



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, and/or Planning Division staff for the week ending October 28, 2022.

ZONING ADMINISTRATOR ACTIONS OCTOBER 27, 2022

- Item 1: Annual Review of Hoag Memorial Hospital Presbyterian Development Agreement No. 5 (PA2009-064)
Site Address: 1 Hoag Drive
- | | | |
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| Action: The Zoning Administrator found that Hoag Memorial Hospital Presbyterian is in good faith compliance with the terms of the Development Agreement. | Council District | 2 |
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- Item 2: Annual Review of Uptown Newport Development Agreement No. DA2012-003 (PA2014-039)
Site Address: 4311-4321 Jamboree Road
- | | | |
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| Action: The Zoning Administrator found that Uptown Newport, LP is in good faith compliance with the terms of the Development Agreement. | Council District | 3 |
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- Item 3: Friedman Residence Coastal Development Permit (PA2022-0186)
Site Address: 7106 West Ocean Front
- | | | |
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| Action: Approved by Resolution No. ZA2022-069 | Council District | 1 |
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- Item 4: DISH Wireless Coastal Development Permit (PA2021-301)
Site Address: 2865 and 2867 (CS) East Coast Highway
- | | | |
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| Action: Referred to the Planning Commission | Council District | 6 |
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ACTION TAKEN BY THE CHIEF OF POLICE

(Non-Hearing Item)

Item 1: Taco Bell Cantina Operator License (PA2022-0161)

Site Address: 2121 West Balboa Boulevard

Action: Approved

Council District 1

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

(Non-Hearing Items)

Item 1: 2200 West Ocean Front Comprehensive Sign Program Amendment (PA2022-0176)

Site Address: 2200 West Ocean Front

Action: Approved

Council District 1

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.

Wendy Joe, Civilian Investigator, NBPD (*Telecom - Massage – ABC License*)

Mark Short, Police Sergeant, NBPD (*Massage – ABC License*)

RESOLUTION NO. ZA2022-069

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A COASTAL DEVELOPMENT PERMIT 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 7106 WEST OCEAN FRONT (PA2022-0186)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Philip Nielsen representing property owner Andy Friedman with respect to property located at 7106 West Ocean Front, and legally described as Lot 4 of Block K, of the Seashore Colony Tract addition to Newport Beach, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new three (3)-story, 2,637-square-foot, single-family residence with a 382-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. The project complies with all development standards and no deviations from the Municipal Code are requested.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT). The R-2 Zoning District permits single-unit residential dwellings.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E) (30.0 – 39.9 DU/AC) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on October 27, 2022, online via Zoom. 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, Division 6, 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 construction of limited numbers of new, small structures, including one (1) single-family residence. The proposed project consists of the demolition of an existing single-family residence and the construction of a new 2,637-square-foot, three-story, single-family residence with an attached 382-square-foot, two-car garage.
3. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemption. 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(F) (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (NBMC), 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 3,120 square feet and the proposed floor area is 3,019 square feet.
 - b. The proposed development complies with the required setbacks, which are five feet along the front property line abutting West Ocean Front, five feet along the rear property line abutting the alley, and three feet along each side property line.
 - c. The highest guardrail/parapet is below 24 feet from established grade and the highest ridge is no more than 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a two (2)-car garage, meeting the minimum garage requirement for a single-family residence with less than 4,000 square feet of habitable floor area.
 - e. The proposed development complies with the minimum 9.0-foot North American Vertical Datum of 1988 (NAVD 88) top of slab elevation requirement for interior living areas of new structures.

2. The neighborhood is predominantly developed with two- and three-story single and multi-family residences. The proposed three-story design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. A Coastal Hazards Report was prepared by GeoSoils, Inc. on February 2, 2022. The project site is separated from the water by a wide sandy beach. The report concludes that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach. The site is approximately 630 feet from the mean high tide line. The report also concludes that the project will be reasonably safe from future sea level rise assuming an increase up to 10.9 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).
4. The finish floor elevation of the proposed dwelling is 13.00 feet North American Vertical Datum of 1988 (NAVD 88), which complies with the minimum 9.0-foot (NAVD 88) elevation standard for new structures and exceeds the minimum requirements for sea level rise (10.9 feet NAVD 88). Impacts from sea level rise are not anticipated at this time for the 75-year economic life of the proposed improvements. The project should be designed for adaptability elevation of 14.4 feet (NAVD 88). Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure.
5. 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). The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be recorded prior to the issuance of building permits.
6. Pursuant to Newport Beach Municipal Code (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 recorded prior to final building inspection.
7. 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.
8. The property is located approximately 630 feet east 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 construction plans and activities will be required to adhere to the CPPP.

9. 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.

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; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The existing residential development neither provides nor inhibits public coastal access. 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 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.
2. The project is designed and sited so as not to block or impede existing public access opportunities and development will occur within the confines of private property. Existing coastal access conditions will not be affected. Coastal access is currently provided and will continue to be provided by street ends throughout the Balboa Peninsula with access to the beach and water. This access includes Nordina Street and Highland Street, each located less than 100 feet from the subject property. Each street end includes City planters and walls that were permitted pursuant to the Title 21 Appendix C (Oceanfront Encroachment Policy Guidelines). This area is maintained by the City and the planting heights are limited by this policy.
3. The project site is not located adjacent to a coastal view road or public viewpoint, as identified in the Coastal Land Use Plan. The nearest public view road occurs along West Coast Highway crossing over the bridge to and from Huntington Beach. The project site is adjacent to a public beach. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated neighborhood pattern of development.

Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

4. The existing 15-foot encroachment of the patio is allowed pursuant to Title 21 Appendix C (Oceanfront Encroachment Policy Guidelines) and is conditioned to require an encroachment permit from the Public Works Department. The existing patio does not affect public views or access to the public beach.

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 the Coastal Development Permit (PA2022-0186), 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 (NBMC). 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 27TH DAY OF OCTOBER, 2022.



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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. PA2022-0186 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 (NBMC), unless an extension is otherwise granted.
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. The letter shall be scanned into the plan set prior to building permit issuance.
5. 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.
6. *This Coastal Development Permit does not authorize any development seaward of the private property, including the West Ocean Front Encroachment Area.*
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. 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.

9. Prior to the issuance of a building permit, the applicant shall submit a construction management plan, reviewed and approved by the Public Works Department, demonstrating the applicant will have sufficient and guaranteed access to the site through private property and will not impact public access. Said plan shall also indicate areas for the storage of construction equipment and materials.
10. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays or holidays.
17. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

18. 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 (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
19. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
20. 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.
21. 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.
22. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.

23. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
24. Prior to the 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.
25. 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.
26. 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.
27. 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 **Friedman Residence** including, but not limited to, **Coastal Development Permit (PA2022-0186)**. 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.

Public Works Department

1. Prior to issuance of final building permits, a new Ocean Front Encroachment Permit shall be obtained for the reconstruction of the patio slab and the proposed encroachment shall be consistent with Municipal Code Section 21, Appendix C.
2. A new sewer clean out shall be installed on the existing sewer lateral per City Standard 406.
3. The existing water meter shall be relocated to the public right of way.



OPERATOR LICENSE APPROVAL LETTER

POLICE DEPARTMENT
870 SANTA BARBARA DRIVE
NEWPORT BEACH, CA 92660
(949) 644-3681 FAX (949) 644-3794
www.nbpd.org

VIA EMAIL

October 28, 2022

Taco Bell Cantina
Angel City Bell, LLC
SG Ellison
465 First Street West, 2nd Floor
Sonoma, California 95476
sgellison@acventures.com

Application No.	Operator License PA2022-0161
Owner/Applicant	Angel City Bell, LLC
Location/Business Name	Taco Bell Cantina
Site Address	2121 W. Balboa Blvd., Newport Beach
Legal Description	Lot 14 in Block 21 of Newport Beach

On October 28, 2022, the Chief of Police approved the following: A request for the issuance of an Operator License pursuant to Chapter 5.25 of the Municipal Code for an existing food service, eating and drinking establishment with late hours, a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control (ABC) license. This Operator License is being issued due to a change in ownership.

REQUIRED FINDINGS

The Chief of Police has made the following findings as required by NBMC 5.25.050(B):

Finding:

- A. *The business or enterprise is located in a zone permitting the proposed use under Title 20 of the NBMC, and is subject to such use permits as may be required.*

Facts in Support of Finding:

1. The MU-W2 (Mixed-Use Water Related) zoning district applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. The eating and drinking establishment with a Type 41 (On Sale Beer and Wine) ABC license and late hours (after 11 p.m.) subject to the approval of a conditional use permit (CUP) is allowed in this zoning district.
2. On May 22, 2018, the Planning Commission approved Conditional Use Permit No. UP2017-028 for a food service, eating and drinking establishment with late hours and Type 41 (On Sale Beer and Wine) Alcoholic Beverage Control (ABC) license in an existing legal

nonconforming eating and drinking establishment. The eating and drinking establishment includes an interior dining area, a kitchen, restroom facilities, and a take-out window. Approved hours of operation are from 6 a.m. to 2 a.m.

Finding:

B. In the case of a business or enterprise offering "Entertainment," as defined, the premises meets all of the criteria in Chapter 5.28.040.B.2-7.

Facts in Support of Finding:

1. The eating and drinking establishment does not offer entertainment as defined in Municipal Code Chapter 5.28 (Live Entertainment Establishments).
2. Condition of approval No. 39 of resolution PC2018-012 (Condition No. 25 of this document) prohibits live entertainment and dancing. To add these activities, an amendment of the CUP would be required subject to Planning Commission review and approval.

Finding:

C. The proposed site plan and improvements are consistent with the use and the plan of operations.

Facts in Support of Finding:

1. The site plan, floor plan and other improvements in the tenant space are identical to the CUP site plan and floor plan approved by the Planning Commission and consist with the expected and common design of a small restaurant. The operational plan is consistent to the project description associated with the approved CUP.
2. The hours of operation for the eating and drinking establishment including the take-out window shall be limited to between 6 a.m. and 2 a.m., daily.
3. Patrons are required to vacate the premise no later than 2 a.m., daily.

Finding:

D. The plan of operations as proposed, with attached conditions in place, is adequate in light of the neighborhood in which the operation is located and supports the public health, safety, and welfare of the community.

Facts in Support of Finding:

1. The business will be required to comply with the hours of operation as specified in the conditions of approval for the Operator License.
2. The Operator License has been conditioned to ensure the location is maintained and operated as an eating and drinking establishment and not a bar, tavern, or nightclub.

3. The plan of operations, along with the conditions of approval provided below and the conditions of approval placed on Use Permit No. UP2017-028, are adequate to ensure the public health, safety, and welfare of the community in consideration of the establishments' location within a mixed-use/commercial area of the City.
4. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, curbs, gutters, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

CONDITIONS OF APPROVAL

1. 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 Conditional Use Permit.
2. *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 a Type 41 (On Sale Beer and Wine) license, in conjunction with the eating and drinking establishment as the principal use of the facility.*
3. *The hours of operation for the eating and drinking establishment including the take-out window shall be limited to between 6 a.m. and 2 a.m., daily.*
4. *The operator is responsible for assuring patrons utilizing the take-out window do not queue in a manner that obstructs the public's use of the adjacent sidewalk. If issues arise related to obstruction of the sidewalk, the City may require installation of signage on the building, or other modifications to ensure the sidewalk remains useable for the general public.*
5. *The net public area of the eating and drinking establishment shall be limited to a maximum of 504 square feet.*
6. *The dining area shall be limited to thirty-two (32) seats. The addition of bar area is prohibited.*
7. *Food service from the regular menu shall be available to patrons up to thirty (30) minutes before the scheduled closing time.*
8. *All customers must vacate the establishment by 2 a.m., daily.*
9. The removal or relocation of pool tables, tables, chairs, stools, or other furniture to accommodate an area for dancing shall be prohibited.
10. The operator of the eating and drinking establishment shall be responsible for the control of noise generated by the subject eating and drinking establishment including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements of the NBMC. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of NBMC

Chapter 10.26. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

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

11. No outdoor paging system shall be utilized in conjunction with the eating and drinking establishment.
12. *A sound system shall be permitted for pre-recorded music played at a background level only. Sound shall adhere to Chapter 10.26 of the Newport Beach Municipal Code.*
13. 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 NBMC Title 14, including all future amendments (including Water Quality related requirements).
14. Trash receptacles for patrons shall be conveniently located inside the establishment.
15. 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 and parking areas within 20 feet of the Property premises. Graffiti shall be removed within 48 hours of written notice from the City.
16. *All doors and windows of the eating and drinking establishment shall remain closed after 11 p.m. except for the ingress and egress of patrons and employees and use of the take-out window.*
17. Storage outside of the building in the front or at the rear of the Property shall be prohibited.
18. No off sales of alcohol shall be permitted.
19. All owners, managers, and employees must abide by all requirements and conditions of the Alcoholic Beverage License.
20. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
21. There shall be no live entertainment or dancing allowed on the premises. Live entertainment may be allowed subject to the approval of a Special Event Permit for each occasion.

22. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
23. There shall be no reduced priced alcohol beverage promotions after 9 p.m.
24. Strict adherence to maximum occupancy limits is required.
25. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
26. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the NBMC.
27. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and 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.
28. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
29. Any event or activity staged by an outside promoter or entity, where 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 is prohibited.
30. There shall be no on-site radio, televisions, video, film, or other electronic media broadcasts, including recordings to be broadcasted later, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City.
31. "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).
32. Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Police Department upon request.
33. Management shall maintain a security system with a 30-day retention and make those

recordings available to the Police Department upon request.

34. The Permittee shall implement an operational security plan designed to ensure that Alcoholic Beverage Control regulations and building occupancy limits are being followed.
35. In accordance with Section 5.28.080 (Revocation, Suspension, or Modification of License for Cause), this Operator License may be modified or revoked by the Chief of Police should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
36. This Operator License shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code (NBMC), unless an extension is otherwise granted.
37. Should the property be sold or otherwise come under different ownership, a new Operator License shall be required.
38. 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 related (directly or indirectly) to City's approval of Taco Bell Cantina including, OL PA2022-0161. 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.

OPERATOR LICENSE NONTRANSFERABLE

No operator license issued pursuant to this chapter shall be sold, transferred, or assigned by any license holder, or by operation of law, to any other person, group, partnership, corporation or any other entity, and any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license, and such license shall be, thereafter, null and void. A license held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above. License shall be valid only for the exact location specified in the license.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 21 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD

The determination of the Chief of Police to deny or to place conditions upon the approval of an operator license shall be appealable by the applicant or any interested party. Such appeal shall be made in writing to the City Manager, within fifteen (15) days of the postmark date of the Chief of Police's notice of decision. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

REVOCAION, SUSPENSION OR MODIFICATION OF LICENSE FOR CAUSE

The Chief of Police may commence a process to revoke, suspend or modify an operator license issued under the provisions of this chapter should there be reasonable suspicion of any of the following:

- A. The licensee has ceased to meet the requirements for issuance of license;
- B. The applicant gave materially false, fraudulent or misleading information within the application;
- C. Impacts emanating from the establishment for which the license was issued has substantially interfered with the peace and quiet of the neighborhood;
- D. The licensed business or activity has operated in violation of any of the requirements of this chapter, the license as issued, or any condition thereof. The Chief of Police shall notify the operator of the commencement of such revocation, suspension or modification process and shall conduct an investigation to determine if, and to what degree, one or more of the foregoing has occurred. Upon completion of the investigation, the Chief of Police may add, delete or modify the license conditions. The Chief of Police shall notify the applicant regarding the determination of the operator license, on the outcome of the investigation, and the action taken. The applicant or any interested party may appeal a determination or an added or modified condition of approval to City Manager in the manner set forth in Section 5.25.050(C) and (D).

By: _____


Jon T. Lewis

CHIEF OF POLICE

Attachments:

- PD 1 City Council Resolution No. PC2018-012
- PD 2 Security Plan

Cc: McFadden Place, LLC
3334 E. Coast Highway #418
Corona Del Mar, California 92625

Attachment No. PD 1

City Council Resolution No. 2018-012

RESOLUTION NO. PC2018-012

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP2017-028 FOR A FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT WITH LATE HOURS AND A TYPE 41 ALCOHOLIC BEVERAGE CONTROL LICENSE LOCATED AT 2121 WEST BALBOA BOULEVARD (PA2017-198)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Christian Fanticola/T&T Taco, LLC ("Applicant") with respect to property located at 2121 West Balboa Boulevard, and legally described as Lot 14 in Block 21 of Newport Beach, County of Orange, State of California, as per Map recorded in Book 3, Page 26 of Miscellaneous Maps ("Property"), in the office of the County Recorder of said County requesting approval of a conditional use permit.
2. Applicant proposes a conditional use permit for a food service, eating and drinking establishment with late hours and Type 41 (On Sale Beer and Wine) Alcoholic Beverage Control (ABC) license in an existing legal nonconforming eating and drinking establishment. The eating and drinking establishment includes an interior dining area, a kitchen, restroom facilities, and a take-out window. The proposed hours of operation are from 6 a.m. to 2 a.m.
3. The subject Property is located within the Mixed-Use Water Related (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed-Use Water Related (MU-W2).
4. The subject Property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W). A coastal development permit is not required because the request is to change the type of permitted Alcoholic Beverage Control (ABC) license and does not intensify or expand the existing eating and drinking establishment use.
5. A public hearing was held on March 22, 2018, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code

of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed allows the existing eating and drinking establishment to continue operating with the upgrade from a Type 40 (On Sale Beer Only) ABC license to a Type 41 (On Sale Beer and Wine).

SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Subsection 20.48.030(C)(3) (Alcohol Sales), 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 Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

Facts in Support of Finding:

In finding that the proposed use is consistent with NBMC Section 20.48.030, 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 subject property is located in Reporting District 15 (RD 15). The Part One Crimes (Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson) crime rate in RD 15 was 288 crimes reported in 2016, which is higher than adjacent reporting districts and the Citywide average. The higher crime rate is largely due to the number of visitors to the Balboa Peninsula, the high concentration of restaurants, and the high ratio of non-residential to residential uses clustered in the commercial and mixed-use districts. The McFadden Square areas has historically been a business and recreation hub for residents and tourists, drawing a large number of visitors year-round but particularly in the summer months. While the area does have a high concentration of alcohol licenses, the proposed change from a Type 40 (On Sale Beer Only) to Type 41 (On Sale Beer and Wine) will not increase the number of alcohol licenses. The service of alcoholic beverages would provide additional menu options for customers and could enhance the economic viability of the business, while the CUP and Operator License will provide greater enforcement options.
 2. The Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the change of alcoholic beverage license subject

to appropriate conditions of approval. The operation of the establishment includes the approved floor plan with no separate bar counter, business hours that are more restrictive than the current unrestricted hours and the requirement to obtain an Operator License. The Operator License provides an additional tool for the Police Department to control the use, especially should objectionable activities occur at the site.

ii. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

1. RD 15 has a higher number of DUI/Drunk Arrests, Total Arrests, and Calls for Service recorded in 2016 compared to adjacent reporting districts. From January 1, 2016 through December 31, 2016, the tenant space was occupied by Original Pizza and the Police Department reported four calls for service at the address. The Police Department has reviewed the application and has no objection. The Police Department does not anticipate any increase in crime or alcohol-related incidents with the approval of this application subject to the proposed conditions of approval.

iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

1. The project site is located in a mixed-use zoning district which allows for residential uses when intermixed with nonresidential uses. The nearest residential zoning district is located approximately 315 feet east of the project site, at the corner of West Balboa Boulevard and 21st Street. The nearest residential units are located on the second floor above the restaurant.
2. The nearest recreational facilities, the beach and the Newport Pier, are located approximately 300 feet to the southwest of the subject property. The nearest church, Our Lady of Mount Carmel Church, is located approximately 0.5 miles to the east of the subject property along West Balboa Boulevard. The nearest school, Newport Elementary School, is located 0.7 miles to the east of the subject property along West Balboa Boulevard. The nearest daycare center, Children's Center by the Sea, is approximately 0.6 miles to the east along West Balboa Boulevard. The proposed use is surrounded by other commercial, retail, and office uses.
3. The Balboa Peninsula is generally characterized by a high number of visitors, in which commercial and residential zoning districts are located in close proximity to one another and eating and drinking establishments with alcohol service are common. The proposed change in ABC license type in conjunction with the CUP and Operator License conditions of approval, where none currently exist, will help minimize nuisances that the restaurant could have to surrounding 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 per capita ratio of one license for every 69 residents is higher than all adjacent Census Tracts and the average City-wide ratio. This is due to the higher concentration of commercial land uses, many of them visitor-serving, in McFadden Square, Lido Marina Village and Cannery Village, and lower number of residential population in the RD 15 area. Nearby establishments selling alcohol include the Stag Bar + Kitchen, 21 Oceanfront, Dory Deli, Beach Ball, Blackie's and several others located in the McFadden Square area.
2. While the license-to-resident ratio is higher than average and proposed establishment is located in close proximity to other establishments selling alcoholic beverages, staff believes the physical and operational characteristics of the restaurant would make the continuation of alcoholic beverage sales appropriate at this location.

v. Whether or not the proposed amendment will resolve any current objectionable conditions.

1. No objectionable conditions are presently occurring at the site.
2. The existing tenant space was vacant since between early 2017 and December 2017 when Taco Bell Cantina opened. In addition to interior and facade improvements, the building was brought into compliance with all current Building and Fire Code requirements.
3. The restaurant is currently a legal non-conforming use and when renovations are and is allowed open and operate in the configuration show on the attached plans, including the take-out window. The nonconforming status also allows the operator to hold a Type 40 (On Sale Beer Only) ABC license and operate 24 hours, daily, where the proposed hours are 6 a.m. to 2 a.m.
4. All employees serving alcohol will be required to be at least 21 years of age, and undergo, and successfully complete, Responsible Beverage Service (RBS) training. Approval of this application will require the operator to obtain an Operator License pursuant to Chapter 5.25 of the NBMC. The Operator License will provide enhanced tools to control noise, loitering, litter, disorderly conduct, parking/circulation and other potential disturbances that could result from the use, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

In accordance with Subsection 20.52.020(F) (Findings and Decision), 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 and Coastal Land Use Plan land use designation for this site is MU-W2 (Mixed-Use Water Related). The MU-W2 designation applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. The eating and drinking establishment is consistent with this land use designation. Eating and drinking establishment uses can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.
2. Although the existing structure in which the eating and drinking establishment is located exceeds the allowed floor area ratio, the proposed application will not result in an increase in the floor area. The project is consistent with the Land Use Element development policies and related non-conforming regulations.
3. The proposed expansion is consistent with General Plan Land Use Policy LU6.8.2 (Component Districts) which emphasizes that McFadden Square should be utilized as one of the primary activity centers on the Balboa Peninsula. The use of a food service, eating and drinking establishment in a location previously occupied by a food service, eating and drinking establishment for over 50 years will continue to serve residents and visitors to the area.
4. Eating and drinking establishments are common in the vicinity along the Balboa Peninsula and are frequented by visitors and residents. The establishment is compatible with the land uses permitted within the surrounding neighborhood. The building in which the eating and drinking establishment is located is currently undergoing interior and exterior upgrades consistent with general plan policies.
5. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The MU-W2 (Mixed-Use Water Related) zoning district applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. Eating and drinking establishments classified as Food Service, Late-Hours require the approval of conditional use permit within the MU-W2 (Mixed-Use Water Related) Zoning District.

2. An eating and drinking establishment with a Type 40 (On Sale Beer Only) ABC license has been operating at this location since 1963 without the benefit of a use permit. The recent re-model of the eating and drinking establishment did not increase the net public area nor patron seating. The change to a Type 41 (On Sale Beer and Wine) ABC license constitutes the addition of a menu item and does not intensify the use of the property.
3. The Property does not provide on-site parking, however, the tenant space is legal non-confirming related to parking. The tenant improvements were allowed by the zoning code because the net public area and seating did not increase beyond the historical size of the eating and drinking establishment. The change of ABC license does not require additional parking. The McFadden Square area, served by the two adjacent municipal lots and the close proximity to multiple commercial uses and beach and coastal recreation areas, will result in shared trips to the eating and drinking establishment.
4. The existing take-out window located adjacent to the McFadden Place parking lot is a legal non-conforming component of the existing eating and drinking establishment. A condition of approval have been included to help ensure a path of travel is maintained for all sidewalk users.
5. The existing building and recent alterations (no expansion of floor area) were allowed by Section 20.38.040 (Nonconforming Structures) of the Zoning Code and Land Use Element policies that allow the continued use of principal structures that exceed the allowed FAR.

Finding:

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

Facts in Support of Finding:

1. The operation of the eating and drinking establishment will be restricted to business hours between 6 a.m. and 2 a.m., daily, where the existing nonconforming eating and drinking establishment use is allowed to operate twenty-four (24) hours daily. The proposed closing hour is compatible with other late night eating and drinking establishments in the area. The limitation on operating hours will improve compatibility with the second floor apartments located in the mixed-use building. The Newport Beach Police Department has reviewed the proposed application and does not object to the proposed business hours.
2. An eating and drinking establishment has been operating in this location without the benefit of a conditional use permit since 1963. Conditions of approval limiting the hours and use of take-out window will help ensure compatibility with the commercial and residential uses is maintained.
3. The approved floor plan provides a new interior dining area with improved restroom facilities, a kitchen area, and a take-out window. Live entertainment and dancing are not proposed or allowed without the approval of a special event permit.

4. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. Although the proposed eating and drinking establishment is located in a mixed-use building, the tenant space has historically been occupied by an eating and drinking establishment. The McFadden square area is a popular local and tourist destination that helps create a vibrant mixed-use environment, historically associated with nightlife and late hour establishments. The added restriction on hours will ensure the eating and drinking establishment closes at the same time as other late hour establishments. The operator is also required to control trash and litter around the subject property.
5. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages, including an Operator License, will help ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community.
6. The Property is located in a relatively dense area with multiple uses within a short distance of each other. The McFadden Square area is conducive to a significant amount of walk-in patrons. The area experiences parking shortages in the daytime during the summer months, but parking is typically available during the rest of the year. Two municipal parking lots and on-street parking is available in the area to accommodate the proposed use in the off-season months.

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 project site is located within an existing commercial building and the tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood. The existing tenant space on the subject property has historically been occupied by an eating and drinking establishment. Access to the site is provided on 22nd Street and McFadden Place via West Balboa Boulevard.
2. The continued use of the take-out window will not inhibit the public use of the adjacent sidewalk and conditions of approval have been included to ensure the patrons using the take-out window do not block or restrict use of the sidewalk.
3. Adequate public and emergency vehicle access, public services, and utilities are provided to the Property. All required utility and building upgrades were reviewed and approved during the plan check review of the recent tenant improvements.

4. The tenant improvements were reviewed for compliance with all Building, Public Works, and Fire Codes, as well as compliance with all City ordinances and conditions of approval.

Finding:

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

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The recent improvements to the existing eating and drinking establishment should have a positive impact on the area and may promote further revitalization of commercial properties located in McFadden Square. The eating and drinking establishment will serve the surrounding community and visitors.
3. The eating and drinking establishment is not allowed to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the NBMC.
4. The eating and drinking establishment will provide dining with alcohol service, a public convenience to the surrounding neighborhood and visitors to the area. This will help to revitalize the project site and provide an economic opportunity for the property owner to continue to upgrade and maintain the existing mixed-use building, which best serves the quality of life for the surrounding visitor- and local-serving community.
5. The eating and drinking establishment is currently allowed to operate twenty-four (24) hours daily without the benefit of a use permit or operator's license. The conditions of approval and requirement to obtain and operator's license will provide a greater enforcement mechanism should the eating and drinking establishment become a nuisance or operation in manner detrimental to the surrounding residents and businesses.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2017-028, subject to the conditions set forth in Exhibit "A", which is attached

hereto and incorporated by reference. This approval allows a food service, eating and drinking establishment with late hours and a Type 41 (On Sale Beer and Wine) Alcoholic Beverage Control (ABC) license located at 2121 West Balboa Boulevard.

2. This action shall become final and effective fourteen (14) days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 22nd DAY OF MARCH, 2018.

AYES: Kleiman, Koetting, Kramer, Lowrey, Weigand and Zak

NOES: None

RECUSED: Dunlap

ABSENT: None

BY: 
Peter Koetting, Chairman

BY: 
Erik Weigand, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

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. Conditional Use Permit No. UP2017-028 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in NBMC Section 20.54.060, unless an extension is otherwise granted.
3. *This CUP shall be reviewed by the Planning Commission one year from the implementation date. The one year review is a report to the Planning Commission, not a public hearing.*
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 Conditional Use Permit.
6. This Conditional Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
8. Should the property be sold or otherwise come under different ownership, any future owners or either the current business owner, property owner or the leasing agent shall notify assignees of the conditions of this approval.
9. Prior to the issuance of a building permit, Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
10. A copy of this approval letter shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

11. Prior to issuance of a building permit, Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Conditional 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 Conditional Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
12. *The hours of operation for the eating and drinking establishment including the take-out window shall be limited to between 6 a.m. and 2 a.m., daily.*
13. *The operator is responsible for assuring patrons utilizing the take-out window do not queue in manner that obstructs the public's use of the adjacent sidewalk. If issues arise related to obstruction of the sidewalk, the City may require installation of signage on the building, or other modifications to ensure the sidewalk remains useable for the general public.*
14. *Should parking and/or traffic congestion issues related to the take-out window arise, as determined by the City Traffic Engineer, the operator and the City will work together to develop solutions to address the issues.*
15. *The net public area of the eating and drinking establishment shall be limited to a maximum of 504 square feet.*
16. *The dining area shall be limited to thirty-two (32) seats. The addition of bar area is prohibited.*
17. *Food service from the regular menu shall be available to patrons up to thirty (30) minutes before the scheduled closing time.*
18. *All customers must vacate the establishment by 2 a.m., daily.*
19. The removal or relocation of pool tables, tables, chairs, stools, or other furniture to accommodate an area for dancing shall be prohibited.
20. *The eating and drinking establishment is allowed a Type 41 (On Sale Beer and Wine) ABC License. The sale of alcohol for off-site consumption is prohibited.*
21. All proposed signs shall be in conformance with applicable provisions of NBMC Chapter 20.42 (Signs).
22. All lighting shall conform to the standards of NBMC Section 20.30.070 (Outdoor Lighting). The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated. If outdoor lighting is proposed, Applicant shall submit a photometric survey as part of the plan check to verify illumination complies with the Zoning Code standards.

23. The operator of the eating and drinking establishment shall be responsible for the control of noise generated by the subject eating and drinking establishment including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements of the NBMC. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

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

24. That no outdoor paging system shall be utilized in conjunction with the eating and drinking establishment.
25. *A sound system shall be permitted for pre-recorded music played at a background level only. Sound shall adhere to Chapter 10.26 of the Newport Beach Municipal Code.*
26. 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 NBMC Title 14, including all future amendments (including Water Quality related requirements).
27. Trash receptacles for patrons shall be conveniently located inside the establishment.
28. 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 and parking areas within 20 feet of the Property premises. Graffiti shall be removed within 48 hours of written notice from the City.
29. Deliveries and refuse collection for the eating and drinking establishment shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 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.

30. *All doors and windows of the eating and drinking establishment shall remain closed after 11 p.m. except for the ingress and egress of patrons and employees and use of the take-out window.*
31. Storage outside of the building in the front or at the rear of the Property shall be prohibited.
32. 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 Taco Bell Cantina CUP including, but not limited to, the Conditional Use Permit No. UP2017-028 (PA2017-198). 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. 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. 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

33. The operator of the establishment shall secure and maintain an Operator License pursuant to NBMC Chapter 5.25.
34. The Operator License required to be obtained pursuant to NBMC Chapter 5.25, may be subject to additional and/or more restrictive conditions such as a security plan to regulate and control potential late-hour nuisances associated with the operation of the establishment.
35. *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 a Type 41 (On Sale Beer and Wine) license, in conjunction with the eating and drinking establishment as the principal use of the facility.*
36. No off sales of alcohol shall be permitted.
37. All owners, managers, and employees must abide by all requirements and conditions of the Alcoholic Beverage License.
38. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.

39. There shall be no live entertainment or dancing allowed on the premises. Live entertainment may be allowed subject to the approval of a Special Event Permit for each occasion.
40. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
41. There shall be no reduced priced alcohol beverage promotions after 9 p.m.
42. Strict adherence to maximum occupancy limits is required.
43. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
44. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the NBMC.
45. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and 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.
46. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
47. Any event or activity staged by an outside promoter or entity, where 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 is prohibited.
48. There shall be no on-site radio, televisions, video, film, or other electronic media broadcasts, including recordings to be broadcasted later, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City.

49. "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).
50. Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Police Department upon request.
51. Management shall maintain a security system with a 30-day retention and make those recordings available to the Police Department upon request.
52. The Permittee shall implement an operational security plan designed to ensure that Alcoholic Beverage Control regulations and building occupancy limits are being followed. The content and adequacy of the plan shall be subject to the review and approval of the Police Department. The Police Department shall be notified of any changes to the approved plan.

Attachment No. PD 2

Security Plan

Security Plan

2121 W Balboa Blvd, Newport Beach, CA 92663 – Taco Bell Cantina

In accordance with ABC requirements, all managers and anyone who is handling the sale of alcohol will go through Responsible Beverage Service training. This program will educate servers and managers of alcohol on responsible alcoholic beverage service, the dangers of over-serving alcohol to patrons, and the dangers of serving alcohol to minors. Through this program, team members are taught the process for checking ID's, documenting alcohol-related incidents, and the effects of alcohol and signs of intoxication. Team members are also taught a three-step intervention model for patrons who have overconsumed alcohol.

No employees under the age of 18 are permitted to handle alcohol. Managers and team members will regularly monitor the dining area to observe alcohol consumption and address the issues of noise, loitering, over-crowding, elicit activity, and other objectionable conditions in accordance with the training they have received.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
www.newportbeachca.gov

ZONING ADMINISTRATOR ACTION LETTER

Subject: 2200 West Ocean Front Comprehensive Sign Program
Amendment
▪ PA2022-0176

Site Location 2200 West Ocean Front

Applicant Matthew Kenney

Legal Description Lot 1 Block 22 Newport Beach Tract

On October 26, 2022, the Zoning Administrator approved a Comprehensive Sign Program (PA2022-0176). This approval is in accordance to the provisions of Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** Mixed-Use Water 2 (MU-W2)
- **Zoning District:** Mixed-Use Water (MU-W2)
- **Coastal Land Use Plan Category:** Mixed-Use Water Related (MU-W)
- **Coastal Zoning District:** Mixed-Use Water (MU-W2)

SUMMARY

Background

The subject property is located on the corner of West Ocean Front and 22nd Street. In 2010, Comprehensive Sign Program No. CS2009-002 was approved to establish sign standards for the multi-tenant building consisting of three tenant spaces. The sign program allowed wall signs, a pedestrian-oriented blade sign, and awning signs for the commercial building. In 2012, a Staff Approval No. SA2012-056 was issued to allow two additional blade signs for a total of three blade signs. In 2020, the commercial building was renovated, reducing the number of tenant spaces from three to two. The front tenant in Suite A is currently occupied by Handel's Ice Cream and the back tenant in Suite B is occupied by 22nd Street Pizza. The applicant requests minor changes to the comprehensive sign program to increase the allowed projection of the blade signs. The request also includes a clean-up of the sign program to correspond to the renovated exterior.

Although the project is located within the coastal zone, the proposed allowable signs are considered ancillary improvements to an existing structure and exempt from a coastal development permit pursuant to Newport Beach Municipal Code Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements).

Comprehensive Sign Program Request

A comprehensive sign program amendment is required because the request deviates from the existing Comprehensive Sign Program No. CS2009-002 and Staff Approval No. SA2012-056. Approval of the Comprehensive Sign Program Amendment PA2022-0176 will supersede Comprehensive Sign Program No. CS2009-002 and Staff Approval No. SA2012-056.

The size and number of wall signs for each tenant will remain consistent with the existing sign program. Due to the recent reduction in the number of tenant spaces, the existing allowance for awning signs in conjunction with wall sign and blades sign(s) potentially creates a proliferation of signage on each frontage. Therefore, the allowance for awning signs will be amended to only allow awning signs in lieu of blade signs for each tenant. The existing number of blade signs (3) will remain the same. The requested changes for the blade signs are to increase the maximum projection over the property line, and to clarify the maximum area and minimum vertical clearance for each blade sign. The projections, areas, and minimum vertical distances comply with the regulations for projecting signs in the Zoning Code. Details regarding each sign for each tenant is provided in the Sign Matrix. Only one deviation from the Zoning Code is requested:

1. Allow additional signage per tenant with a combination of wall signs, blade signs or awning signs where the Zoning Code allows one type of sign per tenant frontage in a multi-tenant building.

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

FINDINGS AND STANDARDS FOR APPROVED SIGNS

Finding

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

Fact in Support of Finding:

1. Class 11 exempts minor structures accessory to existing commercial 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 [Chapter 20.42], 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 existing comprehensive sign program provides adequate identification for the tenants of the existing commercial building; however, the exterior of the building was renovated and the number of tenant spaces was reduced. The new tenants' design includes larger blade signs with greater projection over the public right of way, exceeding the limits of the existing sign program, but still consistent with the regulations of the Zoning Code. The changes are summarized in this action letter and detailed in the updated Comprehensive Sign Program Matrix found in Attachment No. ZA2.
2. The Comprehensive Sign Program complies with the purpose and intent of Newport Beach Municipal Code Chapter 20.42 (Sign Standards). The existing sign program allows additional signs per tenant (wall and blade signs) which provides necessary identification for the commercial area that is adjacent the ocean front public beach and boardwalk. The adjusted standards for the blade signs and the adjusted requirement to allow an awning sign in lieu of the blade sign, provide a better fit for the building and the two tenants. Limiting the number of awning signs will also prevent sign proliferation.
3. The purpose of a comprehensive sign program is to integrate all of a project's signs. It provides a means for the flexible application of sign regulations for projects that require multiple signs. The font, colors, and materials of both the wall and blade signs compliment the architecture of the building. The proposed signage provides incentive and latitude in the design and display of signs.
4. Approval of this Comprehensive Sign Program includes maintaining the existing sign program's deviation to the number of signs and improves the signage to match the renovated building. It allows the flexible application of the sign regulations to achieve a unified design theme that meets the purpose and intent of the Zoning Code.

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 site is for use by two commercial tenants and the signage design has been integrated with the design and character of the building.
2. The total number of signs is not changing. The proposed changes to the blade signs will improve the visual design by improving visibility at the sidewalk or boardwalk level. The increase of the projection and size of the blade signs are allowed within the Zoning Code and will be offset by the greater vertical clearances to the sidewalk. The proposed sizes and projection allow greater visibility along the boardwalk and ocean front which is a highly visited area by residents and beach visitors. The changes for awning signs would only impact potential future signage, as there are no awning signs presently on the building.
3. The Comprehensive Sign Program will integrate the previously approved signage, improve visibility, and prevent proliferation by adjusting the regulations for future awning signs.

Standard

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

Facts in Support of Standard

1. The Comprehensive Sign Program addresses all project signage. Temporary and exempt signs not specifically addressed in the sign program shall be regulated by the provisions of Newport Beach Municipal Code Chapter 20.42 (Sign Standards).

Standard

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

Facts in Support of Standard

1. The project site is for the use of two commercial tenants and has been designed to be effective for such uses.
2. It is not anticipated that future revisions to the program will be necessary to accommodate normal changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed signs.
3. Consistent with Chapter 20.42, the Director may approve minor revisions to the 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 will maintain the allowance for a greater number of signs to provide enhanced identification and visibility in the highly pedestrian traveled area adjacent to the public boardwalk and beach. The additional signage provides greater visibility and with the adjustment to the awning signage allowance, prevents proliferation of signage.
2. The Zoning Code allows projecting signs (blade signs) at a maximum size of 20 square feet for a primary frontage and 10 square feet for a secondary frontage. The amended comprehensive sign program proposes an allowance of 10 square feet for each blade sign. The actual blade signs are 8 to 9 square feet, but the 10 square feet allows flexibility to avoid additional amendments to the sign program.
3. The Zoning Code allows blade signs to project 3 feet (with 8-foot to 10-foot vertical clearance), 4 feet (with greater than 10-foot to 12-foot vertical clearance) and to 5 feet (with greater than 12 feet vertical clearance) over the property line or building line. The amended comprehensive sign program proposes a maximum 4-foot projection for 2200 Suite A (Handel's Ice Cream) blade signs with a minimum 12-foot clearance above the sidewalk. The amended program proposes a maximum 3-foot projection for the 2200 Suite B (22nd Street Pizza) with a minimum 10-foot vertical clearance. The projections and vertical clearances meet or exceed the minimum Zoning Code requirements.

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 prohibited signs.

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 Comprehensive Sign Program contains no regulations affecting sign message content.

CONDITIONS

1. The development shall be in substantial conformance with the approved site plan, details, and elevations, except as noted in the following conditions.
2. If substantial changes are made to the exterior of the structure upon which this approval is based, this Comprehensive Sign Program shall be rendered nullified and a new Comprehensive Sign Program shall be obtained for the new or altered development in accordance with the Zoning Code Provisions in effect at the time the new development is approved.
3. The number and size of the wall signs as well as the number, size, projection and vertical clearances of the blade signs are limited to the limitations specified in the Sign Program Matrix included in Attachment No. ZA 2. Future awnings signs in lieu of blade signs are allowed within the Matrix subject to the Zoning Code.
4. All signs shall be maintained in accordance with Section 20.42.170 (Maintenance Requirements) of the Newport Beach Municipal Code. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42 of the Newport Beach Municipal Code.
5. In accordance with Municipal Code Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected. This may include deviations on the tenant configurations, such as combining or dividing suites.
6. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Planning 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 approval and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
7. A building permits shall be obtained prior to commencement of the construction and/or installation of the signs.

8. A copy of the approval action letter, including conditions of approval and sign matrix, shall be incorporated into the City and field sets of plans prior to issuance of the building permits for the freestanding signs, and the initial wall sign installations to identify this approval as the authority for location, size and placement.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **2200 West Ocean Front Comprehensive Sign Program including, but not limited to Comprehensive Sign Program PA2022-0176** and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

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:



Melinda Whelan
Assistant Planner



Jaime Murillo
Zoning Administrator

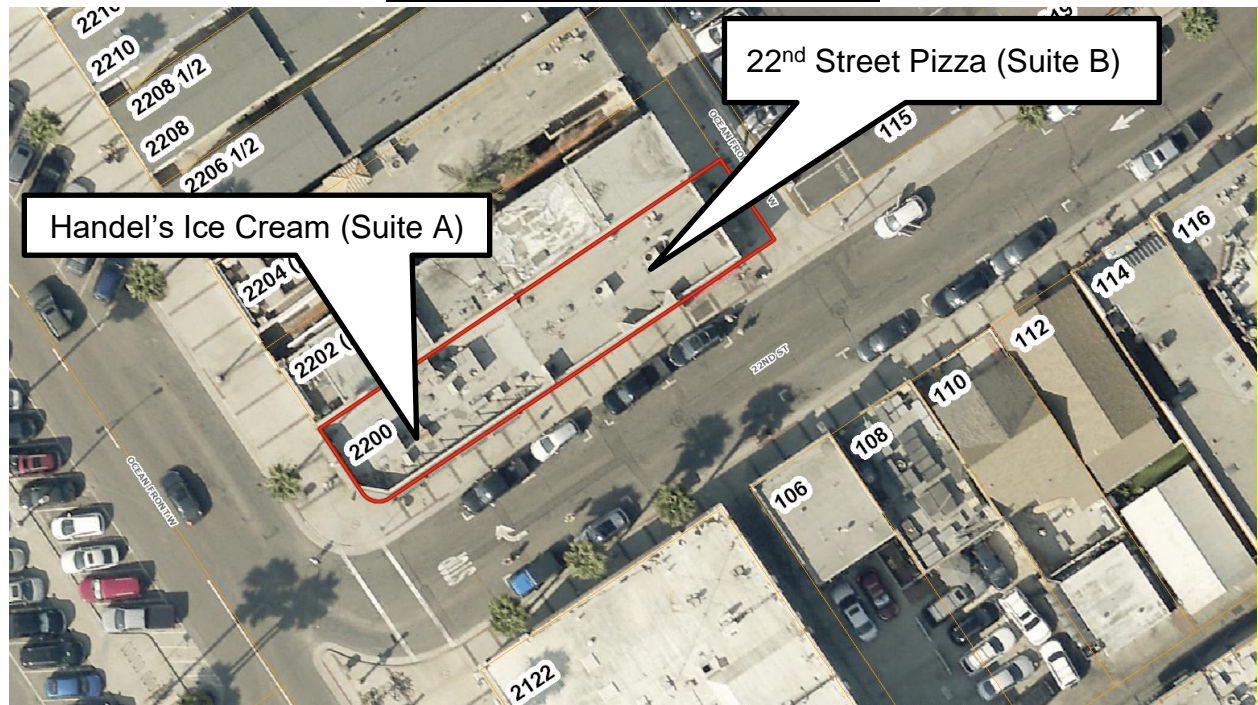
LAW/msw

Attachments: ZA No. 1 Vicinity Map
 ZA No. 2 Comprehensive Sign Program Matrix
 ZA No. 3 Project Plans

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Comprehensive Sign Program No. PA2022-0176
2200 West Ocean Front , Suites A & B

Attachment No. ZA 2

Comprehensive Sign Program Matrix

**Comprehensive Sign Program PA2022-0176
REVISED TABLE MATRIX**

Comprehensive Sign Program
2200 West Ocean Front

A – WALL SIGNS		
Suite Address	Primary Frontage Size limitations where applicable	Secondary Frontage – Size limitations where applicable
2200A	One sign A.1.- 1.5 square feet/linear foot of store frontage or maximum area of 75 square feet, whichever is less	A.2. - 50% of allowable primary sign allowance or maximum area 37.5 square feet, whichever is less
2200B	One sign A.3. - 1.5 square feet/linear foot of store frontage or maximum area of 75 square feet, whichever is less	NA
B – AWNING SIGNS (1)(2)		
Suite Address	Number and Location	Size
2200A	B.1. and B.2. - One awning sign <u>in lieu</u> of blade sign (potential signs if future tenant changes blade sign (s) to awning(s))	Per Zoning Code Section 210.42-.080
2200B	B.3. - One awning sign <u>in lieu</u> of blade sign (potential sign if future tenant changes blade sign to awning sign)	Per Zoning Code Section 210.42-.080
C – BLADE SIGN (1)(2)		
Suite Address	Number and Location	Size
2200A	Two: C1. - one on West Ocean Front and C.2. - one on 22 nd Street	Maximum Projection: 4 feet Maximum Area: 10 square feet Minimum Vertical Clearance: 12 feet
2200 B	C.3. - One on 22 nd Street	Maximum Projection: 3 feet Maximum Area: 10 square feet Minimum Vertical Clearance: 10 feet
D – TEMPORARY SIGNS		
Suite Address	Number, size, and duration	
2200A, 2200B	Subject to all requirements of 20.42.090 (Standards for Temporary Signs)	

***Internally illuminated projecting signs shall have opaque face panels so that only the letters, number, symbols, or logos appear illuminated**

Attachment No. ZA 3

Project Plans



1565 Creek Street
 Suite 105
 San Marcos, CA 92078
 Tel. 760-459-1119
 C-45 Lic.# 1082555



Prepared for:

Handel's Ice Cream
 &
 22nd Street Pizza

Project Address:
 2200 W. Oceanfront

Newport Beach, CA 92663

Tenant: **Handel's Ice Cream & 22nd Street Pizza**

2200 W. Oceanfront

Newport Beach, CA 92663
 949-500-0763

Landlord/Property owner:
 T&T NC Properties LLC
 8677 Villa La Jolla Drive, #331
 La Jolla, CA, 92037
 619-549-4110

Legal Description:
 APN Number: 04714312
 Lot: LOT 1 of Block 22 of Newport Beach
 as per map recorded in book 3. page
 26 of the misc. maps, in the office of
 the county recorder of said city

From: Bran Moon
 cell: 760-429-4823
 email: bran@relicsigns.com

Sign Schedule for:

Handel's Ice Cream & 22nd Street Pizza

ID	Description	SQ FT
A1	Wall Mounted Channel Letters	15.65
A2	Reverse non-illuminated channel letters	25.69
C1	Double Face Blade Sign	6.25
C2	Double Face Blade Sign	6.25
C3	Double Face Blade Sign	9

- Conceptual Package
- Permit Package
- Production Package

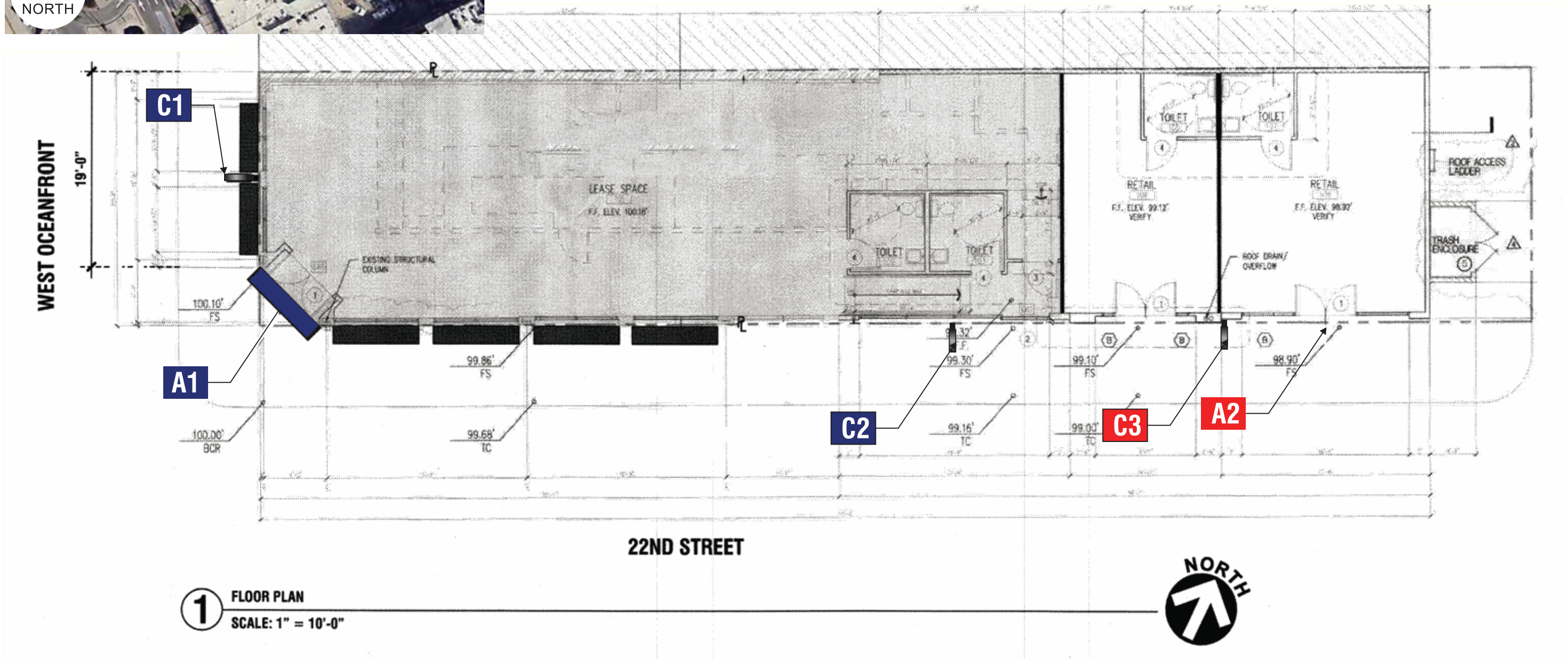
COLOR DISCLAIMER
 Due to the limitations of desktop scanners and the relative inconsistencies of various display monitors and printers, the colors you see on your screen or on paper may not be a totally accurate reproduction of the actual product. We strive to make our colors as accurate as possible, but screen and printed images are intended as a guide only and should not be regarded as absolutely correct. Site conditions and onsite lighting can also affect how the product appears (i.e. LED, different Florescent bulbs, Natural Light, Backlit, HaloLit, FaceLit). **We recommend that you request a color sample** as CMYK (Cyan, Magenta, Yellow and Black) are the colors used in the printing process, whereas RGB (Red, Green and Blue) are the colors used by screen displays such as your monitor. For this reason and due to variations introduced by light and various equipment, the colors on your screen or a print may not exactly match the finished product.
If you would like to see a sample of any color, please request an actual sample from your Salesperson or Project Manager.
 WITHOUT A SIGNED COLOR SAMPLE, KENNEY SIGNS, ITS VENDORS AND AFFILIATES ARE NOT RESPONSIBLE FOR DIFFERENCES, REAL OR PERCEIVED, BETWEEN THE WAY YOUR PRODUCT APPEARS ON SCREEN OR PAPER AND THE FINAL PRODUCT.

Client Name (Please Print) _____ Date ___/___/___ Approved

Client Name (Signature) _____ Approved as Noted

PLEASE INITIAL ALL PAGES Revise & Resubmit

KS Drawing #1 Rev. #00 Rev. Date: 00-00-00 Rejected



1 FLOOR PLAN
SCALE: 1" = 10'-0"



1565 CREEK STREET
SUITE 105
SAN MARCOS, CA 92078
760-459-1119
C-45 Lic.# 1082555

Client:



Project:

22nd Street
2200 Ocean Front
Newport Beach, CA 92663

Revisions:

- △ 00
- △ 00
- △ 00

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Project No: **KS_220253**

Date: **2021-06-14** 06/14/22

Sign Type: **Site Plan**

Sheet No:

Minimum Vertical Clearance for blade sign:

10'-0"



PROPOSED CONDITIONS



1565 CREEK STREET
SUITE 105
SAN MARCOS, CA 92078
760-459-1119
C-45 Lic.# 1082555

Client:



Project:

22nd Street
2200 Ocean Front
Newport Beach, CA 92663

Revisions:

- △00
- △00
- △00

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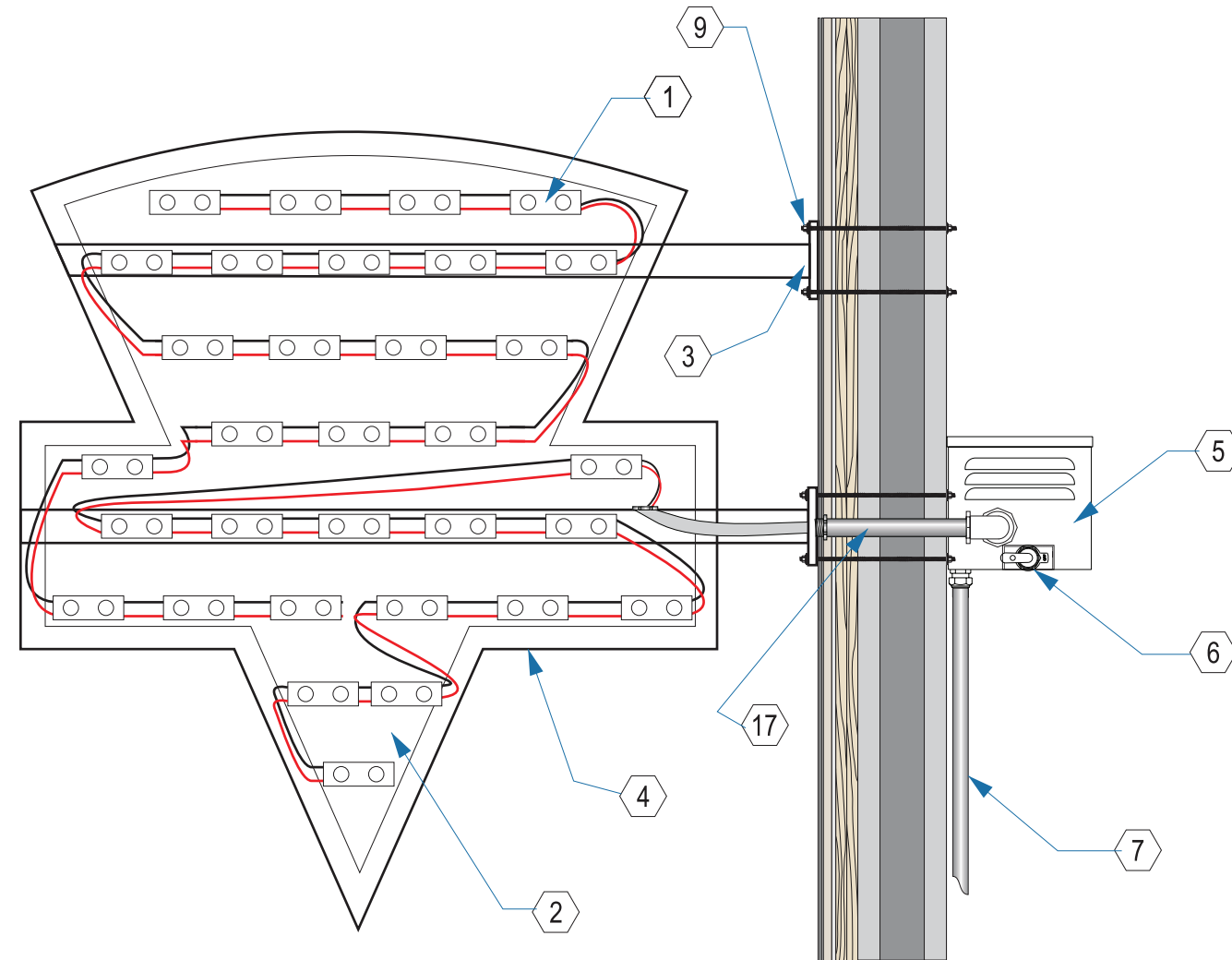
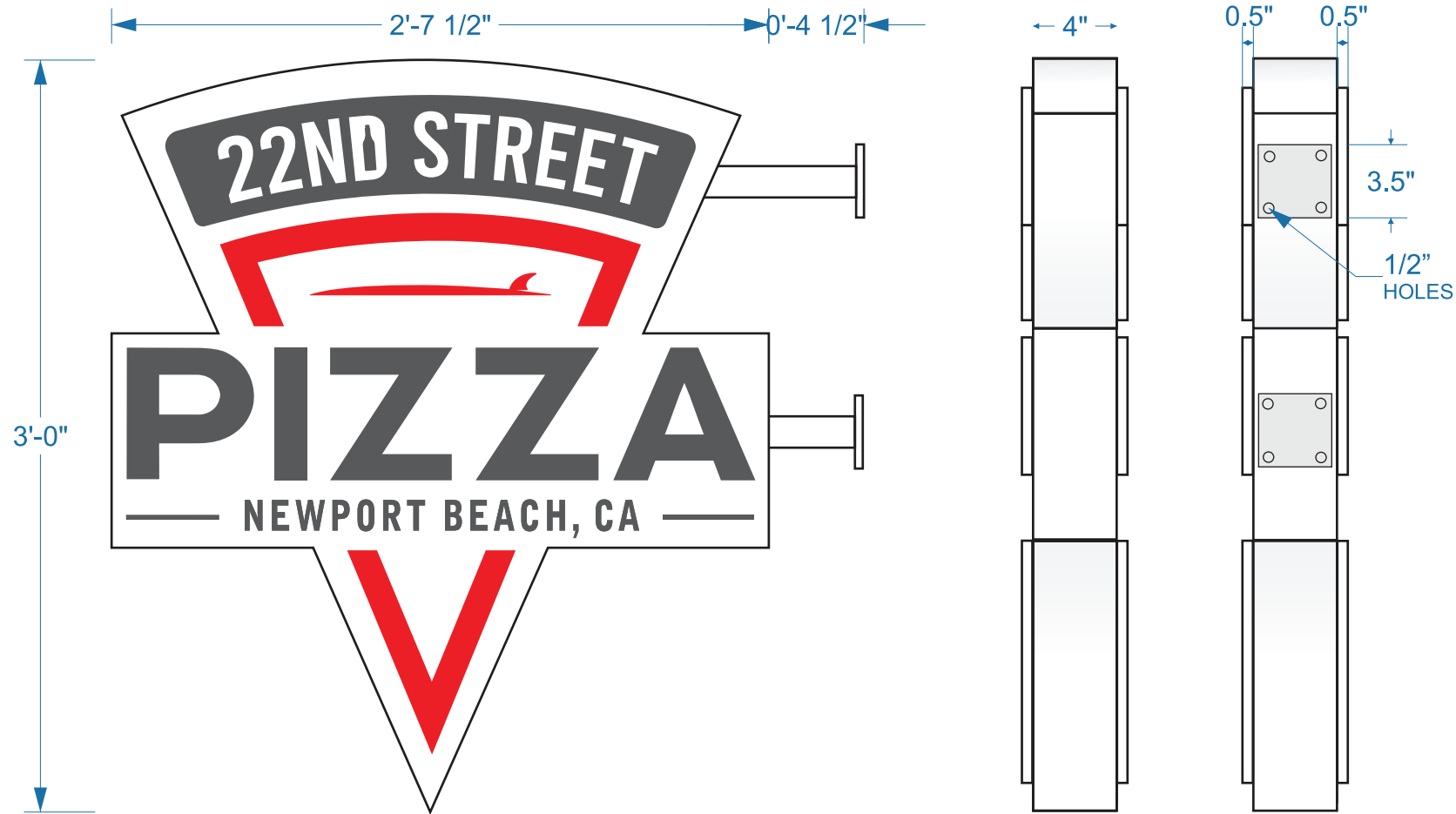
Project No: **KS_220253**

Date: **2021-06-14** 06/14/22

Sign Type:

Sheet No:

SIGN C3 - DOUBLE FACE ILLUMINATED BLADE SIGN - QTY: [01]
 SCALE: 1 1/2"=1'



QUANTITY: ONE (1)
OVERALL HEIGHT: 3'
OVERALL LENGTH: 3'
TOTAL SQ.FT.: 9 ft²
RETURN: .063 LUMINUM - 4" PAINTED WHITE
FACE: .090 ALUMINUM W/ 1/2" WHITE PUSH THRU'S
MOUNTING PLATES: 3"X3"X3/8" ALUMINUM PLATES
SQUARE TUBE: 1 1/2" SQUARE TUBE

COLOR SPECIFICATIONS:

V1: 3M #3630-61 - SLATE GREY
V2: 3M #3630-53 - CARDINAL RED

REQUIREMENTS FOR ELECTRICAL ILLUMINATION:

PRIMARY ELECTRICAL TO SIGN LOCATIONS TO BE PROVIDED BY OTHERS. A DEDICATED CIRCUIT WITH NO SHARED NEUTRALS AND A GROUND RETURNING TO THE PANEL IS REQUIRED FOR INSTALLATION.
 NOTE: THIS PERTAINS TO THE SIGN'S INTERNAL WIRING ONLY, NOT THE PRIMARY WIRING. ALL TRANSFORMERS/DRIVERS/POWER SUPPLIES SHALL BE GFI/GROUND FAULT-INTERCEPTED.
 ALL WORK MUST BE - DESIGNATED BRANCHED CIRCUIT
 - THREE WIRES - LINE, NEUTRAL, & GROUND
 WIRE SIZE - MINIMUM OF 12 GA. THIN COPPER WIRE
 ALSO NOTE: GAUGE OF WIRE IS DETERMINED BY THE LENGTH OF RUN & AMPERAGE AS PER NEC ARTICLE 300.
 - GROUND WIRE MUST BE CONTINUOUS AND GO FROM THE SIGN TO THE PANELBOARD GROUND BUS.
 - VOLTAGE SHOULD READ NO MORE THAN 3 VOLTS BETWEEN GROUND AND NEUTRAL.
 - CONDUIT CAN NOT BE USED AS GROUND PATH.
 - POWER TO SIGN MUST BE DONE BY A LICENSED ELECTRICIAN OR ELECTRICAL CONTRACTOR.

E-Note #1: All requirements not in sign company's scope of work must be in place prior to installation.
E-Note #2: Electrical to be brought to base of sign (by others) and not in sign company's scope of work.
E-Note #3: Timers and/or photocells for signs to be furnished and installed by the customer's electrician, who should also ensure that the completed electrical system is code compliant.

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.

ALL COMPONENTS TO BE **UL** APPROVED
 ALL SIGNS TO BE **UL** LISTED

1 Dedicated 20 Amp Circuit at 120 Volts

- 1 PURE WHITE - LED
- 2 CLEAR LEXAN BAFFLE
- 3 MOUNTING BRACKET
- 4 .063 ALUMINUM RETURNS
- 5 POWER SUPPLY
- 6 DISCONNECT
- 7 PRIMARY POWER WITHIN 6' (BY OTHERS)
- 9 MOUNTING HARDWARE (8 TOTAL)
- 17 WEATHER-PROOF ELECTRICAL PASS-THROUGH



1565 CREEK STREET
 SUITE 105
 SAN MARCOS, CA 92078
 760-459-1119
 C-45 Lic.# 1082555

Client:



Project:

22nd Street
 2200 Ocean Front
 Newport Beach, CA 92663

Revisions:

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Project No: KS_220253

Date: 2021-06-14 06/14/22

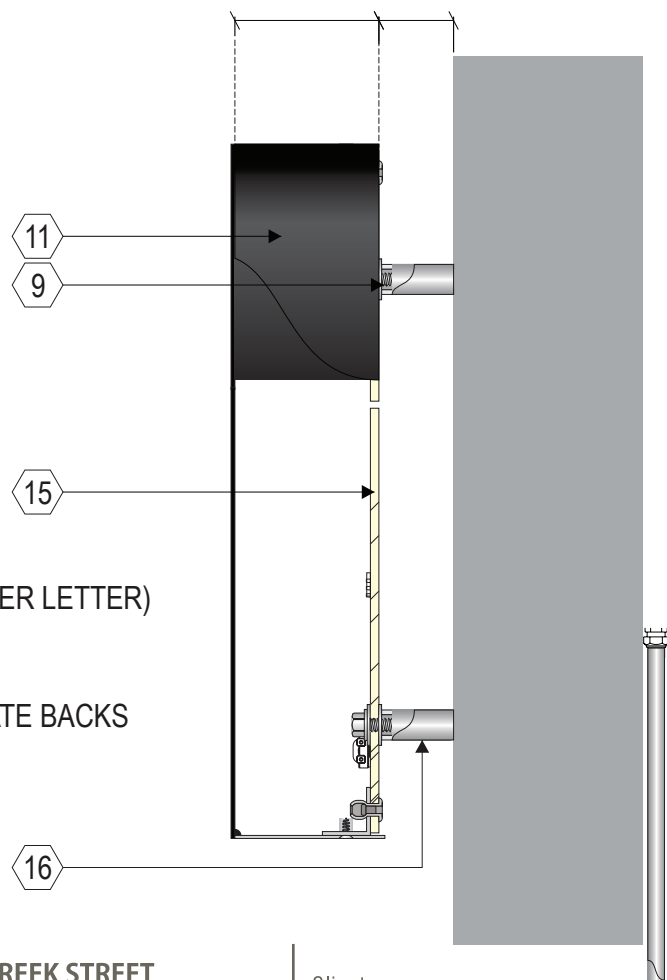
Sign Type:

Sheet No:

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20" **SALAD | PIZZA | WINGS**


15.5'



- 9 MOUNTING HARDWARE (4 PER LETTER)
- 11 .063 ALUM. RETURNS
- 15 3/16" CLEAR POLYCARBONATE BACKS
- 16 5/8" X 1" SPACERS



1565 CREEK STREET
 SUITE 105
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 760-459-1119
 C-45 Lic.# 1082555

Client:  22nd Street
 2200 Ocean Front
 Newport Beach, CA 92663

Revisions:
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Project No: **KS_220253**
 Date: **2021-06-14** 06/14/22
 Sign Type:
 Sheet No:

FRONT ELEVATION



1565 CREEK STREET
 SUITE 105
 SAN MARCOS, CA 92078
 760-459-1119
 C-45 Lic.# 1082555

Client:



Project:

22nd Street
 2200 Ocean Front
 Newport Beach, CA 92663

Revisions:

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- △00
- △00

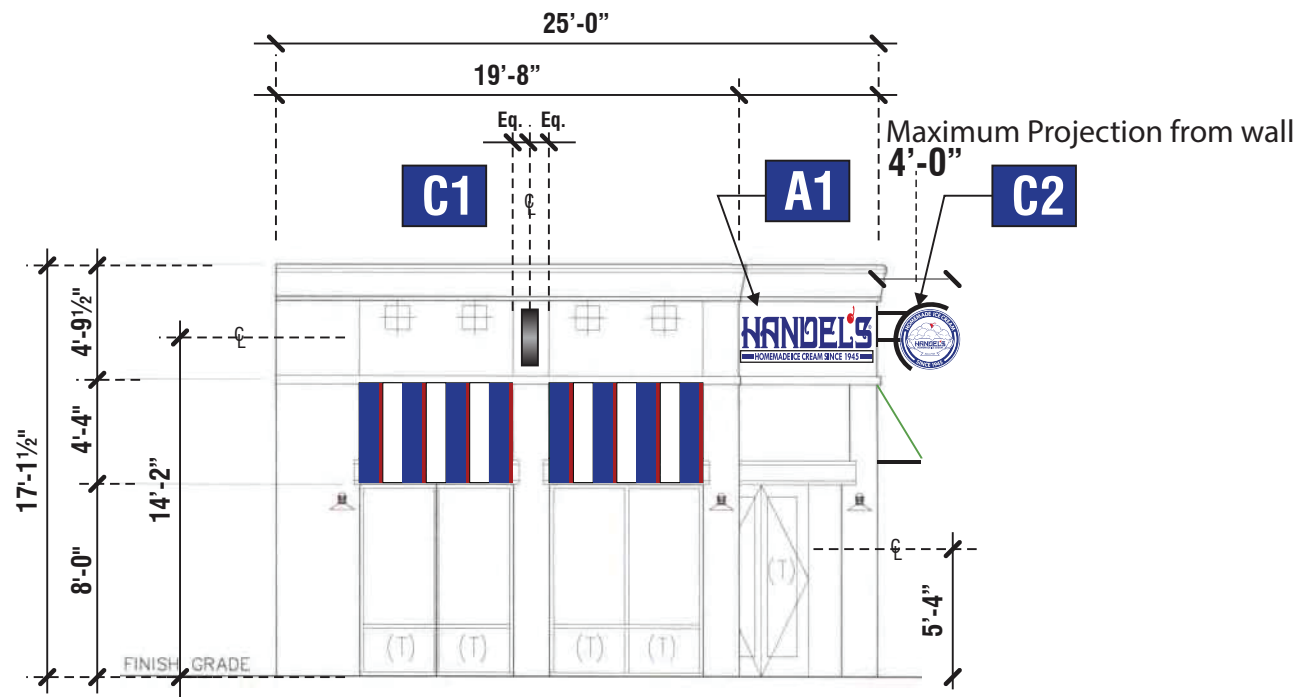
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Project No: **KS_220253**

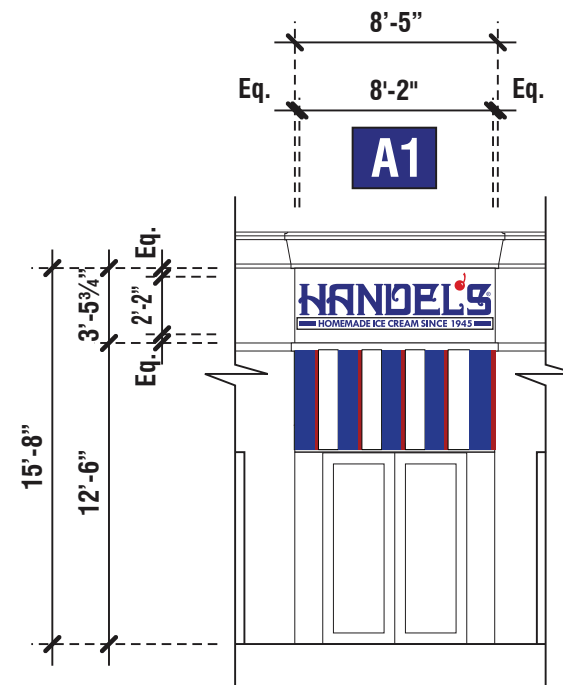
Date: **2021-06-14** 06/14/22

Sign Type:

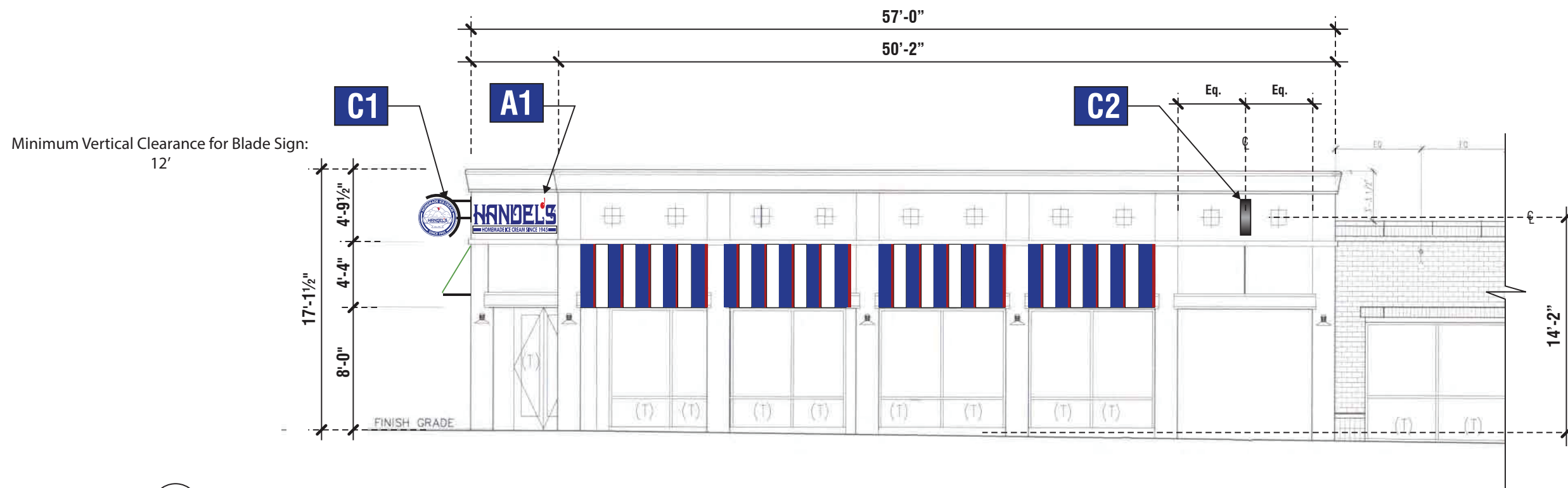
Sheet No:



1 WEST ELEVATION
SCALE: 1/8" = 1'-0"



2 SOUTH/WEST (CORNER ENTRANCE) ELEVATION
SCALE: 1/8" = 1'-0"



1 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



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Newport Beach, CA 92663

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FRONT ELEVATION

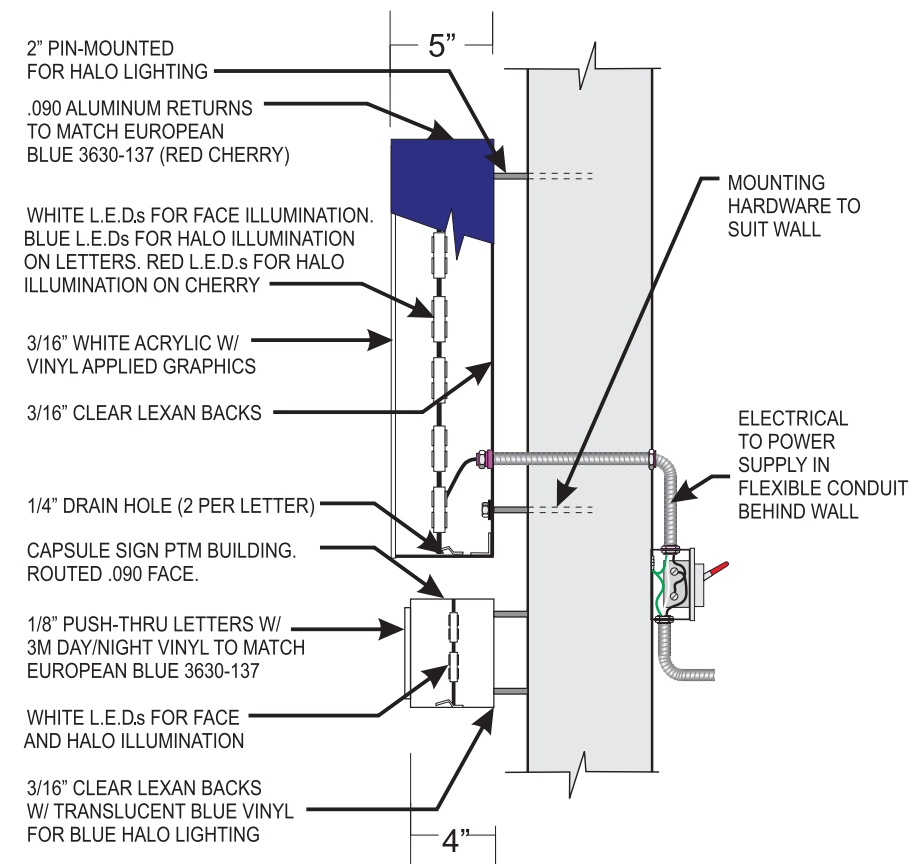


A FACE/HALO-LIT CHANNEL LETTERS PIN-MOUNTED (CAPSULE TAGLINE)

QTY(1)

15.65 SQ FT

SIGN TYPE:	HANDEL'S FACE/HALO-LIT CHANNEL LETTERS
SIGN FACE:	.090 ALUMINUM FACES W/ VINYL GRAPHICS
VINYL:	3M DAY/NIGHT VINYL TO MATCH EUROPEAN BLUE 3630-137, TRANSLUCENT RED 3630-33
TRIM CAP:	NONE
RETURNS:	LETTERS: BLUE. CHERRY: RED
LIGHTING:	FACE: WHITE L.E.D.s. HALO: CHERRY: RED, LETTERS: BLUE
MOUNTING:	PIN-MOUNTED TO WALL W/ FASTENERS TO SUIT.



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Newport Beach, CA 92663

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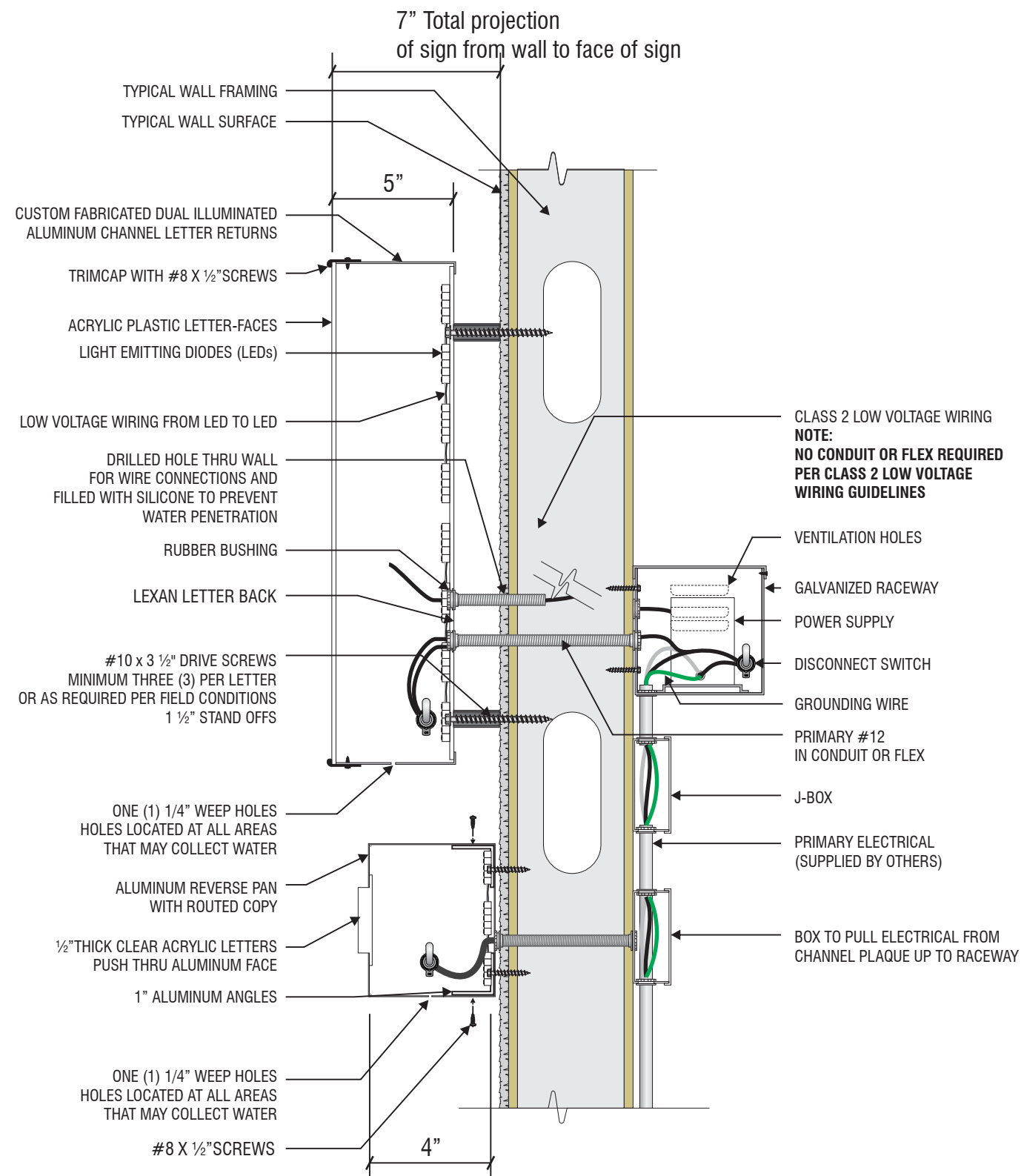
Project No: KS_220253

Date: 2021-06-14 06/14/22

Sign Type:

Sheet No:

- L.E.D. FACE LIT CHANNEL LETTERS
- ACRYLIC PLASTIC FACE
- FLUSH MOUNT
- REMOTE POWER SUPPLY



1 TYPICAL SECTION DETAIL - LED FACE LIT CHANNEL LETTER
SCALE: NTS



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HANDELS

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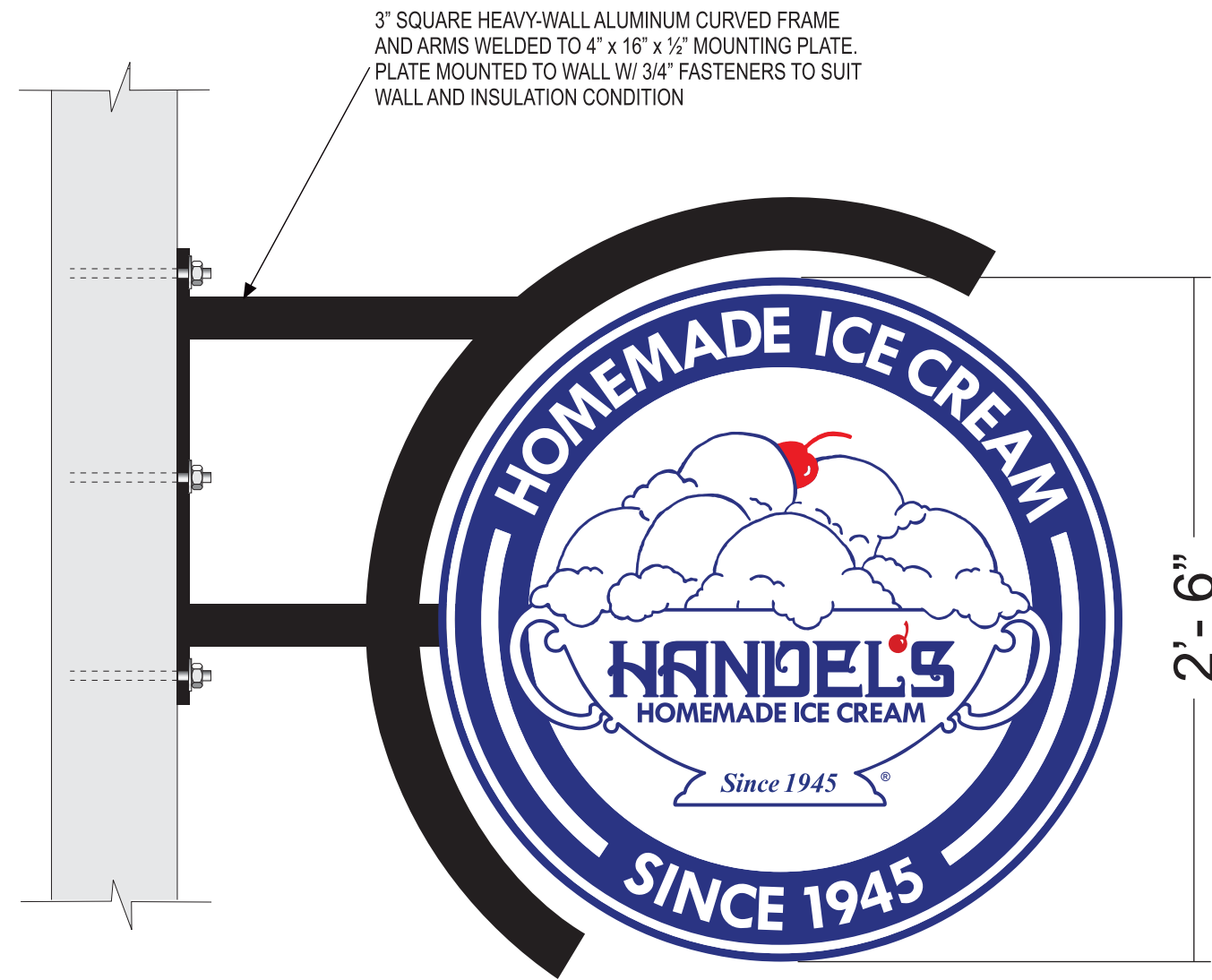
Project No: **KS_220253**

Date: **2021-06-14** 06/14/22

Sign Type:

Sheet No:

BLADE SIGN DETAILS



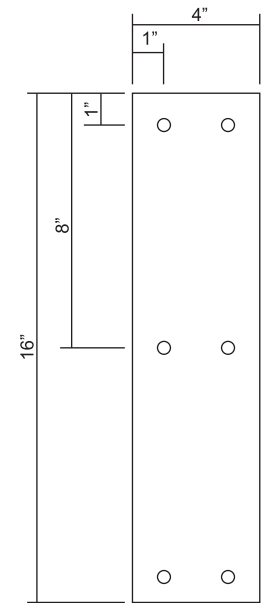
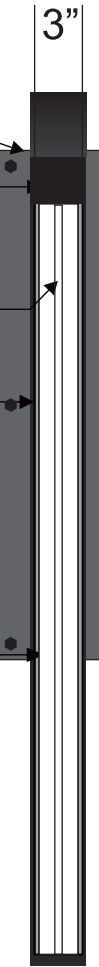
1/2" THICK MOUNTING PLATE W/ QTY(6) PRE-DRILLED 13/16" HOLES FOR MOUNTING TO WALL WITH FASTENERS TO SUIT WALL AND INSULATION

SIGN MOUNTED TO CURVED HEAVY-WALL ALUMINUM FRAME THAT IS MOUNTED TO WALL

ALUM. ANGLE SUPPORT

WHITE ACRYLIC FACE W/ VINYL APPLIED GRAPHICS

3" DEEP x .063" THK. ALUMINUM RETURN TO MATCH 3M 3630-137 EURO BLUE



WITH A QUANTITY OF (6) SIX PRE-DRILLED 13/16" HOLES. (6) 3/4" DIAMETER LAG SCREWS INTO WALL

DUAL-SIDED ILLUMINATED BLADE SIGN W/ ROUND FRAME

SIGN TYPE:	D/F 2'-6" BLADE SIGN
SIGN FACE:	WHITE ACRYLIC FACE W VINYL APPLIED GRAPHICS
VINYL:	TRANSLUCENT VINYL TO MATCH 3M 3630-137 EURO BLUE TRANSLUCENT VINYL TO MATCH 3M 3630-33 RED
RETURNS:	TO MATCH 3M 3630-137 EURO BLUE
LIGHTING:	LED ILLUMINATED ON BOTH SIDES
MOUNTING:	PLATE MOUNTED TO WALL W/ 3/4" FASTENERS TO SUIT WALL AND INSULATION CONDITION

6.25 SQ FT each side

QTY(2)

4 Faces= 25 SQ FT



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