the intent of the Zoning Code. The applicant is permitted to provide overhead storage at the front of the garage in compliance with the Zoning Code.

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. Reducing the size of the addition to not more than 10 percent of the existing floor area of the structure will significantly impact the intent of the project and not meet the objectives of the applicant.
2. Other alternatives would require that the applicant expand the existing two-car garage to accommodate a third enclosed space or provide a tandem configuration. Expanding the width of the garage north or south would require significant alterations to the interior living area as well as mechanical systems necessary for the dwelling. Expanding the depth of the garage to provide an enclosed tandem configuration would significantly reduce the area of the library located adjacent to the garage as any expansion towards the front setback line is limited by the irregular shape of the lot.
3. The proposed two-car garage and expanded driveway space provide three usable spaces which exceed the number and size of spaces required of dwellings (two spaces measuring 17 feet 6 inches wide by 19 feet deep) in the neighborhood which were developed prior to the Zoning Code update in 2010.

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.*

Facts in Support of Finding:

1. The proposed addition will occur on the first and second floor, will maintain a minimum distance of four feet from the nearest neighbor, and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.

2. The existing nonconforming two-car garage and space in front have not proven to be detrimental to the occupants of the property, nearby properties, neighborhood, or City and are adequate in width and depth to park three vehicles.
3. The proposed addition will result in a floor area that is less than the maximum allowed by the Zoning Code.
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
5. As conditioned, the applicant shall remove the storage cabinets that line the southerly side of the garage so as to maintain clear unobstructed access to the driver side of vehicle in the garage.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2014-009, 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 14 days following the date this Resolution was adopted 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 15TH DAY OF JANUARY, 2015.

By:



Brenda Wisneski, AICP, Zoning Administrator

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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Each parking space within the garage shall be permanently available and maintained for parking purposes and the interior shall maintain an unobstructed width of 19 feet and depth of 20 feet.
4. The unenclosed driveway space shall maintain a minimum width of 10 feet and depth of 19 feet 6 inches.
5. Vehicles parked in front of the garage shall not project into the public-right-of-way.
6. No improvements shall be permitted within the 5-foot wide storm drain easement along the southerly property line.
7. This Modification Permit may be modified or revoked by the Zoning Administrator if determined 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.
8. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. 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.
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. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities 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.

12. This approval shall expire and become void unless exercised within twenty-four (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.
13. 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 Janes Residence Modification including, but not limited to, the MD2014-009 (PA2014-139). 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.

RESOLUTION NO. ZA2015-002

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2014-004, WAIVING THE PARCEL MAP REQUIREMENT, AND COMBINING FOUR LOTS INTO A SINGLE PARCEL FOR PROPERTY LOCATED AT 328, 332, AND 340 OLD NEWPORT BOULEVARD (PA2014-218)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Fuscoe Engineering with respect to property located at 328, 332, and 340 Old Newport Boulevard, legally described as a Lots 8, 9, 10, and 11 of Tract 1136 within the City of Newport Beach, County of Orange, State of California.
2. The applicant proposes a lot merger application and a request to waive the parcel map requirement to combine four lots into a single parcel for future office development.
3. The subject properties are located within the OG (Office General) Zoning District and the General Plan Land Use Element category is CO-G (General Commercial Office).
4. The subject properties are not located within the coastal zone.
5. A public hearing was held on January 15, 2015, 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. All significant environmental concerns for the proposed project have been addressed in the Old Newport Boulevard General Plan Amendment (PA2008-047) Mitigated Negative Declaration (MND) previously adopted by the City Council on March 9, 2010, and that the City of Newport Beach intends to use said document for the above noted project. The MND indicates that the proposed project and future office development will not result in a significant effect on the environment and further that there are no additional mitigation measures that should be considered in conjunction with said project. Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or at the City of Newport Beach website under Archived Environmental Documents at www.newportbeachca.gov/ceqadocuments.

SECTION 3. REQUIRED FINDINGS.

Merger of Continuous Lots

In accordance with Section 19.12.070.A (Required Findings for Approval) of the City of Newport Beach Municipal Code, the following finding and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this 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 merger is consistent with the legislative intent of Title 19.*

Facts in Support of Finding:

1. Per Section 19.04.035 of the Municipal Code (Development Across Property Lines), structures cannot be constructed across property lines. With the approval of the lot merger and the demolition of the existing structures, the proposed new office building can be constructed on the project site in conformance with the Code and City Council Resolution No. 2010-21.
2. The project is similar to the development of other properties on Old Newport Boulevard which have merged smaller lots into larger development sites; these developments have not been detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood or the general welfare of the City.
3. Future building improvements are required to comply with applicable Municipal Code regulations and City policies.

Finding:

- B. *The lots to be merged are under common fee ownership at the time of the merger.*

Facts in Support of Finding:

1. Lots 9, 10, and 11 are held under the ownership of Emanuel Shaoulian as his sole and separate property. Lot 8 is held under the 70 percent ownership of Emanuel Shaoulian as trustee of the Shaoulian Revocable Living Trust and 30 percent ownership of Sameul M. Shaoulian and Rozita Shaoulian, Co-Trustees of the Samuel M. and Rozita Shaoulian Family Trust.

2. A condition of approval has been added requiring the four lots to be held under common fee ownership prior to the recordation of the lot merger.

Finding:

- C. *The lots, as merged, will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The merged lots will be consistent with the applicable OG district regulations and other regulations relating to the subject property. The resulting parcel will be approximately 25,725 square feet in area, exceeding the minimum lot area requirements of 5,000 square feet.
2. The Land Use Element of the General Plan designates the subject site as CO-G (General Commercial Office), which is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses. The lot merger will allow for the redevelopment of the site with a medical office development, consistent with the intent of the CO-G land use designation.
3. The project implements the development condition of Anomaly Site No. 76 in the Land Use Element of the General Plan, which authorizes a floor area ratio (FAR) of 1.0, provided that all four legal lots are consolidated into one parcel to provide future unified site design.

Finding:

- D. *Neither the lots, as merged, nor adjoining parcels, will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

1. Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Legal access will remain from the street frontage of Old Newport Boulevard and from the alley at the rear.

Finding:

- E. *The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots.*

Facts in Support of Finding:

1. The Old Newport corridor of the City consists of office and commercial service developments on lots of varying size. The proposed lot merger would remove the interior property line between the subject properties to permit the parcel as a single, unified site, and would not result in a development pattern inconsistent with the existing development on Old Newport Boulevard.
2. Consolidation of the lots would allow for future unified development of the site, reducing the number of vehicular access points on Old Newport Boulevard and increasing on-street parking opportunities.

Waiver of Parcel Map

In accordance with Section 19.08.030.A.3 (Waiver of Parcel Map Requirement) of the City of Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three parcels are eliminated. The following finding and facts in support of such finding are set forth:

Finding:

- F. That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The proposed lot merger will result in a parcel that is approximately 25,725 square feet square feet in area which is compliant with the Zoning Code requirement of 5,000 square feet for a newly created parcel within the OG district.
2. The lots are currently developed. Approval of the proposed lot merger would remove the existing interior lot line, and allow the properties to be used as a single site for development. The lot merger in and of itself would not change the land use, density, and intensity. The proposed merged parcel would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.
3. The proposed parcel will have a frontage on Old Newport Boulevard and alley access off rear; therefore, the proposed lot merger will not result in a deprivation of legal access.
4. The proposed lot merger does not result in the elimination of more than three lots.

5. Any improvements to the project site are required to comply with applicable Municipal Code regulations and City policies.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2014-005 (PA2014-218), 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 10 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 15TH DAY OF JANUARY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. 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.
3. Prior to the recordation of the lot merger, the four lots shall be held entirely under one common fee ownership.
4. Prior to the issuance of building permits allowing construction to cross the existing interior lot lines between the four lots proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
5. Lot Merger No. LM2014-005 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
6. 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 Shaoulian Lot Merger including, but not limited to, Lot Merger No. LM2014-005 (PA2014-218). 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.

RESOLUTION NO. HO2015-001

**A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF
NEWPORT BEACH APPROVING AN ABATEMENT PERIOD
EXTENSION FOR THE PROPERTY LOCATED AT 1499
MONROVIA AVENUE (PA2014-191)**

THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

WHEREAS, Chapter 20.38.100 of the Newport Beach Municipal Code (NBMC) requires nonconforming nonresidential uses in residential zoning districts to be abated and terminated upon a specified period of time unless that period of time is extended by a resolution from the Hearing Officer after a noticed public hearing to allow the property owner to amortize the owner's investment in the nonconforming property or to avoid an unconstitutional taking of property; and

WHEREAS, an application was filed by Kobe Inc., with respect to property located at 1499 Monrovia Avenue, and legally described as Parcel 2 of Lot Line Adjustment No. 2007-002, in the City of Newport Beach, County of Orange, State of California, recorded October 4, 2007, as Instrument No. 2007-598931, excepting therefrom the northerly 60 feet, being more particularly described as that portion of 15th Street (60 feet wide), vacated and abandoned by Resolution No. 67-863 of the Board of Supervisors of Orange County, California, a certified copy of which was recorded August 11, 1967 in Book 8339, Page 801, of Official Records of said Orange County. The applicant requests approval of an abatement period extension of 10 years in addition to a previous extension until February 1, 2022. The subject property is located within the RM (Multi-Unit Residential) Zoning District and the General Plan Land Use Element category is RM (Multiple-Unit Residential). The subject property is not located within the coastal zone.

WHEREAS, the applicant proposes an extension of the required abatement period specified by Section 20.38.100 (Abatement Periods) of the Newport Beach Municipal Code as previously extended as noted above. The property is now, and at all times since 1957 has been, improved with an approximately 17,000 square-foot office building. The applicant proposes to reinvest in the existing building through interior and exterior modifications and improvements. The applicant requests to allow the existing nonresidential use to continue to February 1, 2032, without abatement; and

WHEREAS, a properly noticed public hearing was held on January 8, 2015, in a meeting room of the Newport Beach City Hall facility located at 100 Civic Center Drive, Newport Beach, CA. Evidence, both written and oral, including a written staff report was presented and considered by the Hearing Officer, William B. Connors; and

WHEREAS, the findings and considerations required to be considered by the Hearing Officer pursuant to NBMC Section 20.38.100.C.4.c. together with facts and information in support of such findings are set forth following:

A. Is the length of the abatement period appropriate considering the owner's investment in the use?

Finding: Yes. The structure is rather old and in need of repairs. It was recently purchased for \$5.8 million and the applicant proposes an additional investment of approximately \$5 million more. It is reasonable to assume that a lengthy amortization period is required to financially support an investment of this level.

Facts in Support of Finding:

1. The property owner purchased the property in October of 2014 for \$5.8 million. The applicant intends to invest more than \$5 million to improve the existing building and requests an abatement extension for an additional ten years to February 1, 2032. This would leave 17 years to make use of the existing office structure on the site, continuing the existing use for some 18 years without any potential required abatement of the nonconforming use. The existing abatement period of seven years is insufficient given the condition of the existing building and proposed renovations.

2. Based on the information submitted, an extension of an additional 10 years for the abatement of the current uses is necessary to avoid the economic hardship that would otherwise result.

3. The abatement extension of an additional ten years to February 1, 2032 is appropriate in this case since it will afford the property owner the ability to amortize the value of the proposed building improvements and secure financing of the property which can be impossible if a potential abatement of uses is imminent.

B. Does the length of time the use was operating prior to the date of nonconformity justify the extension of the abatement period beyond the code specified one year?

Finding: Yes. The property has been used as a commercial office building since 1957. There is no evidence of any negative impact to the surrounding areas and in the context of surrounding uses, and has the support of a number of neighbors.

Facts in Support of Finding:

1. The property became nonconforming with the General Plan and zoning in 2006, 8 years ago. The existing structure and use conformed to the Land Use Element of the General Plan for 49 years prior to the 2006 update, and was not subject to abatement until 2008. At all relevant times, the commercial office use has been compatible with the surrounding land uses and there is no evidence of any nuisance arising from such use.

2. At the hearing several people testified in support of the continued office use of this building, and even suggested the applicant be given a longer period of amortization than that sought. This is clear evidence that the nonconforming use has not resulted in any negative impacts or nuisance to the community in the surrounding neighborhood.

3. The substantial period of time of use without noted problems underscores a high probability of continued successful integration into the surrounding environs, supporting the extension sought.

C. Would the existing structure be suitable for an alternative use?

Finding: Not without total demolition or unreasonably high costs of changing the use to residential.

Facts in support of finding:

1. The building could be modified to accommodate other commercial or nonresidential uses but not within reasonably justifiable parameters. The existing building is currently vacant and was last occupied by an editorial and publishing business. The building was originally constructed to commercial building code requirements that would prove very difficult if it were required to be converted to a residential building or use. Such conversion would require demolishing and building new; or major renovation with significant structural and seismic alterations to provide adequate living areas and residential garages.

2. As noted above, there was no objection to the continued commercial use from the surrounding community, and were there some preferable alternative use, it would seem that this segment would argue for that use. Without objection, it makes continuation of the existing use the best alternative.

D. Would remaining at this site beyond the abatement period result in any public harm?

Finding: No. The public supports this continued use. There is no evidence that extending the nonconforming use will result in any negative impact or harm to the public. There is no evidence that the continued commercial office use will result in any change whatsoever, and the evidence presented is that the use is appropriate and acceptable to the surrounding neighborhoods at the current time.

Facts in support of finding:

1. The property is in an area that includes a mix of nonresidential and residential uses; including Coastline Community College, the Banning Ranch Project, and residential and mobile home park uses (across Monrovia Avenue). The continued commercial office use of the subject property is compatible with the surrounding uses and will not have any negative impact or pose harm on the neighboring residential and nonresidential uses in the vicinity.

2. The existing office building has not posed a negative impact on the neighboring uses and the proposed upgrades will enhance the site and surrounding neighborhood.

3. Community support for this continued use underscores its compatibility at the present time.

E. Would relocation of the facility to another site be overly costly and infeasible?

Finding: Yes. This building cost almost \$6 million to purchase, and there is no evidence that there are other suitable properties for sale in Newport Beach at all, let alone at a price that would allow the subject property to be resold to support relocating to a new site. This would be especially difficult to accomplish within the original one-year abatement period.

Facts in support of finding:

1. The relocation of the proposed use is difficult since there are no buildings of comparable size (approximately 17,000 square feet) in the Newport Mesa Area to accommodate the occupant's needs.

2. The property owner's investment with the purchase of the property would result in a substantial loss of revenue to the property owner if the existing building could not continue to be used for nonresidential purposes. As noted above, it would be extremely costly to convert this existing structure to residential use, probably requiring demolition and reconstruction. This would be an unreasonable expenditure to expect the owner to shoulder.

3. If the owner were to be required to abate the property to residential use within the one-year period outlined in the NBMC, that deprivation of substantially all viable use of the property might result in a taking of the premises without payment of adequate compensation. This issue is somewhat reduced by virtue of the existing abatement extension, but even then the lack of suitable alternatives and extremely high costs of converting the existing facility to residential would seem unfair; and

WHEREAS, this project has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) 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) under Class 1 (Existing Facilities), and furthermore this abatement period extension has been determined not to have a significant effect on the environment and not subject to the provisions of CEQA. This activity is also covered by the general rule that 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 this activity will have a significant effect on the environment and therefore it is not subject to CEQA; and

NOW, THEREFORE, BE IT RESOLVED:

1. The Hearing Officer of the City of Newport Beach hereby conditionally grants and approves the requested Abatement Period Extension (PA2014-191) for the subject property located at 1499 Monrovia Avenue, Newport Beach, CA, subject to the findings and considerations set forth above and the condition set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. The Abatement Period Extension for the property located at 1499 Monrovia Avenue, and legally described as Parcel 2 of Lot Line Adjustment 2007-002, is hereby extended for an additional ten years, to expire on February 1, 2032, at which time all nonresidential use of the

property shall cease or the building be demolished unless an additional extension of the abatement period is granted or an appropriate change in the Zoning District and the General Plan Land Use Designation are approved and adopted, or a change to the Zoning Regulations pertaining to nonconforming uses or their abatement are approved and adopted prior to that date.

3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

4. This resolution is intended to apply at the conclusion of the extension previously granted by Hearing Officer Resolution No. HO2012-002 (PA2012-152), and is additive to that determination, and does not in any way nullify or void that decision.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF JANUARY, 2015.

BY: /s/ William B. Conners
William B. Conners, Municipal Law Consultant
Hearing Officer for the City of Newport Beach

EXHIBIT "A"

CONDITION OF APPROVAL

1. The abatement extension granted herein shall be conditional upon the applicant demonstrating an actual intent to construct the improvements to the internal and external portions of the structure by securing appropriate permits and commencing such construction within 12 months of the date of this Resolution, with completion to occur within 24 months after construction commences. It is the intent of this condition that applicant actively commence and continue construction of the improvements to ensure that the extension remains justified based on economic conditions related to such improvements. Should the applicant fail to comply with this condition of approval, the grant of extension is automatically withdrawn and denied, subject to further review of the matter by a hearing officer at that time.



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

WIRELESS TELECOMMUNICATIONS FACILITIES ZONING CLEARANCE

Application No.	Staff Approval No. SA2014-029 (PA2014-201)
Applicant Carrier	Peter Blied, Plan Com Inc. Verizon Wireless
Site Address	888 ½ San Clemente Drive 888 ½ San Clemente Drive Telecom Facility Staff Approval
Legal Description	Lot 1, of Lot Line Adjustment No. 98-12

DIRECTOR'S ACTION

On **January 16, 2015**, the Community Development Director approved Staff Approval No. SA2014-029 for a new Class 1 (Stealth/Screened) Wireless Telecommunications Facility. Pursuant to Section 20.49.060 (Permit Review Procedures), the Community Development Director may authorize construction of a Class 1 (Stealth/Screened) facility with a Zoning Clearance. This approval is based on the findings and standard requirements attached to this report (Attachment No. CD 1).

In approving this application, the Community Development Director analyzed issues regarding compliance with Chapter 20.49 (Wireless Telecommunications Facilities) of the Newport Beach Municipal Code (NBMC) and determined in this case that the proposed wireless telecommunications facility ("telecom facility") meets the provisions of Chapter 20.49.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC-56 (North Newport Center)
- **General Plan:** MU-H2 (Mixed Use Horizontal)

PROJECT REQUEST AND DESCRIPTION

Peter Blied of Plan Com Inc. has submitted an application on behalf of Verizon Wireless, requesting a telecommunication permit to install twelve (12) panel antennas, twelve (12) remote radio units (RRU's), three (3) global positioning systems (GPS) antennas, one (1) microwave dish, five (5) raycaps, three (3) outdoor equipment cabinets, and one (1) natural gas emergency generator behind an existing nine-foot six-inch-high mechanical enclosure on a parking structure rooftop. The proposal involves increasing the height of the enclosure by four (4) feet. The extended portion of the mechanical enclosure will be constructed with reinforced fiber plastic (RFP) transparent material that will be textured

and painted to match the existing rooftop mechanical equipment screening. The proposal will not expand the square-footage of the enclosure or reduce the number of existing parking spaces.

The design of the telecom facility is consistent with that of a Class 1 (Stealth/Screened) facility which is defined in the Zoning Code as a facility with antennas mounted on an existing nonresidential building where antennas and support equipment, including the base station, are fully screened so that they are not visible to the general public. As proposed, the antenna and equipment screening will measure a height of 53-feet-6-inches in height, which is below the maximum height limitation for the Zoning District of 65 feet. All components of the proposed telecom facility will blend and integrate into the existing building design and will be completely screened so that it will not be visible to the general public.

Photographic visual simulations depicting the existing and proposed conditions of the site have been prepared by the applicant and are included as Attachment No. CD 3.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. Class 3 allows construction of new, small facilities or structures and installation of small new equipment and facilities in small structures. Examples of this exemption include up to four (4) commercial buildings totaling 10,000 square feet and accessory structures. In this case, the applicant proposes to install panel antennas and support equipment behind an existing mechanical enclosure on a parking structure rooftop.

APPEAL PERIOD

An appeal may be filed with the Director of Community Development within fourteen (14) days following the date of action. 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:



Debbie Drasler, Contract Planner

JM/dad

Attachments: CD 1 Findings and Standard Requirements
CD 2 Vicinity Map
CD 3 Photographic Simulations
CD 4 Site Plan & Elevations

Attachment No. CD 1

Findings and Standard Requirements

**FINDINGS AND
STANDARD REQUIREMENTS
STAFF APPROVAL NO. SA2014-029
(PA2014-201)**

TELECOM FACILITIES FINDINGS PER SECTION 20.49.060

1. The proposed telecom facility is visually compatible with the surrounding neighborhood.
 - The proposed parking structure rooftop panel antennas and all related equipment will be concealed within an existing nine-foot-six-inch mechanical enclosure on the roof of a four-story parking structure. The proposal involves extending the mechanical screen enclosure four (4) feet in height. The extended portion of the mechanical enclosure will be textured and painted to match the architectural style, color and materials of the existing mechanical equipment enclosure.
 - The proposed facility will complement the existing parking structure and will not appear out of scale with surrounding developments.
2. The proposed telecom facility complies with height, location and design standards, as provided in Chapter 20.49.
 - The requested four-foot height increase approved by this permit would result in a facility height of 53 feet 6 inches, which is below the upper maximum height limit of 65 feet allowed in the PC-56 (North Newport Center) Zoning District.
 - As proposed, the telecom facility is a Class 1 (Stealth/Screened) installation as defined in the Zoning Code. The telecom facility is fully screened behind a new screen wall that will be painted and textured to match the existing architectural style, color, and materials of the equipment enclosure façade.
 - The telecom facility, as proposed, is in harmony and to scale with the surrounding area and would not impede on public views, have a negative visual impact, or result in abrupt scale change on nearby property owners, residents, and businesses.
3. An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.
 - The area is difficult to service because of the limited opportunities in the area to construct telecom facilities. A significant amount of the targeted area for the applicant's search is residentially-zoned, where the Zoning Ordinance precludes telecommunication facilities. This targeted geographic area has

moderate coverage and this new telecom facility will strengthen coverage and provide a needed capacity increase to the voice and data system already in use for residential, business, and mobile users.

- Alternative sites located further away may limit the coverage objectives and therefore not fulfill the coverage needs fulfilled by the installation at the proposed site.
4. An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.
- Section 20.49.040 (Telecom Facility Preferences and Prohibited Locations) of the Municipal Code, lists four (4) preferred telecom locations from the most preferred to the least. Collocation of a facility is the first preference for facilities; however, no co-location opportunities exist within 1,000 feet of the search area.
 - As proposed, the telecom facility is considered a Class 1 (Stealth/Screened) installation, which is the second preferred location. The antennas and support equipment will be stealth and concealed behind screening that will match the existing architectural style, color, and materials of the existing equipment enclosure façade.

STANDARD REQUIREMENTS

1. The development shall be in substantial conformance with the approved plot plan, antenna and equipment plans, elevations, and photographic simulations, except as noted in the following conditions.
2. The telecom facility approved by this permit shall comply with all applicable rules, regulations, and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
3. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.
4. The telecom facility shall comply with all regulations and requirements of the California Building Code, California Fire Code, California Mechanical Code, and California Electrical Code. All required permits shall be obtained prior to commencement of the construction.

5. The telecom facility approved by the permit shall comply with any easements, covenants, conditions, or restrictions on the underlying real property upon which the facility is located.
6. Anything not specifically approved by this permit is not permitted and must be addressed in a separate and subsequent Telecom Permit review.
7. No portion of the global positioning system (GPS) antennas, associated equipment, or mounting structures shall protrude beyond the screen walls.
8. The four-foot extension shall not exceed 53 feet 6 inches in height as approved by this permit.
9. In case of damage done to public improvements surrounding the site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Department.
10. The storage of all project-related equipment during construction shall be on-site and outside the public right-of-way.
11. An approved encroachment permit is required for all work activities within the public right-of-way.
12. All work in the public right-of-way, water easement, or private ingress/egress easement shall conform to the requirements of the Municipal Code, including but not limited to, Chapter 13, as the same may be amended from time to time.
13. Battery electrolyte capacity and the number of proposed batteries for each cabinet must be disclosed. Storage of batteries must comply with California Fire Code Section 608, Stationary Storage Battery Systems.
14. Manufacturer specifications for any generators will be required with plan review. Generator shall be installed as per manufacturer specifications, NFPA 110, and the National Electrical Code.
15. A fire extinguisher with a minimum size of 2A20 BC shall be required within 50 feet of the equipment enclosure area.
16. The applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
17. The facility shall transmit at the approved frequency ranges established by the FCC. The applicant shall inform the City, in writing, of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.

18. Should interference with the City's Public Safety radio equipment occur, use of the telecom facility authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
19. The applicant recognizes that the frequencies used by the cellular facility located at 888 ½ San Clemente Drive are extremely close to the frequencies used by the City of Newport Beach for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. (APCO), and as endorsed by the Federal Communications Commission (FCC).
20. Prior to final of building permits, the applicant shall submit to a post-installation test at Fire Station No. 3 located at 868 Santa Barbara Drive and the Police Station located at 870 Santa Barbara Drive to confirm that "advanced planning and frequency coordination" of the facility was successful in not interfering with the City of Newport Beach Public Safety radio equipment. This test will be conducted by the Communications Division of the Orange County Sheriff-Coroner Department or a Division-approved contractor at the expense of the applicant. This post-installation testing process shall be repeated for every proposed frequency addition and/or change to confirm the intent of the "frequency planning" process has been met.
21. The applicant shall provide a "single point of contact" for Verizon Wireless in its Engineering and Maintenance Departments that is monitored twenty-four (24) hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number, and e-mail address of that person shall be provided to the Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility.
22. Appropriate information warning signs or plates shall be posted at the access locations and each transmitting antenna. In addition, contact information (e.g., a telephone number) shall be provided on the warning signs or plates. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.
23. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning, and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
24. The telecom facility shall not be lighted except as deemed necessary by the Newport Beach Police Department for security lighting or proper maintenance of light on a United States flag in accordance with the U.S Flag Code (4 U.S.C. § 1, *et seq.*). The night lighting shall be at the lowest intensity necessary for that purpose and such lighting shall be shielded so that direct rays do not shine on

nearby properties. Prior to the final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with this condition.

25. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility.
26. At all times, the operator for Verizon Wireless shall ensure that its telecom facilities comply with the most current regulatory, operations standards, and radio frequency emissions standards adopted by the FCC. The operator shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. Said information shall be made available by the operator upon request at the discretion of the Community Development Director.
27. Prior to final of building permits, the applicant shall schedule an inspection by the Planning Division to ensure materials and colors match existing architecture as illustrated in the approved photographic simulations and in conformance with Municipal Code Section 20.49.050, to the satisfaction of the Planning Division.
28. 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 applicant, current property owner, or leasing agent.
29. The applicant shall ensure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.
30. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator or property owner shall have ninety (90) days from the date of abandonment or discontinuance to reactivate use of the facility, transfer the rights to use the facility to another operator, or remove the telecom facility and restore the site.
31. The City reserves the right and jurisdiction to review and modify any telecom permit approved pursuant to Chapter 20.49 of the Newport Beach Municipal Code, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division of any proposal to change the height or size of the facility; increase the size, shape, or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure (MPE) limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a modification of the original telecom permit and obtain the modified telecom permit prior to implementing any change.
32. This approval may be modified or revoked by the City Council should they determine that the facility or operator has violated any law regulating the telecom

facility or has failed to comply with the requirements of Chapter 20.49 of the NBMC, or this Telecom Permit.

33. This approval shall expire unless exercised within twenty-four (24) months from the date of approval.
34. 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 888 ½ San Clemente Drive Verizon Wireless Telecommunication Facility including, but not limited to Staff Approval No. SA2014-029 and Telecommunication Permit No. TP2014-014 (PA2014-201). 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 2

Vicinity Map

VICINITY MAP



Staff Approval No. SA2014-029
PA2014-201

888 ½ San Clemente Drive

Attachment No. CD 3

Photo Simulations

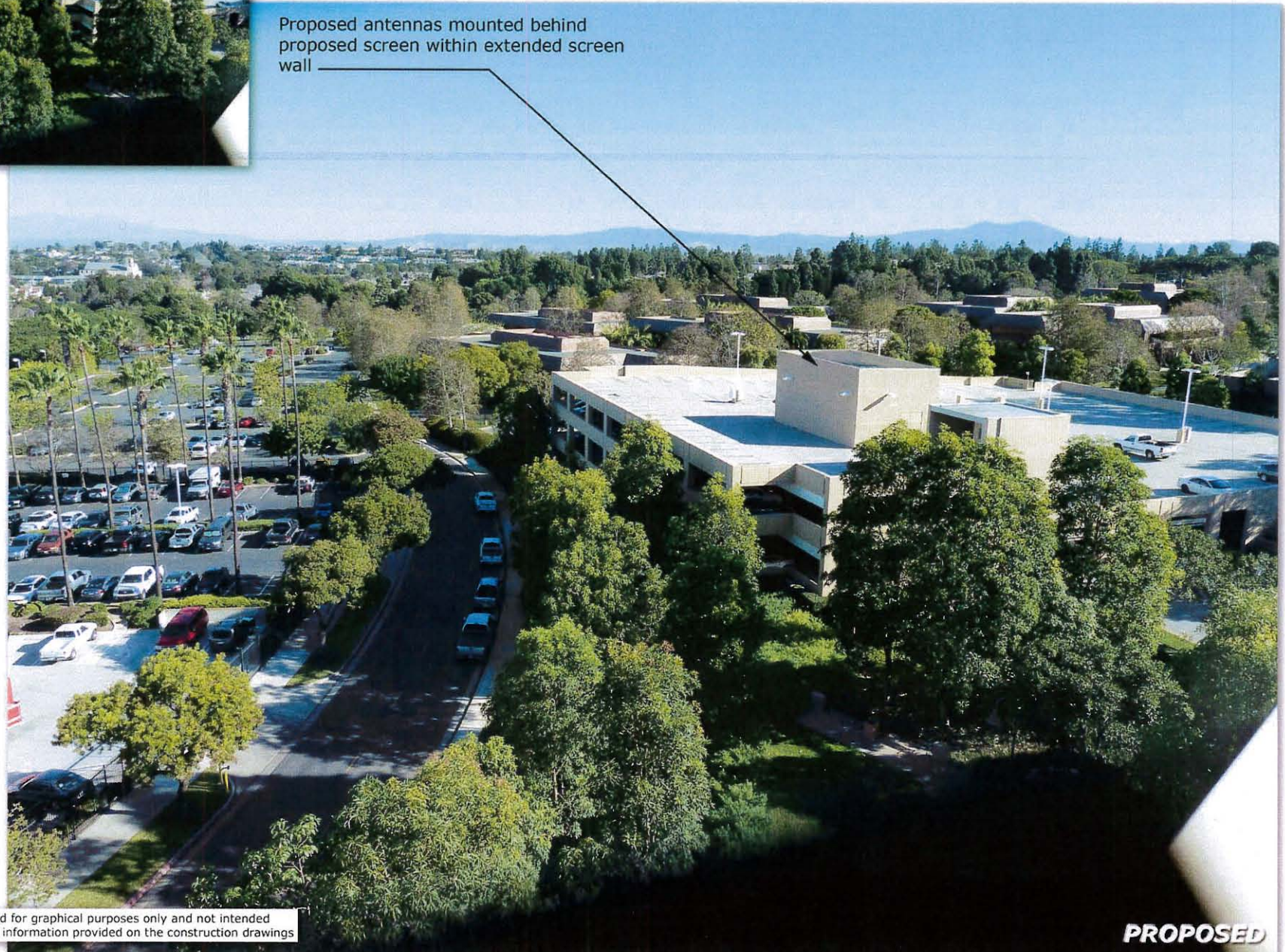
EXISTING



Bombero
888 1/2 San Clemente Dr.
Newport Beach, CA 92660



Proposed antennas mounted behind proposed screen within extended screen wall



PA2014-201 for SA2014-029
888 1/2 San Clemente Drive
Verizon Wireless

These simulations are intended for graphical purposes only and not intended to be part of or to replace the information provided on the construction drawings

PROPOSED

EXISTING

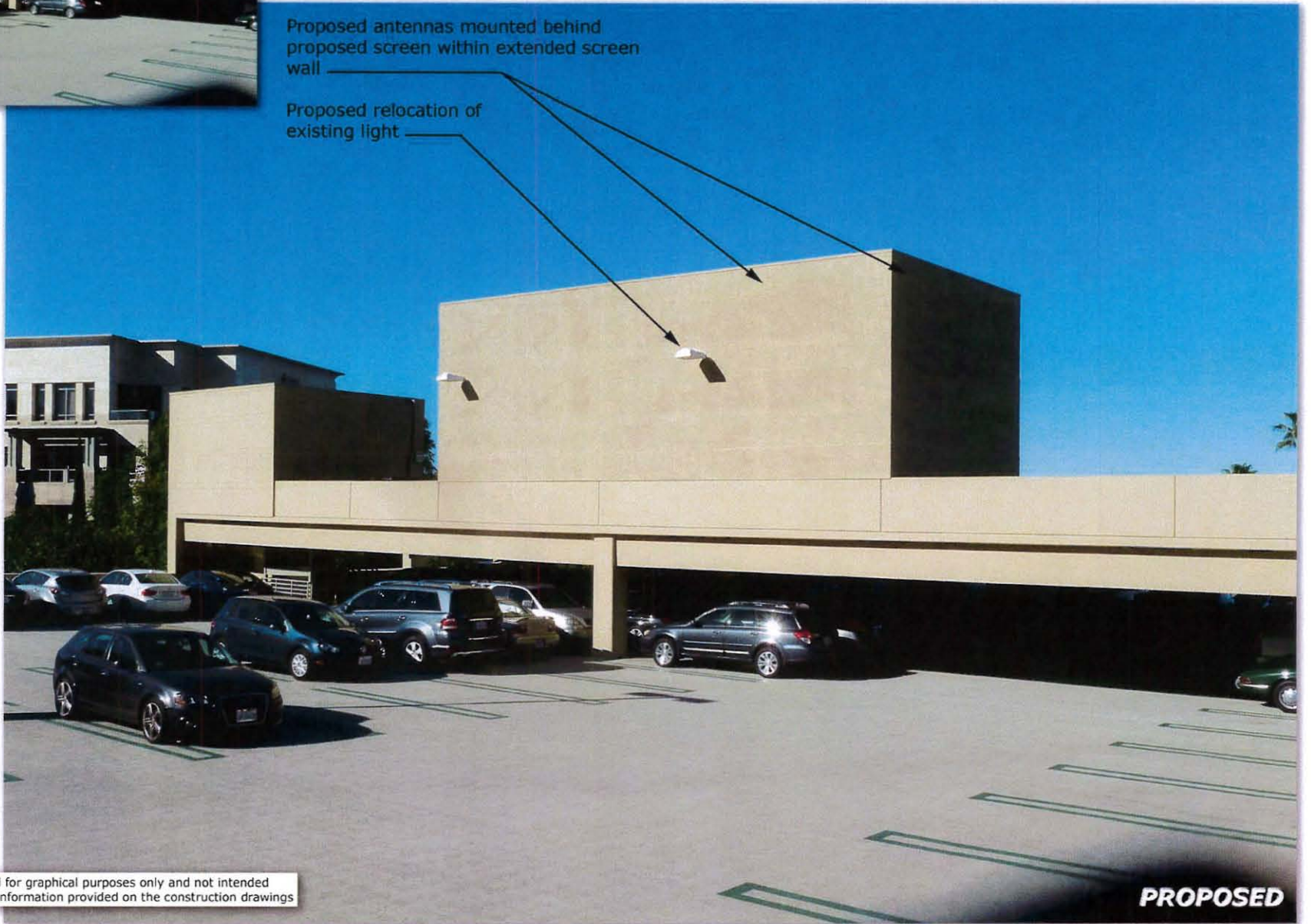


Bombero
888 1/2 San Clemente Dr.
Newport Beach, CA 92660



Proposed antennas mounted behind proposed screen within extended screen wall

Proposed relocation of existing light



PA2014-201 for SA2014-029
888 1/2 San Clemente Drive
Verizon Wireless

These simulations are intended for graphical purposes only and not intended to be part of or to replace the information provided on the construction drawings

PROPOSED

Photosimulation of proposed telecommunications site: View from East on Parking Structure

EXISTING

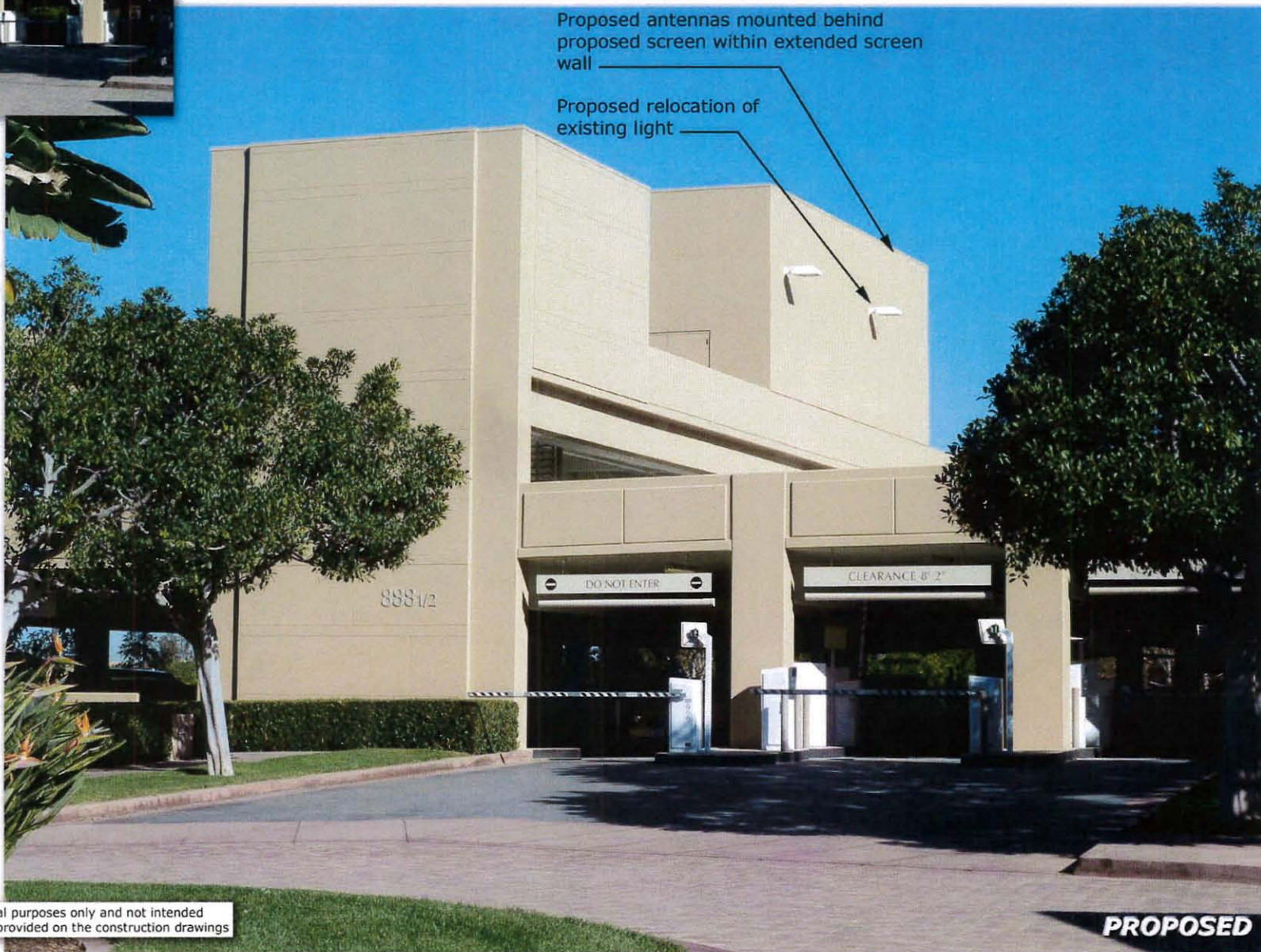


Bombero
888 1/2 San Clemente Dr.
Newport Beach, CA 92660



Proposed antennas mounted behind proposed screen within extended screen wall

Proposed relocation of existing light



PA2014-201 for SA2014-029
888 1/2 San Clemente Drive
Verizon Wireless

These simulations are intended for graphical purposes only and not intended to be part of or to replace the information provided on the construction drawings

PROPOSED

Photosimulation of proposed telecommunications site: View from South at San Clemente Entry Cul Du Sac



Bombero
888 1/2 San Clemente Dr.
Newport Beach, CA 92660



Proposed antennas mounted behind
proposed screen within extended screen
wall



PA2014-201 for SA2014-029
888 1/2 San Clemente Drive
Verizon Wireless

These simulations are intended for graphical purposes only and not intended to be part of or to replace the information provided on the construction drawings

PROPOSED

Attachment No. CD 4

Site Plan & Elevations



BOMBERO
888 1/2 SAN CLEMENTE DR
NEWPORT BEACH, CA 92660



15505 SAND CANYON AVE.
 BUILDING 'D' 1st FLOOR
 IRVINE, CA 92618



3471 VIA LIDO, SUITE 202
 NEWPORT BEACH, CA 92663
 PHONE: (949) 838-4138

SEAL

ISSUED FOR: ZONING REVIEW
 ISSUE DATE: 09/16/2014
 PROJECT No. FA140201
 DRAWN BY: JM CHECKED BY: EF

SUBMITTALS

REV.	DATE	DESCRIPTION	BY
0	06/19/14	ZONING REVIEW	JM
1	06/27/14	CLIENT COMMENTS	JM
2	07/02/14	CLIENT COMMENTS	JM
3	08/18/14	CLIENT COMMENTS	NW
4	09/16/14	LL COMMENTS	DR
5	10/07/14	LL COMMENTS	DR

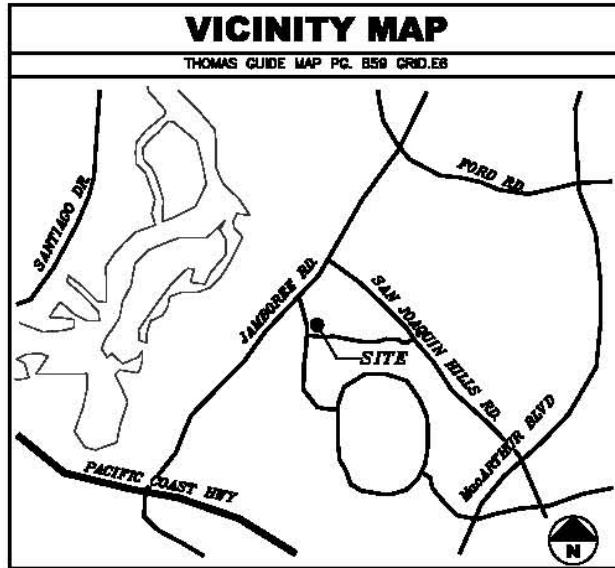
BOMBERO
 888 1/2 SAN CLEMENTE DR
 NEWPORT BEACH, CA 92660

SHEET TITLE

TITLE SHEET

SHEET NUMBER

T-1



DRIVING DIRECTIONS

STARTING FROM VERIZON IRVINE OFFICE:

1. HEAD SOUTHWEST ON SAND CANYON AVE TOWARD BARRANCA PKWY
2. SLIGHT RIGHT TO MERGE ONTO I-405 N
3. TAKE THE JAMBOREE RD EXIT
4. TURN LEFT ONTO JAMBOREE RD
5. CONTINUE ON SANTA BARBARA DR TO YOUR DESTINATION
6. TURN LEFT ONTO SANTA BARBARA DR
7. TAKE THE 2ND LEFT ONTO SAN CLEMENTE DR
7. TURN LEFT AT COLONY PLAZA

GENERAL CONTRACTOR NOTES

CONTRACTOR SHALL VERIFY ALL PLANS WITH EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.

CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LOCAL CODES.

PROJECT TEAM

ARCHITECT
 FULSANG ARCHITECTURE INC.
 3471 VIA LIDO, SUITE 202
 NEWPORT BEACH, CA 92663
 CONTACT: ERIC FULSANG
 PHONE: (949) 838-4139

SURVEYOR
 BERT HAZE & ASSOCIATES
 3188 AIRWAY AVE #K1
 COSTA MESA, CA 92626
 CONTACT: BERT HAZE
 PHONE: (714) 557-1567

PROJECT REPRESENTATIVE
 PLANCOM INC.
 250 EL CAMINO REAL, SUITE 117
 TUSTIN, CA 92780
 CONTACT: ERIC MEURS
 PHONE: (949) 370-5939

PROJECT DESCRIPTION

CONSTRUCTION OF AN UNMANNED WIRELESS CELL SITE FOR VERIZON.

PROJECT CONSISTS OF:

- (12) PANEL ANTENNAS BEHIND ROOFTOP SCREENING
- (12) RRU'S
- (1) MICROWAVE DISH
- (5) RAYCAPS
- (3) OUTDOOR EQUIPMENT CABINETS & (1) GENERATOR
- (3) GPS ANTENNAS
- CONNECTIONS AS REQUIRED FOR POWER AND TELCO SERVICES.

PROJECT INFORMATION

APPLICANT/LESSEE
 VERIZON
 15505 SAND CANYON AVE.
 BUILDING 'D' 1st FLOOR
 IRVINE, CA 92618
 24 HR EMERGENCY CONTACT
 PHONE: (949) 286-7000

PROPERTY OWNER
 PROPERTY OWNER: THE IRVINE COMPANY
 CONTACT PERSON: DAVID THOMPSON, DKT INC
 CONTACT NUMBER: (714) 928-1597
 PROPERTY OWNER ADDRESS: PO BOX 650
 HUNTINGTON BEACH, CA 92648

PROPERTY INFORMATION
 A.P.N.: 442-261-19
 JURISDICTION: CITY OF NEWPORT BEACH
 CURRENT ZONING: PC (PLANNED COMMUNITY)
 OCCUPANCY TYPE: B/U
 TYPE OF CONSTRUCTION: V-B
 ADA REQUIREMENTS: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. DISABLED ACCESS NOT REQUIRED. 2010 CBC SECTION 1103B EXCEPTION 1

SHEET INDEX

SHEET	DESCRIPTION
T-1	TITLE SHEET
LS-1	TOPOGRAPHIC SURVEY
LS-2	TOPOGRAPHIC SURVEY
A-1	OVERALL SITE PLAN
A-2	ENLARGED SITE PLAN, LEASE AREA PLAN & ANTENNA PLAN
A-3	ELEVATIONS
A-4	ELEVATIONS
A-5	DETAILS
A-6	DETAILS

COAX/ANTENNA SCHEDULE

ANTENNA SECTOR	AZIMUTH	ANTENNA MAKE/MODEL	COAX LENGTH	CABLE SIZE
ALPHA	120°	TBD	25'	7/8"
BETA	290°	TBD	65'	7/8"
GAMMA	20°	TBD	40'	7/8"
MW	TBD	TBD	75'	7/8"
GPS	N/A	TBD	20'	1/2"

NOTE: CONSTRUCTION MANAGER TO FIELD VERIFY CABLE LENGTHS PRIOR TO ORDERING, FABRICATION, OR INSTALLATION OF CABLES, CHECK RF DATA SHEET.

APPROVAL

LANDLORD: _____

PROJECT MANAGER: _____

CONSTRUCTION MANAGER: _____

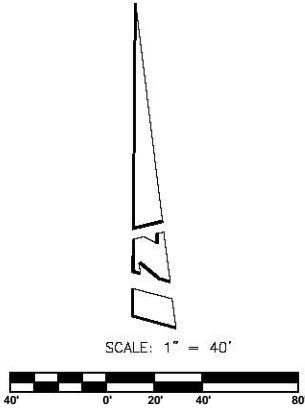
RF ENGINEER: _____

SITE ACQUISITION: _____

ZONING MANAGER: _____

UTILITY COORDINATOR: _____

NETWORK OPERATIONS: _____



COORDINATES:

CENTER OF BUILDING
 LATITUDE 33°37'20.48" N
 LONGITUDE 117°52'43.94" W

NAD 1983 GEODETIC COORDINATES AND ELEVATIONS WERE ESTABLISHED USING SURVEY GRADE "ASHTECH" G.P.S. RECEIVERS AND ASHTECH SURVEY GRADE PRECISION SOFTWARE FOR POST-PROCESSING.

BASIS OF BEARINGS:

THE CENTERLINE OF SAN CLEMENTE DRIVE, BEING NORTH 81°42'03" WEST PER PARCEL MAP NO. 82-712, P.M.B. 175/22-24, RECORDS OF ORANGE COUNTY.

ASSESSOR'S IDENTIFICATION:

ORANGE COUNTY A.P.N. 442-261-19

AREA:

4.066 ACRES PER ORANGE COUNTY ASSESSOR

BENCH MARK REFERENCE:

U.S.G.S. BENCH MARK "BM 133"

UNITED STATES GEOLOGICAL SURVEY BENCH MARK "BM 133" AS SHOWN ON THE "NEWPORT BEACH" 7.5 MINUTE QUADRANGLE MAP.

ELEVATION: 135.5 FEET A.M.S.L. (NAVD88) (DATUM VERIFIED IN FIELD TO BE WITHIN 1-A ACCURACY STANDARDS)

TITLE REPORT IDENTIFICATION:

COMMONWEALTH LAND TITLE COMPANY, PRELIMINARY TITLE REPORT NO. 08021510, DATED AS OF FEBRUARY 26, 2014.

EASEMENT NOTES:

EASEMENT(S) SHOWN HEREDON ARE PER COMMONWEALTH LAND TITLE COMPANY, PRELIMINARY TITLE REPORT NO. 08021510, DATED AS OF FEBRUARY 26, 2014.

2. A PERPETUAL AIR OR FLIGHT EASEMENT, AVIGATION RIGHTS, GRANTED TO COUNTY OF ORANGE, RECORDED MARCH 17, 1964, IN BOOK 6965, PAGE 721 OF OFFICIAL RECORDS. (**BLANKET IN NATURE**)

3. AN EASEMENT GRANTED TO SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITIES, RECORDED JUNE 19, 1978, IN BOOK 12721, PAGE 1105 OF OFFICIAL RECORDS.

4. AN EASEMENT GRANTED TO SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITIES, RECORDED FEBRUARY 6, 1981, IN BOOK 13940, PAGE 1932 OF OFFICIAL RECORDS. (**APPROX. LOCATION FROM EXHIBIT**)

5. AN EASEMENT GRANTED TO PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR TELEPHONE, TELEGRAPH AND COMMUNICATION STRUCTURES, RECORDED OCTOBER 9, 1981, IN BOOK 14251, PAGE 805 OF OFFICIAL RECORDS.

6. AN EASEMENT GRANTED TO CITY OF NEWPORT BEACH FOR WATER LINES, RECORDED JUNE 16, 1982, AS INSTRUMENT NO. 82-206292 OF OFFICIAL RECORDS.

7. THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM SAN CLEMENTE DRIVE AND SANTA BARBARA DRIVE, RELINQUISHED BY PARCEL MAP NO. 82-712.

8. A "DECLARATION OF EASEMENTS", RECORDED OCTOBER 31, 1995 AS INSTRUMENT NO. 19950484848 OF OFFICIAL RECORDS.

9. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS, RECORDED NOVEMBER 22, 1995, AS INSTRUMENT NO. 95-0519960 OF OFFICIAL RECORDS.

11. AN EASEMENT GRANTED TO CITY OF NEWPORT BEACH FOR WATER, RECORDED MARCH 5, 1999, AS INSTRUMENT NO. 19990160283 OF OFFICIAL RECORDS.

12. AN EASEMENT GRANTED TO CITY OF NEWPORT BEACH FOR SEWER, RECORDED MARCH 5, 1999, AS INSTRUMENT NO. 19990160284 OF OFFICIAL RECORDS.

13. AN EASEMENT GRANTED TO PACIFIC BELL FOR PUBLIC UTILITIES, RECORDED MAY 6, 1999, AS INSTRUMENT NO. 19990332957 OF OFFICIAL RECORDS.

14. AN EASEMENT GRANTED TO SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITIES, RECORDED AUGUST 23, 1999, AS INSTRUMENT NO. 19990611777 OF OFFICIAL RECORDS.

○ DENOTES ITEM PLOTTED HEREON

ADDITIONAL EASEMENT NOTE:

(A) AN EASEMENT FOR SEWER & WATER GRANTED TO CITY OF NEWPORT BEACH, RECORDED IN BOOK 12296, PAGE 1131 OF OFFICIAL RECORDS, NOT REFERENCED IN SAID PRELIMINARY TITLE REPORT.

○ DENOTES ITEM PLOTTED HEREON

LEGAL DESCRIPTION:

LOT 1 AS SHOWN ON EXHIBIT "B" ATTACHED TO CITY OF NEWPORT BEACH LOT LINE ADJUSTMENT NO. 98-12, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED DECEMBER 29, 1998 AS INSTRUMENT NO. 19980898644 OF OFFICIAL RECORDS.

DATE OF SURVEY:

MAY 22, 2014

LMING PLANTS STATEMENT:

THE HEIGHTS AND ELEVATIONS FOR THE TREES, BUSHES AND OTHER LIVING PLANTS SHOWN HEREDON, SHOULD BE CONSIDERED APPROXIMATE (+/-) AND ONLY VALID FOR THE DATE OF THIS SURVEY. THEY ARE PROVIDED AS A GENERAL REFERENCE AND SHOULD NOT BE USED FOR DESIGN PURPOSES.



15505 SAND CANYON AVE.
 BUILDING "D" 1st FLOOR
 IRVINE, CA 92618
 PHONE (949) 286-7000

FULSANG ARCHITECTURE
 3400 VIA OPORITO, SUITE 204
 NEWPORT BEACH, CA 92663
 PHONE: (949) 838-4139

SEAL



PREPARED BY:

BERT HAKE
 AND ASSOCIATES, INC.
 LAND SURVEYING & MAPPING
 3188 AIRWAY AVENUE, SUITE K1
 COSTA MESA, CALIFORNIA 92626
 714 557-1567 OFFICE
 714 557-1568 FAX

SUBMITTALS

REV.	DATE	DESCRIPTION	BY
1	05/28/14	ISSUED FOR REVIEW	MDL
2	05/28/14	ADDED TITLE INFO	JA

BOMBERO

888 1/2 SAN CLEMENTE DR
 NEWPORT BEACH, CA
 92660

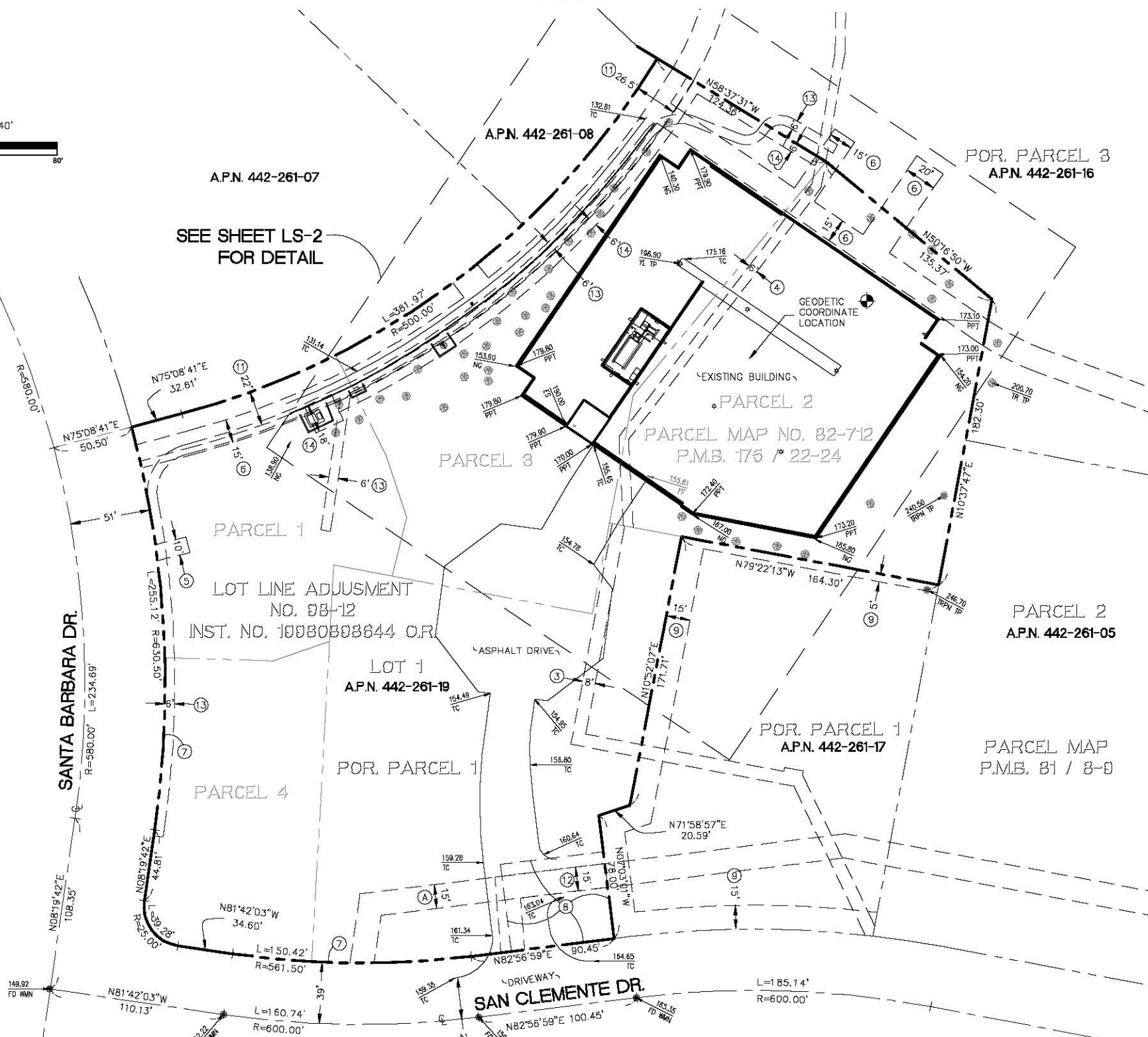
SHEET TITLE
TOPOGRAPHIC SURVEY

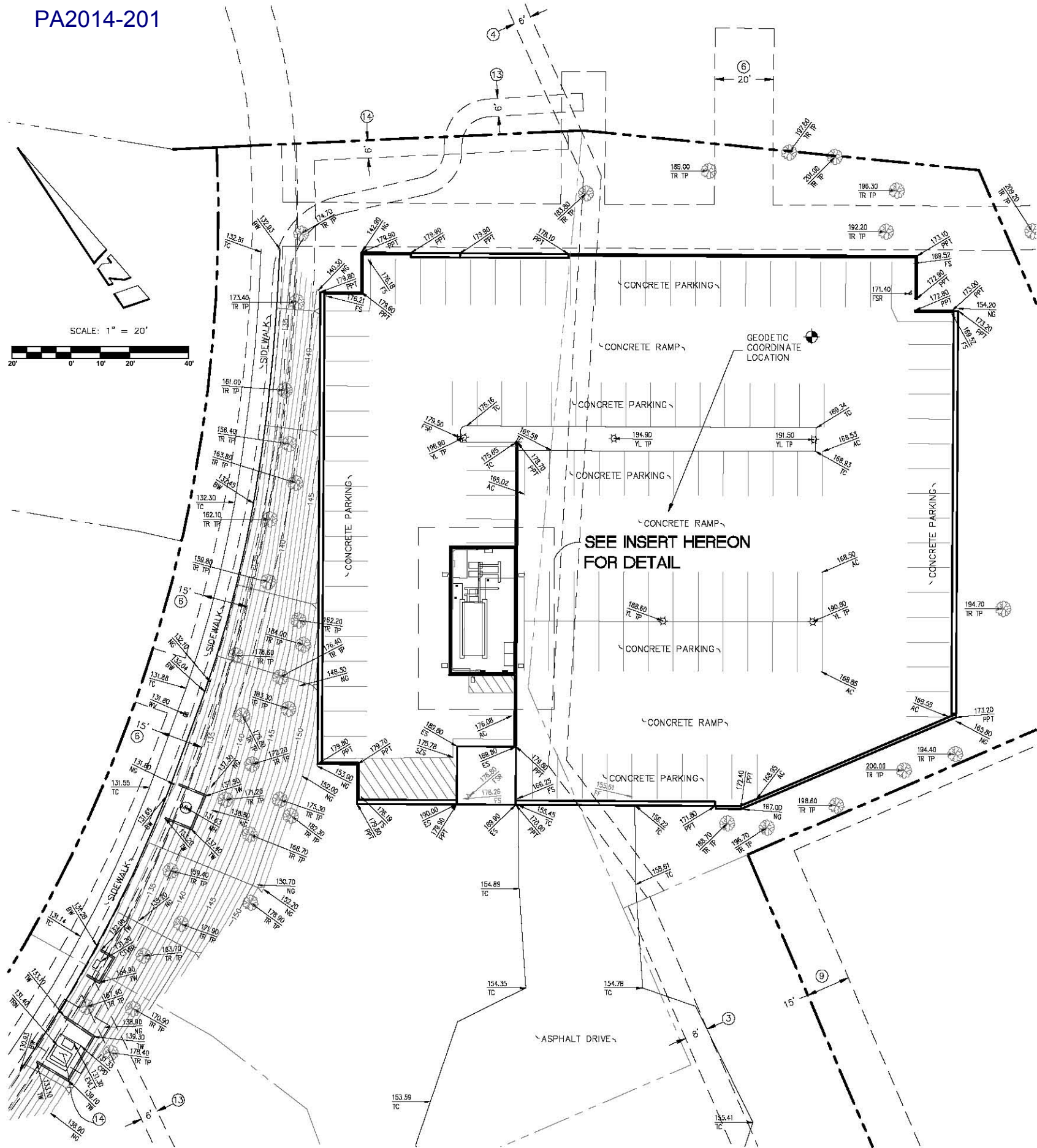
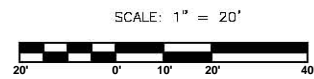
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LS-1

SEE SHEET LS-2 FOR SITE DETAILS

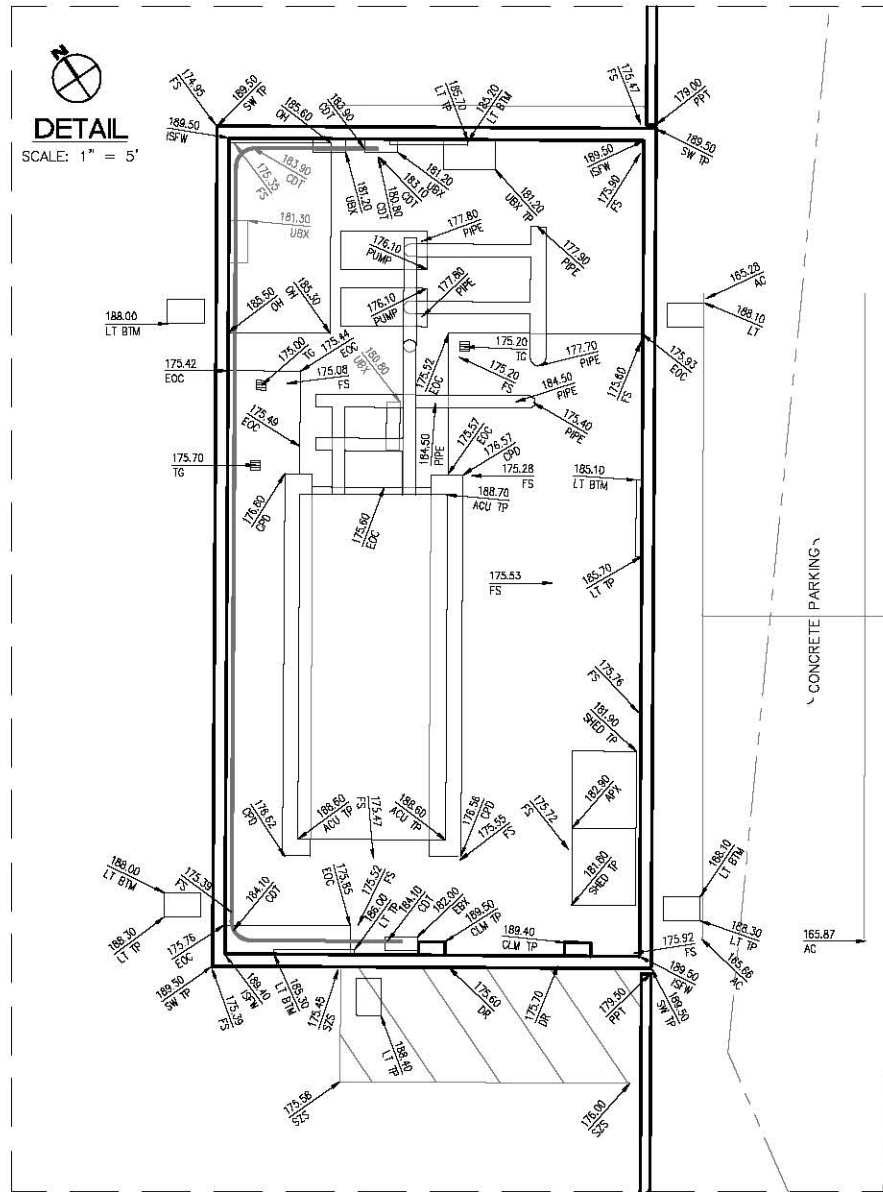
LEGEND:

- AC ASPHALT CONCRETE
 - ACU AIR CONDITIONING UNIT
 - APX APEX
 - BIM BOTTOM
 - BW BACK OF WALK
 - CDT CONDUIT
 - CLM COLUMN
 - CPD CONCRETE PAD
 - CTVBX CABLE TV BOX
 - DR DOOR
 - EBX ELECTRICAL BOX
 - EDC EDGE OF CONCRETE
 - ES ELEVATOR SHAFT
 - EVL.T ELECTRICAL VAULT
 - FD FOUND
 - FF FINISHED FLOOR
 - FS FINISHED SURFACE
 - FSR FIRE SERVICE
 - ISFW INSIDE FACE OF WALL
 - LT LIGHT
 - MH MANHOLE
 - NG NATURAL GROUND
 - OH OVERHANG
 - PPT PARAPET
 - SW SCREEN WALL
 - SZS SAFETY ZONE STRIP
 - TC TOP OF CURB
 - TG TOP OF GRATE
 - TP TOP
 - TR TREE
 - TRN TRANSFORMER
 - TRPN PINE TREE
 - TW TOP OF WALL
 - UBX UTILITY BOX
 - WMN WELL MONUMENT
 - WV WATER VALVE
 - YL YARD LIGHT
-
- █ BLOCK WALL
 - CENTERLINE
 - ⚡ FIRE SERVICE
 - FOUND MONUMENT
 - GRATE
 - ⊙ MANHOLE
 - ⊞ WATER VALVE
 - ☼ YARD LIGHT





DETAIL
SCALE: 1" = 5'



LEGEND:

- | | | | |
|-------|-----------------------|------|-------------------|
| AC | ASPHALT CONCRETE | TC | TOP OF CURB |
| ACU | AIR CONDITIONING UNIT | TG | TOP OF GRATE |
| APX | APEX | TP | TOP |
| BTM | BOTTOM | TR | TREE |
| BW | BACK OF WALK | TRN | TRANSFORMER |
| CDT | CONDUIT | TRPN | PINE TREE |
| CLM | COLUMN | TW | TOP OF WALL |
| CPD | CONCRETE PAD | UBX | UTILITY BOX |
| CTVBX | CABLE TV BOX | WMN | WELL MONUMENT |
| DR | DOOR | WV | WATER VALVE |
| EBX | ELECTRICAL BOX | YL | YARD LIGHT |
| EOC | EDGE OF CONCRETE | ▨ | BLOCK WALL |
| ES | ELEVATOR SHAFT | ⊕ | CENTERLINE |
| EWLT | ELECTRICAL VAULT | ⊕ | FIRE SERVICE |
| FD | FOUND | ⊕ | FOUND MONUMENT |
| FF | FINISHED FLOOR | ⊕ | GRATE |
| FS | FINISHED SURFACE | ⊕ | MANHOLE |
| FSR | FIRE SERVICE | ⊕ | NATURAL GROUND |
| ISFW | INSIDE FACE OF WALL | ⊕ | OVERHANG |
| LT | LIGHT | ⊕ | PARAPET |
| MH | MANHOLE | ⊕ | SCREEN WALL |
| NG | NATURAL GROUND | ⊕ | SAFETY ZONE STRIP |
| OH | OVERHANG | | |
| PPT | PARAPET | | |
| SW | SCREEN WALL | | |
| SZS | SAFETY ZONE STRIP | | |

SEE SHEET LS-1 FOR BOUNDARY AND TITLE INFO.

15505 SAND CANYON AVE.
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SEAL



PREPARED BY:

BERT HALE
AND ASSOCIATES, INC.
LAND SURVEYING & MAPPING
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JN 801.358

SUBMITTALS

REV.	DATE	DESCRIPTION	BY
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BOMBERO

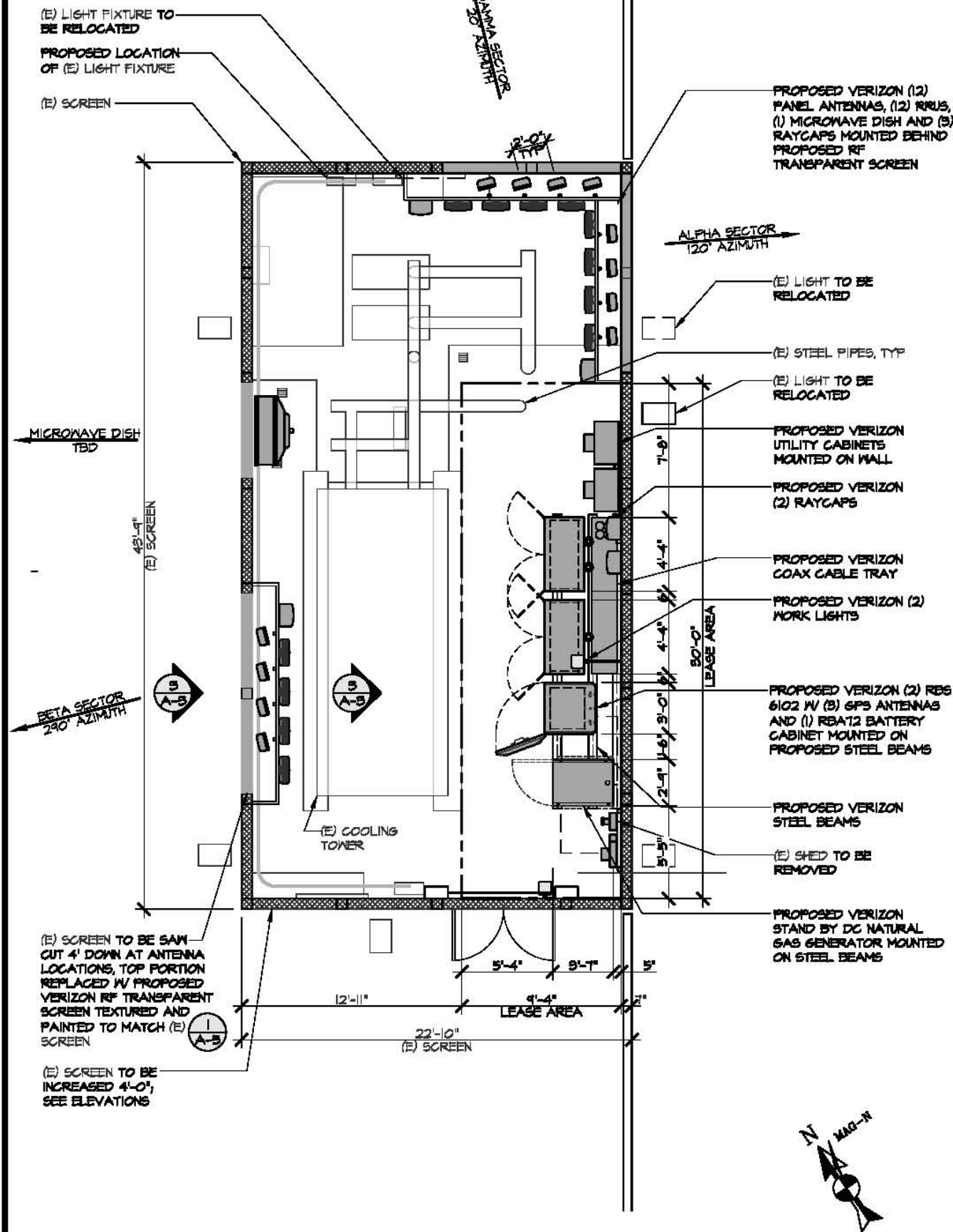
888 1/2 SAN CLEMENTE DR
NEWPORT BEACH, CA
92660

SHEET TITLE

TOPOGRAPHIC SURVEY

SHEET NUMBER

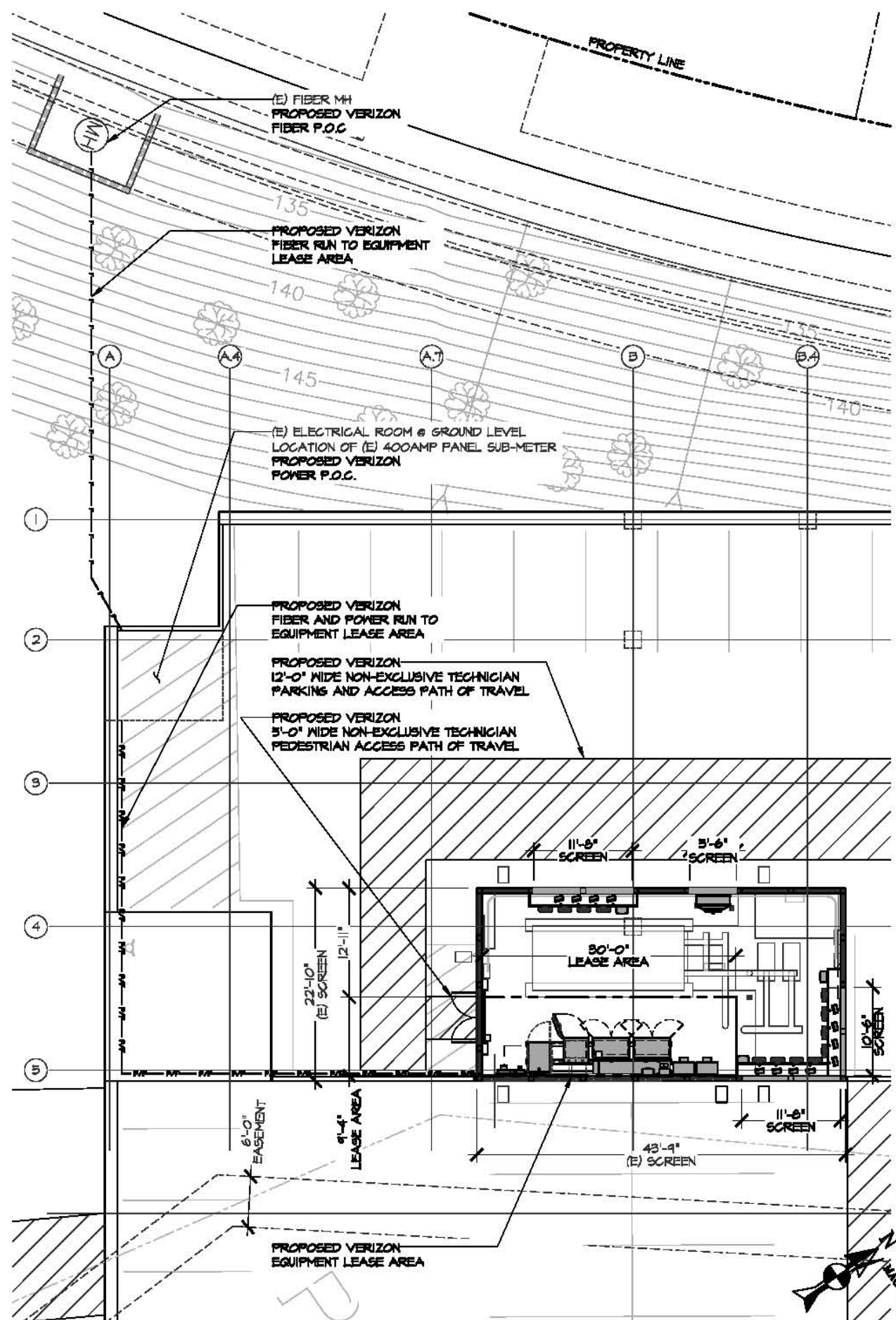
LS-2



LEASE AREA & ANTENNA PLAN

SCALE @ 1/4" = 1'-0"
SCALE @ 3/8" = 1'-0"

ENLARGED SITE PLAN



SCALE @ 1/4" = 1'-0"
SCALE @ 3/8" = 1'-0"



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SEAL

ISSUED FOR: ZONING REVIEW
ISSUE DATE: 09/16/2014
PROJECT No. FA140201
DRAWN BY: JM CHECKED BY: EF

SUBMITTALS

REV.	DATE	DESCRIPTION	BY
0	06/19/14	ZONING REVIEW	JM
1	06/27/14	CLIENT COMMENTS	JM
2	07/02/14	CLIENT COMMENTS	JM
3	08/18/14	CLIENT COMMENTS	NW
4	09/16/14	LL COMMENTS	DR
5	10/07/14	LL COMMENTS	DR

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NEWPORT BEACH, CA 92660

SHEET TITLE
ENLARGED SITE PLAN,
LEASE AREA PLAN, &
ANTENNA PLAN

SHEET NUMBER

A-2

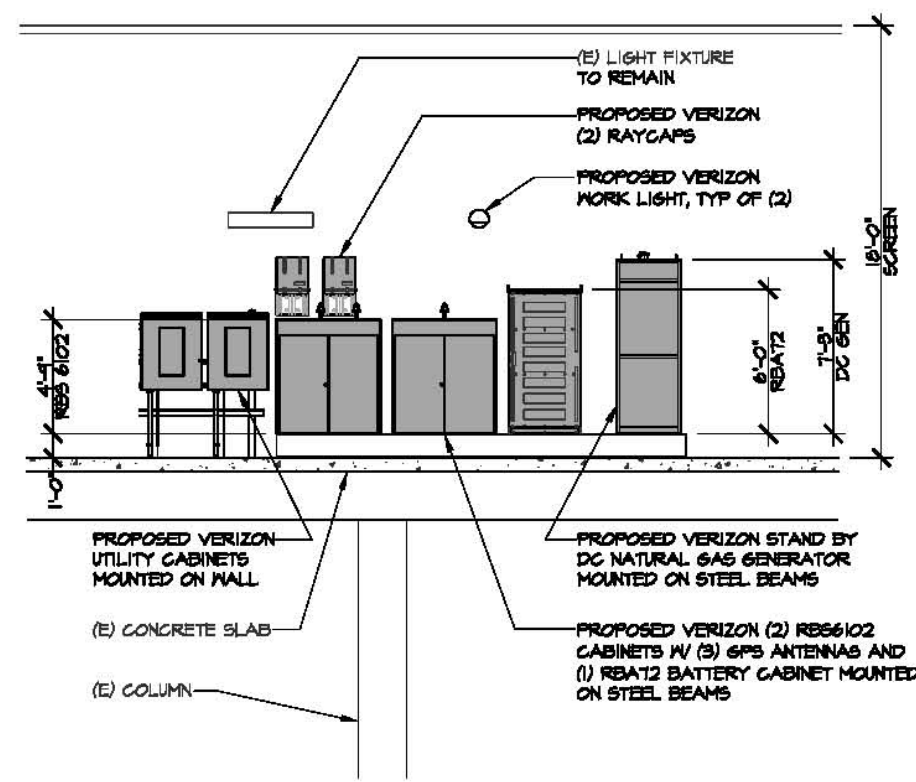
PROPOSED VERIZON RF TRANSPARENT SCREEN TEXTURED AND PAINTED TO MATCH (E) SCREEN

PROPOSED VERIZON PANEL ANTENNAS BEHIND PROPOSED RF TRANSPARENT SCREEN, BETA SECTOR



NORTH WEST ELEVATION

SCALE @ 11x17: 1/16" = 1'-0"
SCALE @ 24x36: 1/8" = 1'-0" 1

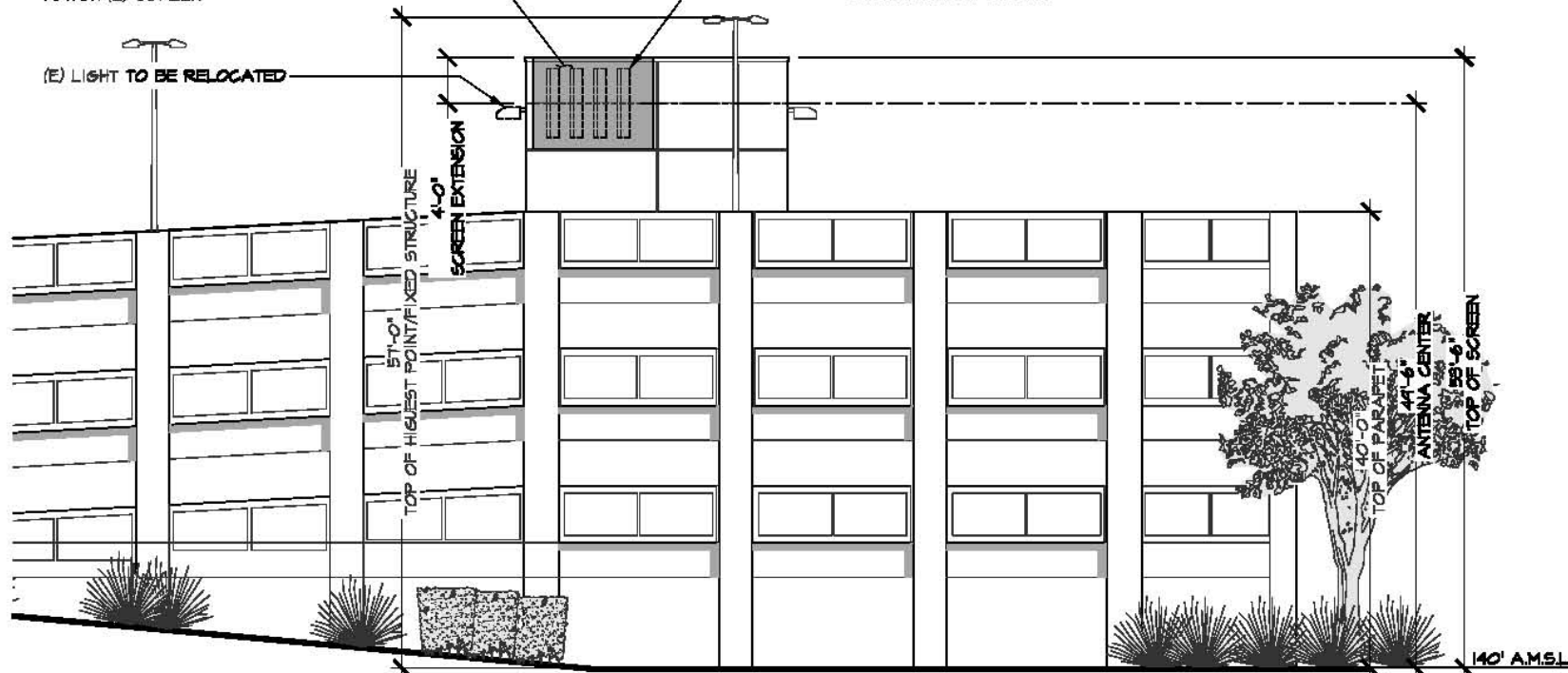


SECTION

SCALE @ 11x17: 1/16" = 1'-0"
SCALE @ 24x36: 1/8" = 1'-0" 3

PROPOSED VERIZON RF TRANSPARENT SCREEN TEXTURED AND PAINTED TO MATCH (E) SCREEN

PROPOSED VERIZON PANEL ANTENNAS BEHIND PROPOSED RF TRANSPARENT SCREEN, GAMMA SECTOR



NORTH EAST ELEVATION

SCALE @ 11x17: 1/16" = 1'-0"
SCALE @ 24x36: 1/8" = 1'-0" 2



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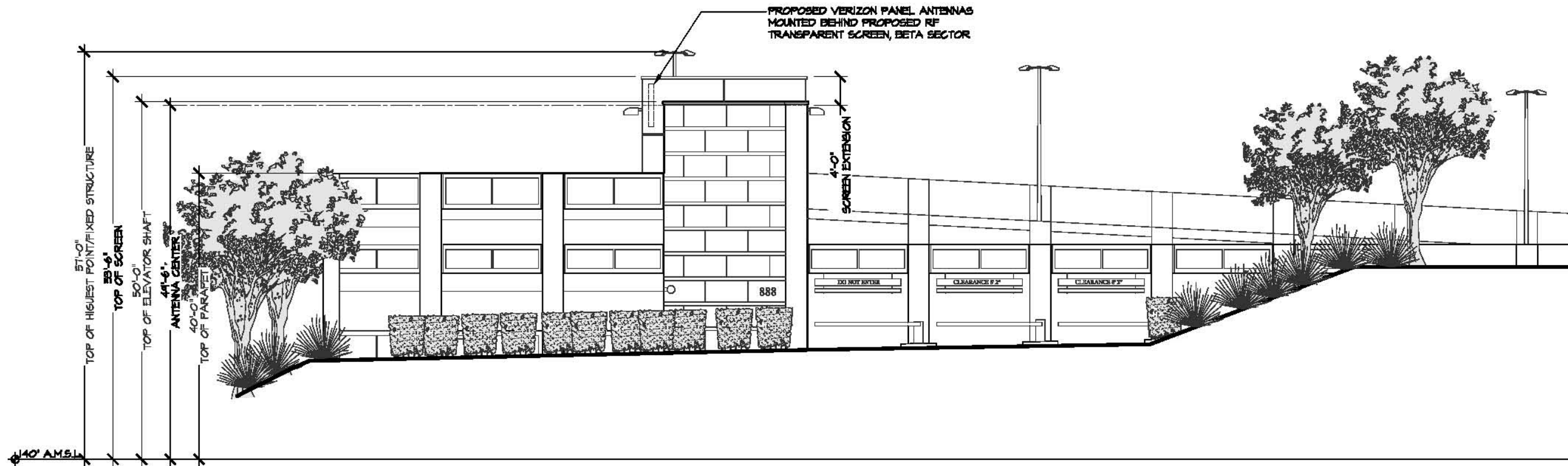
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5	10/07/14	LL COMMENTS	DR

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NEWPORT BEACH, CA 92660

SHEET TITLE
ELEVATIONS & SECTION

SHEET NUMBER

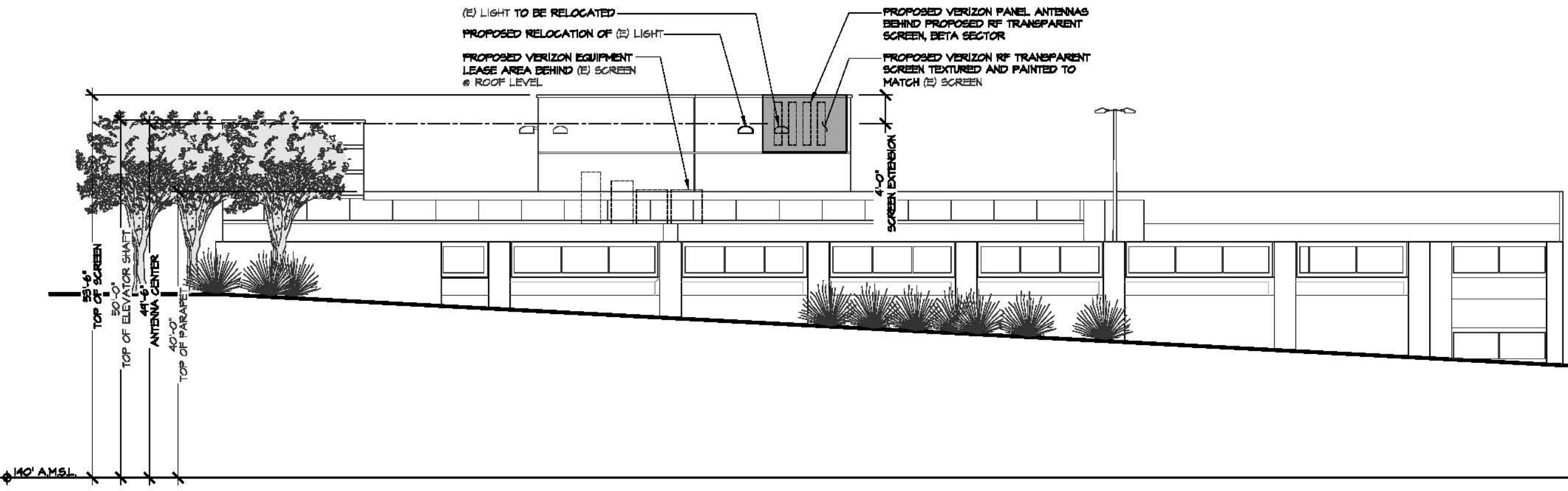
A-3



SOUTH WEST ELEVATION

SCALE @ 11x17: 1/16" = 1'-0"
 SCALE @ 24x36: 1/8" = 1'-0"
 0' 4' 8' 16'

1



SOUTH EAST ELEVATION

SCALE @ 11x17: 1/16" = 1'-0"
 SCALE @ 24x36: 1/8" = 1'-0"
 0' 4' 8' 16'

2



15505 SAND CANYON AVE.
 BUILDING 'D' 1st FLOOR
 IRVINE, CA 92618



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 NEWPORT BEACH, CA 92663
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SEAL

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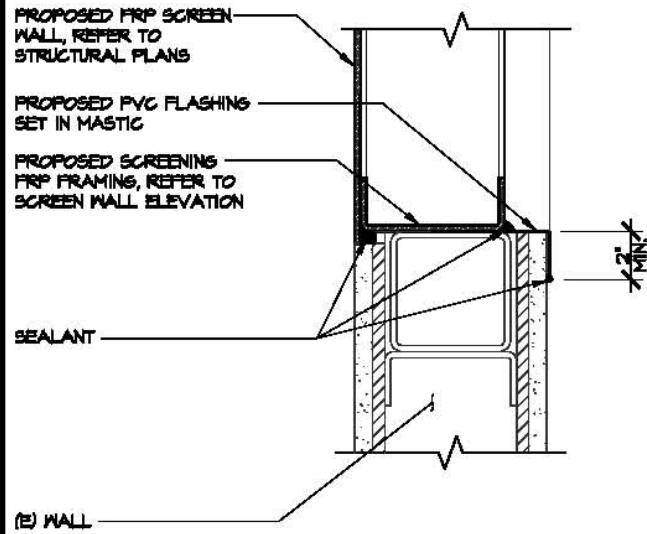
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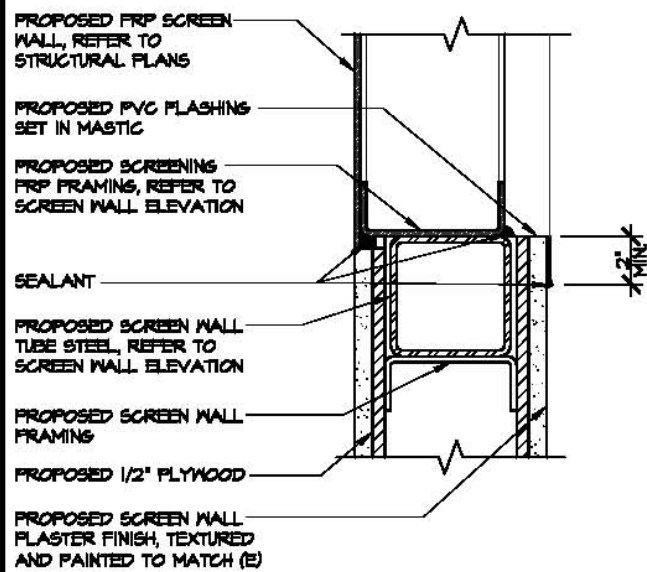
BOMBERO
 888 1/2 SAN CLEMENTE DR
 NEWPORT BEACH, CA 92660

SHEET TITLE
ELEVATIONS

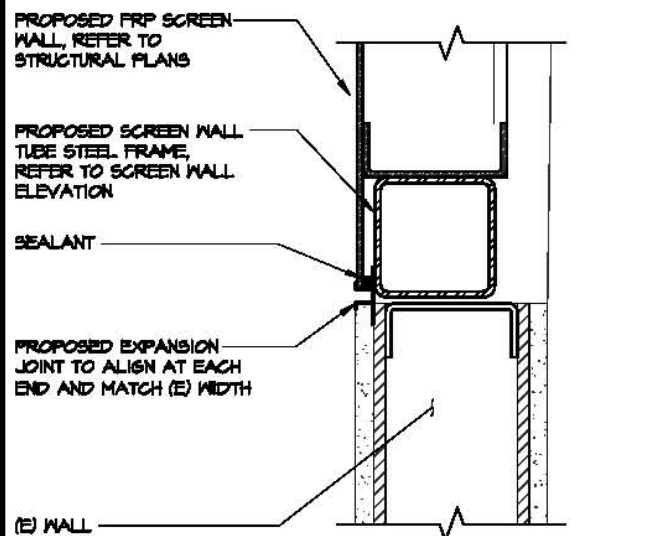
SHEET NUMBER
A-4



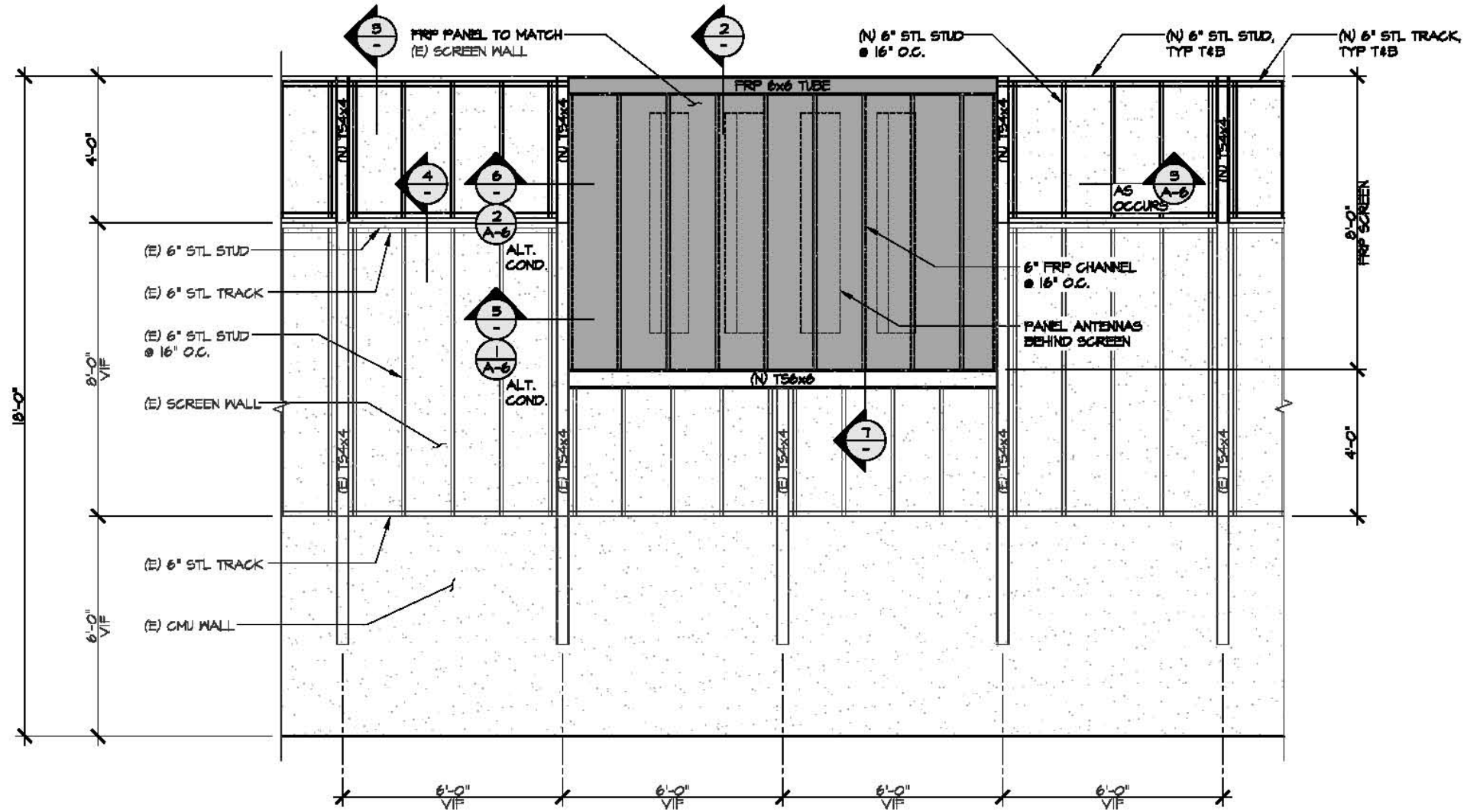
SCREENING AT (E) SCREEN WALL SCALE 3" = 1'-0" 5



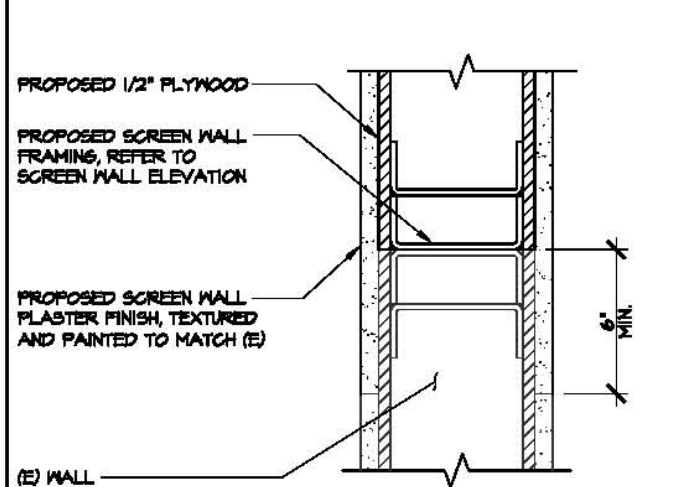
SCREENING AT SCREEN WALL SCALE 3" = 1'-0" 6



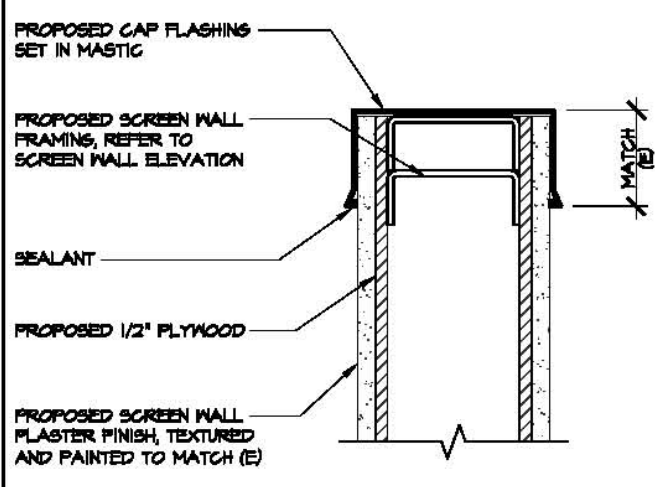
FLASHING AT SCREEN WALL SCALE 3" = 1'-0" 7



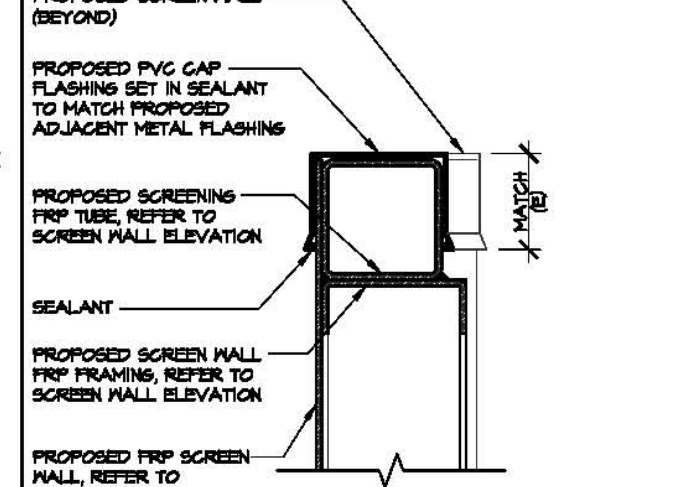
SCREENING IN SCREEN WALL ELEVATION SCALE @ 11x17: 1/8" = 1'-0" SCALE @ 24x36: 1/2" = 1'-0" 1



SCREEN WALL EXTENSION SCALE 3" = 1'-0" 4



SCREEN WALL CAP SCALE 3" = 1'-0" 3



SCREENING CAP SCALE 3" = 1'-0" 2



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PHONE: (949) 838-4138

SEAL

ISSUED FOR: ZONING REVIEW
ISSUE DATE: 09/16/2014
PROJECT No. FA140201
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5	10/07/14	LL COMMENTS	DR

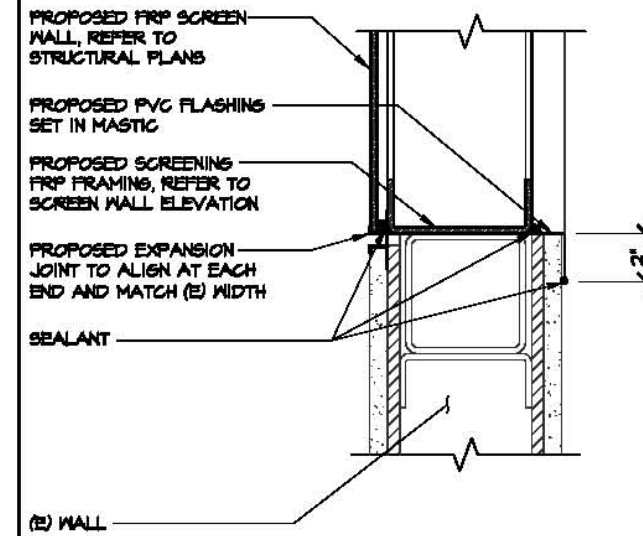
BOMBERO
888 1/2 SAN CLEMENTE DR
NEWPORT BEACH, CA 92660

SHEET TITLE

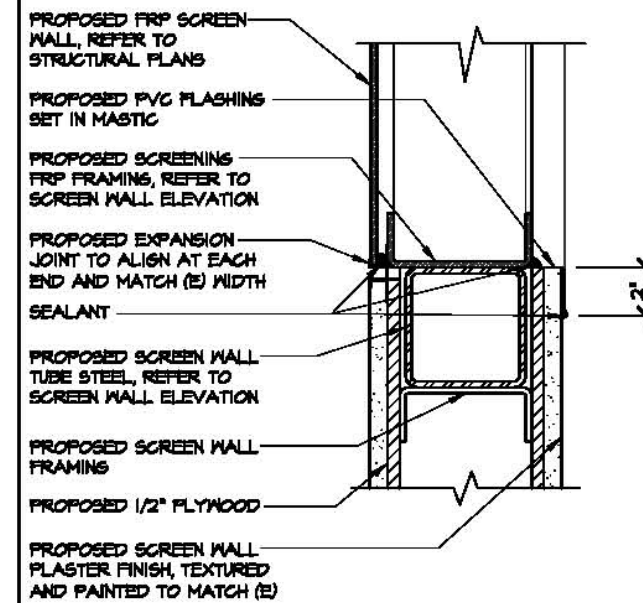
DETAILS

SHEET NUMBER

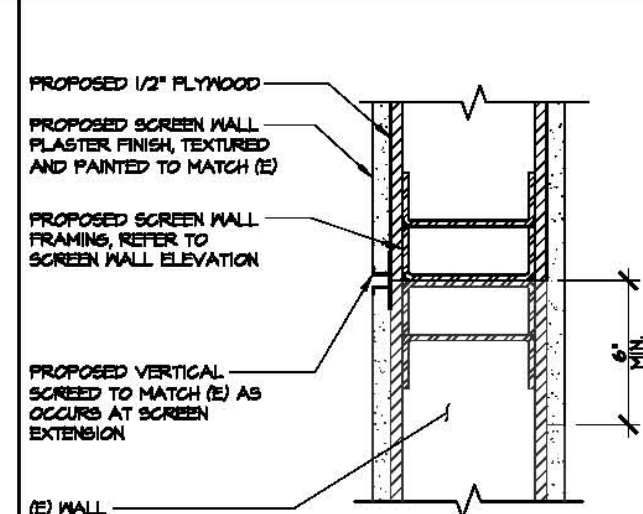
A-5



SCREENING AT (E) SCREEN WALL SCALE 3" = 1'-0" 1



SCREENING AT SCREEN WALL SCALE 3" = 1'-0" 2



SCREEN WALL EXTENSION SCALE 3" = 1'-0" 3



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BOMBERO
888 1/2 SAN CLEMENTE DR
NEWPORT BEACH, CA 92660

SHEET TITLE

DETAILS

SHEET NUMBER

A-6



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. SA2014-032 (PA2014-211)**
Applicant **RHA, Inc.**
Site Address **1000 Bristol Street North**
 Moulin Restaurant Expansion
Legal Description **Parcel Map Book 67, Page 21, Parcel No. 1**

On **January 16, 2015**, the Community Development Director approved Staff Approval No. SA2014-032 authorizing alterations to an existing eating and drinking establishment and finding said alterations to be minor and in substantial conformance with Use Permit No. UP3508. The alterations would allow the addition of a retail component to an existing take-out restaurant by expanding into an adjoining tenant space. This approval is based on the following findings and subject to the following conditions.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC-11 (Newport Place)
- **General Plan:** CG (General Commercial)

BACKGROUND

On September 13, 1993, City Council approved Use Permit No. UP3508 authorizing the establishment of a 2,700-square-foot take-out restaurant (Pascal's Epicerie), in combination with catering, retail wine store, on-sale beer and wine, incidental interior seating, and a waiver of a portion of the required off-street parking spaces (48 spaces). The hours of operation are limited to between 8:00 a.m. to 9:00 p.m. Monday through Saturday and 8:00 a.m. to 2:00 p.m. on Sunday.

On June 23, 2014, a building permit was issued for a tenant improvement to reconfigure the restaurant for a new operator (Moulin Restaurant). The changes consisted of kitchen improvements and reconfigured product displays and interior seating. The improvements remained in substantial conformance with the approved Use Permit.

PROPOSED CHANGES

Moulin Restaurant currently occupies Suites 9 and 10 within the Plaza Newport Shopping Center. The applicant is proposing to expand the operation into the adjacent 1,100-

square-foot suite (Suite 8), which would increase the restaurant's gross floor area to 3,900 square feet. The proposed expansion would allow for the enlargement of a walk-in cooler and freezer by approximately 210 square feet, the expansion of the pastry kitchen by approximately 337 square feet, and the addition of approximately 553 square feet of retail space for auxillary products and accessories. No additional dining area would be provided.

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. In this case, the Community Development Director has determined that the proposed expansion is in substantial conformance with the existing restaurant operation.

Finding:

A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. Restaurants are a permitted use in General Commercial Site 3 of the Newport Place Planned Community District (PC-11), subject to the approval of a use permit. The proposed changes are consistent with the operational characteristics approved by Use Permit No. UP3508.
2. Adequate off-street parking is provided in conjunction with the proposed kitchen expansion and retail display area. The enlarged kitchen does not generate increased parking demand and the retail component will not generate additional parking demands beyond the retail use (jewelry store), which previously occupied the space.

Finding:

B. *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. The proposed changes to the existing restaurant will not compromise the original Class 1 (Existing Facilities) exemption under the California Environmental Quality Act (CEQA) Guidelines since the requests involves minor alterations to the floor plan and operational characteristics that will not exceed 50 percent of the existing floor area or 2,500 square feet.

Finding:

- C. *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 minor changes do not involve a feature that was specifically addressed in the staff report or the minutes prepared for Use Permit No. UP3508.

Finding:

- D. *Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed kitchen expansion and retail display is minor in nature and does not represent a substantial change in the operational characteristics of the existing take-out restaurant that was approved with a combination of catering and a retail wine store.
2. The proposed expansion would increase the size of the existing kitchen area and add approximately 553 square feet of retail space for auxiliary products and accessories. There would be no additional employees required for the expansion of the take-out operation. There is no expansion or intensification of the existing 239 square feet of interior dining area and the hours of operation will remain as conditioned by Use Permit No. UP3508.

DETERMINATION

This staff approval has been reviewed and the determination has been made that the proposed changes to the existing take-out restaurant are in substantial conformance with the original approval actions.

CONDITIONS

1. All applicable conditions of approval for Use Permit No. UP3508 shall remain in effect.
2. The development authorized by this staff approval shall remain in substantial conformance with the approved project plans.
3. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable

departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.

4. The expanded space in Suite 8 shall be utilized for retail, storage, and kitchen purposes only; no patron seating or dining shall be permitted in this area.
5. No on-sale alcoholic beverage service shall be permitted in the expanded retail portion of the restaurant, unless otherwise approved by the Department of Alcoholic Beverage Control (ABC).
6. A total of four (4) off-street parking spaces shall be provided for the expanded retail space in Suite 8, and will be included in the parking requirement for the expanded restaurant.
7. The Community Development Director may add to or modify conditions to this staff approval, or revoke this staff approval upon determination that the operations, which is the subject of this staff approval, causes injury, or is detrimental to the public health, safety, peace, or general welfare of the community or if the property is operated or maintained so as to constitute a public nuisance.
8. This staff approval shall expire unless exercised within twenty-four (24) months from the end of the appeal period, in accordance with Section 20.54.060 of the Newport Beach Municipal Code.
9. To the fullest extent permitted by law, the 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 staff approval of the Moulin Restaurant Expansion including, but not limited to, Staff Approval SA2014-032 (PA2014-211). 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.

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.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



Debbie Drasler, Contract Planner

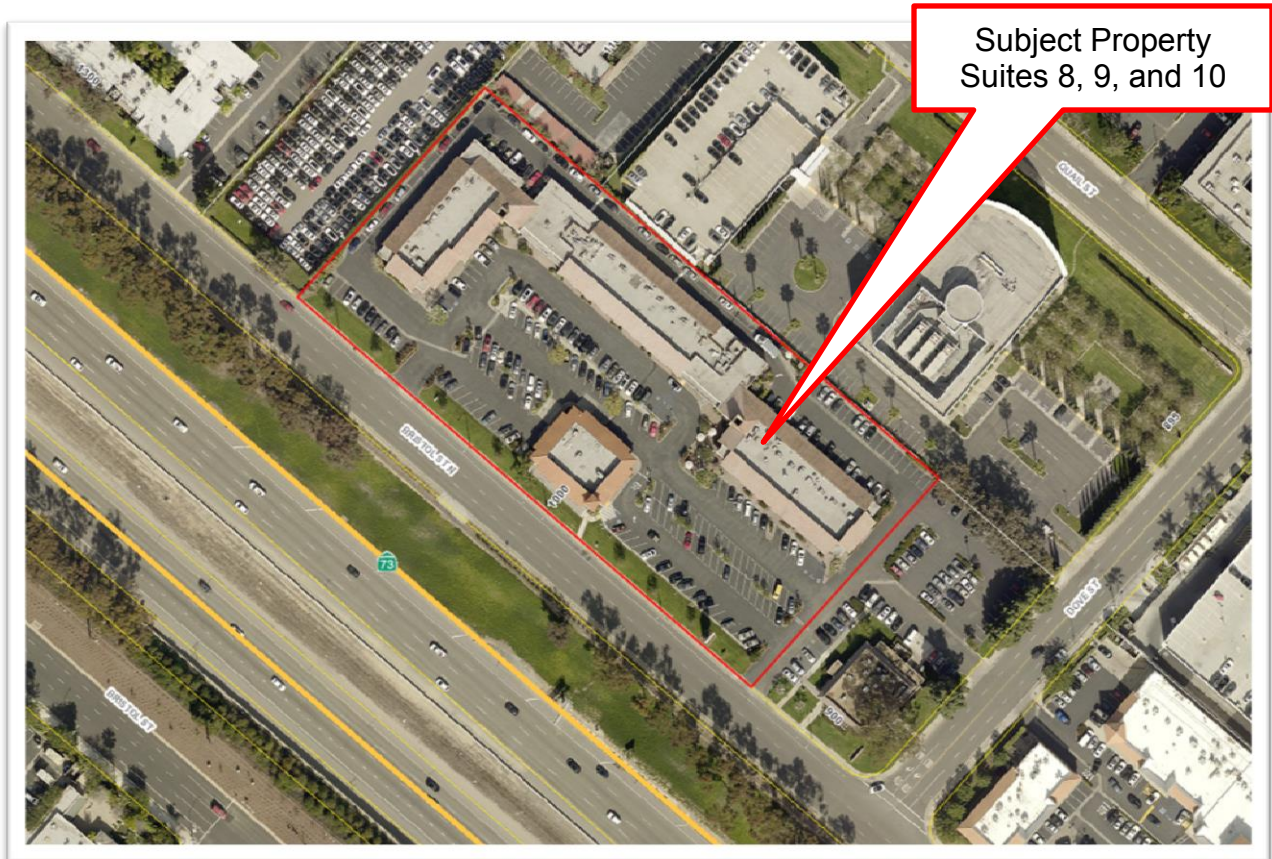
JM/dad

Attachments: CD 1 Vicinity Map
CD 2 Use Permit No. UP3508
CD 3 Plans

Attachment No. CD1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2014-032
PA2014-211

**1000 Bristol Street North
Suites No. 8, 9, and 10**

Attachment No. CD 2

Use Permit No. UP3508

USE PERMIT APPLICATION
CITY OF NEWPORT BEACH
PLANNING DEPARTMENT
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915
(714) 644-3200

No. UP 3508
Application Rec'd by [Signature]
Fee: \$ 970⁰⁰

APPLICANT (Print) OLHATS FOOD CORPORATION PHONE 752-0107

MAILING ADDRESS 1000 Bristol Street North, Suite 11, Newport Beach, Ca. 92660

PROPERTY OWNER L.S.W. Ltd. PHONE 497-5407

MAILING ADDRESS 1603 Emerald Bay, Laguna Beach, Ca. 92651

ADDRESS OF PROPERTY INVOLVED 1000 Bristol Street North, Newport Beach, Ca. 92660

PURPOSE OF APPLICATION (describe fully) See attached Letter

ZONE P.C. PRESENT USE Vacant Retail Space

LEGAL DESCRIPTION OF PROPERTY INVOLVED (if too long, attach separate sheet):
Parcel 1, in the City of Newport Beach, County of Orange, State of California, as shown on a parcel map filed in Book 97 Pages 18 and 19 of Parcel Maps in the Office of the County Recorder of said County.

=====

OWNER'S AFFIDAVIT

(I) (We) Harry Woloson depose and say that (I am) (we are) the owner(s) of the property(ies) involved in this application. (I) (We) further certify, under penalty of perjury, that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my) (our) knowledge and belief.

Signature(s) [Signature]
Harry Woloson, General Partner

NOTE: An agent may sign for the owner if written authorization from the record owner is filed with the application.

=====

DO NOT COMPLETE APPLICATION BELOW THIS LINE

Date Filed 7-15-93 Fee Pd. 970- Receipt No. 26411
Hearing Date 8-19-93
Posting Date 8-6-93 Mail Date 8-6-93
P.C. Action Approved Date 8-19-93
Appeal _____ C.C. Hearing _____
C.C. Action Approved Date 9-13-93 R 26411

PAID
JUL 15 1993
CITY OF NEWPORT BEACH

USE PERMIT APPLICATION
OLHATS FOOD CORPORATION

PURPOSE OF APPLICATION:

APPROXIMATELY 2,700 S.F. OF RETAIL TAKE-OUT FOOD, CATERING AND WINE STORE. THIS USE TO INCLUDE VOLUNTARY OUTSIDE SEATING (NON EXCLUSIVE) WITH NO FOOD SERVICE. THE OUTSIDE SEATING WILL NOT OBSTRUCT ANY ADJACENT WALKWAYS. PROPOSED USE TO INCLUDE PUBLIC STORAGE OF WINE. THERE WILL BE NO ALCOHOL SERVICE OUTSIDE. FULL SERVICE KITCHEN TO SERVE THE NEEDS OF THE CATERING BUSINESS. PARKING TO BE ACCOMODATED ONSITE. REQUEST A WAIVER OF PARKING REQUIREMENT. THE HOURS OF OPERATION FOR THE EPICERIE WILL BE MONDAY THROUGH STAURDAY 8:00 A.M. TO 9:00 P.M. AND SUNDAY 8:00:A.M. TO 2:00 P.M. ALCOHOLIC CONSUMPTION LIMITED TO THE INSIDE ONLY.

CITY OF NEWPORT BEACH

MINUTES

COUNCIL MEMBERS

September 13, 1993

ROLL CALL

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HEDGES
SPINSONE
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HART
COX
DEBRY

18. Mayor Turner opened the public hearing regarding:

A. General Plan Amendment No. 93-2(E) - Request of L.S.W. Ltd., to amend the Land Use Element of the General Plan to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq. ft. to 100,618 sq.ft. so as to allow for outdoor dining in association with Pascal's Restaurant;

GPA 93-2(E)
(45/94)

AND

B. Amendment No. 783 - Request to amend the Newport Place Planned Community District Regulations so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each;

PCA 783

AND

C. Use Permit No. 1838 (Amended) - Request to amend a previously approved use permit which permitted the establishment of a restaurant with on-sale beer and wine within the Newport Place Planned Community District. The applicant proposes to expand the "net public area" of the restaurant by adding an outdoor dining area adjacent to the existing restaurant facility. The applicant also requests a waiver of a portion of the required offstreet parking spaces to accommodate the proposed expansion on property located at 1000 Bristol Street North;

U/P 1838(A)

AND

D. Use Permit No. 3508 - Request to permit the establishment of a combination take-out restaurant, catering, and wine store, with on-sale beer and wine, and incidental interior seating, on property located in the Newport Place Planned Community. The proposal also includes a request to waive a portion of the required off-street parking spaces.

U/P 3508

The Planning Director summarized the staff report.

Jerry King, representing the applicant, addressed the Council and stated they have no objections to the staff's recommendations and are in agreement with their findings and conditions.

Hearing no one else wishing to address the Council, the public hearing was closed.

CITY OF NEWPORT BEACH

TO: Mayor and Members of the City Council

FROM: Planning Department *[Signature]*

SUBJECT: A. General Plan Amendment No. 93-2(E)

Request to amend the Land Use Element of the General Plan to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100,618 sq.ft. so as to allow for outdoor dining in association with Pascal's Restaurant.

INITIATED BY: The City of Newport Beach

AND

B. Amendment No. 783

Request to amend the Newport Place Planned Community District Regulations so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each.

INITIATED BY: The City of Newport Beach

AND

C. Use Permit No. 1838 (Amended)

Request to amend a previously approved use permit which permitted the establishment of a restaurant with on-sale beer and wine within the Newport Place Planned Community District. The applicant proposes to expand the "net public area" of the restaurant by adding an outdoor dining area adjacent to the existing restaurant facility. The applicant also requests a waiver of a portion of the required offstreet parking spaces to accommodate the proposed expansion.

AND

TO:

City Council - 2

D. Use Permit No. 3508

Request to permit the establishment of a combination take-out restaurant, catering, and wine store, with on-sale beer and wine, and incidental interior seating, on property located in the Newport Place Planned Community. The proposal also includes a request to waive a portion of the required off-street parking spaces.

LOCATION: Parcel 1 of Parcel Map 97-18, 19 (Resubdivision No. 541) located at 1000 Bristol Street North, on the northeasterly side of Bristol Street North, westerly of Dove Street, in the Newport Place Planned Community.

ZONE: P-C

APPLICANT: Olhats Food Corporation, Newport Beach

OWNER: L.S.W. Ltd., Laguna Beach

Applications

These applications involve a request to expand an existing restaurant with on-sale beer and wine within the Newport Place Planned Community District and establish a new combination take-out restaurant, catering, and wine store, with on-sale beer and wine, and incidental interior seating. The proposed restaurant expansion includes the establishment of an outdoor dining area adjacent to the existing restaurant facility. In accordance with Part II, Section II, Group I, C of the Newport Place Planned Community Development Standards, restaurants are a permitted use on the property, subject to the securing of a use permit in each case. In accordance with the provisions of Section 20.72.010 E of the Newport Beach Municipal Code, the expansion of an existing restaurant is also subject to the approval of a use permit in each case. Use Permit procedures are set forth in Chapter 20.80 of the Municipal Code.

The proposal also includes a request to amend the Land Use Element of the General Plan to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100,618 sq.ft. so as to allow for the above mentioned outdoor dining in conjunction with the existing Pascal's Restaurant. A request to amend the Newport Place Planned Community District Regulations has also been included so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each. General Plan Amendment procedures are set forth in Council Policy Q-1 and amendment procedures are set forth in Chapter 20.84 of the Municipal Code.

TO:

City Council - 3

Suggested Action

Hold hearing; close hearing; if desired, adopt Resolution No. _____ approving General Plan Amendment No. 93-2(E), adopt Resolution No. ____ approving Amendment No. 783, and approve Use Permit No 1838 (Amended) and Use Permit No. 3508 as recommended by the Planning Commission.

Planning Commission Recommendation

At its meeting of August 19, 1993, the Planning Commission voted (6 Ayes, 1 Absent) to recommend the approval of General Plan Amendment No. 93-2(E) and Amendment No. 783 to the City Council. The related items, Use Permit No. 1838 (Amended) and Use Permit No. 3508 were also approved by the Planning Commission, and will be reviewed by the Council in conjunction with the General Plan Amendment and P-C Amendment.

Copies of the Planning Commission staff report and an excerpt of the draft Planning Commission minutes are attached for the City Council's information.

Respectively submitted,

PLANNING DEPARTMENT
JAMES D. HEWICKER, Director

By 
W. William Ward,
Senior Planner

Attachments: Planning Commission Staff Report dated August 19, 1993 with attachments
Excerpt of the Draft Planning Commission Minutes dated August 19, 1993
Resolution No. _____ for General Plan Amendment No. 93-2(E)
Resolution No. _____ for Amendment No. 783
Plot Plan and Floor Plans for Pascal's Restaurant and Pascal's Epicurie

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August 19, 1993

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A. General Plan Amendment No. 93-2(E) (Public Hearing)

Request to amend the Land Use Element of the General Plan to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100.618 sq.ft. so as to allow for outdoor dining in association with Pascal's Restaurant and a future restaurant facility.

INITIATED BY: The City of Newport Beach

AND

B. Amendment No. 783 (Public Hearing)

Request to amend the Newport Place Planned Community District Regulations so as to delete the provisions applicable to General Commercial Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on General Commercial Sites 3 and 5 to 8,000 square feet each.

INITIATED BY: The City of Newport Beach

AND

C. Use Permit No. 1838 (Amended) (Public Hearing)

Request to amend a previously approved use permit which permitted the establishment of a restaurant with on-sale beer and wine within the Newport Place Planned Community District. The applicant proposes to expand the "net public area" of the restaurant by adding an outdoor dining area adjacent to the existing restaurant facility. The applicant also requests a waiver of a portion of the required offstreet parking spaces to accommodate the proposed expansion.

Item No.1

GPA93-2 (E)
Res. 1334
Approved

A. 783
Res. 1335
Approved

UP 1838 (A)
Approved

UP 3508
Approved

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AND

D. Use Permit No. 3508 (Public Hearing)

Request to permit the establishment of a combination take-out restaurant, catering, and wine store, with on-sale beer and wine, and incidental interior seating, on property located in the Newport Place Planned Community. The proposal also includes a request to waive a portion of the required off-street parking spaces.

LOCATION: Parcel 1 of Parcel Map 97-18, 19 (Resubdivision No. 541) located at 1000 Bristol Street North, on the northeasterly side of Bristol Street North, westerly of Dove Street, in the Newport Place Planned Community.

ZONE: P-C

APPLICANT: Olhats Food Corporation, Newport Beach

OWNER: L.S.W. Ltd., Laguna Beach

James Hewicker, Planning Director, referred to a recommendation in the staff report that a minimum 8 foot clear pathway be maintained through the proposed exclusive and non-exclusive dining areas of the restaurant to provide for pedestrian access to the parking spaces located at both the front and rear areas of the shopping center. Mr. Hewicker said that this recommendation, however, was not made an actual condition to the use permit. He stated that currently, in the area where the exclusive dining is proposed, there is more than 8 feet clearance, however existing landscape planters and building supports occupy portions of the clearance space. Mr. Hewicker said that if it were the intent of the Planning Commission to require a minimum 8 foot clear accessway, it would only occur where 8 feet currently exists, and the applicant would not be required to provide greater access than that which the shopping center developer originally provided.

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Planning Director Hewicker also referred to a discussion in the staff report regarding a requirement of the Building Code that a minimum forty-four (44) inch clear pathway be maintained through the non-exclusive Epicerie dining area for pedestrian and handicap circulation. Mr. Hewicker questioned the amount of space that would be remaining for the placement of dining tables and chairs, as requested by the applicant, after providing for the clear pathway. He also stated that the original applications requested an additional 480 square feet for proposed non-exclusive patio dining and 600 square feet for proposed exclusive Epicerie dining. Inasmuch as the Epicerie dining was now proposed to be non-exclusive, the total additional allocation requested of 1,080 square feet was not technically necessary.

In response to questions by Commissioner Ridgeway and Chairman Merrill, Planning Director Hewicker pointed out on the display the proposed dining areas of Pascal's restaurant and those areas which would be affected by the forty-four inch clear pathway requirement.

Mr. Don Webb, City Engineer responded to questions posed by Chairman Merrill and Commissioner Glover regarding Condition No. 12 to Use Permit 3508, *"That the final location of the tables and chairs within the non exclusive dining area shall be subject fo further review and approval by the City Traffic Engineer."* Mr. Webb explained that vehicular and pedestrian circulation are included among the responsibilities of the Public Works Department. In regards to the proposed project, assuring that there are unobstructed through-walkways for pedestrians as well as safe and adequate access to parking areas would be a responsibility of the City Traffic Engineer. The reasoning for this requirement, Mr. Webb continued, is that the development plans that staff reviews are not a detailed final version. There is a possibility that as the project develops, changes will occur or become necessary that are not shown on the original submittal drawings.

In response to an inquiry by Commissioner Gifford regarding the authority of the City Traffic Engineer in respect to the

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aforementioned Condition No. 12, Assistant City Attorney Robin Flory stated that approval is for the specific number of tables and chairs requested by the applicant. If, upon review, the Traffic Engineer determines that the placement of the requested number of tables and chairs obstructs pedestrian circulation, the project would come back to the Planning Commission for review.

The public hearing was opened in connection with this item, and Mr. Jerry King, J. A. King & Associates, 130 Newport Center Drive, representing the applicant, appeared before the Planning Commission. In reference to the discussion above regarding isle widths and placement of tables and chairs, Mr. King stated that the property owner's representative had indicated that if necessary, in order to accommodate clear space for both unobstructed pedestrian and handicap passage and the dining furniture, there could be some reconfiguration of a portion of the landscape planters. Mr. King emphasized that the furniture is available in various sizes and shapes and would not be ordered until the issues were refined. He stated that both the ownership of the center and the applicant concurred with the findings and conditions in Exhibit "A."

Responding to a question posed by Commissioner Edwards regarding the furniture placement, Mr. Pascal Olhats, applicant and owner of Pasqual's restaurant, appeared before the Planning Commission. Mr. Olhat indicated his belief that the necessary requirements would be satisfied. He also stated it would be his responsibility to maintain the walkways.

In reference to Condition 14, Use Permit No. 1838 (Amended), prohibiting the use of loudspeakers or paging system, Mr. King informed the Planning Commission that the restaurant enjoyed background music as part of the center's sound system. He said that the restaurant would wish to continue having the availability of background music, but had no intention of employing a paging system. Discussion ensued whereby Mr. Harry Woloson, Co-general Partner of the owner of the shopping center, appeared before the Planning Commission. Mr. Woloson stated that

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currently the center did not utilize a speaker system; the background music emanated from speakers controlled from within Pascal's restaurant. Mr. Woloson said that he did not believe the music would create a problem but rather would enhance the operation of the restaurant. Commissioner Edwards suggested that Condition No. 14 be modified to read, "That no outdoor loudspeakers or paging system shall be permitted in conjunction with the subject restaurant, other than background music from the system as presently exists." Mr. King indicated that this modification would be acceptable to both the property owner and the applicant.

Mr. Dave Patterson, 209 Nata, Newport Beach, appeared before the Planning Commission and stated he had known the applicant, Pascal Olhat, for several years and knew him to be a reliable person, with impeccable taste. Mr. Patterson stated his opinion that an expansion of Pascal's restaurant would be an even greater asset to the community it already successfully serves.

There being no others desiring to appear and be heard, the public hearing was closed at this time.

Motion

*

Motion was made by Commissioner Glover to approve General Plan Amendment No. 93-2(E), Amendment No. 783, Use Permit No. 1838 (Amended), and Use Permit No. 3508 subject to the findings and conditions in Exhibit "A," and to modify Condition No. 14, Use Permit No. 1838 (Amended), as recommended by Commissioner Edwards. Commissioner Glover stated her belief that the expansion of the restaurant would prove a benefit to the shopping center.

Commissioner Di Sano stated his support of the motion and complimented the applicant on providing the community with a fine restaurant operation.

Commissioner Gifford said she would be supporting the motion and commented that Pascal's Restaurant was consistently rated as not only one of the finest restaurants in Orange County but also

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in Southern California as well. She said she felt that increasing the number of outdoor dining areas adds to the livability and ambiance of the community.

Motion was voted on to approve General Plan Amendment No. 93-2(E) [Resolution No. 1334], Amendment No. 783 [Resolution No. 1335], Use Permit No. 1838 (Amended), and Use Permit No. 3508 subject to the findings and conditions in Exhibit "A," and to modify Condition No. 14, Use Permit No. 1838 (Amended), as recommended by Commissioner Edwards. MOTION CARRIED.

FINDINGS:

A. General Plan Amendment No. 93-2(E)

1. Adopt Resolution No. 1334, recommending to the City Council adoption of General Plan Amendment 93-2(E), amending the Land Use Element of the General Plan so as to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100.618 sq.ft. so as to allow for outdoor dining in association with Pascal's Restaurant.

B. Amendment No. 783

1. Adopt Resolution No. 1335, recommending to the City Council adoption of Amendment No. 783, amending the Newport Place Planned Community District Regulations so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each.

Ayes
 Absent

* * * * *
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C. Use Permit No. 1838 (Amended)

Findings:

1. That the expanded restaurant use is consistent with the Land Use Element of the General Plan, and is compatible with surrounding land uses.
2. Adequate off-street parking and related vehicular circulation are being provided in conjunction with the proposed development.
3. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
4. That the waiver of the restaurant development standards as they relate to traffic circulation, walls, parking lot illumination and a portion of the required parking spaces (12 spaces) will be of no further detriment to adjacent properties inasmuch as the proposed restaurant is located in an existing developed shopping center and the Newport Place Planned Community Development Standards also adequately address landscape requirements.
5. The approval of Use Permit No. 1838 (Amended) will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

Conditions:

1. That the proposed restaurant shall be in substantial conformance with the approved plot plan, and floor plan, except as noted below.

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2. That all applicable conditions of approval of Use Permit No. 1838 and Use Permit No. 1838 (Amended) shall remain in effect.
3. That a minimum of thirty (30) parking spaces shall be provided for the restaurant facility at all times it is in operation.
4. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self-parking. One handicapped sign on a post and one handicapped sign on the pavement shall be required for each handicapped space.
5. The "net public area" of the restaurant shall be limited to a maximum of 1,670± square feet (a maximum of 480± sq.ft. of outdoor dining and 1,190± sq.ft. of interior dining).
6. That live entertainment and dancing shall not be permitted unless an amendment to this use permit is first approved by the Planning Commission.
7. That all employees of the restaurant shall be required to park on-site.
8. That the restaurant development standards as they pertain to a portion of the required parking (12 spaces), traffic circulation, walls, parking lot illumination, and landscaping are hereby waived.
9. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department.
10. That grease interceptors shall be installed on all fixtures in the restaurant facility where grease may be introduced into the drainage systems in accordance with the provisions of

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the Uniform Plumbing Code, unless otherwise approved by the Building Department.

- 11. That kitchen exhaust fans shall be designed to control smoke and odor.
- 12. That all mechanical equipment and trash areas shall be screened from view from Bristol Street North and adjoining properties.
- 13. That service of alcoholic beverages in the patio dining area shall be licensed by the State Alcoholic Beverage Control.
- 14. That no outdoor loudspeakers or paging system shall be permitted in conjunction with the subject restaurant, other than background music from the system presently existing.
- 15. That a minimum forty-four inch clear pathway shall be maintained through the outdoor dining area at all times.
- 16. That the Planning Commission may add 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.
- 17. This use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

D. Use Permit No. 3508

Findings:

- 1. That the proposed take-out restaurant use is consistent with the Land Use Element of the General Plan, and is compatible with surrounding land uses.

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2. Adequate off-street parking and related vehicular circulation are being provided in conjunction with the subject project and that the operational characteristics of the combination take-out restaurant, catering , and wine store in conjunction with a retail catering and wine sales facility are such that the parking demand will be lower than the typical take-out restaurant.
3. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
4. That the waiver of the restaurant development standards as they relate to traffic circulation, walls, parking lot illumination and a portion of the required parking spaces (48 spaces) will be of no further detriment to adjacent properties inasmuch as the proposed restaurant is located in an existing developed shopping center and the Newport Place Planned Community Development Standards also adequately address landscape requirements.
5. The approval of Use Permit No. 3508 will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

Conditions:

1. That the proposed take-out restaurant shall be in substantial conformance with the approved plot plan, and floor plan, except as noted below.
2. That a minimum of eleven (11) parking spaces shall be provided for the combination take-out restaurant, catering and wine store, at all times during its operation.

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3. That the restaurant development standards as they pertain to a portion of the required parking (48 spaces), traffic circulation, walls, parking lot illumination, and landscaping are hereby waived.
4. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self-parking. One handicapped sign on a post and one handicapped sign on the pavement shall be required for each handicapped space.
5. That the hours of operation shall be limited between the hours of 8:00 a.m. and 9:00 p.m. Monday through Saturday and 8:00 a.m. to 2:00 p.m. on Sunday.
6. That trash receptacles for patrons shall be located in convenient locations inside and outside the building.
7. That grease interceptors shall be installed on all fixtures in the take-out restaurant where grease may be introduced into the drainage systems in accordance with the Uniform Plumbing Code, unless otherwise approved by the Building Department and the Public Works Department.
8. That kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
9. That all signs shall conform to the provisions of the Newport Place Planned Community District Regulations.
10. That the service and consumption of on-sale beer and wine shall be permitted within the interior portions of the take-out restaurant only and no consumption of alcoholic beverages shall be permitted within the non exclusive seating area, outside of the take-out restaurant.

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- 11. That the sidewalk in front of the subject facility shall be kept clean and regularly maintained. Said sidewalk shall be swept, vacuumed, or washed in such a manner that any debris or wastewater does not enter the storm drain system or the Bay.
- 12. That the final location of the tables and chairs within the non exclusive dining area shall be subject to further review and approval by the City Traffic Engineer.
- 13. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains unless otherwise approved by the Building Department and the Public Works Department.
- 14. That all mechanical equipment and trash areas shall be screened from surrounding public streets and adjoining properties.
- 15. That the employees shall park their vehicles on-site at all times.
- 16. That 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 amendment causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
- 17. That this use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090 A of the Newport Beach Municipal Code.

* * *

CITY OF NEWPORT BEACH

TO: Planning Commission

FROM: Planning Department

SUBJECT: A. General Plan Amendment No. 93-2(E) (Public Hearing)

Request to amend the Land Use Element of the General Plan to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100,618 sq.ft. so as to allow for outdoor dining in association with Pascal's Restaurant.

INITIATED BY: The City of Newport Beach

AND

B. Amendment No. 783 (Public Hearing)

Request to amend the Newport Place Planned Community District Regulations so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each.

INITIATED BY: The City of Newport Beach

AND

C. Use Permit No. 1838 (Amended) (Public Hearing)

Request to amend a previously approved use permit which permitted the establishment of a restaurant with on-sale beer and wine within the Newport Place Planned Community District. The applicant proposes to expand the "net public area" of the restaurant by adding an outdoor dining area adjacent to the existing restaurant facility. The applicant also requests a waiver of a portion of the required offstreet parking spaces to accommodate the proposed expansion.

AND

TO: Planning Commission - 2

D. Use Permit No. 3508 (Public Hearing)

Request to permit the establishment of a combination take-out restaurant, catering, and wine store, with on-sale beer and wine, and incidental interior seating, on property located in the Newport Place Planned Community. The proposal also includes a request to waive a portion of the required off-street parking spaces.

LOCATION: Parcel 1 of Parcel Map 97-18, 19 (Resubdivision No. 541) located at 1000 Bristol Street North, on the northeasterly side of Bristol Street North, westerly of Dove Street, in the Newport Place Planned Community.

ZONE: P-C

APPLICANT: Olhats Food Corporation, Newport Beach

OWNER: L.S.W. Ltd., Laguna Beach

Applications

These applications involve a request to expand an existing restaurant with on-sale beer and wine within the Newport Place Planned Community District and establish a new combination take-out restaurant, catering, and wine store, with on-sale beer and wine, and incidental interior seating. The proposed restaurant expansion includes the establishment of an outdoor dining area adjacent to the existing restaurant facility. In accordance with Part II, Section II, Group I, C of the Newport Place Planned Community Development Standards, restaurants are a permitted use on the property, subject to the securing of a use permit in each case. In accordance with the provisions of Section 20.72.010 E of the Newport Beach Municipal Code, the expansion of an existing restaurant is also subject to the approval of a use permit in each case. Use Permit procedures are set forth in Chapter 20.80 of the Municipal Code.

The proposal also includes a request to amend the Land Use Element of the General Plan to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100,618 sq.ft. so as to allow for the above mentioned outdoor dining in conjunction with the existing Pascal's Restaurant. A request to amend the Newport Place Planned Community District Regulations has also been included so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each. General Plan Amendment procedures are set forth in Council Policy Q-1 and amendment procedures are set forth in Chapter 20.84 of the Municipal Code.

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Environmental Significance

This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).

Conformance with the General Plan

The Land Use Element of the General Plan designates the site for "Retail and Service Commercial" uses. The existing restaurant facility and the proposed combination take-out restaurant, catering and wine store are permitted uses within this designation, subject to the securing of a use permit. However, the Land Use Element also includes a maximum development allocation of 99,538 sq.ft for Block I of the Newport Place Planned Community which has been fully utilized by the existing development. Therefore, the applicant is requesting to increase the development allocation for the subject property, by 1,080 square feet, from 99,538 sq.ft. to 100,618 sq.ft. so as to allow for outdoor dining in conjunction with Pascal's Restaurant.

Subject Property and Surrounding Land Uses

The subject restaurant site consists of a portion of the Plaza Newport Shopping Village. The location of the proposed expansion is adjacent to the existing Pascal's Restaurant in a covered outdoor area between two buildings. To the north of the shopping center, at the rear of the property is an automobile dealership; to the east, is a Coco's Restaurant and related parking; to the south, across Bristol Street North, is the Corona del Mar Freeway; and to the west, is an office development.

Background

In the late 1970's, Plaza Newport Shopping Village was constructed with 41,163 gross square feet of commercial space and 230 parking spaces. At its meeting of August 18, 1977, the Planning Commission unanimously approved Use Permit No. 1838 to allow the establishment of Gower Street Restaurant in the existing commercial development. The Gower Street Restaurant space is now occupied by Pascal's Restaurant which has an approved "net public area" of 1,190± sq.ft., with a parking requirement of 30 spaces. It should be noted that the Planning Commission did not approve the applicant's request to reduce the parking requirement to one parking space for each 50 square feet of "net public area" nor were the hours of operation limited. An excerpt of the Planning Commission minutes of that meeting are attached for the Commission's information.

At its meeting of February 16, 1978, the Planning Commission unanimously approved Use Permit No. 1856 to allow the establishment of a Sizzler Restaurant having a "net public area" of 2,365± sq.ft. in an existing commercial structure. Under conditions of approval for the restaurant 58 parking spaces were required, based on one parking space for each 41

TO: Planning Commission - 4

square feet of "net public area". This restaurant has since been taken over by the Royal Khyber restaurant. An excerpt of the Planning Commission minutes for that meeting are attached for the Commission's information.

At its meeting of May 8, 1986, the Planning Commission approved Use Permit No. 3198, a request to establish a reading clinic on the subject property in a neighboring commercial tenant space. The conditions of approval limited the hours of the operation to between 8:00 a.m. and 7:00 p.m., daily. The landlord has indicated that the school operation has not been in the shopping center for a number of years and does not foresee such a use returning.

On March 19, 1992, the Code Enforcement Division observed that the subject restaurant was utilizing outdoor dining in conjunction with their establishment. On March 24, 1992, the Code Enforcement Division sent a letter to the applicant informing him to eliminate the outdoor dining area and to apply for an amendment to the use permit to utilize the outdoor dining area, a copy of that letter is attached for the Commission's information. Subsequent to receiving notification from the City, the applicant discontinued the use of the outdoor dining area and eventually filed a use permit application on May 13, 1993 in order to amend Use Permit No 1838 so as to legally establish the outdoor dining area.

Use Permit No. 1838 (Amended) was taken off calendar at the Planning Commission meeting of June 24, 1993, inasmuch as it was determined that the Land Use Element of the General Plan did not currently permit further expansion of the existing shopping center.

Analysis of Subject Restaurant and Take-Out Restaurant

In conjunction with Use Permit No. 1838 (Amended), the applicant is requesting to amend the previously approved use permit so as to permit the expansion of the "net public area" of the existing restaurant, by establishing a new outdoor patio dining area in conjunction with the existing restaurant facility. The patio dining area consists of 480 sq.ft. of "net public area," with approximately 7 tables and 19 chairs, the interior dining area consists of 1,190 sq.ft. of "net public area". Therefore, the proposed expansion will result in a total of 1,670 sq.ft. of "net public area".

The applicant has indicated that the number of restaurant employees may vary from 5 to 6 at any one time. The hours of operation of the existing facility are between the hours of 11:00 a.m. and 11:00 p.m. daily. The applicant has indicated that typically the restaurant will close at approximately 11:00 p.m. and may stay open later on Friday and Saturday nights. Staff has no objection to the proposed hours of operation, inasmuch as the facility is not located near any residential uses and the Planning Commission has the option to review the application and modify or add conditions, should a problem arise in the future.

In conjunction with Use Permit No. 3508, the applicant is requesting to establish a separate 2,700± square foot, take-out restaurant in combination with a catering and wine store which will also include on-sale beer and wine, exclusive incidental seating inside the take-out

TO: Planning Commission - 5

restaurant and nonexclusive seating outside of the facility. The service of alcoholic beverages in conjunction with the take-out restaurant will be limited to the interior seating area only. The hours of operation for the facility will be 8:00 a.m. to 9:00 p.m. Monday through Saturday and 8:00 a.m. to 2:00 p.m. on Sunday. There will be approximately 5 employees on duty during peak hours of operation.

Available Parking

Existing uses and parking at Plaza Newport are summarized as follows:

<u>Use</u>	<u>Amount</u>	<u>Parking Spaces Required</u>
General Commercial	33,817 gross sq.ft.	135
Pascal's Restaurant (U.P. No. 1838)	1,190± sq.ft. "net public area"	30
Royal Khyber Restaurant (U.P. No. 1856)	2,365± sq.ft. "net public area"	58
Total Parking Required:		223 spaces

There are currently 233 on-site parking spaces. This is a surplus of 10 parking spaces above that which is required for all existing uses on the site as depicted in the table above.

Off-Street Parking Requirement

Section 20.30.035 B of the Municipal Code requires one parking space for each 40 square feet of "net public area" for a full service restaurant facility unless modified or waived by the Planning Commission in accordance with Section 20.72.130 of the Municipal Code. Based on a proposed "net public area" of 1,670± square feet and on one space for each 40 sq.ft. of "net public area", a total of 42 parking spaces would be required ($1,670 \pm \text{square feet} \div 40 = 41.75$ or 42 spaces) for the expansion of the existing Pascal's Restaurant. In accordance with Section 20.30.035 of the Municipal Code, the restaurant parking requirement may also vary between one parking space for each 50 sq.ft. of "net public area" ($1,670 \pm \text{sq.ft.} \div 50 = 33.4$ or 34 parking spaces) to one parking space for each 30 sq.ft. of "net public area" ($1,670 \pm \text{sq.ft.} \div 30 = 55.7$ or 56 parking spaces), depending on the operational characteristics of the restaurant. The original approval of Use Permit 1838 on August 18, 1977 required 30 parking spaces which was based on one parking space for each 40 sq.ft. of "net public area" ($1,190 \pm \text{sq.ft.} \div 40 = 29.75$ or 30 spaces). Based on the same formula, the proposed outdoor dining area will increase the parking requirement for Pascal's Restaurant by 12 parking spaces (42 spaces total).

In addition to the off-street parking required for Pascal's Restaurant, the Pascal's Epicerie, which will operate as a take-out restaurant, is required to provide one parking space for

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each 50 square feet of gross floor area, plus one parking space for each employee on duty during peak hours of operation. Such a formula will require a total of 59 parking spaces for the take-out restaurant ($2,700 \pm \text{ sq.ft.} \div 50 \text{ sq.ft.} = 54 \text{ spaces} + 5 \text{ employee spaces} = 59 \text{ parking spaces}$). Inasmuch as the commercial space which the applicant is proposing to locate the take-out restaurant is currently parked at one parking space for each 250 square feet of floor area, and is already allocated 11 parking spaces, the proposed take-out restaurant will increase the off-street parking requirement for the site by 48 parking spaces.

The landlord has indicated that he will not allocate any additional parking spaces, over and above the 30 spaces already allocated for Pascal's Restaurant and the 11 spaces allocated to the commercial space to be occupied by Pascal's Epicerie. Therefore, the applicant is requesting a waiver of the additional 12 parking spaces for the proposed outdoor dining area and the 48 additional spaces for the take-out restaurant.

The Planning Commission has approved similar requests in the past when restaurants and take-out restaurants have been proposed within shopping centers which shared a common parking area. It has been determined in the past that the characteristics of such a pool parking can result in a reduction in the parking demand for any one particular use in that center. Staff is of the opinion that the waiver of a portion of the required parking may be appropriate in this case, given the pool of parking available for all the other uses on site. In addition, a significant portion of the take-out restaurant operation will include retail sales and catering activity; therefore, such use is not expected to generate as high a parking demand as the typical fast food take-out restaurant. Staff has no objections to the requested parking waiver.

Outdoor Dining Areas

As indicated previously, the proposed exterior dining area associated with Pascal's Restaurant contains approximately $480 \pm \text{ sq.ft.}$ and will be for the exclusive use of the restaurant patrons. Said dining area will be located in an area of the shopping center which is covered by an existing roof overhang. Although this area will not in itself effect the vehicular traffic and circulation of the shopping center, the Public Works Department is concerned that the proposed exclusive dining area for Pascal's and the nonexclusive Pascal's Epicerie will effect the passage of pedestrians to the parking lot at the rear of the shopping center. For this reason, the Public Works Department is recommending that a minimum 8 foot clear pathway be provided for pedestrian circulation and that the tables and chairs in the nonexclusive dining area be located so as to maintain unobstructed pedestrian circulation in and through the nonexclusive dining area. The Building Department has also indicated that a minimum forty-four (44) inch clear pathway must be maintained through the nonexclusive dining area for pedestrian and handicap circulation. The appropriate conditions of approval have been incorporated into the attached Exhibit "A".

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Outdoor Loudspeakers

Upon inspection of the site, staff observed that the applicant has installed audio speakers in the proposed outdoor dining area, which have been used in conjunction with the unapproved use of the outdoor dining area. The Planning Commission in the past has not approved the use of outdoor speakers either for paging or music purposes, inasmuch as it has been determined that such a use is not compatible with surrounding uses. Staff has therefore included a condition in the attached Exhibit "A" which prohibits the use of the outdoor speakers.

Restaurant Development Standards

Chapter 20.72 of the Newport Beach Municipal Code was amended in 1975 by the City in order to give the Planning Commission the opportunity to review any proposed restaurant through the use permit procedure. Development standards were established for restaurants in 1985 so as to insure that such facilities would be aesthetically compatible with adjoining properties and streets. Said development standards are set forth in Chapter 20.72 of the Municipal Code and include specific requirements for building setbacks, parking, traffic circulation, walls surrounding the restaurant site, landscaping, parking lot illumination, signing, underground utilities and storage.

Section 20.72.130 of the Municipal Code states that the Planning Commission shall have the right to waive or modify any of the above mentioned development standards for restaurants or take-out restaurants if such modification or waiver will achieve substantially the same results and will in no way be detrimental to adjacent properties or improvements than will the strict compliance with said conditions. It is staff's suggestion that the development standards relative to traffic circulation, walls, parking lot illumination, landscaping and a portion of the required off-street parking be waived due to the existing physical characteristics of the on-site parking which is not proposed to be altered. The Newport Place Planned Community Development Standards also adequately address landscape requirements.

Amendment No. 783

In accordance with the provisions of the Newport Place Planned Community District Regulations, the existing requirements in Building Sites 2, 3 and 5 include provisions which require that one square foot of floor area devoted to restaurants shall be counted as two square feet of the permitted commercial floor area. Said provisions further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each. These provisions were established in an attempt to recognize the higher traffic generating characteristics of restaurant uses, as compared to general commercial uses. The applicant has requested that these provisions be eliminated from the Planned Community District Regulations.

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These provisions of the P-C regulations were originally adopted in 1977, when the City was beginning to recognize the need to regulate development in a manner which recognized the constraints of the circulation system. It is the opinion of staff that this methodology is obsolete, and that this requirement is no longer necessary.

In the time since 1977, the City has developed two traffic models, and has adopted the Traffic Phasing Ordinance. The traffic models have allowed City staff to evaluate the adequacy of the circulation system assuming a standard mix of commercial land uses, including restaurants. As a result, the City has adopted a Land Use Plan which sets development limits on a City-wide basis which are correlated with the capacity of the planned roadway system. The Traffic Phasing Ordinance allows the City to assess the impact of larger developments on intersection capacity, which is critical to the overall function of the system.

This project has been reviewed by the City's Traffic Engineer, and he has determined that the increase in restaurant development will not create any deficiencies in the roadway system serving this area. The proposed increase in development will not, therefore, create an inconsistency between the Land Use and Circulation Elements, if approved

Specific Findings

No specific findings are required for the approval or denial of a General Plan Amendment. However, it is staff's opinion that the primary issue to be addressed in the consideration of the project is the availability of adequate on-site parking to support the level of development intensity requested on the property. Therefore, should the Planning Commission wish to approve General Plan Amendment No. 93-2 (E), the suggested action set forth in the attached Exhibit "A" is recommended. However, should the Planning Commission wish to deny General Plan Amendment No. 93-2 (E), the finding set forth in the attached Exhibit "B" is suggested.


Should the Planning Commission wish to approve Amendment No. 783, the suggested action set forth in the attached Exhibit "A" is recommended. Inasmuch as staff could not determine reasonable findings for the denial of Amendment No. 783, none have been included in the attached Exhibit "B". However, the possibility remains that information may be provided at the public hearing which may provide adequate basis for recommending denial of Amendment No. 783, should the Planning Commission wish to take such an action.

Section 20.80.060 of the Newport Beach Municipal Code provides that in order to grant any use permit, the Planning Commission shall find that the establishment, maintenance or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, 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

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welfare of the City. Should the Planning Commission wish to approve Use Permit No. 1838 (Amended) and Use Permit No. 3508, the findings and conditions of approval set forth in the attached Exhibit "A" are suggested. However, should the Planning Commission wish to deny either one or both of the use permit applications, the findings set forth in the attached Exhibit "B" are suggested.

PLANNING DEPARTMENT
JAMES D. HEWICKER, Director

By 
W. William Ward
Senior Planner

Attachments: Exhibit "A"
Exhibit "B"
Vicinity Map
Excerpt of the Planning Commission Minutes
dated August 18, 1977 and February 16, 1978
Letter from the Code Enforcement Division to the Applicant
Planning Commission Resolution No. _____ for General Plan
Amendment No. 93-2(E)
Planning Commission Resolution No. _____ for Amendment No. 783
Plot Plan and Floor Plans for Pascal's Restaurant and Pascal's Epicurie

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EXHIBIT "A"
ACTIONS FOR GENERAL PLAN AMENDMENT NO. 93-2(E),
AMENDMENT NO. 783 AND FINDINGS AND CONDITIONS OF APPROVAL
FOR USE PERMIT NO. 1838 (AMENDED) AND
USE PERMIT NO. 3508

- A. General Plan Amendment No. 93-2(E)
1. Adopt Resolution No. _____, recommending to the City Council adoption of General Plan Amendment 93-2(E), amending the Land Use Element of the General Plan so as to increase the development allocation in Newport Place, Block I, by 1,080 square feet, from 99,538 sq.ft. to 100,618 sq.ft. so as to allow for outdoor dining in association with Pascal's Restaurant.
- B. Amendment No. 783
1. Adopt Resolution No. _____, recommending to the City Council adoption of Amendment No. 783, amending the Newport Place Planned Community District Regulations so as to delete the provisions applicable to Building Sites 2, 3, and 5, which count one square foot of floor area devoted to restaurants as two square feet of the permitted commercial floor area; and which further restrict the allowable restaurant floor area on Building Sites 3 and 5 to 8,000 square feet each.
- C. Use Permit No. 1838 (Amended)

Findings:

1. That the expanded restaurant use is consistent with the Land Use Element of the General Plan, and is compatible with surrounding land uses.
2. Adequate off-street parking and related vehicular circulation are being provided in conjunction with the proposed development.
3. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
4. That the waiver of the restaurant development standards as they relate to traffic circulation, walls, parking lot illumination and a portion of the required parking spaces (12 spaces) will be of no further detriment to adjacent properties inasmuch as the proposed restaurant is located in an existing developed shopping center and the Newport Place Planned Community Development Standards also adequately address landscape requirements.

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5. The approval of Use Permit No. 1838 (Amended) will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

Conditions:

1. That the proposed restaurant shall be in substantial conformance with the approved plot plan, and floor plan, except as noted below.
2. That all applicable conditions of approval of Use Permit No. 1838 and Use Permit No. 1838 (Amended) shall remain in effect.
3. That a minimum of thirty (30) parking spaces shall be provided for the restaurant facility at all times it is in operation.
4. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self-parking. One handicapped sign on a post and one handicapped sign on the pavement shall be required for each handicapped space.
5. The "net public area" of the restaurant shall be limited to a maximum of 1,670± square feet (a maximum of 480± sq.ft. of outdoor dining and 1,190± sq.ft. of interior dining).
6. That live entertainment and dancing shall not be permitted unless an amendment to this use permit is first approved by the Planning Commission.
7. That all employees of the restaurant shall be required to park on-site.
8. That the restaurant development standards as they pertain to a portion of the required parking (12 spaces), traffic circulation, walls, parking lot illumination, and landscaping are hereby waived.
9. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department.
10. That grease interceptors shall be installed on all fixtures in the restaurant facility where grease may be introduced into the drainage systems in accordance with the provisions of the Uniform Plumbing Code, unless otherwise approved by the Building Department.

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11. That kitchen exhaust fans shall be designed to control smoke and odor.
12. That all mechanical equipment and trash areas shall be screened from view from Bristol Street North and adjoining properties.
13. That service of alcoholic beverages in the patio dining area shall be licensed by the State Alcoholic Beverage Control.
14. That no outdoor loudspeakers or paging system shall be permitted in conjunction with the subject restaurant.
15. That a minimum forty-four inch clear pathway shall be maintained through the outdoor dining area at all times.
16. That the Planning Commission may add 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.
17. This use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

D. Use Permit No. 3508

Findings:

1. That the proposed take-out restaurant use is consistent with the Land Use Element of the General Plan, and is compatible with surrounding land uses.
2. Adequate off-street parking and related vehicular circulation are being provided in conjunction with the subject project and that the operational characteristics of the combination take-out restaurant, catering, and wine store in conjunction with a retail catering and wine sales facility are such that the parking demand will be lower than the typical take-out restaurant.
3. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
4. That the waiver of the restaurant development standards as they relate to traffic circulation, walls, parking lot illumination and a portion of the required parking spaces (48 spaces) will be of no further detriment to adjacent properties inasmuch as the proposed restaurant is located in an existing developed shopping center and

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the Newport Place Planned Community Development Standards also adequately address landscape requirements.

5. The approval of Use Permit No. 3508 will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

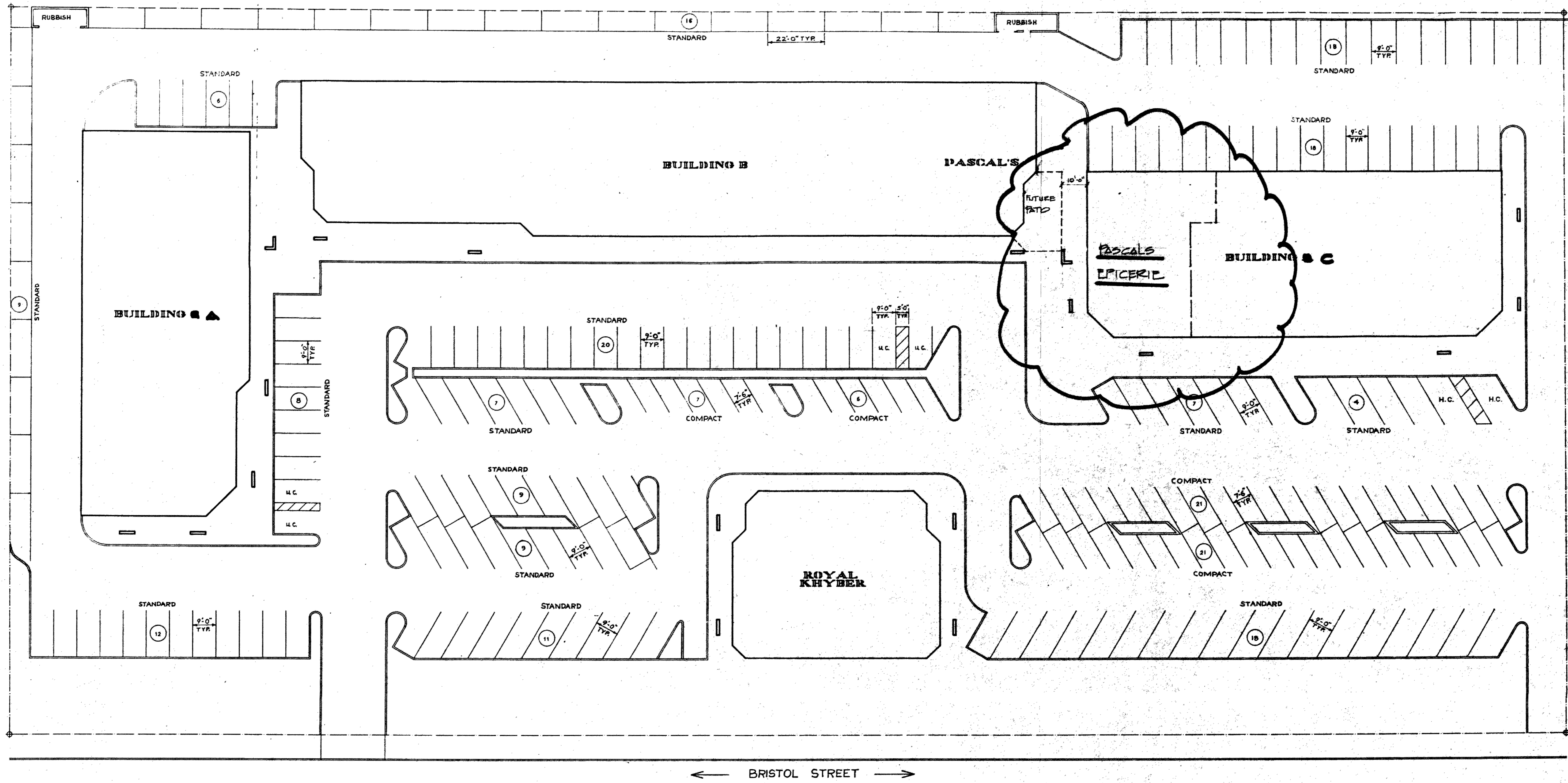
Conditions:

1. That the proposed take-out restaurant shall be in substantial conformance with the approved plot plan, and floor plan, except as noted below.
2. That a minimum of eleven (11) parking spaces shall be provided for the combination take-out restaurant, catering and wine store, at all times during its operation.
3. That the restaurant development standards as they pertain to a portion of the required parking (48 spaces), traffic circulation, walls, parking lot illumination, and landscaping are hereby waived.
4. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self-parking. One handicapped sign on a post and one handicapped sign on the pavement shall be required for each handicapped space.
5. That the hours of operation shall be limited between the hours of 8:00 a.m. and 9:00 p.m. Monday through Saturday and 8:00 a.m. to 2:00 p.m. on Sunday.
6. That trash receptacles for patrons shall be located in convenient locations inside and outside the building.
7. That grease interceptors shall be installed on all fixtures in the take-out restaurant where grease may be introduced into the drainage systems in accordance with the Uniform Plumbing Code, unless otherwise approved by the Building Department and the Public Works Department.
8. That kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
9. That all signs shall conform to the provisions of the Newport Place Planned Community District Regulations.
10. That the service and consumption of on-sale beer and wine shall be permitted within the interior portions of the take-out restaurant only and no consumption of alcoholic

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beverages shall be permitted within the non exclusive seating area, outside of the take-out restaurant.

11. That the sidewalk in front of the subject facility shall be kept clean and regularly maintained. Said sidewalk shall be swept, vacuumed, or washed in such a manner that any debris or wastewater does not enter the storm drain system or the Bay.
12. That the final location of the tables and chairs within the non exclusive dining area shall be subject to further review and approval by the City Traffic Engineer.
13. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains unless otherwise approved by the Building Department and the Public Works Department.
14. That all mechanical equipment and trash areas shall be screened from surrounding public streets and adjoining properties.
15. That the employees shall park their vehicles on-site at all times.
16. That 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 amendment causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
17. That this use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090 A of the Newport Beach Municipal Code.



**LOT PLAN & EXISTING PARKING
PARK NEWPORT**

PARKING PROVIDED:	
STANDARD:	172
COMPACT:	55
HANDICAP:	6
TOTAL:	233
REQUIRED:	223

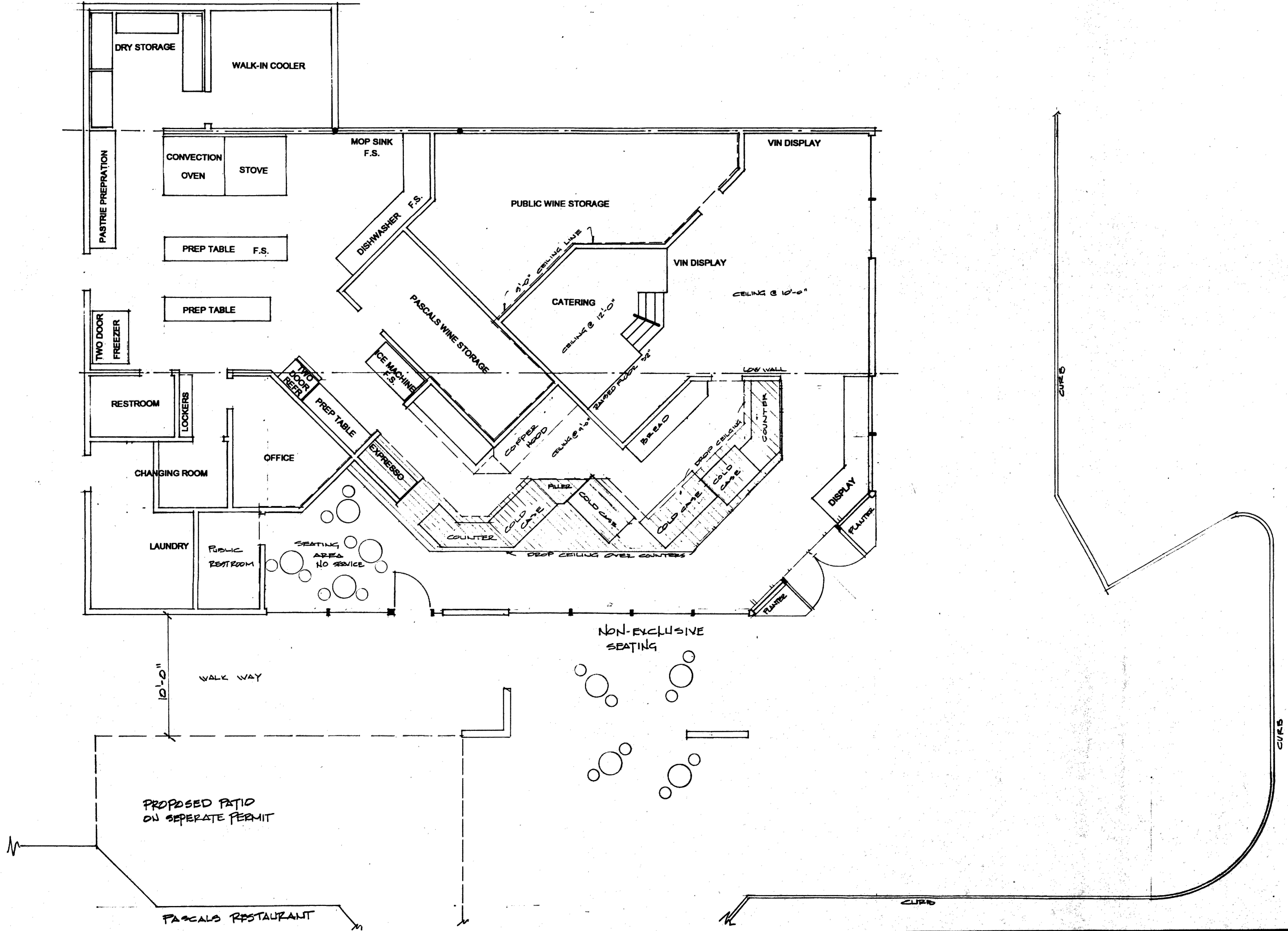
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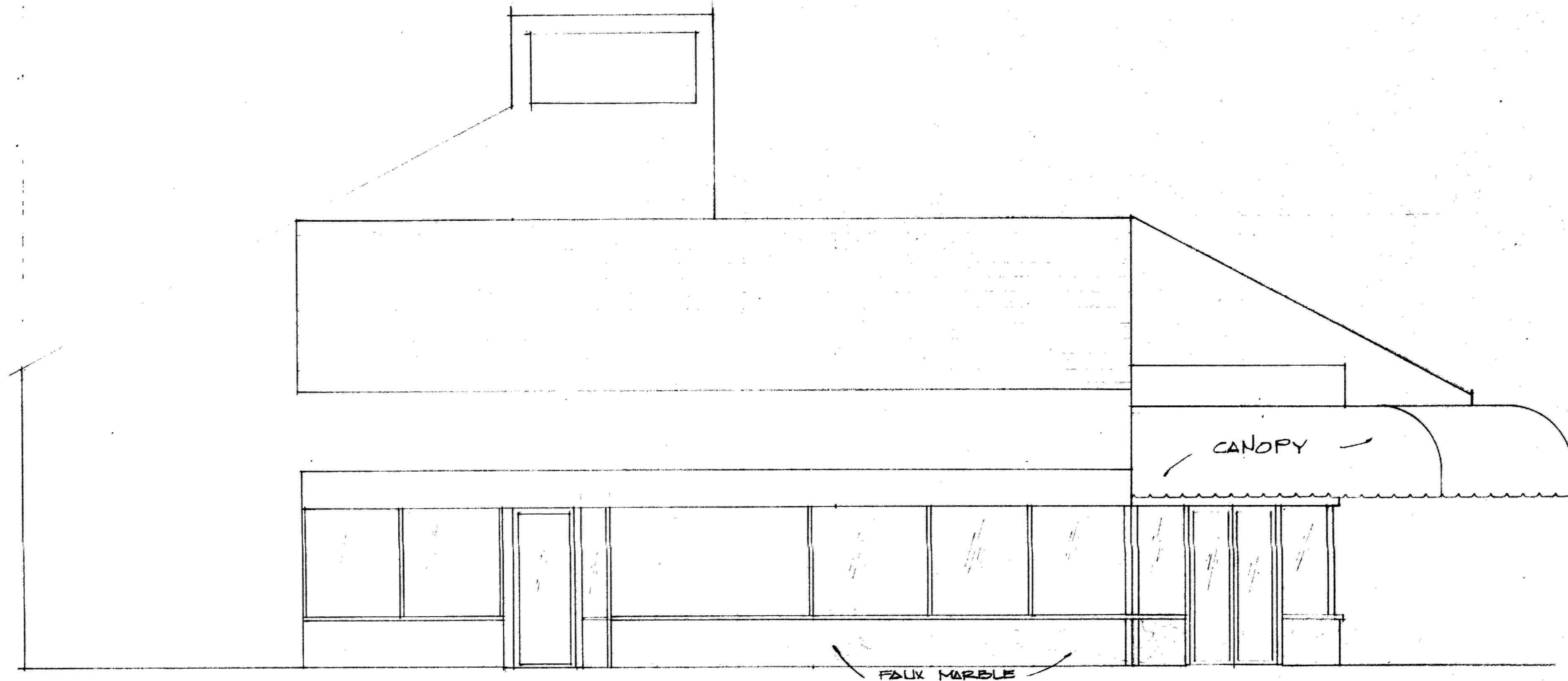


REVISIONS	BY

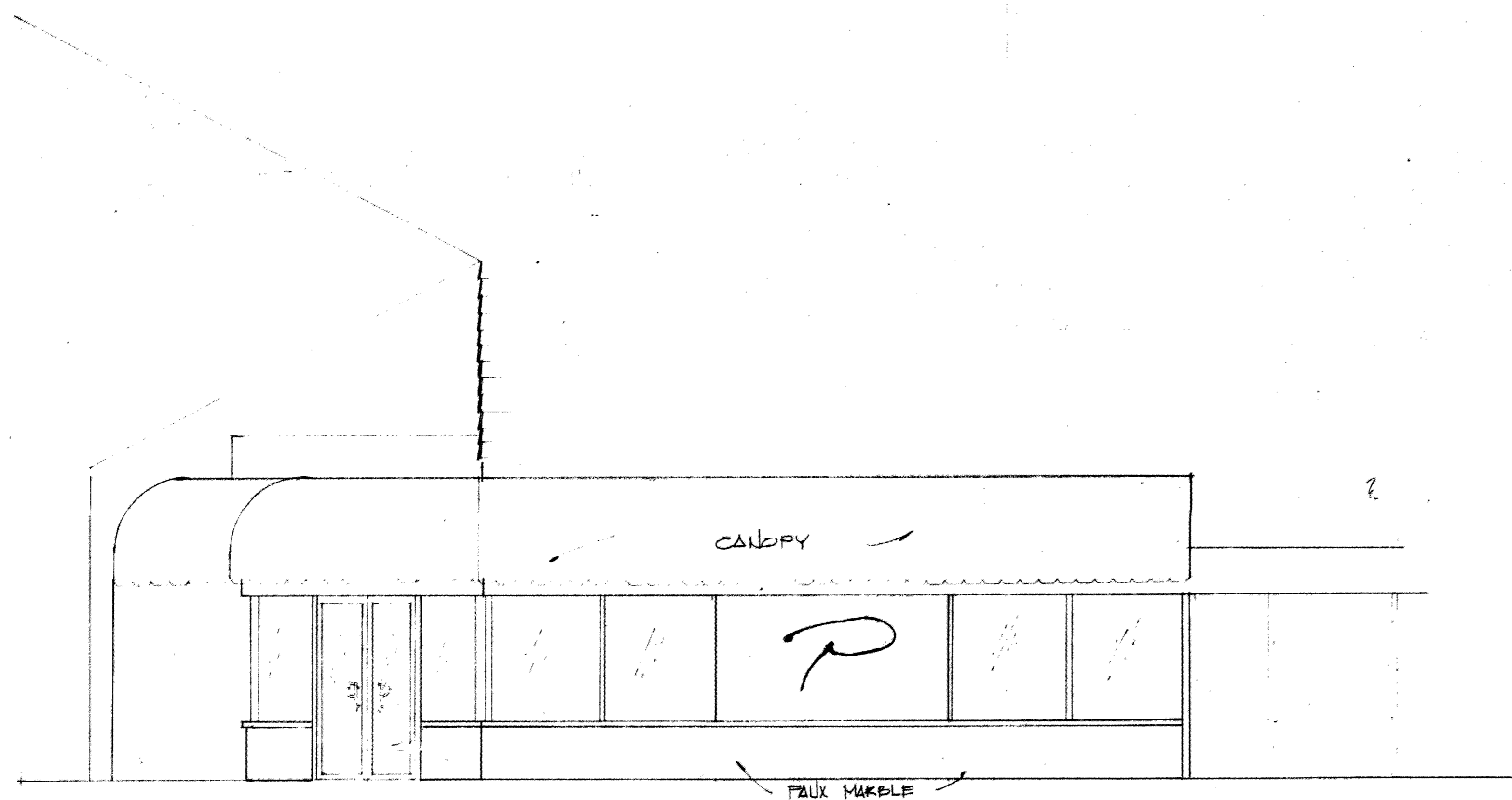
PASCALINES EPICERIE
FLOOR PLAN

DRAWN	PK
CHECKED	
DATE	5/5/73
SCALE	1/4" = 1'-0"
JOB NO.	
SHEET	
OF	SHEETS





WEST ELEVATION



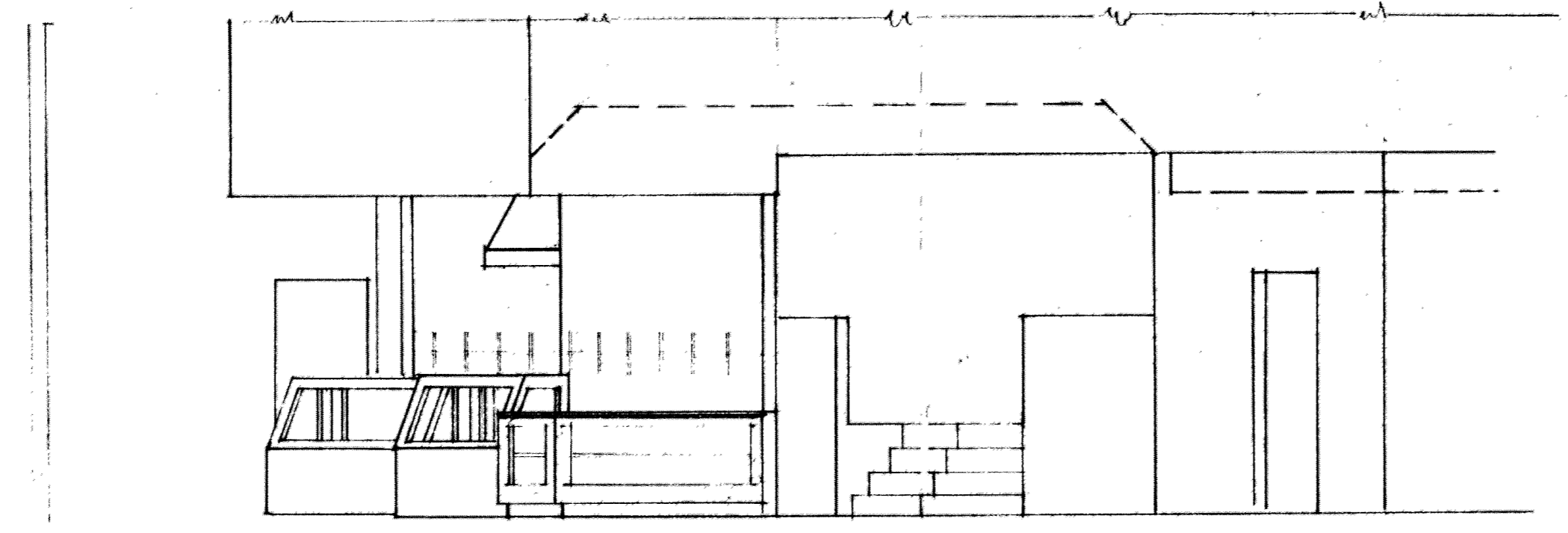
SOUTH ELEVATION

REVISIONS	BY

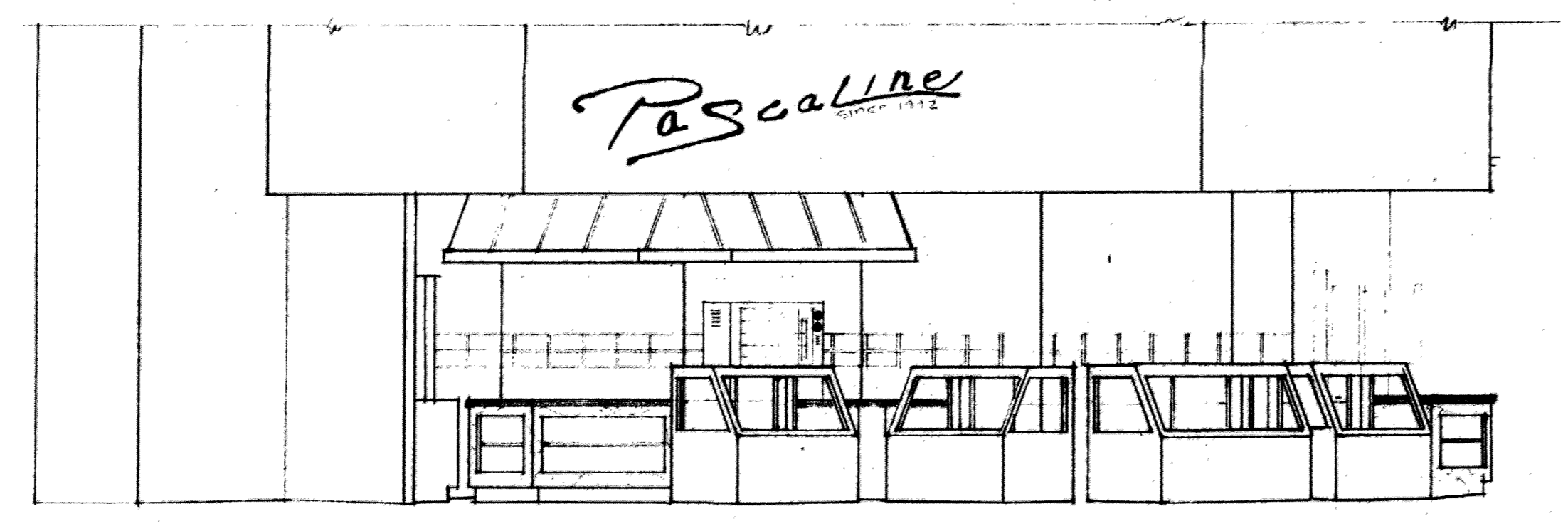
PASCALINES EPICERIE
 ELEVATIONS

DRAWN RJK
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DATE 5/20/93
SCALE 1/4" = 1'-0"
JOB NO.
SHEET
OF SHEETS

REVISIONS	BY



INTERIOR ELEVATION "B"



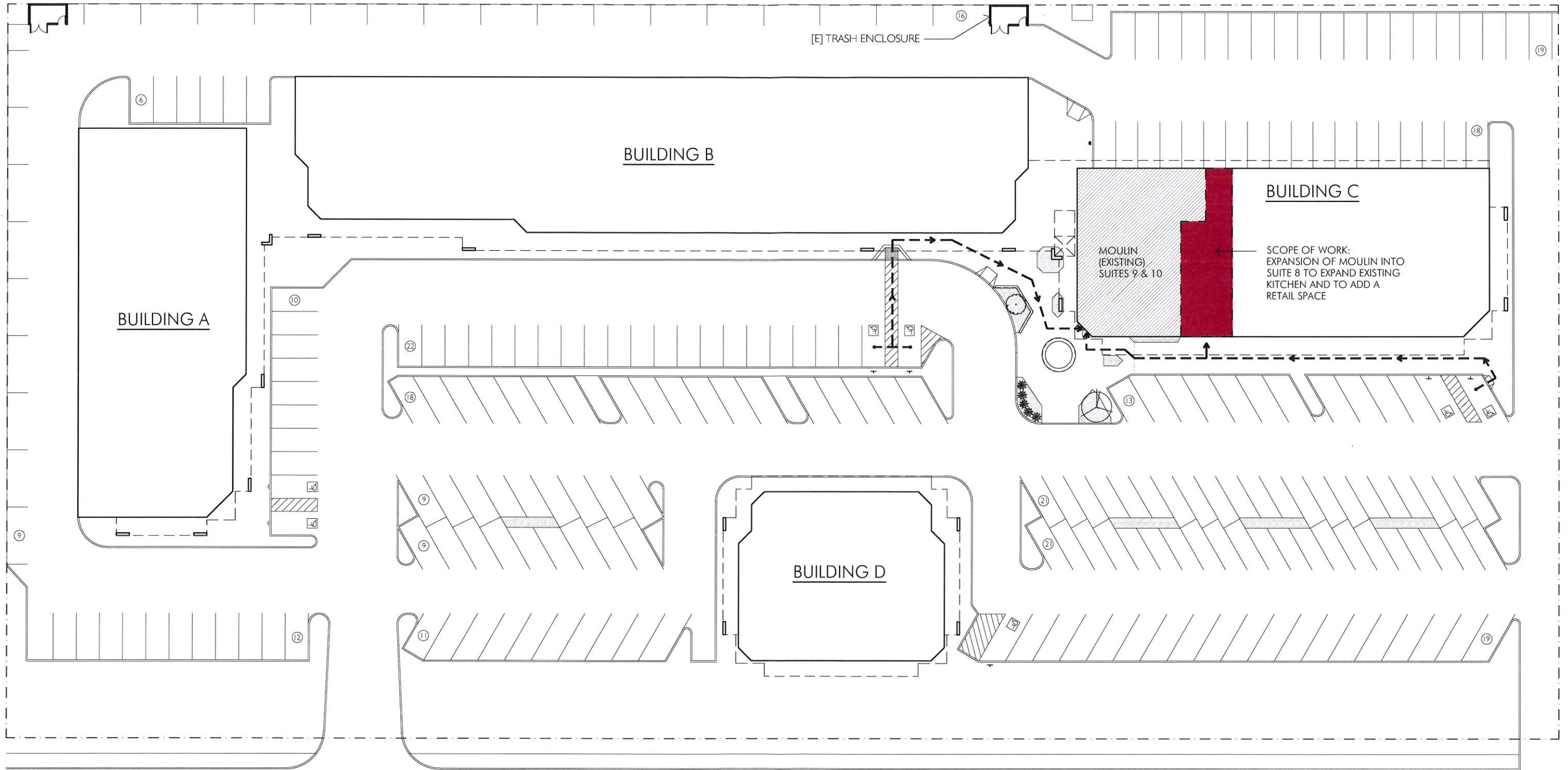
INTERIOR ELEVATION "A"

PASCALINES EPICERIE
 INTERIOR ELEVATIONS

DRAWN	RJP
CHECKED	
DATE	5/20/93
SCALE	1/4" = 1'-0"
JOB NO.	
SHEET	
OF	
SHEETS	

Attachment No. CD 3

Plans



BRISTOL STREET NORTH



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

12.01.14

MOULIN Expansion
1000 Bristol St. North - Suites 8 ,9 & 10 Newport Beach, CA

Site Plan
Scale: 1/40" = 1'-0"



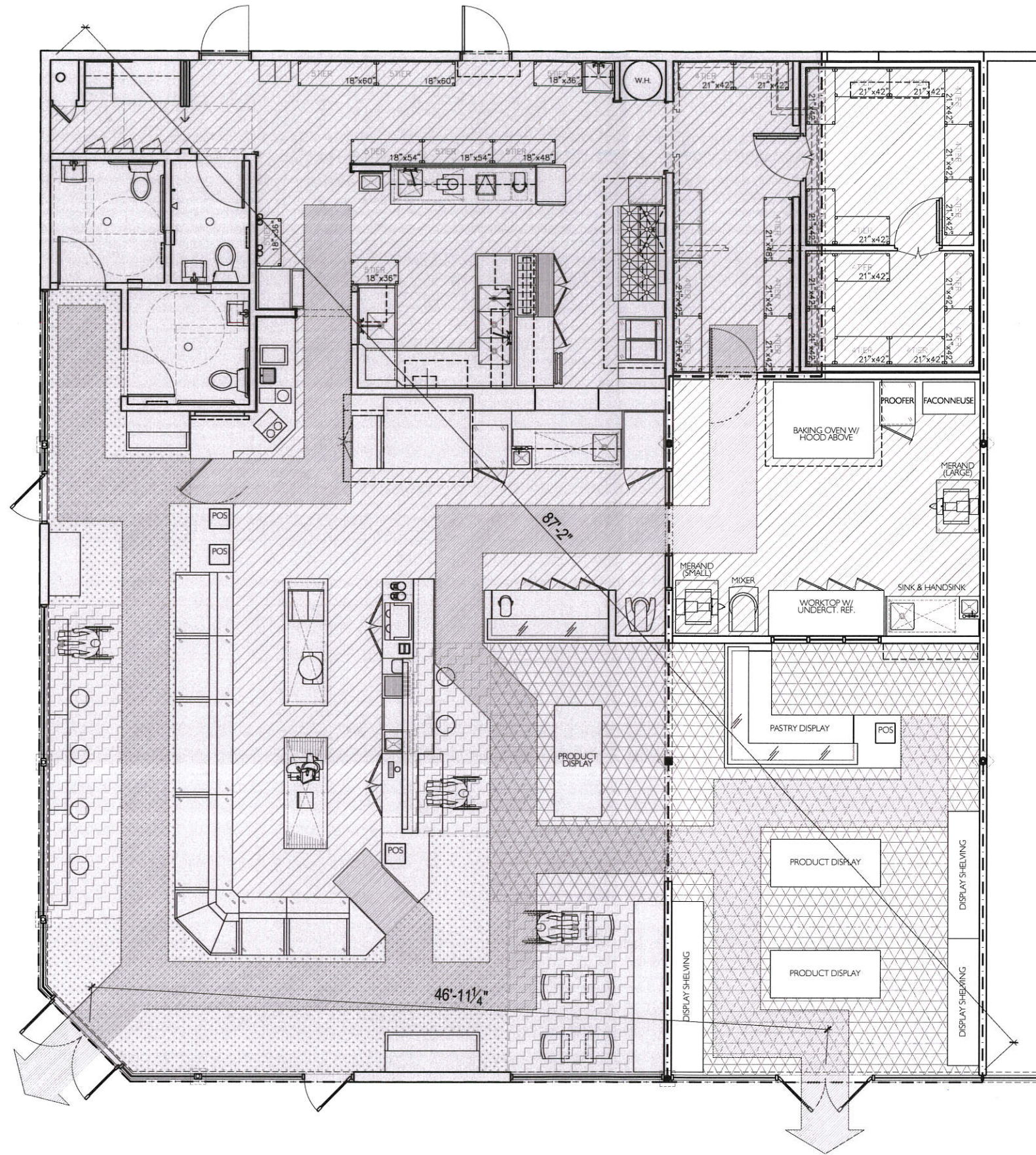
robinson hill architecture, inc.



A California Corporation 3195 B Airport Loop Drive Costa Mesa, California 92626 telephone:714.825.8888

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A0.1



PROJECT INFORMATION

PROJECT SCOPE: EXPANSION OF AN EXISTING FOOD RETAIL (SUITES 9 & 10) INTO THE ADJACENT SUITE 8, WHICH IS AN EXISTING JEWELRY RETAIL SPACE. THE EXPANSION IS TO INCREASE THE EXISTING KITCHEN AREA AND TO INCLUDE RETAIL SALES AREA FOR FRENCH PRODUCTS.

EXISTING USE: FOOD RETAIL
 PROPOSED USE: FOOD RETAIL
 EXISTING OCCUPANCY: B
 PROPOSED OCCUPANCY: B - NO CHANGE TO OCCUPANCY (SEE OCCUPANT LOAD CALCULATION BELOW)
 CONSTRUCTION: TYPE V, FULLY SPRINKLERED
 NO. OF STORIES: ONE (1) STORY

SCOPE OF NEW EXPANSION: [N] KITCHEN 547 SF
 [N] RETAIL 553 SF
 TOTAL 1,100 SF

TOTAL AREA: 2,787 SF (EXISTING) + 1,100 SF (NEW) = 3,987 SF

USE PERMIT # UP3508
 APN/PARCEL # 427 241 04

OCCUPANT LOAD CALCULATION (Walls & Fixed Fixtures Excluded)
 AS PER 2013 CBC, TABLE 1004.1.2:

USE	AREA	RATIO	OCCUPANT LOAD
KITCHEN	1,418 SF	1/200	7
DINING	239 SF	1/15	16
MERCANTILE	552 SF	1/30	18
CIRCULATION	446 SF	1/100	4
TOTAL			45

AS PER CBC SECTION 1015.1 AND TABLE 1015.1:

SINCE OCCUPANT LOAD ≥ 49, ONLY ONE EXIT IS REQUIRED. THERE ARE TWO EXITS PROVIDED.

AS PER CBC SECTION 303.1, EXCEPTION # 1:

SINCE OCCUPANT LOAD IS LESS THAN 50, TENANT SPACE SHALL BE CLASSIFIED AS A GROUP B OCCUPANCY.

LEGEND

- TOTAL EXISTING AREA: 2,787 SF
- TOTAL AREA OF NEW EXPANSION: 1,100 SF
- KITCHEN AREA
- DINING AREA
- MERCANTILE AREA
- CIRCULATION AREA
- EGRESS PATH OF TRAVEL 36" WIDE MIN. THROUGHOUT

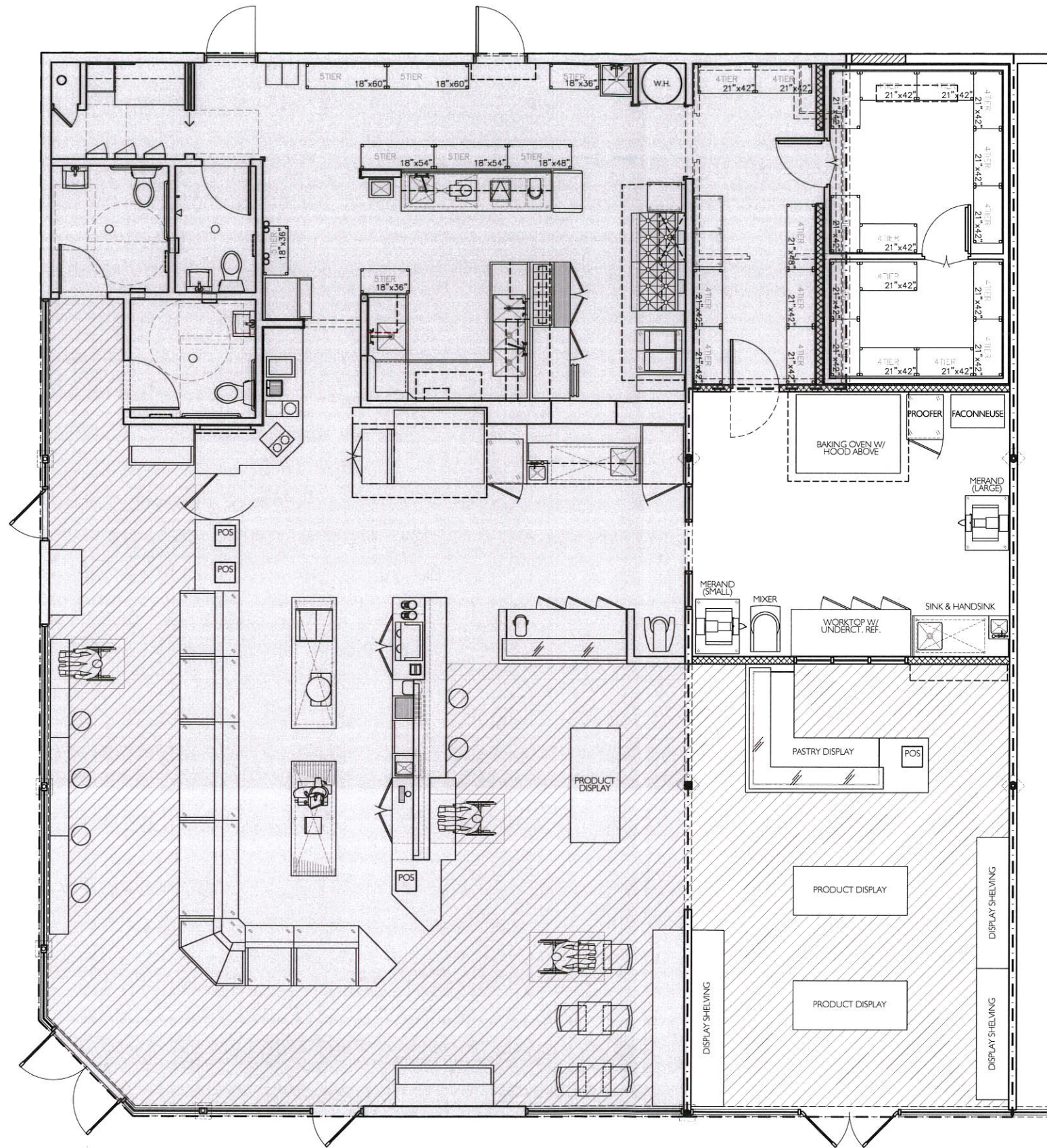


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MINIMUM REQUIRED PLUMBING FIXTURES CALCULATION

AS PER 2013 CPC, TABLE A:

FOR GROUP A-2, INCLUDING RESTAURANTS CLASSIFIED AS GROUP B OCCUPANCIES, THE OCCUPANT LOAD FACTOR IS 30.

USE	AREA	RATIO/LOAD	OCCUPANT LOAD
PUBLIC AREA	1,185 SF	1/30	40 20 MEN & 20 WOMEN

AS PER 2013 CPC SECTION 422.2:

SEPARATE TOILET FACILITIES SHALL BE PROVIDED FOR EACH SEX.

THERE ARE TWO (2) EXISTING PUBLIC TOILET FACILITIES WHICH ARE SINGLE OCCUPANT USE FOR EACH SEX.

A UNISEX SINGLE OCCUPANT USE TOILET FACILITY IS PROVIDED FOR THE EMPLOYEE AREA.

AS PER CPC SECTION 422.1, FOR OCCUPANCY GROUP A-2:




1 WATER CLOSET REQ'D. FOR 1-50 MALE AND 1-25 FEMALE

1 WATER CLOSET PROVIDED FOR EACH - OK

1 LAVATORY REQ'D. FOR 1-150 MALE AND 1-150 FEMALE

1 LAVATORY PROVIDED FOR EACH - OK

LEGEND

-  TOTAL EXISTING AREA: 2,787 SF
-  TOTAL AREA OF NEW EXPANSION: 1,100 SF
-  PUBLIC AREA



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A.I.I

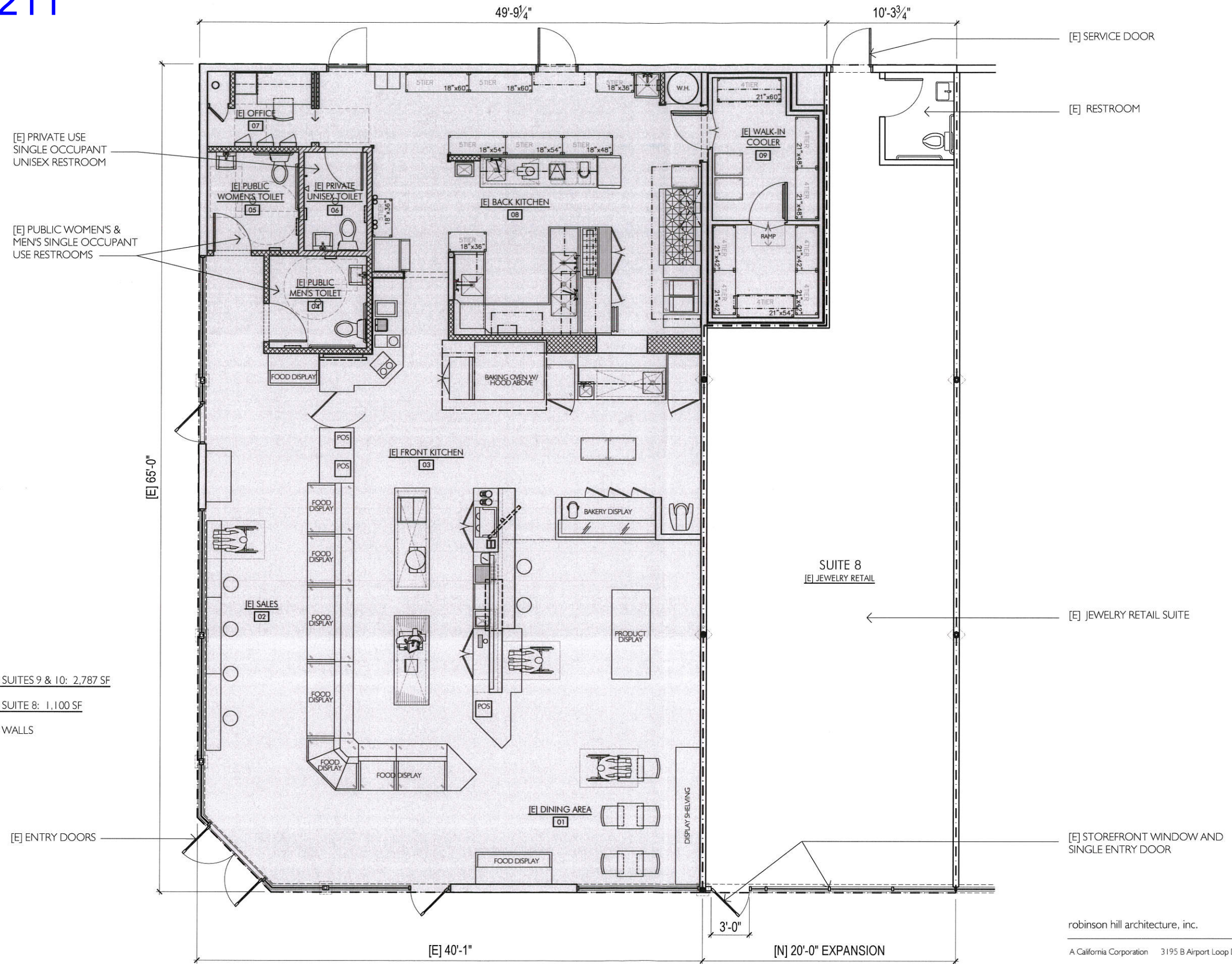
12.01.14

MOULIN Expansion

1000 Bristol St. North - Suites 8 ,9 & 10 Newport Beach, CA

Plumbing Fixture Calculation Plan

Scale: 1/8" = 1'-0"



LEGEND

- EXISTING SUITES 9 & 10: 2,787 SF
- EXISTING SUITE 8: 1,100 SF
- EXISTING WALLS

12.01.14

MOULIN Expansion
1000 Bristol St. North - Suites 8, 9 & 10 Newport Beach, CA

Existing Floor Plan
Scale: 1/8" = 1'-0"






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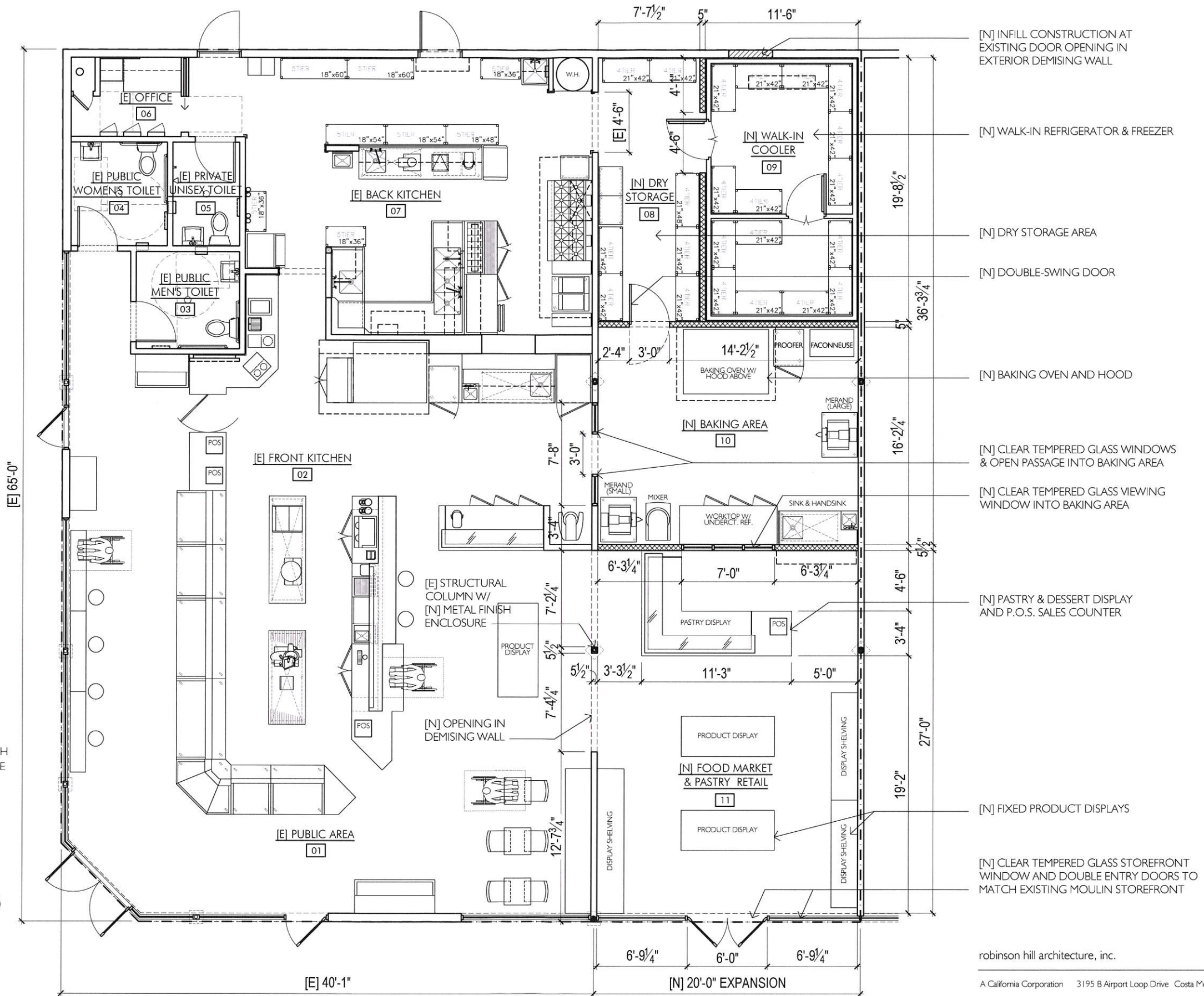
LEGEND

-  EXISTING WALLS
-  [N] EXTERIOR DEMISING WALL INFILL: 6" WOOD STUD W/ PLYWOOD SHEATHING & PLASTER EXTERIOR FINISH & 3/8" TYPE-X GYP. BD ON INTERIOR SIDE
-  [N] INTERIOR PARTITION WALL: 3 5/8" 20 GA. METAL STUD FRAMING @ 16" O.C. W/ 3/8" GREEN BD. BOTH SIDES

TOTAL AREA: 3,889 SF
(2,787 SF EXIST'G + 1,100 SF EXPANSION)

12.01.14

MOULIN Expansion
1000 Bristol St. North - Suites 8 ,9 & 10 Newport Beach, CA



Proposed Floor Plan
Scale: 1/8" = 1'-0"

- [N] INFILL CONSTRUCTION AT EXISTING DOOR OPENING IN EXTERIOR DEMISING WALL
- [N] WALK-IN REFRIGERATOR & FREEZER
- [N] DRY STORAGE AREA
- [N] DOUBLE-SWING DOOR
- [N] BAKING OVEN AND HOOD
- [N] CLEAR TEMPERED GLASS WINDOWS & OPEN PASSAGE INTO BAKING AREA
- [N] CLEAR TEMPERED GLASS VIEWING WINDOW INTO BAKING AREA
- [N] PASTRY & DESSERT DISPLAY AND P.O.S. SALES COUNTER
- [N] FIXED PRODUCT DISPLAYS
- [N] CLEAR TEMPERED GLASS STOREFRONT WINDOW AND DOUBLE ENTRY DOORS TO MATCH EXISTING MOULIN STOREFRONT



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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. SA2014-030 (PA2014-203)**
Applicant **Jack Heron**
Site Address **302 Marguerite Avenue**
 302 Marguerite Avenue Staff Approval
Legal Description **Lot 4, Block 239, Tract 186**

On **January 15, 2015**, the Community Development Director approved Staff Approval No. SA2014-030 authorizing the demolition of a triplex in compliance with Zoning Code Chapter 20.34 (Conversion or Demolition of Affordable Housing). This approval is based on the following information and analysis.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** R-2 (Two-unit Residential)
- **General Plan:** RT (Two-Unit Residential)

SUMMARY

A staff approval for determination of compliance with Zoning Code Chapter 20.34 and the Mello Act (Government Code Section 65590). The property owner proposes to demolish an existing triplex and construct a new duplex.

ANALYSIS

Pursuant to Zoning Code Section 20.34.020 (Review Authority), the Director shall make a determination as to the applicability of this chapter when a residential structure of three or more units is to be converted or demolished. If it is determined that any of the units are occupied by low- or moderate-income tenants, provisions for their replacement shall be provided, if feasible. If applicable, and based on the documentation provided in compliance with Section 20.34.060 (Determining Requirements for Replacement Units), the Director shall make determinations as to:

1. *How many units were occupied by low- and moderate-income persons or families;*
2. *Whether the conversion or demolition proposes to go from residential to nonresidential and if so whether the proposed new use is coastal dependent;*

3. *Whether a feasibility analysis is required to be prepared;*
4. *The feasible number of affordable units required to be replaced, if any; and*
5. *Whether the required replacement affordable units are to be located on site or off site.*

In this particular case, the property owner has provided documentation that demonstrates the units were not occupied by low- and moderate-income families or persons within the year +preceding the filing of the subject application. A letter from the tenant of the unit vacated in October 2014 confirms that the tenant was not evicted. Additionally, the residential units will not be converted to a nonresidential use. Therefore, it has been determined that the triplex can be demolished and the property redeveloped with no further analysis required.

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. 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:



Melinda Whelan
Assistant Planner

GR/msw

Attachments: CD 1 Vicinity Map
CD 2 Applicant's Project Description

Attachment No. CD 1

Vicinity Map



302 Marguerite Avenue

PA2014-203 for Staff Approval No. SA2014-030

Attachment No. CD 2

Applicant's Project Description

Buyers of this property (302 Marguerite, Corona del Mar CA 92625) will demolish and build 2 condominiums.

- a. Address of property: 302 Marguerite Avenue, Corona Del Mar CA 92625
- b. Total number of existing units: 3
- c. Income of Tenants: as per rental applications (Unit A \$200,000) (Unit B \$120,000) (Unit C \$80,000)
- d. Square footage and number of bedrooms per unit: (**Unit A-** 916 sqft 2bedroom/1bath) (**Unit B-** 685 sqft 1 bedroom / 1 bath) (**Unit C-** 685 sqft 1 bedroom / 1 bath) as per appraiser
- e. Names and addresses of current tenants: (**Unit A-** 302 Marguerite Ave) (**Unit B -** 302 Marguerite Ave {vacated}) (**Unit C-** 302 Marguerite Ave)
- f. Tenant family size each unit: 1 individual per each unit
- g. Any evictions within last year: None
- h. Current vacant units: Unit B has been vacant since 11/6/2014, tenant gave 30 day voluntary notice on 10/6/2014 (tenant written notice provided)