



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator, Hearing Officer, and/or Planning Division staff for the week ending August 27, 2021.

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**ZONING ADMINISTRATOR ACTIONS  
AUGUST 26, 2021**

- Item 1: Dandelion Café Minor Use Permit No. UP2021-014 (PA2021-081)  
Site Address: 4100 and 4106 Newport Place Drive  
Action: Approved by Resolution No. ZA2021-043 Council District 3
- Item 2: Lyman Residence Coastal Development Permit No. CD2021-023 (PA2021-117)  
Site Address: 411 North Bay Front  
Action: Approved by Resolution No. ZA2021-044 Council District 5
- Item 3: J&A Living Trust and Akhavi Residential Condominiums Tentative Parcel Map No. NP2021-011 (PA2021-155)  
Site Address: 508 and 508 ½ Marigold Avenue  
Action: Approved by Resolution No. ZA2021-045 Council District 6

**HEARING OFFICER ACTIONS  
AUGUST 25, 2021**

- Item 1: Aerie Condominium Funicular Reasonable Accommodation No. RA2020-002 and Approval in Concept No. AIC2020005 (PA2020-067)  
Site Address: 101 Carnation Avenue  
Action: Approved by Resolution No. HO2021-001 on August 25, 2021 Council District 6

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

Item 1: Chipotle Mexican Grill Comprehensive Sign Program No. CS2021-006 (PA2021-162)  
Site Address: 3050 East Coast Highway

Action: Approved

Council District 6

**APPEAL PERIOD:** An appeal or call for review 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.

## RESOLUTION NO. ZA2021-043

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MINOR USE PERMIT NO. UP2021-014 FOR A FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT WITH A TYPE 41 BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE WITH NO LATE HOURS LOCATED AT 4100 AND 4106 NEWPORT PLACE DRIVE (PA2021-081)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Olen Properties Corp with respect to property located at 4100 and 4106 Newport Place Drive, and legally described as Parcel 1 of Resubdivision 0959 requesting approval of a minor use permit.
2. The applicant proposes to convert an existing storage area in a parking structure into a full service, food service eating and drinking establishment (Dandelion Café) with no late hours and a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control License.
3. The subject property is designated Mixed-Use Horizontal (MU-H2) by the General Plan Land Use Element and is located within the Newport Place, Planned Community, Professional and Business Office Site 5 (PC-11) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held online on August 26, 2021, consistent with Governor's Executive Orders N-08-21 and N-29-20 related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction of Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This exemption allows for the conversion of existing small structures from one (1) use to another where only minor modifications are made in the exterior of the structure. The project primarily involves interior tenant improvements to convert an existing storage space into food service within an existing parking structure. Minor exterior alternations involve the installation of a covered patio structure, perimeter barriers around the outdoor dining area, cosmetic features and relocating the covered parking spaces.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030(C)(3) (Alcohol Sales – Required Findings) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

In finding that the Project is consistent with Section 20.48.030 – (Alcohol Sales) of the NBMC, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The Property is located in Reporting District 34 (RD 34). The Part One (1) Crimes are the eight (8) most serious crimes defined by the FBI Uniform Crime Report – homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. The crime rate in RD 34 was sixty (60) crimes reported in 2020, which is higher than adjacent reporting districts RD 31 and the citywide average, but lower than adjacent RD 33 and RD 36. The higher crime rate is largely due to burglary or theft from vehicles due to the high concentration of office complexes and the high ratio of nonresidential to residential uses. The adjacent reporting districts are predominantly residential uses. The findings can be made despite higher concentrations of crimes and the area was designed to accommodate restaurants in support of the office complex. The service of alcoholic beverages would provide additional menu options for customers and would enhance the economic viability of the business.
  2. The Newport Beach Police Department (“NBPD”) has reviewed the proposed use and based on the location, operational characteristics, and closing hour of 9:00 p.m., has no objection to the addition of the Type 41 alcoholic beverage license subject to appropriate conditions of approval.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. In RD 34, eighteen (18) percent of the arrests were for public intoxication, DUI, or liquor law violations. In comparison, the figure for neighboring RD 33 is nineteen (19) percent, RD 36 is thirty-one (31) percent and RD 31 is less than one (1) percent. The NBPD has reviewed the Project and has no objection to the Applicant’s request.

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- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. Although the Property is located within a planned community for predominantly office uses, the General Plan land use designation is MU\_H2 (Mixed Use Horizontal), which allows the horizontal intermixing of uses that may include office, multi-family residential and vertical mixed-use buildings. There is one (1) new residential development (Uptown Newport) located more than 1,000 feet south from the Property and there is potential for additional residential development in the area. The Project will serve as a convenience to the office complex tenants and visitors; and could provide residents seeking dining options. The Type 41 ABC License with an eating and drinking establishment is not anticipated to significantly impact these adjacent land uses.
  2. There are no parks, churches, schools, day cares or places of recreation within approximately 1,000 feet of the Project. The Project is surrounded by other commercial and office uses.
  3. Eating and drinking establishments with incidental alcohol service are common in office areas and will serve as a convenience to future residents in this changing mixed-use neighborhood. The proposed Type 41 ABC License in conjunction with a sit-down restaurant is not anticipated to become detrimental to the area due to its location and limited hours of operation. The resolution includes conditions of approval to further minimize negative impacts to surrounding land uses and ensure that the use remains compatible with the surrounding community.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. The office area was designed to accommodate accessory restaurants that are lightly populated throughout. The closest alcoholic establishment is the 7- Eleven with a Type 20 (Beer and Wine) ABC License at 4221 MacArthur approximately 400 feet away at 4221 MacArthur Boulevard. The 7-Eleven is a twenty-four (24)-hour convenience store. The next closest establishment is the Classic Q Restaurant and Bar with a Type 47 (On-Sale General) ABC License located approximately 600 feet away at 4251 MacArthur Boulevard. There are other various small scale eating establishments within the same shopping center as 7-Eleven, but they do not have ABC licenses.
  2. The census tract has an approximate population of 6,393 residents with 86 active on-sale alcohol licenses. It should be noted this census tract also includes portions of Irvine, Costa Mesa, and Santa Ana. Only seventeen (17) of the eighty-six (86) active retail licenses are in the City of Newport Beach. The per capita ratio of tract 0626.1 is one (1) license for every 74 residents. Per Section 23958.4 of the Business and Professions Code, we must compare this per capita ratio to

Orange County's on-sale per capita ratio of one (1) license for every 621 residents. Since the area's ratio exceeds the ratio of retail licenses to population in the county, the area is deemed to have an undue concentration of alcohol licenses. The NBPD does not anticipate any increase in crime or alcohol-related incidents with the approval of this application subject to the proposed conditions of approval.

- v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*
1. No objectionable conditions are presently occurring at the Property.
  2. The Project has been reviewed and conditioned to help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the establishment. Operational conditions of approval recommended by the NBPD relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts.
  3. The establishment is required to close by 9:00 p.m., daily, which will ensure the use does not become a late-night bar, tavern, or nightclub.
  4. The resolution includes conditions of approval to limit objectionable conditions related to noise and trash from the establishment. All employees serving alcohol will be required to be at least twenty-one (21) years of age and receive ABC-required Licensee Education on Alcohol and Drugs ("LEAD") or Responsible Beverage Service ("RBS") training.

In accordance with Subsection 20.52.020(F) (Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The General Plan designates the site as MU-H2 (Mixed-Use Horizontal), which is intended for an intermixing of uses in the Airport Area that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses such as restaurants. The food service will provide a commercial service to the offices as well as visitors.
2. The Property is not part of a specific plan area, therefore no findings of consistency with a specific plan is necessary.

3. The subject accessory building originally was permitted as a racquet ball court in 1989. In 2003, a small portion of the accessory building wall was opened to provide carport parking spaces. The proposed café will utilize the existing accessory building space including the carport spaces. Thus, there is no increase in gross floor area from the accessory structure originally constructed in 1989.

Finding:

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

Facts in Support of Finding:

1. The PC-11 (Newport Place, Planned Community) Office Site 5 Zoning District allows for accessory commercial services such as food service uses. A minor use permit is required for the food service eating and drinking establishment with alcohol service and no late hours within the PC-11 Office areas.
2. PC-11 Office Site 5 does not provide a parking standard for restaurants, so the Zoning Code standards apply. The Zoning Code classifies this use as a full-service, food service, eating and drinking establishment and parking is required at a rate of one parking space per 30 to 50 square feet of net public area, as determined by the use permit. In this case, a parking rate of one (1) space per 50 square feet of net public area is appropriate for the proposed use based on several physical design and operational characteristics including: the location is within an office complex surrounded by office uses. Primary customers will be office employees; there will be approximately five (5) employees at any given time; the restaurant has limited seating with nineteen (19) seats in the 674-square-foot interior dining area and twenty-three (23) seats in the 760-square-foot exterior area; the Type 41 Alcoholic Beverage Control License will add an item option to the menu but there is no bar seating or bar area in the establishment; the café food service is also proposed for office catering; there are no late hours, no live entertainment or dancing; employees can walk to the restaurant.
3. The net public area used to determine required parking is the 674 square feet interior net public area and 591.5 square feet exterior dining patio (760 sq. ft. – 168.5 sq. ft.) for a total of 1,265.5 square feet. The Zoning Code required parking includes outdoor dining areas exceeding twenty-five (25) percent of the interior dining area. Based on the Zoning Code parking ratio of 1 space per 50 square feet of net public area (1265.5/50) twenty-six (26) parking spaces are required.
4. A parking summary was provided by the applicant, showing the breakdown of the office uses that use the shared parking pool. The summary concludes that the existing required parking is 1,138 parking spaces, with 1,186 existing parking spaces provided. With the required reconfiguration of the drive aisles in front of the accessible parking spaces for the proposed Dandelion café, there is a loss of eight (8) parking spaces reducing the parking pool to 1,178 parking spaces. The total required parking spaces

including the proposed café, is 1,164 parking spaces therefore, the existing parking is adequate to accommodate the proposed café.

5. Subsection 20.48.090(F)(3)(b) (Eating and Drinking Establishments, Outdoor Dining) of the NBMC also requires that the review authority consider the relationship of outdoor dining to sensitive noise receptors. The surrounding office area is mostly vacant in the evenings. The closest residential use is Uptown Newport which is more than 1,000 feet away and is across the intersection of Newport Place Drive, MacArthur Boulevard and Von Karman Avenue. The outdoor dining patio closing hour of 9:00 p.m. will minimize noise impacts to any potential future residential use in area.
6. As conditioned, the Project will comply with Zoning Code standards for eating and drinking establishments.

Finding:

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

Facts in Support of Finding:

1. The Project will provide an additional service to the office complexes within the neighborhood. The Project includes conditions of approval to ensure that the potential for conflicts is minimized to the greatest extent possible.
2. The Property and surrounding properties on the block and within the vicinity are developed with offices and supporting commercial uses. The closest residential use (Uptown Newport) is more than 1000 feet across the intersection of MacArthur Boulevard and Von Karman Avenue and Newport Place Drive. The hours of operation of 7:30 a.m. to 9:00 p.m. will minimize any potential for late night disturbances to the area.
3. The food service, eating and drinking establishment has appropriate trash areas within the dining areas. There is a larger trash enclosure behind the existing office building that will contain a dumpster that is dedicated to the restaurant use.
4. The operational conditions of approval will promote compatibility with the surrounding uses. The floor plan provides tables to accommodate seats and a dining atmosphere. There is no live entertainment or dance floor. The Applicant is required to maintain the Property in substantial conformance with the approved floor plan in conjunction with a Type 41 (On Sale General - Eating Place) ABC License so that the café's primary use is a bona fide eating and drinking establishment and not a bar, lounge, or night club.

Finding:



- E. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The existing space is accessible from Newport Place Drive and Dolphin-Striker Way which provides convenient access for motorists, pedestrians, and bicyclists.
2. There is a sidewalk around the perimeter of the existing office building and at the entry that provides a path for pedestrians. Ample sidewalks are provided adjacent to the streets and parking lots of PC-11 Office Site 5.
3. The Property is located within an existing office building and the space will be improved for an eating and drinking establishment. All tenant improvements must comply with Title 20 of the NBMC and all Building, Public Works, and Fire Codes for permits to be issued.
4. The existing office complex provides adequate access for emergency and utility vehicles and services.

Finding:

- F. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The Project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The addition of a Type 41 (On Sale Beer and Wine) ABC License provides a service to the surrounding offices and neighborhood. The café will provide an option for office tenants and visitors as well as catering for the offices. The Project will support the surrounding neighborhood as providing a needed service to the area.
3. The eating and drinking establishment is not allowed to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the NBMC. The proposed use includes limited hours and closes no later than 9:00 p.m.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-014, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal or call for review 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 26<sup>th</sup> DAY OF AUGUST, 2021.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

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. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. *Prior to the issuance of the building permit, a fair share fee shall be paid for the net change in trips from storage to restaurant.*
5. *The hours of operation shall not exceed 7:30 a.m. to 9:00 p.m., daily.*
6. *Parking shall be provided at one (1) space per 50 square feet of net public area, including outdoor dining areas exceeding 25% of the interior net public area .*
7. *Use Permit No. UP2021-014 shall expire unless exercised within twenty-four (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.*
8. This Use 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.
9. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
10. 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.
11. Prior to the issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only

and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

12. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
13. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
14. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 – (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

15. 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.
16. Construction activities shall comply with Section 10.28.040 – (Construction Activity— Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
17. No outside paging system shall be utilized in conjunction with this establishment.
18. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

19. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
20. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
21. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
22. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
23. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
24. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
25. 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.
26. 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 Dandelion Café including, but not limited to, Minor Use Permit No. UP2021-014 (PA2021-081). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant

shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **Police Department**

27. The approval is for an eating and drinking establishment with on-sale alcoholic beverage service. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be Type 41 (On Sale Beer and Wine).
28. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
29. There shall be no live entertainment or dancing allowed on the premises.
30. The Applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
31. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within sixty (60) days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within sixty (60) days of approval. Records of each owner's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
32. The quarterly gross sales of on-sale alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
33. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
34. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
35. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.

36. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
37. Any event of activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
38. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
39. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
40. Strict adherence to maximum occupancy limits is required.
41. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 – (Community Noise Control) and other applicable noise control requirements of the NBMC.
42. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within forty-eight (48) hours of written notice from the City.
43. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, or involve the sale of alcoholic beverages.
44. The Applicant shall maintain a security recording system with a thirty (30)-day retention and make those recordings available to police upon request.

### **Fire Department**

45. *If the occupancy is determined to be 100 persons or more, fire sprinklers shall be required during the plan check process.*

### **Building Division**

46. 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. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

47. *The type of construction for the restaurant space shall match the parking structure type of construction per the California Building Code.*
48. *The canopy for the outdoor dining shall be constructed as the same type of construction as the existing building.*
49. *Verify if there are existing fire sprinklers of parking structure. If the existing parking structure is sprinklered then the attached restaurant space shall be sprinklered.*
50. *Provide a Type one (1) Hood with complete mechanical plans for makeup air and exhaust for a balanced system. The exhaust shall be a minimum of 10 feet clear from any outside ari intake.*
51. *A grease interceptor is required and the location and size must be identified on the building permit plans for plan check.*

#### **Public Works Department**

52. *Parking layout shall comply with City Standard 805.*
53. *Adequate pavement markings and signage shall be installed to accommodate the proposed one (1)-way circulation. Final design shall be reviewed and approved by the Public Works Department.*



## RESOLUTION NO. ZA2021-044

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-023 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE (3)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 411 NORTH BAY FRONT (PA2021-117)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects, with respect to property located at 411 North Bay Front, requesting approval of a coastal development permit (CD2021-023). The lot at 411 North Bay Front is legally described as Lot 6 of Block 8, Map of Resubdivision of Section One, of Balboa Island, as per map recorded in Book 6, Pages 30 of Miscellaneous Maps in the Office of the County Recorder of the County of Orange.
2. The applicant proposes to demolish an existing single-family residence and construct a 2,396-square-foot, three (3)-story, single-family residence with an attached 438-square-foot two (2)-car garage. The design includes landscape, hardscape, and subsurface drainage facilities all within the confines of the private property. The project complies with all development standards and no deviations from the municipal code are requested.
3. The subject property is designated RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-BI (Two-Unit Residential, Balboa Island) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential) – (30.0 – 39.9 DU/AC) and is located within the R-BI (Two-Unit Residential, Balboa Island) Coastal Zone District.
5. A public hearing was held online on August 26, 2021, observing restrictions due to the Declaration of a State Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one (1) single-family residence and the construction of a new 2,396-square-foot, three (3)-story, single-family residence and attached 438-square-foot two (2)-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 2,884 square feet and the proposed floor area is 2,834 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line, 3 feet along the side property lines, and 5 feet along the rear property line.
  - c. The highest guardrail is less than 24 feet from established grade and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
  - d. The project includes garage parking for a total of two (2) vehicles, complying with the minimum two (2)-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two and three-story story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development consistent with applicable development standards.

3. The property is an oceanfront lot that is separated from the ocean by a public boardwalk and City-owned concrete seawall/bulkhead. The bulkhead which protects the subject property is part of a larger bulkhead system which surrounds Balboa Island. No modification to the existing bulkhead is proposed with this project.
4. A Coastal Hazards Report and Sea Level Rise report was prepared by GeoSoils, Inc. dated May 7, 2021, for the project. The maximum bay water elevation is 7.7 feet North American Vertical Datum of 1988 (NAVD 88). The report analyzes future sea level rise scenarios assuming a 3-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.7 feet (NAVD 88) - (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update).
5. The finished floor elevation of the proposed single-family residence is 9.25 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The Coastal Hazards Report concludes that the bay water elevation (currently 7.7 feet NAVD 88) will not exceed the proposed finished floor elevation around the single-family residence at 9.25 feet (NAVD 88) with a flood protection curb constructed to an elevation of 10.9 feet (NAVD 88) for the anticipated 75-year life of the structure. Flood shields (sandbags and other methods) can be deployed across the openings to protect flooding to the structure.
6. The report concludes that flooding, wave runup and erosion will not significantly impact this property over the life of the proposed development. The need for any additional shoreline protective device is not anticipated over the economic life of the proposed development to protect it from flooding, wave runup, or erosion.
7. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv) – (Natural Landform and Shoreline Protection), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The Waiver of Future Protection is included as a condition of approval that will need to be satisfied prior to final building inspection.
8. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) – (Waterfront - Development Standards). Both requirements are included as conditions of approval that will need to be satisfied prior to final building inspection, and prior to the issuance of building permits, respectively. The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be satisfied prior to the issuance of building permits.
9. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of a building permit. Permit issuance is also contingent on the inclusion of design mitigation

identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.

10. The property is located within 100 feet of coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been provided and will be reviewed by the City's Engineer Geologist. Construction plans and activities will be required to adhere to the approved CPPP.
11. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Forkert Engineering & Surveying, Inc. dated May 18, 2021. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
12. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
13. Proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a standard R-BI zoned lot with a new single-family residence. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited

(appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

2. Vertical access to the bay front public sidewalk and Newport Bay is available approximately 180 feet west and 25 feet east of the site where North Bay Front intersects Pearl Avenue and Agate Avenue. The project does not include any features that would obstruct access along these routes
3. There are no designated public viewpoints or Coastal View Roads near the project site, per the Coastal Land Use Plan. The nearest coastal viewpoint is the Balboa Yacht Basin, which is approximately 860 feet north from the project site. The nearest coastal view corridor is Bayside Drive from Coast Highway to Linda Island Drive, which is approximately 1,346 feet northwest from the project site. As currently developed, the existing property and other residences located along North Bay Front are located within these view sheds. However, due to the distance of the proposed development from public viewpoints and the project's compliance with all applicable development standards, including height and setbacks, the project will not impact existing coastal views.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-023 subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 26<sup>TH</sup> DAY OF AUGUST, 2021.**



Jaime Murillo  
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. *Prior to issuance of building permits, a waterproofing curb or similar design feature shall be constructed around the proposed residence as an adaptive flood protection device up to a minimum of 10.9 feet (NAVD88). Flood shields (sandbags and other methods) can be deployed across the openings to protect and prevent flooding to the structure.*
3. *Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*
4. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify 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 development. This letter shall be scanned into the plan set prior to building permit issuance.*
5. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
6. Demolition beyond the approved scope of work requires Planning Division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed. Any changes in the current scope of work may require the entire structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.

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8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
    - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
    - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
  9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
  10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
  11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
  12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
  13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
  14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
  15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.

16. This Coastal Development 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.
17. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.*
18. *Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.*
19. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
20. *Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
21. *Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.*
22. *All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*
23. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
24. 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 current property owner or agent.
25. This Coastal Development Permit No. CD2021-023 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.



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26. 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 Lyman Residence including, but not limited to, Coastal Development Permit No. CD2021-023 (PA2021-117). 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. ZA2021-045

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING TENTATIVE PARCEL MAP NO. NP 2021-011 FOR TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 508 AND 508 ½ MARIGOLD AVENUE (PA2021-155)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Amy Nili and Jeffery Stearman, Trustees of the J&A Living Trust and Amir Akhavi, with respect to a property located at 508 and 508 ½ Marigold Avenue, and legally described as Lot 10, Block 540, Tract A, Corona Del Mar requesting approval of a tentative parcel map.
2. The applicant requests a tentative parcel map for two (2)-unit residential condominium purposes. No waivers of development standards are requested. An existing duplex has been demolished and a new duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held online on August 26, 2021, consistent with Governor's Executive Order N-08-21 and N-29-20 related to COVID-19. A notice of time, place and purpose of the hearing 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 hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not

have an average slope greater than 20 percent. The project is consistent with and eligible for the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 20 (Planning and Zoning) and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of the NBMC:

#### Finding:

*A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The project site was previously developed with a duplex and has been cleared of existing improvements. A new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use designation.
2. The subject property is not located within a specific plan area.
3. The project is conditioned to require public improvements, including the reconstruction of sidewalks, curbs and gutters along the Marigold Avenue frontage, as needed, as well as the undergrounding of utilities and the installation of new landscape and a new street tree along the Marigold Avenue parkway, consistent with Title 19 (Subdivisions).

#### Finding:

*B. That the site is physically suitable for the type and density of development.*

#### Facts in Support of Finding:

1. The lot is physically suitable for a duplex because it is relatively flat and rectangular. It was also previously developed with a duplex.
2. The subject property is accessible from both Marigold Avenue and the alley in the rear.
3. The site is adequately served by existing utilities, as the site was previously developed with a duplex that is being replaced.

Finding:

*C. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision-making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. The property is located within an existing residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines. Section 2 of this Resolution is hereby incorporated by reference.

Finding:

*D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

1. The Tentative Parcel Map is for condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

*E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Facts in Support of Finding:

1. The Public Works Department has reviewed the proposed Tentative Parcel Map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development because no public easements are located on the property.
2. There are no existing easements either through or adjacent to the property.

Finding:

*F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in the R-2 Zoning District, which is intended for and permits residential uses for up to two (2) units.

Finding:

*G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

*H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

*I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

1. The proposed duplex is consistent with the R-2 Zoning District, which allows up to two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

*J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

1. The residential building under construction has been designed to have wastewater discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

*K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Fact in Support of Finding:

1. The subject property is not located within the coastal zone.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2021-011, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review 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 26<sup>TH</sup> DAY OF AUGUST, 2021.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

1. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
2. The building permit for the new construction shall not be final until after recordation of the Parcel Map.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
5. 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.
6. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
7. 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.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of J&A Living Trust and Akhavi Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2021-011 (PA2021-155). This indemnification shall



include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **Fire Department**

10. A separate fire sprinkler system shall be installed for each individual dwelling unit.

### **Building Division**

11. 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.

### **Public Works Department**

12. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, NAD83). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

13. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual Subarticle 18. Monuments (1-inch iron pipe with tag) shall be set **on each lot corner** unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.

14. All improvements shall be constructed as required by Ordinance and the Public Works Department.

15. Prior to recordation of the parcel map, the applicant shall reconstruct all damaged curb, gutter and sidewalk along the Marigold Avenue frontage and all alley panels along the alley frontage per City Standard.

16. Prior to recordation of the parcel map, the applicant shall, install a new 36-box tree within the Marigold Avenue frontage. The City street tree shall be compliant with City Council Policy G-6.

17. Each unit shall be served by an individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
18. Prior to recordation of the parcel map, the applicant shall underground all existing overhead utilities.
19. No above ground improvements will be permitted within the 5-foot rear alley setback.
20. Prior to recordation of the parcel map, the applicant shall remove hardscape and gravel within the Marigold Avenue parkway frontage. The applicant shall install new sod or low groundcovers of the type approved by the City throughout the Marigold Avenue parkway fronting the development site.
21. An encroachment permit shall be required for all work activities within the public right-of-way.
22. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
23. All on-site drainage shall comply with the latest City Water Quality requirements.
24. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector

## RESOLUTION NO. HO2021-001

### A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING REASONABLE ACCOMODATION NO. RA2020-002 AND APPROVAL IN CONCEPT NO. AIC2020005 FOR THE PROPERTY LOCATED AT 101 CARNATION AVENUE (PA2020-067)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette, architect, requesting approval of a reasonable accommodation on behalf of Rick Julian (“Applicant”), with respect to residential property located at 101 Carnation Avenue, Newport Beach, California and legally described as Lot 1 in Tract 16882, Block D in the City of Newport Beach, County of Orange, State of California, Assessor’s Parcel No. 052-013-40 (“Property”).
2. The Applicant has submitted a **reasonable accommodation application** requesting relief from Section 20.28.040 Bluff (B) Overlay District of the Newport Beach Municipal Code (“NBMC”) and from Title 21 of the (Local Coastal Program Implementation Plan) to allow a funicular, a cable railway, below the 50.7-foot contour line. The funicular includes a one-hundred and twenty (120)-foot-long-on-grade track to automatically move one (1) cab for up to four (4) passengers. The funicular is required to accommodate disabled current or future residents to the waterside amenities on the private seven (7)-unit condominium property (“Accommodation”).
3. The Property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Multiple Residential (RM) Bluff Development – Carnation Avenue Overlay Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Multiple Unit Residential (RM-D) 20.0-29.9 du/ac and it is located within the Multiple Residential (RM) Bluff Development Carnation Avenue Overlay Coastal Zoning District.
5. The Property is located within the California Coastal Commission coastal development jurisdiction and requires an Approval in Concept from the City for the Applicant to submit an amendment to the existing Coastal Development Permit No. CDP 5-10-298 to the Coastal Commission for the construction of the funicular.
6. A public hearing was held online on August 25, 2021, a telephonic public hearing was held, on Zoom, observing restrictions due to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Hearing Officer at this public hearing.

7. At the hearing evidence was submitted by staff and the applicant. One member of the public, Mr. Jim Mosher, provided oral and written testimony that while not arguing against development of the funicular, did opine that the vehicle should be open to use by the public. That notion, while perhaps designed to permit greater coastal access, cannot be recommended for a variety of reasons. First, and foremost, is the fact that to access the funicular you would have to pass upon the private property of the applicant. That could lead to issues of liability and even the public taking of private property if ordered by a public entity. When confined to a finite set of residents, the issues of safety and understanding how to operate the machinery would be relatively simple. If opened to an infinite set of persons those abilities would be stretched or rendered impossible to accommodate. The request is to accommodate persons with disabilities that make use of the steep stairs difficult *on private property owned or controlled by the users of the vehicle*. That makes sense and eliminate many issues that might arise if its use was expanded. This is not a fun ride or even a recreational one. It is to accommodate the owners or their guests who for health reasons would have difficulty or find it impossible to access the beach amenities below without the funicular.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. I find this project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The funicular would provide access to persons with disabilities and does not modify the existing condominium building.

## SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 20.52.070(D)(2) (Decision on Reasonable Accommodation, Findings and Decision), the following findings of facts in support of such decision is set forth following:

### Finding:

- A. *That the requested accommodation is requested by or on behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

### Fact in Support of Finding:

1. A letter from the property owner, Rick Julian, states that the funicular is needed to allow owners or their guests or invitees with disabilities to enjoy the full use of the Property. Documentation from the residents' physicians has been prepared by the following physicians of four (4) existing residents: Dr. Martin I. Bae, Newport Beach Medical Associates on behalf of; Dr. Steve Barnett, Orthopedic Surgeon on behalf of; Dr. Catherine Chang Board Certified Internal Medicine on behalf of; Dr. Eric Olsen Benner,

Internal Medicine on behalf of; and Dr. Mikio Tachibana Internal Medicine on behalf of. The physicians' correspondence indicates disabilities prevent use of stairs, and an accessible accommodation is necessary to provide access throughout the Property including the lower water-side common areas.

Finding:

*B. That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

Facts in Support of Finding:

1. The funicular is needed for the disabled residents or their guests and permittees to enjoy and utilize safe access to the waterside amenities shared by the private seven (7)-unit condominium community.
2. In the letters from the physicians of four (4) of the current residents, stairs do not provide access based upon the residents' disabilities. The doctors explain the mobility impairment disability of each resident making it impossible for each to use stairs. For each resident to have full enjoyment of the Property, the funicular is required.
3. With consideration of the factors provided by NBMC Section 20.52.070(D)(3-4) (Reasonable Accommodations, Decision on Reasonable Accommodation, Factors for Consideration -Necessity, Factors of Consideration -Fundamental Alteration/Reasonableness), the requested reasonable accommodation is necessary to provide the disabled individuals an equal opportunity to use and enjoy a dwelling. If the requested accommodation is granted, the disabled persons will be able to utilize the waterside common amenities of the Property. This area is adjacent to the bay and includes beach area, dock and piers for the boats of the condominium residents. Access to this area for the disabled residents is required for equal use of the Property by all residents and is the area of the common outdoor space that is a part of the Property, thereby enhancing their quality of life. All alternatives have been explored to provide the same access to the waterside of the Property and the funicular is the design that complies the most with the Coastal Land Use Plan Polices and is the least disruptive to the coastal bluff. Approval of the accommodation will not alter the character of the neighborhood, because the funicular is a nominal accessory feature similar to stairways and similar features provided to these properties along the bluff to access the bayside portion of their properties.

Finding:

*C. That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

Fact in Support of Finding:

1. Allowing the funicular would not impose an undue financial or administrative burden on the City. The funicular will be constructed and maintained by the condominium association and will not result in any costs to the City. Any permit fees or building permit fees will be paid by the association.

Finding:

- D. That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*

Facts in Support of Finding:

1. The Accommodation would not result in any fundamental alterations to the character and use of condominium property or the neighborhood. The funicular would only provide access for the condominium owners to use the waterside amenities on the Property. The funicular will not change or expand the existing use of the condominiums. The funicular with a single cab is nominal in nature and maintains a design, bulk, and scale of development that is consistent with the surrounding neighborhood pattern of development.
2. The coastal bluff will remain unaltered with the exception of the on-grade track to support the funicular. The intent of the bluff overlay is to protect the natural bluff to not contribute to further erosion of the bluff, maintain the visual qualities of the bluff from further development, and protect coastal views from the bluff top. The bluff will remain visually intact with the exception of the on-grade track supporting the funicular. The design is least impactful to the natural bluff and will not impact views. The cab will be parked up at the condominiums in a garage-type structure that is not visible.

Finding:

- E. That the requested accommodation will not, under specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

Facts in Support of Finding:

1. The funicular will provide a safe means for disabled residents to access the lower water-side of the Property. The funicular is the least impactful to the coastal views as the cab will be parked up towards the existing condominium structure when not in use. Use of these types of funiculars are common and safe to provide access when an elevator or wheelchair lift are not possible.
2. The funicular will not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. The funicular includes a 120-

foot-long-on-grade track. The track would be equipped to automatically move one (1) cab for up to four (4) passengers. The track would be designed with the minimum required size of twenty (24) inches wide, thirty-six (36) inches deep and six (6) inches below grade. The footings will be engineered with the Utilities and Fire footings already approved by the Coastal Commission, essentially the same footings just widened to accommodate the additional footing required for the funicular track.

Finding:

*F. For housing located in the coastal zone, a request for reasonable accommodation under Section 21.16.020 (E) may be approved by the City if it is consistent with the findings provided in subsection (D)(2) of this section; with Chapter 3 of the California Coastal Act of 1976; with the Interpretative Guidelines for Coastal Planning and Permits established by the California Coastal Commission dated February 11, 1977, and any subsequent amendments, under the Local Coastal Program. As outlined herein, the request in the application is both reasonable and sound. It meets a defined need in an efficient and safe manner.*

Facts in Support of Finding:

1. In accordance with Section 21.16.020(E), (General Requirements for New Development, Reasonable Accommodations) of Title 21, the review authority may grant reasonable accommodations to the City's coastal zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Federal and State Fair Housing Laws.
2. The Project requires an amendment to Coastal Development Permit No. CDP 5-10-298 approved by the Coastal Commission. Approval of the Reasonable Accommodation authorizes Approval in Concept No. AIC2020005 for the applicant to submit the funicular to the California Coastal Commission.
3. There are no feasible alternatives for providing an accommodation at the condominium project that would provide greater consistency with the LCP. Alternatives considered included: 1) a ski-lift-type gondola that would result in a greater visual disturbance to the bluff and obstruction to public coastal views in the area due to the use of three (3) to four (4), ten (10)-foot tall poles; 2) a wheelchair lift that utilizes the existing stairway handle but deemed unfeasible due to the tight turns of the stairway that restricts the mobility and wheel chair that restricts stairway usage creating an issue for first responders; and 3) a subterranean tunnel that would require an extensive amount of grading and would be detrimental to the coastal bluff stability. The funicular maintains public coastal views as the cab will be parked at the top of the bluff between uses. The track will require minimal grading with little disruption to the natural form. The track will also be painted to match the bluff and preserve the visual integrity of the bluff.

4. The project as designed is reasonable and functional. It allows disabled residents and their permitted users to access beach elements of the property in a safe and efficient manner.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. RA2020-002 and Approval in Concept No. AIC2020005, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference, expressly finding that this use is in fact reasonable to accommodate disabled persons use of the property.
3. This action shall become final and effective fourteen (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 NBMC Title 20 (Planning and Zoning).

**PASSED, APPROVED, AND ADOPTED THIS 25<sup>th</sup> DAY OF AUGUST, 2021.**



William B. Conners, Hearing Officer



**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**PLANNING**

1. The funicular shall be in substantial conformance with the approved site plan and elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *The approval of the Reasonable Accommodation shall authorize submittal of Approval in Concept No. 2020005 for the Coastal Development Permit Amendment to the Coastal Commission for the funicular.*
3. *If authorized by the California Coastal Commission, a building permit will be required for the construction funicular and the track.*
4. The reasonable accommodation shall lapse if the exercise of rights granted by it are discontinued for at least one hundred eighty (180) consecutive days.
5. *The track and cab shall be painted to match the bluff and natural surroundings. The final paint color shall be reviewed and approved by the Planning Division prior to final of the building permit.*
6. *The construction and structural components of the funicular shall not exceed the minimum required to provide the four-(4) passenger carrier and shall not limit disruption to the bluff.*
7. *Because of the substantial cost of this improvement, and because the funicular can effectively be used by future owners and users of the property and is physically integrated into the residential property and cannot be easily removed or altered to make the residence comply with the Zoning Code, the reasonable accommodation shall remain indefinitely unless the Director determines that the modifications authorized by this reasonable accommodation application are no longer appropriate due to disrepair, damage to the funicular that is beyond repair or abandonment by the property owners, and therefore should be removed to protect the public health, welfare, or safety under the NBMC. It is the intent of the Hearing Officer based on the findings in this matter that the funicular remain indefinitely so long as it remains fully functioning and safe for use as intended..*
8. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Reasonable Accommodation, including payment of all appropriate fees.

10. A copy of the Resolution, including conditions of approval set forth in this Exhibit "A", shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. 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 NBMC Title 20 (Planning and Zoning).
12. 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 approval of Aerie Condominium Funicular including, but not limited to, Reasonable Accommodation No. RA2020-002 and Approval in Concept No. AIC2020005 (PA2020-067). 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.



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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## **ZONING ADMINISTRATOR ACTION LETTER**

<b>Subject</b>	<b>Chipotle Mexican Grill Comprehensive Sign Program No. CS2021-006 (PA2021-162)</b>
<b>Applicant</b>	<b>AKC Permit Company</b>
<b>Site Location</b>	<b>3050 East Coast Highway</b>
<b>Legal Description</b>	<b>Lot 5 together with Lot 6 of Block P of Tract No. 323 as filed in book 14, pages 40 and 41 of Miscellaneous Maps, in the County of Orange recorder's office.</b>

On **August 27, 2021**, the Zoning Administrator approved Comprehensive Sign Program No. CS2021-006, for signs at Chipotle Mexican Grill located at 3050 East Coast Highway. This approval is in accordance with the provisions of [Chapter 20.42 \(Sign Standards\)](#) of the Newport Beach Municipal Code (NBMC). The intent is to integrate all of the building's tenant signage with the overall site design.

### **LAND USE AND ZONING**

- **Zoning District:** CC (Commercial Corridor)
- **General Plan Land Use Plan Category:** CC (Corridor Commercial)

The signs included in this Comprehensive Sign Program are exempt from coastal development permit requirements pursuant to the City's certified Local Coastal Program, [Section 21.52.035\(C\)\(2\) of the Newport Beach Municipal Code \(NBMC\)](#). The scope of work includes the placement of attached accessory structures (signage) to the façade of the existing building and does not involve a risk of adverse environmental effect, affect public access or views, or involve a change in use contrary to the Coastal Act.

Pursuant to [Section 20.42.120 \(Comprehensive Sign Program\)](#) of the NBMC, a comprehensive sign program is required whenever three or more non-exempt signs are proposed for a single-tenant development. Under the Comprehensive Sign Program, deviations are allowed with regard to sign area, total number, location, and/or height of signs. The Zoning Administrator's authority is limited to a 20 percent increase in sign height and 30 percent increase in sign area. In this case, the deviation from the Zoning Code is sign location regarding the required separation distance of wall signs and the total number of secondary wall signs proposed for the site:

- A total of four illuminated wall signs (Sign Type N1, N2, N3, and N5) are proposed for the tenant where the Zoning Code typically limits signage to one primary and

one secondary frontage sign. The primary frontage illuminated wall sign (N3) is located at the north elevation. The primary frontage wall sign would be 38 square feet in area, which complies with maximum 75 square feet sign area allowed for primary signage. The three secondary frontage illuminated wall signs (N1, N2, and N3) are located at the south and west elevations. The south elevation frontage would include one secondary frontage illuminated wall sign (N2) of 17 square feet which complies with the maximum allowed 37.5 square feet sign area for secondary signage. The west elevation frontage would include two additional secondary frontage illuminated wall signs (N1) of 17 square feet and (N5) of 3.14 square feet in area, which comply with the maximum 37.5 square feet sign area allowed for secondary signage (50 percent of the primary sign area).

- One existing nonconforming pole sign (Sign Type N6) is proposed to be refaced and maintained in the same location at the south elevation. The existing nonconforming pole sign is a prohibited sign type that will not be structurally changed, altered, or expanded in a manner that would increase its nonconforming nature.
- The proposed primary frontage wall sign (N3) and proposed secondary frontage wall sign (N5) are proposed to have a separation distance of 23 feet, where the zoning code requires a minimum separation distance of 30 feet. The proposed secondary frontage wall sign (N1) and proposed secondary frontage wall sign (N2) are proposed to have a separation distance of 15 feet, where the zoning code requires a minimum separation distance of 30 feet.

This approval is based on the following findings and standards and is subject to the following conditions:

**I. FINDINGS AND STANDARDS FOR APPROVED SIGNS**

Finding:

- A. *The project is exempt from environmental review under the requirements of the California Environmental Quality Act Guidelines pursuant to Section 15311, Class 11 (Accessory Structures).*

Fact in Support of Finding:

1. Class 11 exempts minor structures accessory to existing institutional facilities, including signs. The proposed signs are incidental and accessory to the principal commercial use of the property and do not intensify or alter the use.

Standard:

- B. The proposed sign program shall comply with the purpose and intent of this [Chapter 20.42 \(Sign Standards\)](#), any adopted sign design guidelines, and the overall purpose and intent of this Section [Section 20.42.120 – Comprehensive Sign Program].*

Facts in Support of Standard:

1. The purpose of a comprehensive sign program is to integrate all of a project's signs with the overall site design and architecture to create a unified architectural design statement. A comprehensive sign program provides a means for the flexible application of sign regulations for projects that require multiple signs in order to provide incentive and latitude in the design and display of signs, and to achieve, not circumvent, the purpose of [Chapter 20.42 \(Sign Standards\)](#). The proposed Comprehensive Sign Program incorporates all anticipated tenant signage and creates a unified design as described in these findings and shown on the proposed plans.
2. The proposed Comprehensive Sign Program complies with the purpose and intent of Newport Beach Municipal Code [Chapter 20.42 \(Sign Standards\)](#) because it provides the building tenant with adequate identification. It preserves and enhances the community appearance by regulating the type, size, location, quantity, and illumination of signs through conditions of approval and conformance with approved plans. Through these regulations, the Comprehensive Sign Program will enhance the safety of motorists and pedestrians by minimizing the distraction of signs as well as to protect the life, health, property, and general welfare of City residents and visitors.
3. The Comprehensive Sign Program is consistent with the Citywide Sign Design Guidelines because the proposed signs are designed to be compatible with the building design in terms of scale, size, and materials. The proposed signs are designed to effectively communicate a commercial message without creating sign clutter by providing adequate and appropriate site identification similar in design style.
4. The project site at 3050 East Coast Highway was previously a Baja Fresh Mexican Grill. Through a tenant improvement process, it will now serve as a Chipotle Mexican Grill with an updated building façade to accommodate the new tenant and the renovated building will create a more contemporary style. The proposed signage is appropriately placed along the west, east, and south frontages and appropriately sized to relate to the architectural features of the building. The sign style is consistent with the contemporary style of the renovated building with primary signage placement at each visible façade for easy building identification.
5. The requested increase in number of signs and placement are consistent with the proportions of the façades and street frontages on which they are located.

6. The requested wall sign separation distance results in proper sign placement on each of the respective building frontages. Sign type N3 is a primary frontage wall sign in which the location is appropriately placed to be a visible identification sign for vehicular traffic traveling along East Coast Highway. If the sign was located away further to the east of the building frontage, the visibility of the signage would be obstructed. Sign type N5 is a small secondary frontage wall sign which is placed above the respective pick-up window location. Sign type N1 is a secondary frontage wall sign facing the west, which serves as an identification sign for pedestrians and vehicles along East Coast Highway. Sign type N2 is a secondary frontage wall sign which is placed above a secondary entrance to the restaurant.

Standard:

- C. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

1. The building is developed with one tenant. The proposed signs will allow for appropriate building identification for the Chipotle Mexican Grill at 3050 East Coast Highway.
2. The wall-mounted signs will not obstruct public views from adjacent roadways because the signs will be affixed to existing structures and will not create any additional obstructions.
3. The sign program does not include any signs that would be facing adjacent residential properties to the east. Wall signs will be installed with a timer to ensure the illumination does not disturb nearby residential properties.
4. Refer to fact 6 in support of standard B above.

Standard:

- D. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Fact in Support of Standard:

1. The Comprehensive Sign Program addresses all proposed signage. Temporary and exempt signs not specifically addressed in the sign program shall be regulated by the provisions of [Chapter 20.42 \(Sign Standards\)](#) of the Zoning Code.

Finding:

- E. *The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Fact in Support of Standard:

1. It is not anticipated that future revisions to the Comprehensive Sign Program will be necessary to accommodate a change in tenants or use. However, the Community Development Director may approve minor revisions to the Comprehensive Sign Program if the intent of the original approval is not affected.

Standard:

- F. *The program shall comply with the standards of this Chapter [Chapter 20.42], except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter [Chapter 20.42].*

Facts in Support of Standard:

1. The Comprehensive Sign Program only allows for a deviation in the number, height, and location of signs for the existing building. This approval includes deviations in the number and location of signage and conforms to all other standards of [Chapter 20.42 \(Sign Standards\)](#) of the NBMC, and enhances the overall development by integrating all of the project's signs with the overall site and architectural design through appropriate sizing and style.
2. Allowing a deviation from the Zoning Code for the number and location of signs is appropriate given the orientation of the building with an on-site parking lot located on the west side of the building.
3. Illumination is appropriate for signs on the west, east, and south building frontages to improve visibility for motorists along East Coast Highway and Jasmine Avenue. Residential properties will not be unduly impacted by illumination.
4. The increased number and placement of signs are appropriate and consistent with the proportions of the façades and street frontages on which they are located.

Standard:

- G. *The approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter [Chapter 20.42].*

Fact in Support of Standard:

1. The Comprehensive Sign Program does not authorize the use of new prohibited sign types. One existing pole sign (Sign Type N6) is proposed to be painted, refaced, and kept in the same location at the south elevation. The existing pole sign shall not be structurally changed, altered, or expanded in a manner that would increase its nonconforming or prohibited nature.

Standard:

- H. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Fact in Support of Standard:

1. The amended Comprehensive Sign Program contains no regulations affecting sign message content.

**II. CONDITIONS**

1. The proposed wall signs shall be in substantial conformance with the approved plans, Comprehensive Sign Program Matrix Table, and provisions of [Chapter 20.42 \(Sign Standards\)](#) of the NBMC, unless otherwise indicated in the following conditions.
2. *Street address numbers are required on the building in accordance with Section 9.04.170 (Amendments to Section 505.1.1 Premises Identification).*
3. *Prior to issuance of building permits, all signs shall comply with Section 11B-307 of the 2019 California Building Code for protruding objects.*
4. *Prior to issuance of building permits, all work shall comply with the 2019 California Building Code and California Energy Efficiency Standards for sign lighting.*
5. *Prior to issuance of building permits, the signage shall provide a 20 Amp. Dedicated circuit for signage with automatic time clock controls.*
6. *Prior to issuance of building permits, the project plans shall identify the sign circuit breaker and update the panel directory.*
7. *The pole sign may be internally illuminated; however, the sign background shall be opaque and the only portion of the sign that appears illuminated is the actual lettering and/or registered trademark.*
8. Anything not specifically approved by this Comprehensive Sign Program is prohibited. Temporary and exempt signs not specifically addressed in the sign



program shall be regulated by the provisions of Chapter 20.42 (Sign Standards) of the Zoning Code.

9. A building permit and/or sign permit shall be obtained prior to the commencement of installation or demolition of signs.
10. Illuminated signs shall be regulated in accordance with the provisions of [Section 20.42.070 \(Standards for Permanent Signs\)](#) of the NBMC. If, in the opinion of the Community Development Director, existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas, the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
11. Signs shall be maintained in a clean and orderly condition. Signs in disrepair shall be repaired, replaced, or removed in a timely fashion or at the direction of the Community Development Director.
12. The Community Development Director may approve revisions to the Comprehensive Sign Program if the intent of the original approval is not affected. Revisions that would substantially deviate from the original approval shall require approval of a new/revised comprehensive sign program by the Zoning Administrator.
13. Any future revisions or changes to the signs approved by this Comprehensive Sign Program due to a change in the use or tenants of the building shall be reviewed and approved by the Planning Division, so long as the sign size, copy configuration, and number of signs authorized by this approval does not substantially change or increase. The mandatory reduction or elimination of signs shall be exercised as necessary.
14. The Zoning Administrator may add to or modify conditions of this approval or revoke this approval upon a determination that any sign that is authorized by this approval has been altered beyond the parameters of the authorization and therefore beyond the justification.
15. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20, Planning and Zoning, of the Newport Beach Municipal Code.
16. 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

**Chipotle Mexican Grill Comprehensive Sign Program** including, but not limited to, **Comprehensive Sign Program No. CS2021-006 (PA2021-162)**. 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.

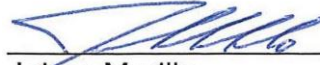
**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:



Afshin Atapour  
Planning Technician



Jaime Murillo  
Zoning Administrator

MKN/aa

Attachments:   ZA 1 Vicinity Map  
                  ZA 2 Sign Program Matrix  
                  ZA 3 Project Plans

# **Attachment No. ZA 1**

Vicinity Map

# VICINITY MAP



Comprehensive Sign Program No. CS2021-006  
(PA2021-162)

**3050 East Coast Highway**

# **Attachment No. ZA 2**

Sign Program Matrix

## SIGN PROGRAM MATRIX

<b>3050 EAST COAST HIGHWAY</b>	
<b>Primary Frontage</b>	<b>Secondary Frontage</b>
<p><b>Primary Wall Sign Limitations</b></p> <p><i>Maximum number: <b>One</b></i>  <i>Maximum Vertical Dimension, Letter or Logo: <b>36 inches</b></i>  <i>Maximum Area: sign area of the wall sign shall not exceed <b>75 square feet</b></i></p> <p><u>Current Signs:</u></p> <ul style="list-style-type: none"> <li>• <b><u>Sign N3 (North):</u></b>  <i>Proposed Area: <b>38 square feet</b></i></li> </ul>	<p><b>Secondary Wall Sign Limitations</b></p> <p><i>Maximum number: <b>Three</b></i>  <i>Maximum Vertical Dimension, Letter or Logo: <b>36 inches</b></i>  <i>Maximum Area: Cumulative sign area of the wall signs shall not exceed <b>37.5 square feet</b></i></p> <p><u>Current Signs:</u></p> <ul style="list-style-type: none"> <li>• <b><u>Sign N5 (West):</u></b>  <i>Proposed Area: <b>3.14 square feet</b></i></li> <li>• <b><u>Sign N1 (West):</u></b>  <i>Proposed Area: <b>17 square feet</b></i></li> <li>• <b><u>Sign N2 (South):</u></b>  <i>Proposed Area: <b>17 square feet</b></i></li> </ul>
<b>Pole Sign</b>	<b>GENERAL NOTES AND REQUIREMENTS FOR ALL SIGNS</b>
<p><b>Pole Sign Limitations</b></p> <p>- The copy and pictorial content of the existing nonconforming pole sign may be modified. Panels shall be opaque background with translucent copy (letters/logo) for illuminated signage per Zoning Code Section 20.42.060. H.2.</p> <p>- The pole sign may be internally illuminated; however, the sign background shall be opaque and the only portion of the sign that appears illuminated is the actual lettering and/or registered trademark</p> <p>-The existing nonconforming pole sign shall not be structurally changed, altered, or expanded in a manner that would increase its nonconforming or prohibited nature.</p> <p>-Maximum letter or logo height shall be 36 inches.</p>	<p>a) Requirements for all signs per Municipal Code Chapter 20.42, except as provided in this sign matrix.</p> <p>b) Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved attached sign matrix.</p> <p>c) Pursuant to Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to this approval if the intent of the original approval is not affected.</p> <p>d) Temporary and exempt signs not specifically addressed in the sign program shall be regulated by the provisions of Chapter 20.42 (Sign Standards) of the Zoning Code.</p>

# **Attachment No. ZA 3**

Project Plans

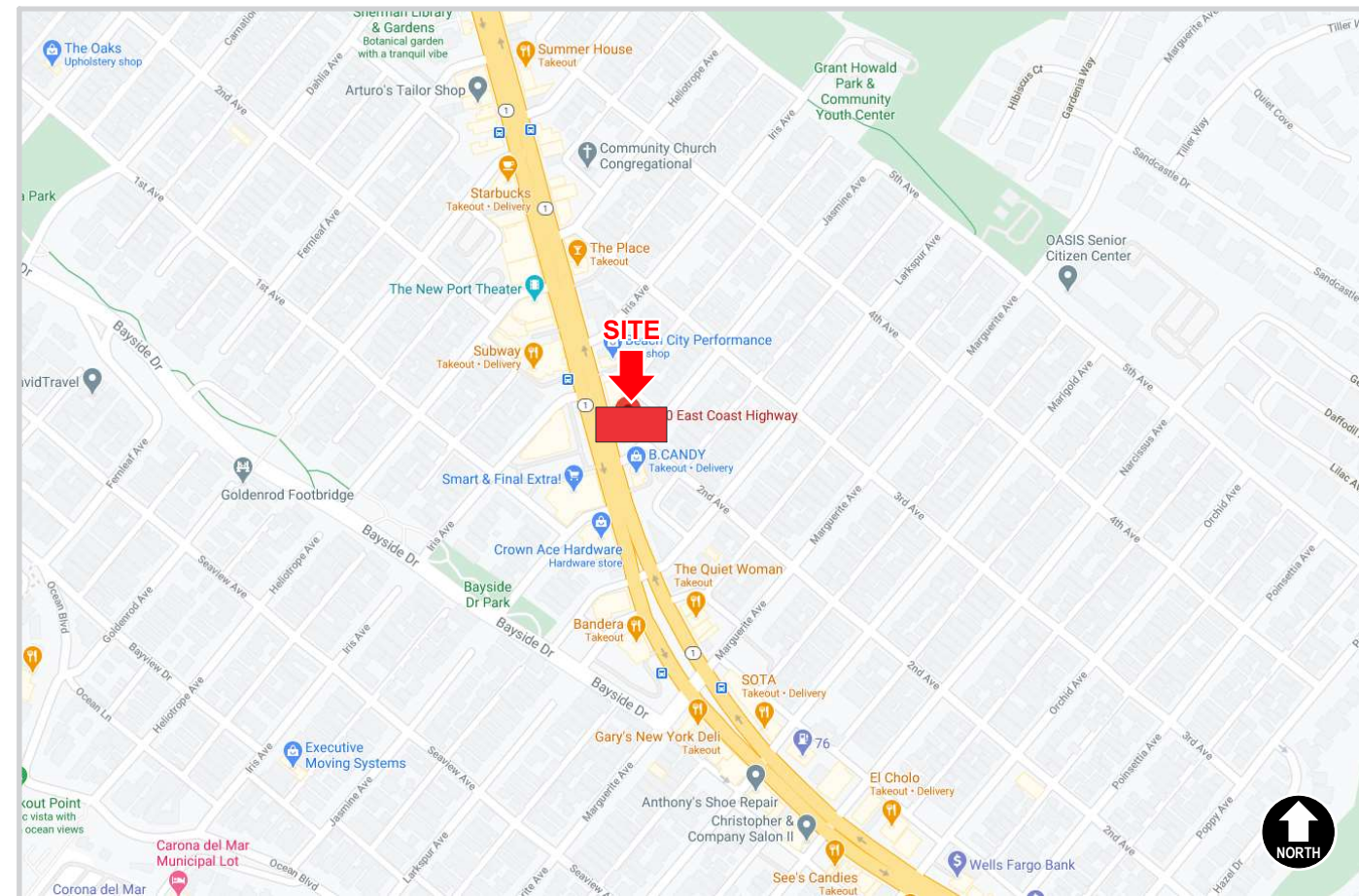
**SCOPE OF WORK**

- N1 - (1) SIGN TYPE: EXPOSED NEON PEPPER LOGO & CHANNEL LETTERS
- N2 - (1) SIGN TYPE: EXPOSED NEON PEPPER LOGO & CHANNEL LETTERS
- N3 - (1) **CUSTOM** SIGN TYPE B-3: LED ILLUMINATED PEPPER LOGO & CHANNEL LETTERS WITH HALO
- N4 - N/A
- N5 - (1) SIGN TYPE: LED ILLUMINATED SINGLE FACE PICK-UP SIGN
- N6 - (2) PYLON REPLACEMENT FACES

- a. "All work to comply with 2019 California Building Codes and 2019 California Energy Efficiency Standards for sign lighting."
- b. "A 20-amp dedicated circuit for signage with astronomical time clock control shall be provided."
- c. "Sign installer shall identify sign circuit breaker and update panel directory."

**APPROVAL**

X	Title	Date



VICINITY MAP

NOT TO SCALE



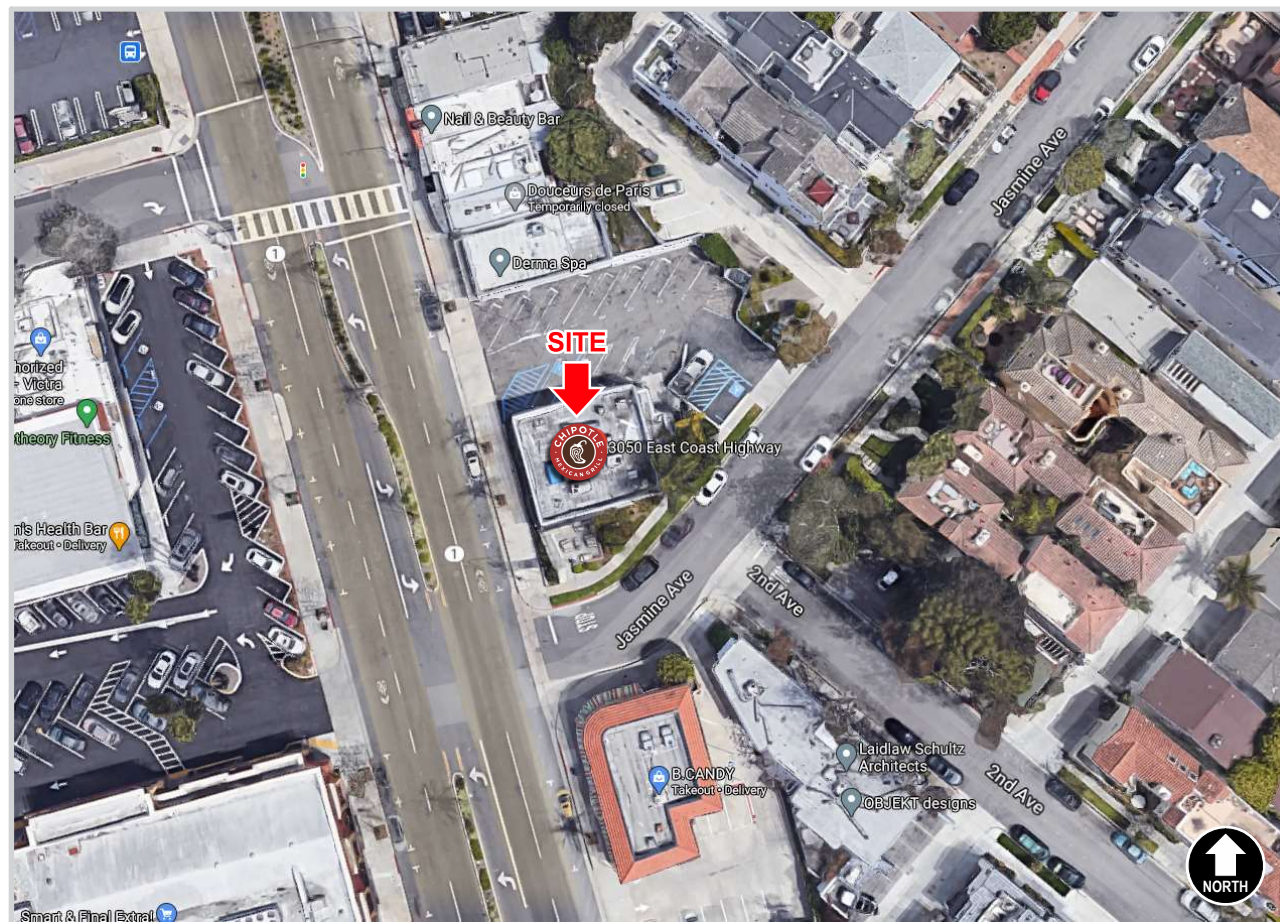
**CHIPOTLE #3479**  
**3050 East Coast Hwy**  
**Corona Del Mar, CA 92625**

**SIGN CODE**

ALLOWABLE SQ. FT. <u>000</u>	PROPOSED SQ. FT. <u>000</u>

**LEGEND**

N1 NEW PROPOSED    
 R1 EXISTING SIGN TO BE REPLACED    
 X1 EXISTING SIGN TO BE REMOVED    
 S1 EXISTING SIGN TO REMAIN



AERIAL PHOTO / SITE PLAN

NOT TO SCALE



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Los Angeles, CA



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**11-20-0004R12**

PAGE NO.:  
**1** OF **13**

CLIENT:  
**CHIPOTLE**

ADDRESS  
 3050 East Coast Hwy  
 Corona Del Mar, CA 92625

Approval Signature

DATE:  
 11/09/2020

PROJECT MANAGER  
 Carla T.

DESIGNER:  
 Jose Soria

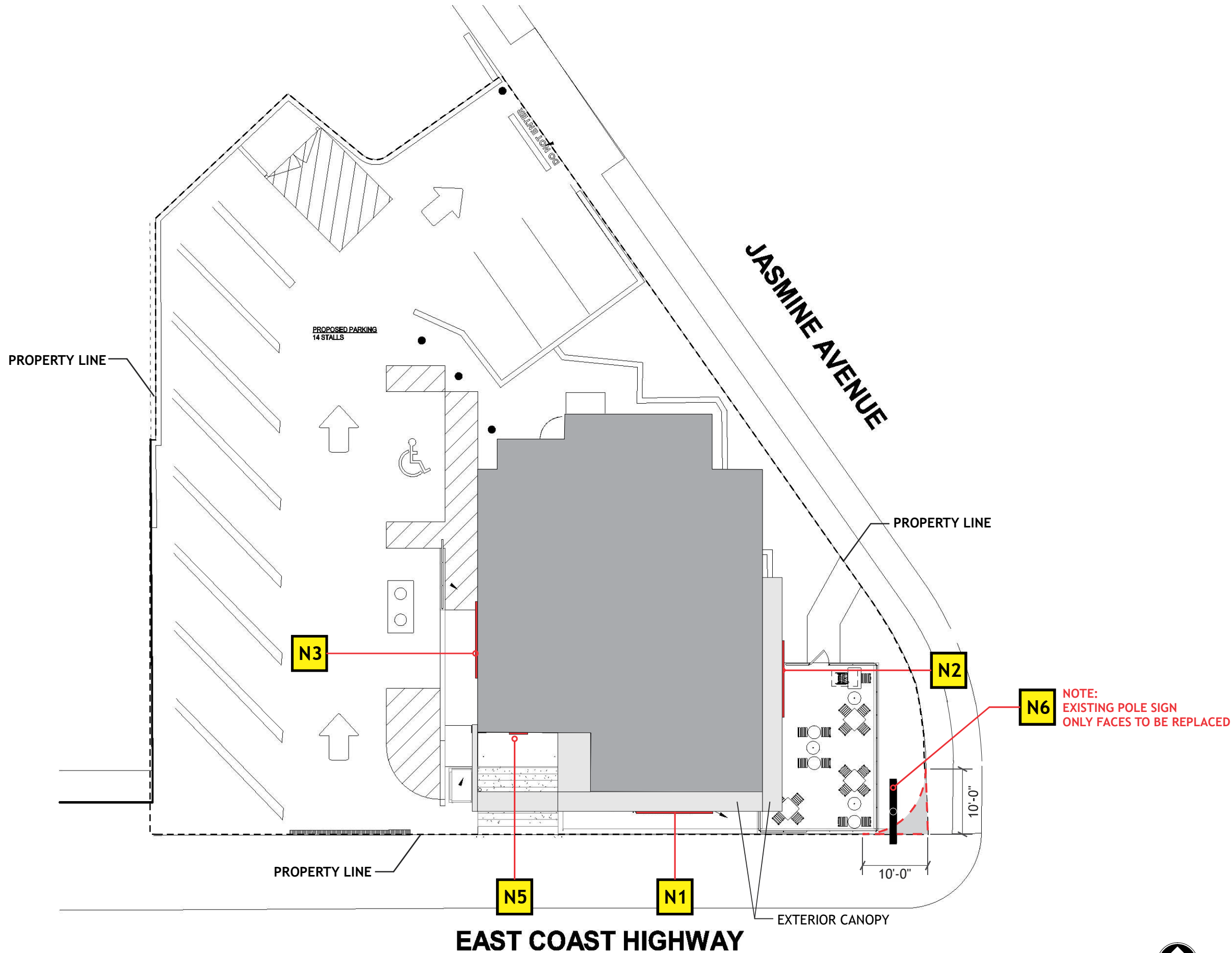
REVISION DATE:  
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REVISION BY:  
 Adrian C.

Signature

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 SITE PLAN



Scale: 1' = 15'-0"



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PROJECT MANAGER  
Carla T.

DESIGNER:  
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REVISION DATE:  
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REVISION BY:  
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58'-0"

14'-10½"

4'-7"

17'-8"

2'-6½"

12'-6"

20'-0"



**CHIPOTLE**

**N3**

**WEST ELEVATION**

Scale: 3/16" = 1'-0"



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DESIGNER:

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REVISION DATE:

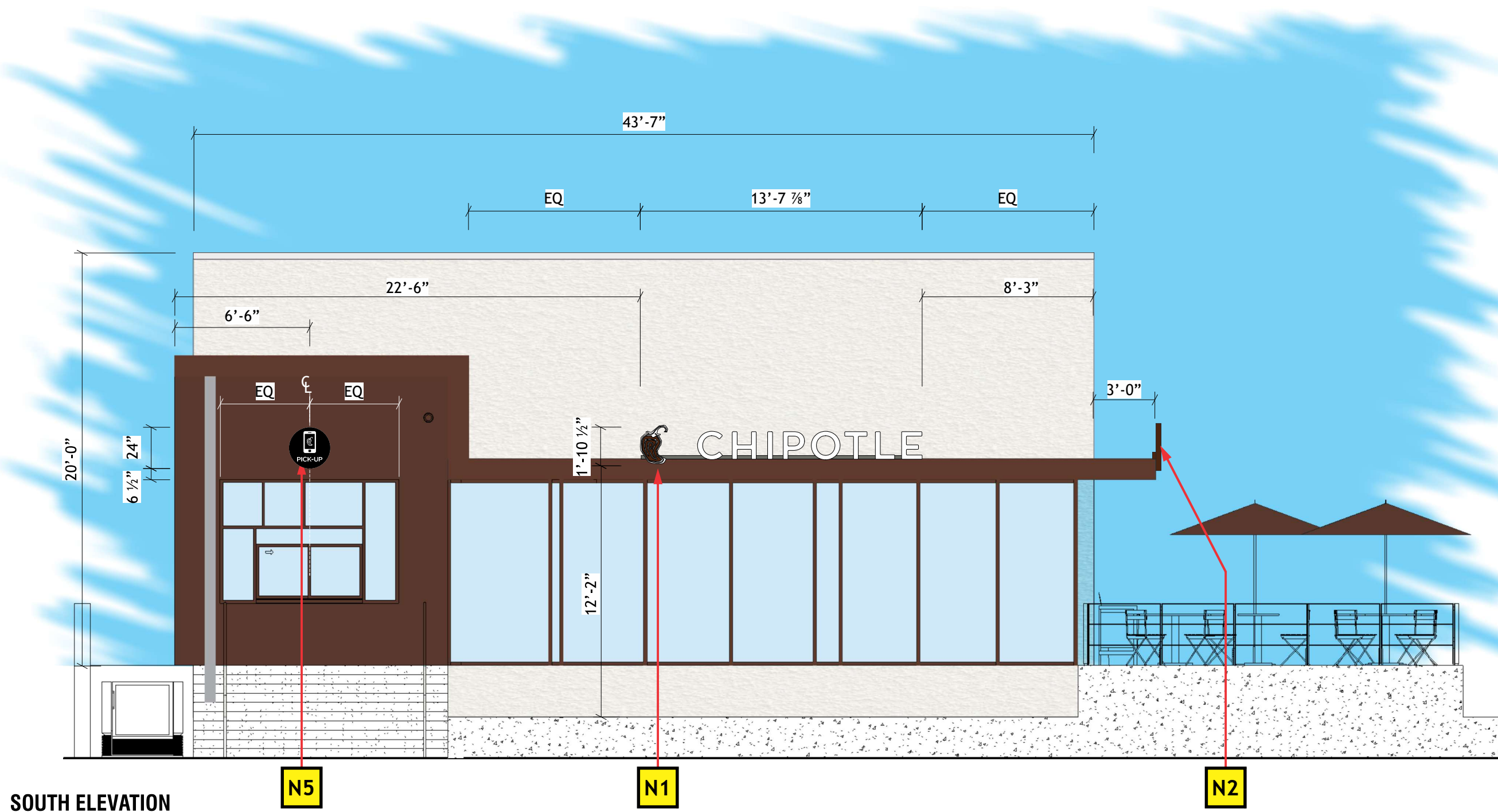
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**SOUTH ELEVATION**

**N5**

**N1**

**N2**

Scale: 3/16" = 1'-0"



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DESIGNER:

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REVISION DATE:

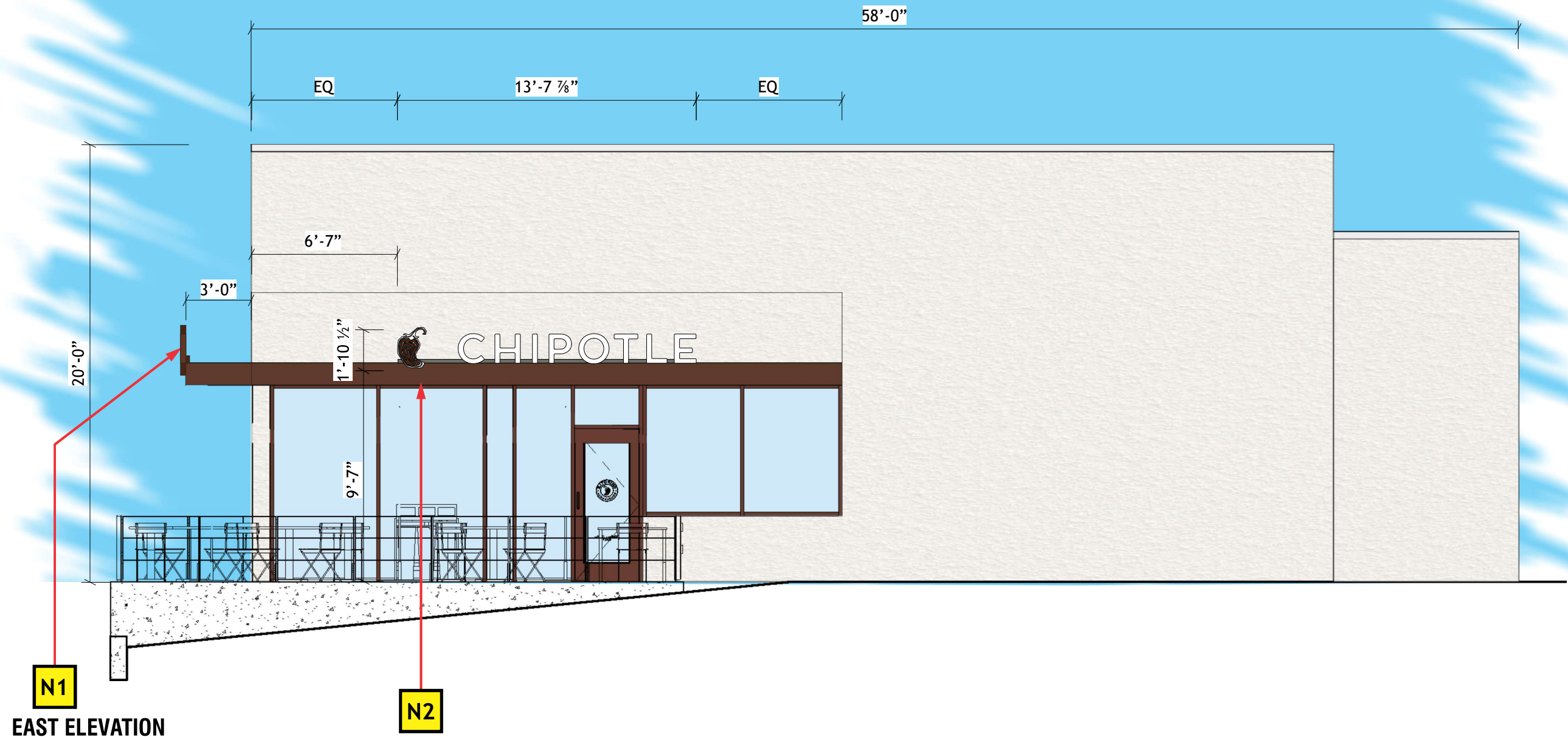
08/20/2021

REVISION BY:

Adrian C.

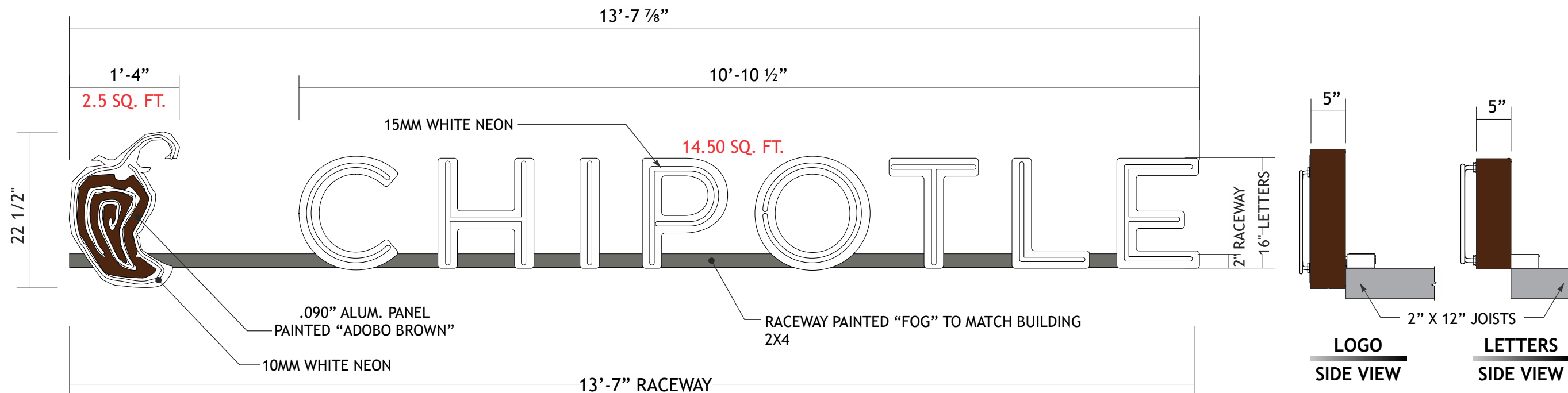
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**EAST ELEVATION**

Scale: 3/16" = 1'-0"



**CUSTOM**

**SIGN TYPE: EXPOSED NEON ILLUMINATED PEPPER LOGO & CHANNEL LETTERS**

**TOTAL SQ. FT.: 17**

Scale: 3/4" = 1'-0"

**N1 N2**

**SPECIFICATIONS:**

**EXPOSED NEON CHANNEL LETTERS**

FACES:..... .090" ALUM. PAINTED WHITE  
 RETURNS:..... .063"x5" ADOBO BROWN  
 BACKS:..... .063" ALUM.  
 ILLUMINATION:... EXPOSED WHITE NEON

**PEPPER LOGO**




FACES:..... .090" ALUM.  
 RETURNS:..... .063"x5" ADOBO BROWN  
 BACKS:..... .063" ALUM.  
 ILLUMINATION:... EXPOSED WHITE NEON

- a. "All work to comply with 2019 California Building Codes and 2019 California Energy Efficiency Standards for sign lighting."
- b. "A 20-amp dedicated circuit for signage with astronomical time clock control shall be provided."
- c. "Sign installer shall identify sign circuit breaker and update panel directory."

**GENERAL NOTES:**

- 1.) INSTALLATION OF THIS SIGN SHALL CONFORM TO THE REQUIREMENTS OF ARTICLE 600 OF NEC, UL48 AND/OR OTHER APPLICABLE LOCAL CODES.
- 2.) BRANCH CIRCUIT:
  - A.) ALL BRANCH CIRCUITS FOR SIGNS MUST BE TOTALLY DEDICATED TO SIGNS (INCLUDING DEDICATED GROUND AND DEDICATED NEUTRAL PER CIRCUIT).
  - B.) SIGN CIRCUITS MUST NOT BE SHARED WITH OTHER LOADS SUCH AS LIGHTING, AIR CONDITIONING AND OTHER EQUIPMENT.
  - C.) PROPERTY SIZED GROUND WIRE THAT CAN BE TRACKED TO THE BREAKER PANEL MUST BE PROVIDED.
- 3.) U.L. AND DATA LABELS REQUIRED
- 4.) SIGN SATISFIES ALL REQUIREMENTS OF TITLE 24.
- 5.) OUTDOOR SIGNAGE TO EMPLOY EITHER PHOTOCCELL OR OUTDOOR ASTRONOMICAL TIMER.

**COLOR SPECIFICATIONS:**

-  "Adobo Brown"  
PAINT: PMS #4625-C FINISH
-  1/2" CYRO #2447 MILK WHITE ACRYLIC FACES  
PAINT: WHITE
-  RACEWAY PAINT "FOG" TO MATCH BUILDING



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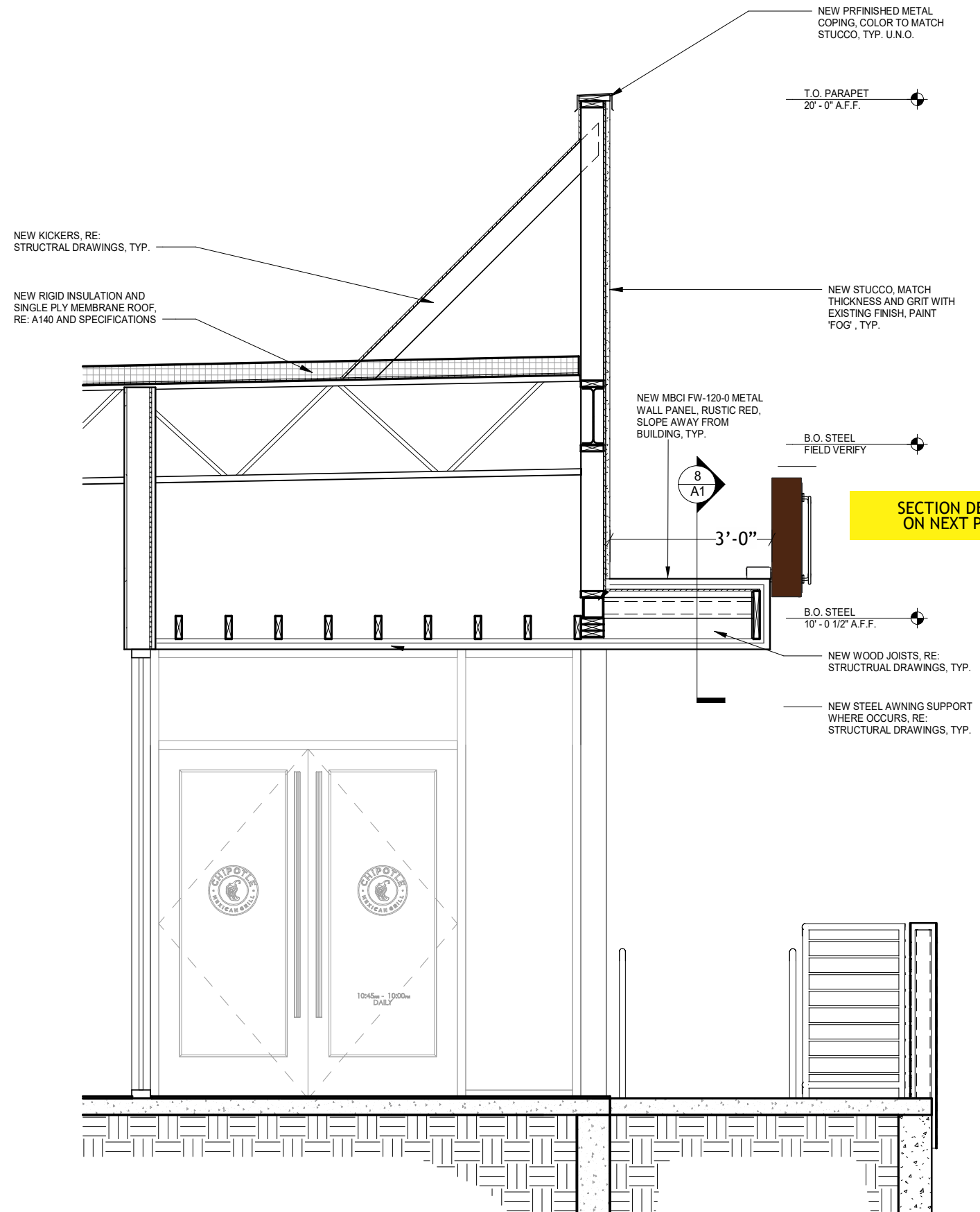
DESIGNER:  
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REVISION BY:  
 Adrian C.

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ELEVATION VIEW

Scale: 3/8" = 1'-0"



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Carla T.

DESIGNER:

Jose Soria

REVISION DATE:

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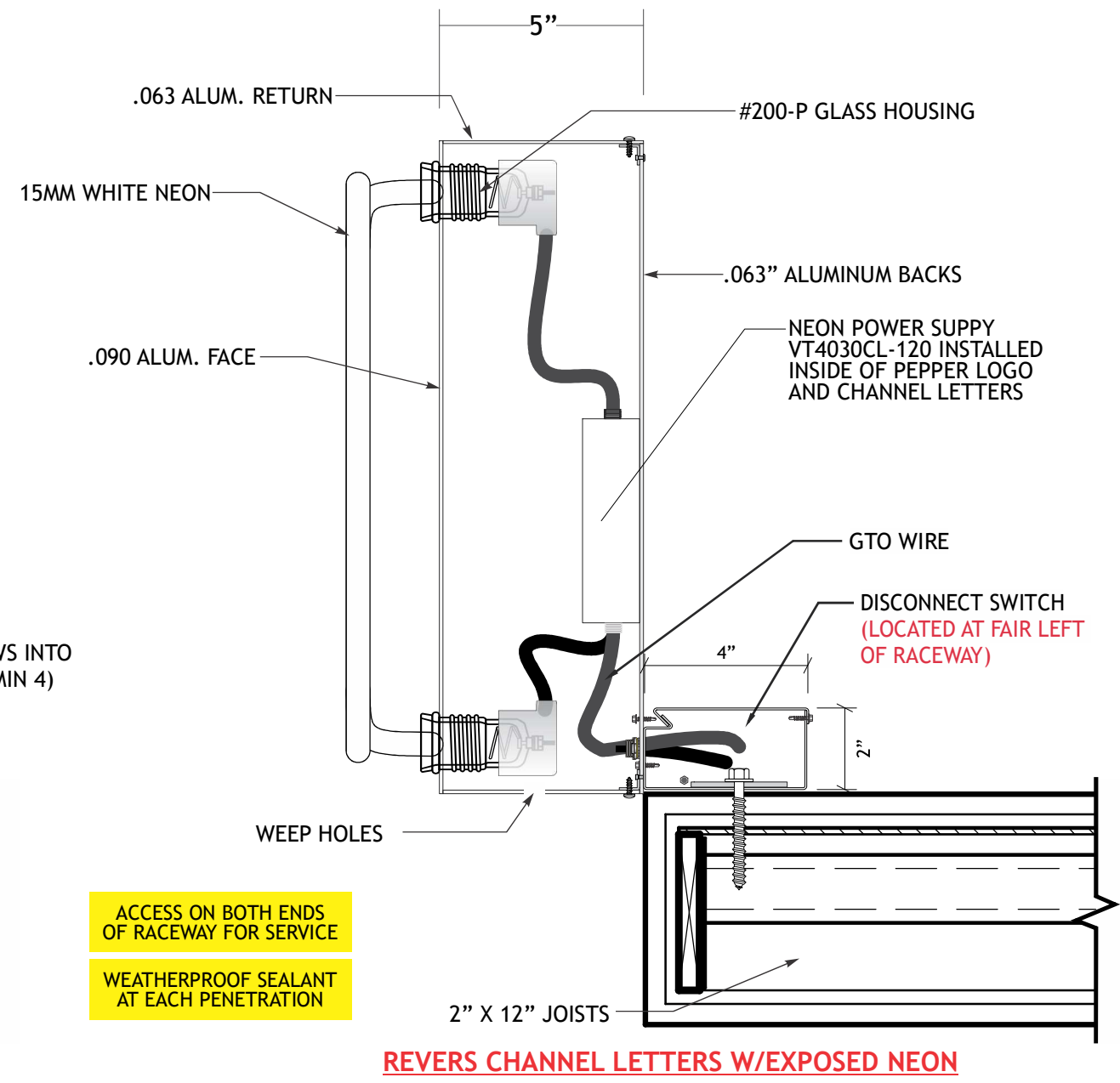
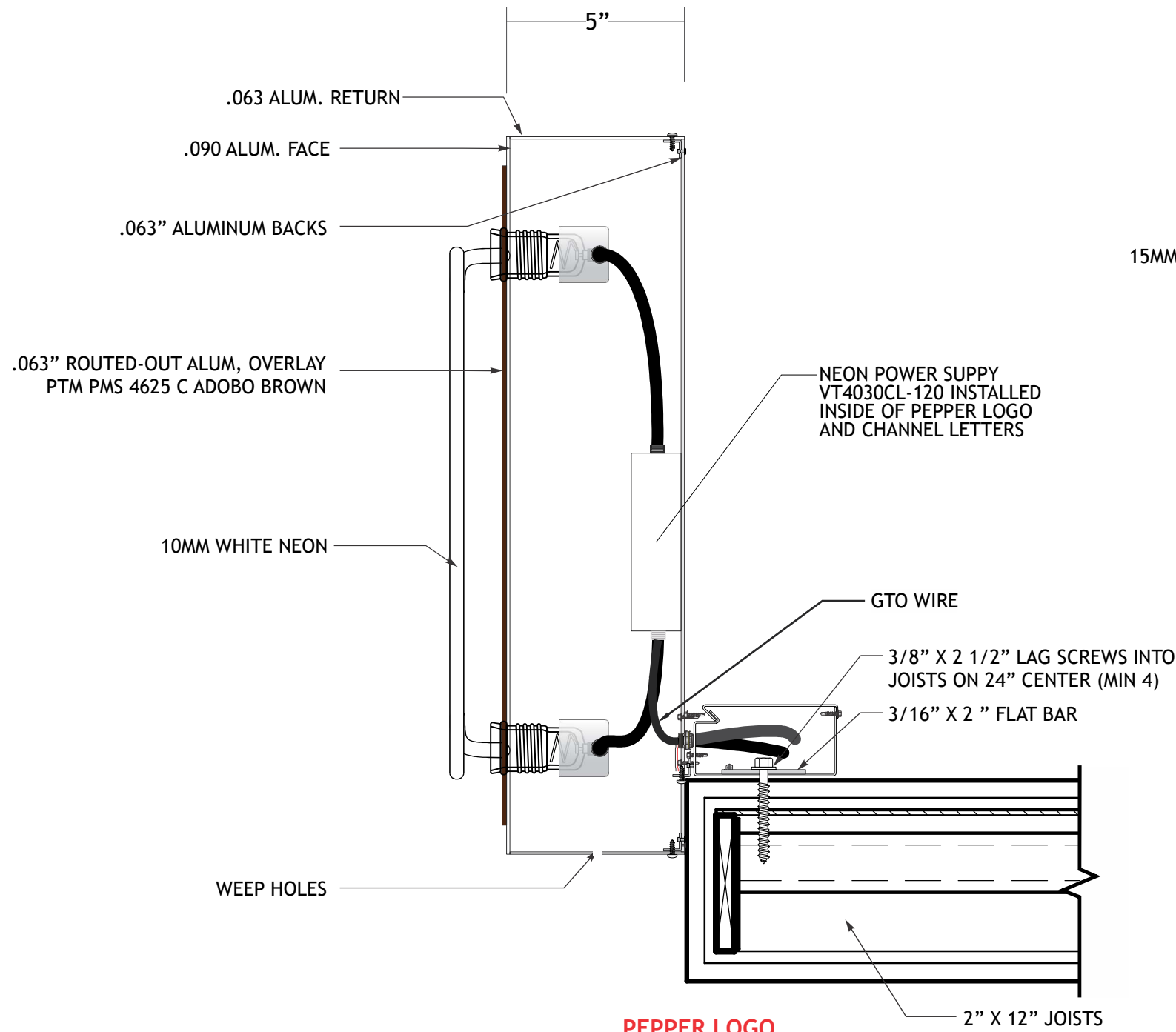
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ACCESS ON BOTH ENDS  
OF RACEWAY FOR SERVICE

WEATHERPROOF SEALANT  
AT EACH PENETRATION



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REVISION DATE:

08/20/2021

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Approval Signature

DATE:

11/09/2020

PROJECT MANAGER

Carla T.

DESIGNER:

Jose Soria

REVISION DATE:

08/20/2021

REVISION BY:

Adrian C.

Signature

**CUSTOM**

**N3**

**SIGN TYPE B-3: LED ILLUMINATED PEPPER LOGO & CHANNEL LETTERS WITH HALO**

**TOTAL SQ. FT.: 38.0**

Scale: 3/4" = 1'-0"

**SPECIFICATIONS:**

**FACE LIT CHANNEL LETTERS:**

FACES:..... .177" CYRO #2447 MILKY-WHITE ACRYLIC  
 RETURNS:..... .040"x3" PRE-FINISHED PTM PMS #4625-C "ADOBO BROWN"  
 BACKS:..... 1/8" ACM  
 TRIM CAP:..... 1" JEWELITE TRIMCAP BROWN  
 ILLUMINATION:.. WHITE LED'S

**PEPPER LOGO & LETTERS WIREWAY:**

FACES:..... .090" ALUMINUM PTM PMS #484-C "ROASTED RED & PMS #4625-C "ADOBO BROWN"  
 RETURNS:..... 2" ALUMINUM ANGLE & .063" FORMED RADIUS CORNERS  
 PTM PMS #484-C "ROASTED RED & PMS #4625-C "ADOBO BROWN"  
 BACKS:..... .090" ALUM., NOTCHED BACKS W/ .177" WHITE ACRYLIC STRIPS  
 AND VHB TAPE TO 1" ALUM SQ TUBE FRAME  
 STAND-OFFS:.... 3/4" ALUM ROUND TUBE, 1 1/2" LONG PAINTED WHITE

**COLOR SPECIFICATIONS:**

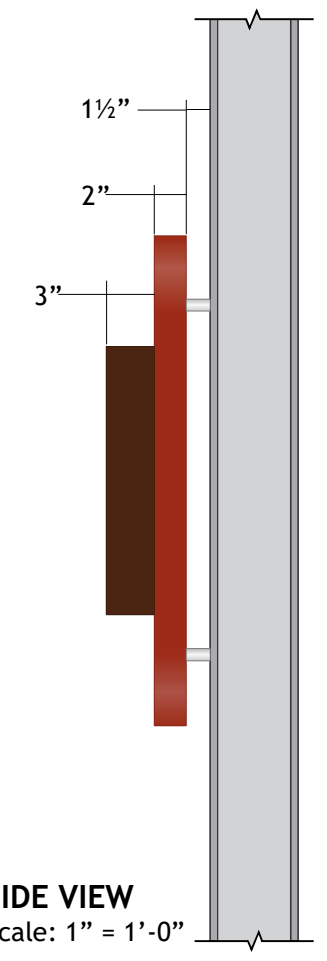
"Roasted Red"  
 PAINT: PMS #484-C FINISH

"Adobo Brown"  
 PAINT: PMS #4625-C FINISH

.177" CYRO #2447 MILK WHITE ACRYLIC FACES  
 PAINT: WHITE

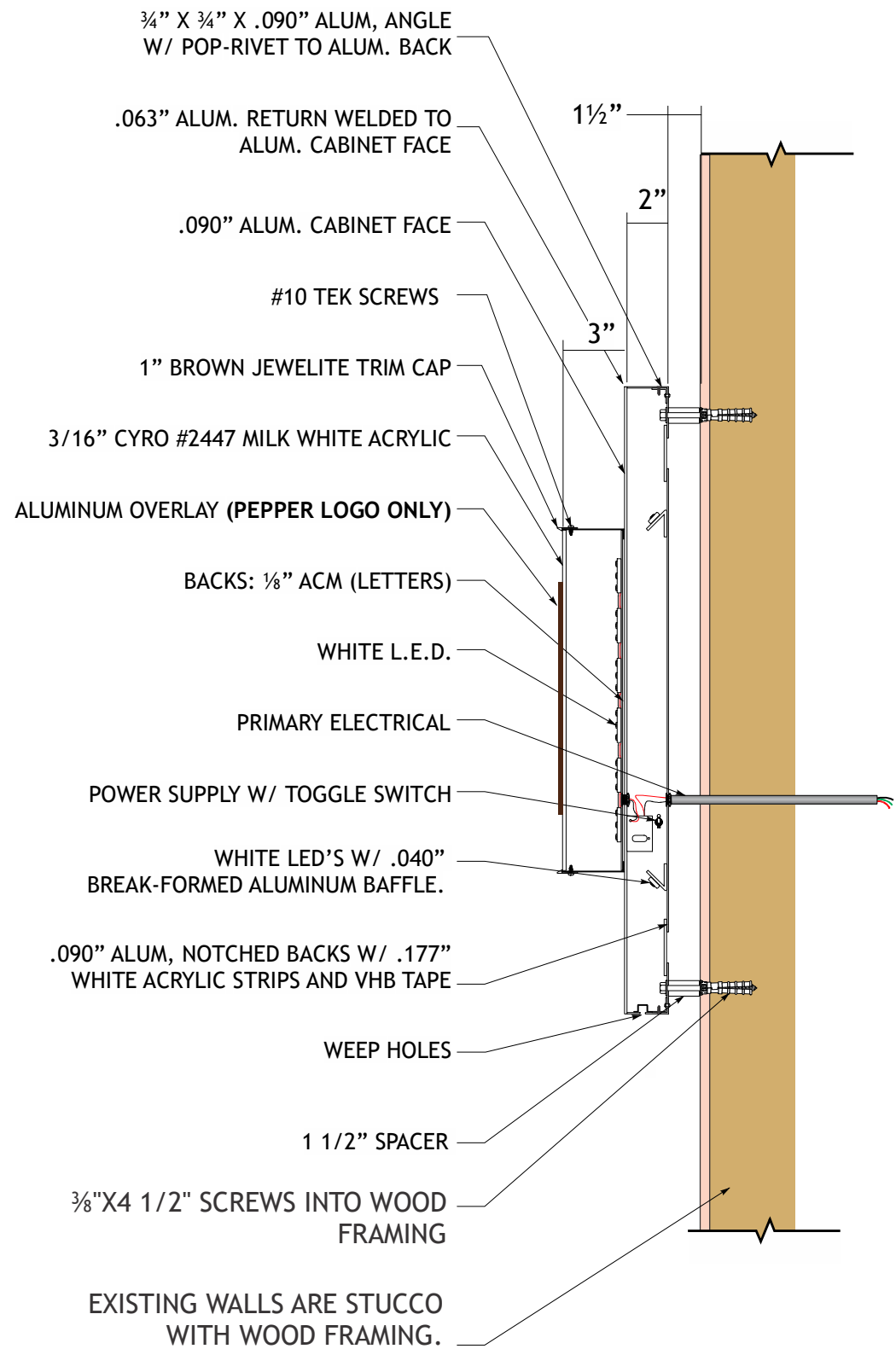
**GENERAL NOTES:**

- 1.) INSTALLATION OF THIS SIGN SHALL CONFORM TO THE REQUIREMENTS OF ARTICLE 600 OF NEC, UL48 AND/OR OTHER APPLICABLE LOCAL CODES.
- 2.) BRANCH CIRCUIT:
  - A.) ALL BRANCH CIRCUITS FOR SIGNS MUST BE TOTALLY DEDICATED TO SIGNS (INCLUDING DEDICATED GROUND AND DEDICATED NEUTRAL PER CIRCUIT).
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- 4.) SIGN SATISFIES ALL REQUIREMENTS OF TITLE 24.
- 5.) OUTDOOR SIGNAGE TO EMPLOY EITHER PHOTOCCELL OR OUTDOOR ASTRONOMICAL TIMER.

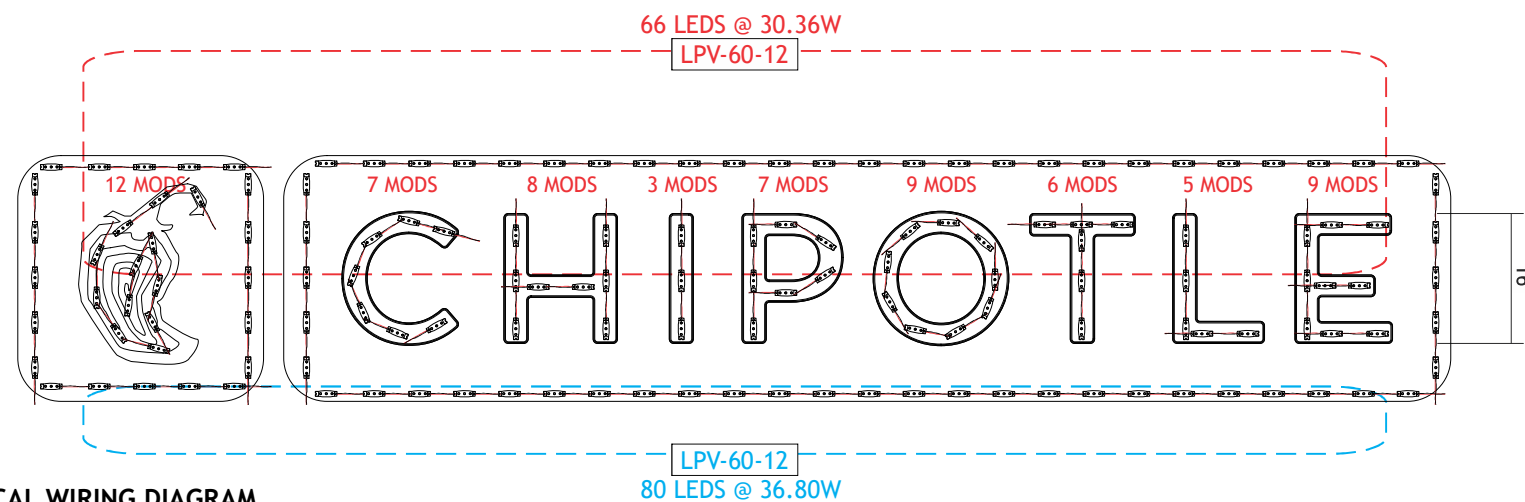


**SIDE VIEW**  
Scale: 1" = 1'-0"

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**UL LISTED**  
**ELECTRIC SIGN SECTION**  
 THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES.  
 THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.



**ELECTRICAL WIRING DIAGRAM**

**ELECTRICAL DATA:**  
**LETTERS & LOGO**  
 (66 MODS) WHITE LEDs @ .46 WATT EA. = 30.36WATTS  
 (1) LPV-60-12 POWER SUPPLIES @ 1.2 AMPS EACH  
**BACKGROUND**  
 (80 MODS) WHITE LEDs @ .46 WATT EA. = 36.80 WATTS  
 (1) LPV-60-12 POWER SUPPLIES @ 1.2 AMPS EACH  
**TOTAL LOAD: 2.4 @ 120 VAC.**  
**(1) 20 AMP-120V CIRCUIT REQUIRED.**

**INSTALLATION SPECIFICATIONS:**  
 ALL HARDWARE SHOULD BE CORROSION RESISTANT.  
**RECOMMENDED MOUNTING HARDWARE:**  
 1/2"x8" THREADED RODS W/NUT,SPLIT WASHER & FLAT WASHERS THROUGH BOLTED TO 2"x2"x3/16" ALUMINUM ANGLE SPANNING A MINIMAL OF TWO STUDS.

**GENERAL NOTES:**  
 ELECTRICAL COMPONENTS TO BE UL LISTED AND INSTALLED IN ACCORDANCE WITH THE NATIONAL ELECTRIC CODE (NEC)  
 ALL WIRING SHALL BE 12 GA  
 (1) 20 AMP-120V CIRCUIT TO BE BROUGHT TO JOB SITE BY LICENCED ELECTRICIAN.  
 ALL SIGNAGE WILL BE UL2161 COMPLIANT AND CARRY UL LABELS.

NTS



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PAGE NO.:  
**11 OF 13**

CLIENT:  
**CHIPOTLE**

ADDRESS  
 3050 East Coast Hwy  
 Corona Del Mar, CA 92625

Approval Signature

DATE:  
 11/09/2020

PROJECT MANAGER  
 Carla T.

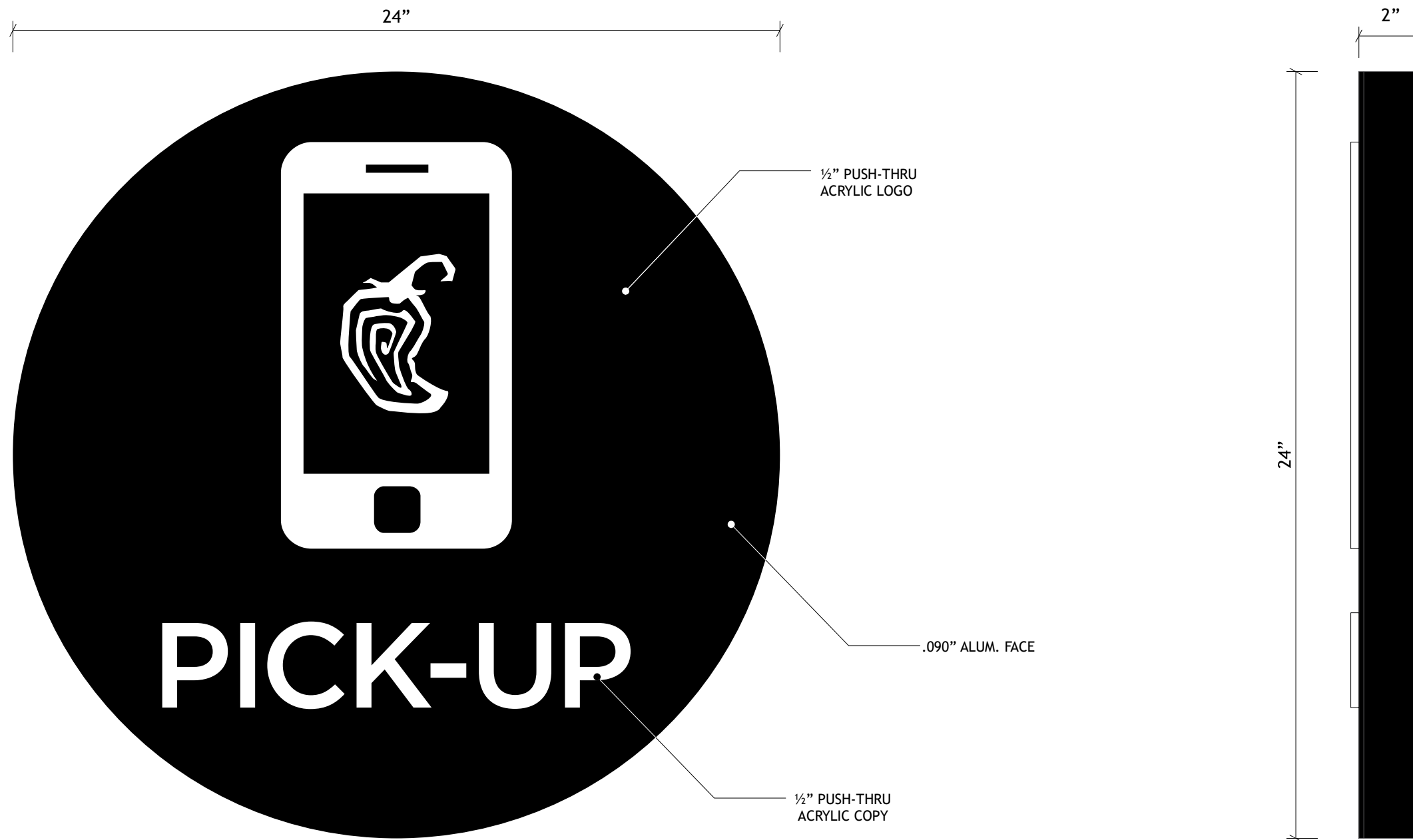
DESIGNER:  
 Jose Soria

REVISION DATE:  
 08/20/2021

REVISION BY:  
 Adrian C.

Signature

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**N5**

**SIGN TYPE: LED ILLUMINATED SINGLE FACE PICK-UP SIGN**

**TOTAL SQ. FT.: 3.14**

Scale: 3" = 1'-0"

**SPECIFICATIONS:**

**BACKER PANEL:**

FACES:..... .090" ALUMINUM  
 RETURNS:..... .063" X 2" ALUMINUM  
 BACK:..... ACM

**COPY:**

FACE:..... 1/2" MILK WHITE ACRYLIC PUSH-THROUGH

ILLUMINATION:.. WHITE LED'S

**COLOR SPECIFICATIONS:**

■ PAINT: BLACK



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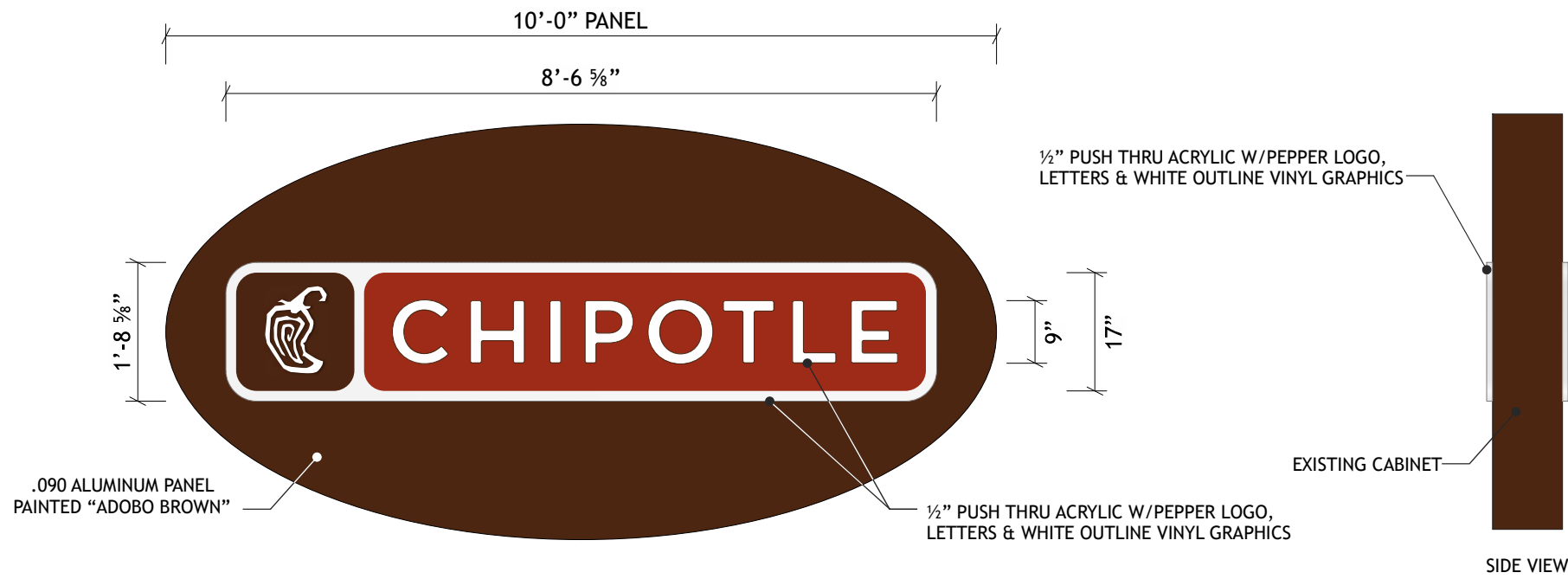
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**Adrian C.**

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**N6** PYLON REPLACEMENT: ROUTED OUT PUSH THRU PEPPER LOGO, LETTERS AND WHITE OUTLINE QTY 2  
 SCALE: 3/4"=1'-0"

**NOTE**  
 FIELD VERIFY DIMENSIONS PRIOR TO MANUFACTURING.  
 NOT READY FOR PRODUCTION

**SPECIFICATIONS:**  
 LOGO:..... 1/2" PUSH THRU ACRYLIC W/PEPPER LOGO, LETTERS & WHITE OUTLINE VINYL GRAPHICS  
**BACKGROUND**  
 FACES:..... .090" ALUMINUM PTM PMS #484-C "ROASTED RED & PMS #4625-C "ADOBO BROWN"

**COLOR SPECIFICATIONS:**  
 "Roasted Red" PAINT: PMS #484-C FINISH  
 "Adobo Brown" PAINT: PMS #4625-C FINISH  
 1/2" CLEAR ACRYLIC PUSH THRU FACES VINYL GRAPHICS

**GENERAL NOTES:**  
 1.) INSTALLATION OF THIS SIGN SHALL CONFORM TO THE REQUIREMENTS OF ARTICLE 600 OF NEC, UL48 AND/OR OTHER APPLICABLE LOCAL CODES.  
 2.) BRANCH CIRCUIT:  
 A.) ALL BRANCH CIRCUITS FOR SIGNS MUST BE TOTALLY DEDICATED TO SIGNS (INCLUDING DEDICATED GROUND AND DEDICATED NEUTRAL PER CIRCUIT).  
 B.) SIGN CIRCUITS MUST NOT BE SHARED WITH OTHER LOADS SUCH AS LIGHTING, AIR CONDITIONING AND OTHER EQUIPMENT.  
 C.) PROPERTY SIZED GROUND WIRE THAT CAN BE TRACKED TO THE BREAKER PANEL MUST BE PROVIDED.  
 3.) U.L. AND DATA LABELS REQUIRED  
 4.) SIGN SATISFIES ALL REQUIREMENTS OF TITLE 24.  
 5.) OUTDOOR SIGNAGE TO EMPLOY EITHER PHOTOCELL OR OUTDOOR ASTRONOMICAL TIMER



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