



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

March 19, 2020
Agenda Item No. 4

SUBJECT: The Crab Cooker Signage and Encroachments (PA2019-126)
▪ Comprehensive Sign Program No. CS2019-006
▪ Modification Permit No. MD2020-003
▪ Encroachment Permit No. N2019-0361

SITE LOCATION: 2200 Newport Boulevard

APPLICANT: Crab Cooker Restaurant

OWNER: James Wasko

STAFF: Benjamin M. Zdeba, AICP, Senior Planner
949-644-3253, bzdeba@newportbeachca.gov

David Keely, Senior Civil Engineer
949-644-3349, dkeely@newportbeachca.gov

PROJECT SUMMARY

A request to establish a comprehensive sign program for the reconstructed Crab Cooker restaurant building. The applicant proposes to replace most of the signage that was existing prior to demolition. This proposal requires approval of a modification permit to allow an increase in maximum cumulative sign area over what is allowed by the Zoning Code. The previously existing rooftop "Don't Look Up Here" fish-shaped sign is proposed to be refurbished, reinstalled and designated as a heritage sign.

Also included in the request is a waiver of City Council Policy L-6 to install private improvements within the Newport Boulevard and 22nd Street public rights-of-way consisting of the replacement of previously existing benches and refurbishment of an existing freestanding clock. All other proposed encroachments are consistent with Policy L-6.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15303 and 15311 (Class 3 [New Construction or Conversion of Small Structures] and Class 11 [Accessory Structures]) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment. The exceptions to the use of these categorical exemptions pursuant to Section 15300.2 are not applicable;

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- 3) Adopt Resolution No. PC2020-010, approving Comprehensive Sign Program No. CS2019-006, Modification Permit No. MD2020-003 and designating a heritage sign (Attachment No. PC 1);
- 4) Waive City Council Policy L-6, Encroachments in Public Rights-of-Way, to allow the reconstruction of benches and refurbishment of an existing freestanding clock that encroach into the Newport Boulevard and 22nd Street public rights-of-way subject to the conditions of the Encroachment Permit process being satisfied; and
- 5) Adopt Resolution No. PC2020-011, waiving City Council Policy L-6 and approving Encroachment Permit No. N2019-0361 (Attachment No. PC 2).

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LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Mixed Use Water Related (MU-W2)	Mixed-Use Water Related (MU-W2)	The Crab Cooker Restaurant
NORTH	MU-W2	MU-W2	VUE Newport
SOUTH	MU-W2	MU-W2	McFadden Square
EAST	MU-W2	MU-W2	Multi-tenant commercial
WEST	MU-W2	MU-W2	VUE Newport

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INTRODUCTION

Project Setting and Background

The Crab Cooker restaurant site is located on the northwestern corner of the 22nd Street and Newport Boulevard intersection. It abuts the VUE Newport project to the west and is immediately adjacent to The Arcade public right-of-way to the north with more of the VUE Newport project beyond. To the east across 22nd Street are multi-tenant commercial buildings. To the south across the very wide Newport Boulevard and Balboa Boulevard right-of-way is part of the Mc Fadden Square area, which serves as an entertainment and dining hub with convenient public parking and access to the Newport Beach Pier. The majority of properties in this immediate area are within the Mixed-Use Water Related (MU-W2) Zoning District, a nonresidential district, which is intended for 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 are permitted uses subject to the approval of a use permit.

According to records research and applicant testimony, The Crab Cooker restaurant commenced operation over 50 years ago. It had remained largely unchanged with exception of a remodel in 1986, and accessibility upgrades in the early 1990s. In 2013 and 2014, construction on the adjoining property (2210 Newport Boulevard) commenced for the VUE Newport mixed-use project. During this construction, The Crab Cooker's foundation was inadvertently damaged, necessitating extensive repairs. The extent of repairs required the many aspects of the older building to be upgraded to meet current construction codes ultimately requiring it to be classified as a new structure. At the end of the day, demolition was more cost-effective.

In 2017, The Crab Cooker received approval of a minor use permit, a coastal development permit, and a lot merger to allow its reconstruction and continued operation. Construction on the new The Crab Cooker building began in 2018. Once construction is completed, the use will remain a food service, eating and drinking establishment. The reconstructed restaurant reflects the previous building in most respects and it will include an outdoor dining area and a small office/storage area on a new second level. Also included is a new trash enclosure that relocates dumpsters from the public right-of-way onto private property. Throughout the project entitlement and construction process, the applicant consistently expressed an intention to maintain an identical look and feel to the previous restaurant building.

Project Description

In order to replace the signage that was previously existing on the demolished building, the applicant has requested to establish a comprehensive sign program. This program will allow deviations from the following:

- Maximum number of signs for a single-tenant building;
- Signs not located within the middle 50 percent of the building façade upon which they are located; and
- Signs not providing at least 30 feet of separation on adjacent building walls.

The maximum amount of aggregate sign area allowed through a comprehensive sign program is 90 square feet for the primary frontage (Newport Boulevard) and 45 square feet for the secondary frontage (22nd Street). The proposed aggregate sign area exceeds this amount by 20 square feet for the primary frontage and 30 square feet for the secondary frontage. As such, a modification permit is required for an increase in overall sign area.

Lastly, the applicant is requesting to designate the fish-shaped “Don’t Look Up Here” sign, which had adorned the building since the restaurant operation commenced. The majority of signage will include luminous tubes (i.e., exposed neon), which is allowed subject to the standards identified NBMC Section 20.42.080(D) (Luminous Tube Signs). The Comprehensive Sign Program, together with the Modification Permit and the Heritage Sign designation, will allow the applicant to replicate the same look and feel as the previously existing restaurant building as shown in the following rendering (Figure 1):



Figure 1, an artistic rendering of the end-goal for the reconstruction of The Crab Cooker restaurant, which is currently under construction.

Also included in the request is the reconstruction of benches that are available to the public and a freestanding clock within public rights-of-way that are also shown in the

rendering. City Council Policy L-6 prohibits these proposed encroachments; therefore, the applicant is requesting a waiver of this policy (Attachment No. PC 6).

DISCUSSION

Analysis – Comprehensive Sign Program and Modification Permit

The property and most surrounding properties are designated Mixed-Use Water Related (MU-W2). This designation is intended for waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. Signage is an integral part of the streetscape in this area, which experiences a tremendous amount of pedestrian traffic, especially during the busy summer months. All signage is encouraged to be well-designed through General Plan policy, Zoning Code provisions, as well as the Citywide Sign Design Guidelines.

In an effort to recreate what formerly existed on the building prior to the inadvertent and involuntary damage and resulting demolition, the applicant is proposing to establish a comprehensive sign program. Comprehensive sign programs are required for various reasons; in this case, the applicant is proposing three or more signs for a single-tenant development. As part of the program, the applicant is requesting to deviate from the allowed number of signs and the allowed location of signs. Also requested is an increase in the maximum allowable sign area; however, the request goes above what is allowed through the Comprehensive Sign Program and a modification permit is requested. The applicant has provided justification in Attachment No. PC 6.

The requested Comprehensive Sign Program integrates all project signage to create a unified statement for the building. Although it is fashioned for the current and unique use of the site as The Crab Cooker restaurant, it includes flexibility with sizing and placement to accommodate any future changes as required by the Zoning Code. The requested Modification Permit is necessary to allow the replacement and recreation of the previously existing sign design for the building, as the aggregate sign area exceeds the maximum allowable area by 20 square feet on the primary elevation and by 30 square feet on the secondary elevation. There are no alternatives to the Modification Permit, which would grant a similar privilege. Strict application of the Zoning Code deprives the applicant of the opportunity to recreate the thematic branding of the previously existing, iconic restaurant building that will be recreated. In summary, staff believes there are facts to support the approval of the Comprehensive Sign Program and Modification permit.

Typically, these requests would be reviewed and acted on by the Zoning Administrator, as the decision-maker. In this case, however, the applicant is also requesting to refurbish and reinstall a previously existing nonconforming rooftop sign – the fish-shaped “Don’t Look Up Here” sign – by designating it as a heritage sign. This portion of the request requires Planning Commission review. Consistent with NBMC Subsection 20.50.030(B) (Concurrent Processing), multiple applications for the same project shall be processed

concurrently, and shall be reviewed and approved, modified, or denied by the highest review authority.

Analysis – Heritage Sign Designation

In accordance with NBMC Section 20.42.180 (Heritage Signs), the Planning Commission may designate a heritage sign subject to two criteria:

- (1) the sign is historically significant; and
- (2) the sign is visually significant.

In this case, “historically significant” refers to a sign that was either created or erected at least 35 years ago and is either representative of a significant sign-making technique or style of a historic era or it represents establishments that are an important part of Newport Beach history. “Visually significant” includes a sign that complements its architectural surroundings and is well-integrated into the structure, as well as signs that are an inventive representation of the use, name, or logo of the building or business.

According to evidence provided by the applicant (Figure 2), the “Don’t Look Up Here” sign was installed over 35 years ago and there are no permits on file.

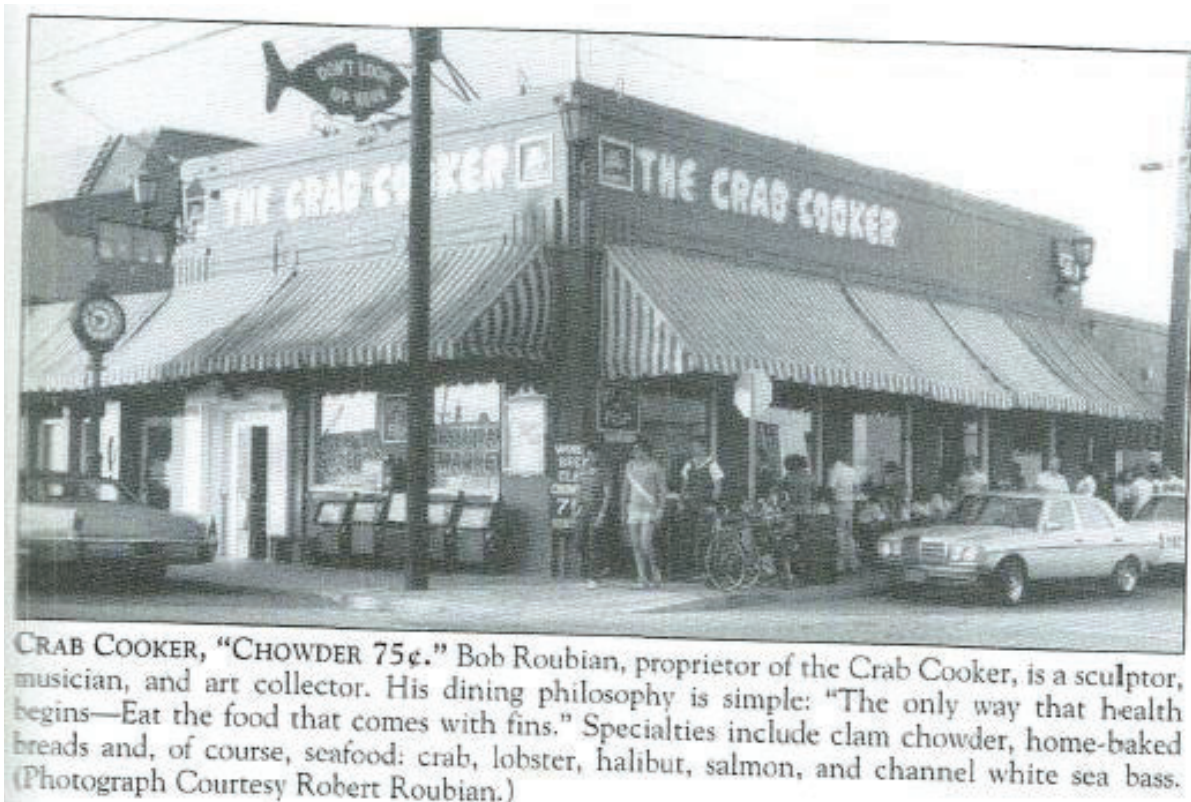


Figure 2, an excerpt from "Images of America - Newport Beach" by Pamela Lee Gray (Arcadia Publishing). This photograph depicts The Crab Cooker circa 1968. The fish-shaped sign is prominently displayed near the corner of the building atop the roofline.

Its shape is in harmony with the establishment and its whimsical nature is highly associated with the unique character of the restaurant. The fish shape is creatively used as a textual background and draws attention to the building without dominating the visual landscape or creating sign clutter, in staff's opinion. Since its installation, it has served as a visual landmark for patrons of the restaurant and Peninsula visitors.

Consistent with the provisions of NBMC Section 20.42.180, the designated sign will not be able to be removed and must not be altered except for routine cleaning and general maintenance and the applicant is agreeable to this restriction. In summary, staff feels that the sign warrants the heritage designation.

Analysis - Council Policy L-6 Waiver for Private Encroachments

City Council Policy L-6 (Encroachments in Public Rights-of-Way) ("Policy"), explains and describes how the public rights-of-way are to be reserved for public use or open space; and that the rights of the public, present and future, are not to be diminished by the installation of private improvements within the public rights-of-way. The Policy specifies allowable and prohibited encroachments and describes the required permits and encroachment agreements (Attachment No. PC 5).

The section of the Policy, *Private encroachments that are prohibited without a waiver and approval* item A, outlines private encroachment prohibitions including "...structural encroachments including, but not limited to, fences, walls, patios, raised planters, landscaping, etc., which encroach in excess of one (1) foot into the public right-of-way or exceed three (3) feet in height." The applicant is requesting a waiver of this Policy to allow the reconstruction of benches for public seating along the 22nd Street frontage and to refurbish the existing freestanding clock along the Newport Boulevard frontage.

The reconstructed benches encroach up to 15-inches into the 22nd Street public right-of-way. A minimum 5-foot pedestrian clearance will be provided at parking meter posts with a 6-foot, 10-inch minimum clearance in areas where there are no parking meter posts. The refurbished freestanding clock encroaches up to 8 feet, 6 inches into the Newport Boulevard public right-of-way and provides a minimum 6-foot, 8-inch pedestrian clearance. The design and location of the encroachments and the clearances provided have been reviewed by Public Works staff and the clearances are adequate for the level of pedestrian traffic. The other projections into the public right-of-way, including but not limited to, signs, lighting and awnings are allowed by City Council Policy L-6 provided that a building permit has been issued by the City.

The Public Works Director and staff have reviewed this request and support the Policy waiver. In staff's review of the existing site conditions, the proposed improvements do not hinder the use of the public right-of-way. The proposed private improvement will not be a detriment to the health, safety and welfare of the public. Lastly, the proposed improvements will not diminish the rights of the public, present and future, at this location

provided an encroachment agreement between the City and the applicant (i.e., the Property Owner) is executed.

Should the Planning Commission elect to approve the waiver and allow the construction of the private improvements and appurtenances, staff recommends the requirement of an encroachment agreement consistent with the Policy. The encroachment agreement specifies the rights of the City and any liability associated with the proposed private improvement would be transferred to the Owners. The encroachment agreement will be recorded onto the property's title, provides important notice for the current and future property owners, and protects the City.

Summary

In summary, staff believes all the standards, findings, and criteria can be supported to recommend approval of the overall project, including the Comprehensive Sign Program, the Modification Permit, the Heritage Sign designation, and the waiver of City Council Policy L-6 for the benches and clock. Two separate resolutions regarding the signage and the encroachments have been prepared for the Planning Commission's consideration and are attached as Attachments No. PC 1 and PC 2, respectively.

Alternatives

1. The Planning Commission may require changes to the project to alleviate any concerns related to the design or the ability to make the required findings. If the changes are substantial, the item should be continued to a future meeting to allow the applicant to make the necessary adjustments and to allow staff to prepare a revised resolution incorporating new findings and/or conditions; or
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachments No. PC 3 and PC 4).

Environmental Review

The proposed signage and encroachments are exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15303 and 15311 (Class 3 [New Construction or Conversion of Smaller Structures] and Class 11 [Accessory Structures]) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

The overall project includes establishment of a comprehensive sign program, the designation of a heritage sign, and the allowance of private encroachments within the public right-of-way that do not comply with City Council Policy L-6.

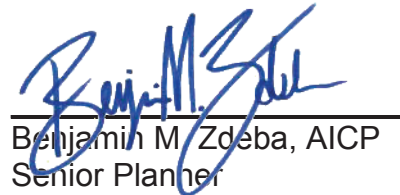
The exceptions to these categorical exemptions under Section 15300.2 are not applicable. The overall project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual 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.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners and residential occupants of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code and City Council Policy L-6. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

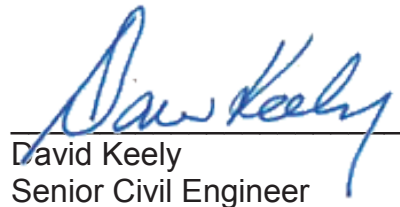
Submitted by:



Benjamin M. Zdeba, AICP
Senior Planner



Jim Campbell
Deputy Community Development Director



David Keely
Senior Civil Engineer

ATTACHMENTS

- PC 1 Draft Resolution for Approval of Signage
- PC 2 Draft Resolution for Approval of Policy L-6 Waiver
- PC 3 Draft Resolution for Denial of Signage
- PC 4 Draft Resolution for Denial of Policy L-6 Waiver
- PC 5 City Council Policy L-6
- PC 6 Applicant's Project Description and Justification
- PC 7 Project Plans

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Attachment No. PC 1

Draft Resolution for Approval of Signage

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RESOLUTION NO. PC2020-010

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2019-006 AND MODIFICATION PERMIT NO. MD2020-003 TO ESTABLISH A COMPREHENSIVE SIGN PROGRAM, AND TO DESIGNATE A HERITAGE SIGN FOR THE CRAB COOKER RESTAURANT LOCATED AT 2200 NEWPORT BOULEVARD (PA2019-126)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James Wasko of The Crab Cooker Restaurant ("Applicant"), with respect to property located at 2200 Newport Boulevard, and legally described as Lots 15 and 16 of Tract No. 814, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 24, Pages 35 and 36 of Miscellaneous Maps, in the Office of the County Recorder of said County ("Property"), requesting approval of a comprehensive sign program and a modification permit, as well as the designation of a heritage sign.
2. The Applicant proposes to establish a comprehensive sign program for the reconstructed "Crab Cooker" restaurant building that would allow for replacement of most of the signage that was existing prior to its demolition. This proposal requires approval of a modification permit to allow an increase in maximum cumulative sign area over what is allowed by Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("NBMC"). The previously existing rooftop "Don't Look Up Here" fish-shaped sign is proposed to be refurbished, reinstalled and designated as a heritage sign ("Project").
3. The Property is designated Mixed Use Water Related ("MU-W2") by the General Plan Land Use Element and is located within the Mixed-Use Water Related ("MU-W2") Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water ("MU-W") and it is located within the Mixed-Use Water Related ("MU-W2") Coastal Zone District under NBMC Title 21 (Local Coastal Program Implementation Plan). Coastal Development Permit No. CD2017-069 was approved by the Zoning Administrator on November 16, 2017, and was made effective on December 27, 2017, to allow for both the reconstruction and continued operation of The Crab Cooker. The proposed replacement signage is appurtenant to the approved use of the structure and is an integral part of the Project; therefore, a new coastal development permit is not required.
5. A public hearing was held on March 19, 2020, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15311 under Class 11 (Accessory 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. Class 11 allows for the construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to signs. The Project only includes signage, which is accessory to the restaurant building that is currently under construction.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Comprehensive Sign Program

In accordance with NBMC Section 20.42.120(E) (Comprehensive Sign Programs – Standards), the following standards and facts in support of such standards are set forth:

Standard:

- A. *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 Project complies with the purpose of NBMC Chapter 20.42 (Sign Standards) because it provides the Applicant with the opportunity to re-establish and preserve The Crab Cooker's previously existing character. It further encourages retaining the design of signage that is complementary to the longstanding use of the Property.
2. The Project provides a mechanism for regulating the type, size, location, quantity, and illumination of signs. A condition of approval limiting illumination has been included in this sign program. Additionally, a condition of approval requiring subsequent approval of a building permit prior to the installation of any signs has been included to ensure signs are installed per the approved plans.

3. All signage is designed to effectively identify the use by using legible text that contrasts with the background it is placed upon. This is consistent with the adopted Citywide Sign Design Guidelines.
4. The size and location of signs have been selected to mirror the previously existing signage. They are intended to replicate the look of the previously existing structure, which was involuntarily damaged beyond simple repair.

Standard

B. 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 Property is currently being developed with a two-story restaurant building. All signs relate visually to each other by keeping a single unified theme while retaining the former look and branding.
2. The surrounding development along Newport Boulevard and Balboa Boulevard is predominantly commercial uses within multi-tenant buildings. The surrounding signage is eclectic and includes the use of wall, roof, pylon, window, awning and monument signs. The Project will not appear out of place and is harmonious with surrounding development and signage.

Standard:

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

Fact in Support of Standard

1. The Project addresses all Project signage. Temporary and exempt signs not specifically addressed in the Comprehensive Sign Program shall be regulated by the provisions of NBMC Chapter 20.42.

Standard:

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

Fact in Support of Standard:

1. While the Project has been designed to replicate the signage that was previously existing on the demolished building, it includes enough flexibility to be effective for future changes in use or tenant. Should any minor changes be necessary, the Community

Development Director may approve minor revisions if the intent of the original approval is not affected.

Standard:

E. 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 Project allows for deviations with regard to the number of signs for a single-tenant building. The total number of signs is reasonable in order to preserve previously existing tenant identification while integrating all new signage, as a unified statement for the restaurant.
2. Allowing the deviation from the requirement that wall signs be located in the middle 50 percent of a frontage complements the architecture of the building, promotes a visually appealing pattern for sign placement, and increases the visibility of signage to users traveling along Newport Boulevard.
3. Allowing the deviation that signs located on adjacent walls of the same building must be separated by a distance of 30 feet is appropriate given the length of the primary and secondary frontages of the Property. The signs will be visible to both pedestrian users and motorists on Newport Boulevard. The signage on the 22nd Street frontage would be especially difficult to see if it maintained the required separation; thus, making identification of the building more difficult.

Standard:

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

Facts in Support of Standard:

1. The Project includes the designation of a previously existing rooftop sign, as a heritage sign. All Facts in Support of Criteria M and N below are hereby incorporated by reference.
2. The Comprehensive Sign Program does not authorize new prohibited signs.

Standard:

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

Fact in Support of Standard:

1. The Project contains no regulations affecting sign message content.

Modification Permit

In accordance with NBMC Section 20.52.050(E) (Modification Permits – Required Findings), the following findings and facts in support of such findings are set forth:

Finding:

H. The requested modification will be compatible with existing development in the neighborhood;

Facts in Support of Finding:

1. The Property is located in the heart of the Balboa Peninsula at the corner of 22nd Street and Newport Boulevard. One- and two-story nonresidential buildings that have a wide variety of sign types surround the Project. The heart of the historic Mc Fadden Square entertainment hub is across Newport Boulevard to the west.
2. The Project would allow replacement of previously existing signage, which was integral to the character and charm of The Crab Cooker. Given the previous building and signage had been in place for over 50 years, implementation of the Project will result in a new structure that retains the same look and does not appear out of character with the surrounding area.
3. The proposed signage would maintain the same character and remain compatible with surrounding signage, but will be more conforming to the current standards for signage as it will be in good repair with improved energy efficiency.

Finding:

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

Facts in Support of Finding:

1. The proposed replacement signage is necessary to maintain and promote the historic character of the Property. It will further continue to identify the traditional use of the tenant space as a restaurant.
2. The building is constructed from property line to property line with approximately 150 feet of overall frontage. Not allowing an increased amount of sign area would detract from its visual interest and would further hinder re-establishment of restaurant's iconic look.

Finding:

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

Facts in Support of Finding:

1. The purpose and intent of NBMC Chapter 20.42 (Sign Standards) includes protection and enhancement of the City's unique character and aesthetic standards, promoting tourism through enhanced aesthetic appeal, and preservation and enhancement of the community's appearance. Additionally, sign standards provide each user an opportunity for adequate identification while guarding against excessive signs. Strict application of the Zoning Code would prohibit the replacement of character-defining features at a prominent corner building on the Balboa Peninsula. While conforming signs are possible through strict application of the sign standards, said application would not allow replacement of the previously existing signage for the restaurant.
2. Signage helps create a sense of identity for an area. Not allowing the Project may result in a loss of character, which is not in accordance with the spirit and intent of NBMC Chapter 20.42.
3. All signage that was previously existing on the demolished structure was installed prior to the adoption of sign standards in the NBMC and was, therefore, mostly nonconforming. Involuntary damage occurred to the structure requiring unanticipated reconstruction. The Applicant intends to recreate the look and feel of the former structure. Strict application of NBMC Chapter 20.42 would hamper this effort by eliminating several signs that were integral to the overall branding.

Finding:

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

Facts in Support of Finding:

1. Limiting the replacement of the signage on the building, which was involuntarily damaged, would not capture the character of the restaurant, which is an iconic establishment for residents and visitors alike.
2. All Facts in Support of Findings I and J are hereby incorporated by reference.

Finding:

- L. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result*

in a change in density or intensity that would be inconsistent with the provisions of the Zoning Code.

Facts in Support of Finding:

1. The previously existing nonconforming signage was in place for over 50 years and had not proven detrimental.
2. The size of the signage is within scale of the signs in the surrounding area and will not adversely affect or be detrimental to persons, property, or improvements in the surrounding neighborhood.
3. Project approval will not result in a change in intensity or density of the existing restaurant.
4. The new signage will be designed and fabricated of new, rust-resistant materials and affixed to façade of the building in accordance with the Building Code.

Heritage Sign Designation

In accordance with NBMC Section 20.42.180(C) (Heritage Sign Criteria), the following criteria and facts in support of such criteria are set forth:

Criterion:

M. The sign was erected or created at least thirty-five (35) years ago and is either representative of a significant sign-making technique or style of a historic era or represents entities or establishments that are an important part of Newport Beach history;

Facts in Support of Criterion:

1. Based on evidence presented by the Applicant, the fish-shaped “Don’t Look Up Here” sign was erected over 50 years ago. It represents an iconic, longstanding restaurant that has been integral to the fabric of the Mc Fadden Square area as an entertainment hub.
2. Using a sign shape that relates to the type of business upon which the sign is placed, such as a fish for a fish market and seafood restaurant, is representative of a more historic and nostalgic sign-making technique that is less frequently used today.

Criterion:

N. The sign is visually significant in at least two of the following regards:

1. *The sign possesses a uniqueness and charm because it has aged gracefully;*
2. *The sign remains a classic example of craftsmanship or style of the period when it was constructed and uses materials in an exemplary way;*

3. *The sign complements its architectural surroundings or is particularly well integrated into the structure; or*
4. *The sign is an inventive representation of the use, name, or logo of the building or business.*

Facts in Support of Criterion:

1. The sign is in the shape of a fish, which uniquely identifies the restaurant, and serves as a visual landmark for its patrons.
2. The Applicant carefully removed and preserved the sign during the demolition and reconstruction on the Property. It will be refurbished, but not refabricated, such that its original charm is maintained.
3. The fish-shaped sign will remain as an inventive representation of the use as a fish market and seafood restaurant, which has served residents and visitors for over 50 years.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15311 under Class 11 (Accessory 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. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
2. The Planning Commission of the City of Newport Beach hereby approves Comprehensive Sign Program No. CS2019-006 and Modification Permit No. MD2020-003, and designates the fish-shaped "Don't Look Up Here" sign as a heritage sign, 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 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 19TH DAY OF MARCH, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”**CONDITIONS OF APPROVAL**

1. All proposed signs shall be in substantial conformance with the approved plans and provisions of NBMC Chapter 20.42, unless otherwise indicated in the following conditions.
2. The fish-shaped “Don’t Look Up Here” sign shall be maintained in accordance with NBMC Section 20.42.180 (Heritage Signs) and shall not be removed for any reason once installed. If it is removed, then the heritage sign designation shall be revoked.
3. Anything not specifically approved by this Comprehensive Sign Program is subject to subsequent review and approval by the Planning Division.
4. A building permit shall be obtained prior to commencement of installation of the signs.
5. A copy of this Resolution, including Exhibit “A” shall be incorporated into the plan check sets of plans prior to issuance of building or sign permits.
6. Illuminated signs shall be regulated in accordance with the provisions of NBMC Section 20.42.060(H). If, in the opinion of the Community Development Director, existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
7. Prior to final of the building permit, the Applicant shall schedule a nighttime lighting inspection with the City’s Code Enforcement Division.
8. The maximum letter and/or logo height shall be 36 inches.
9. There shall be no exposed electrical raceways as they should be integrated into the design of the sign to the greatest degree possible.
10. Signs shall be maintained in a clean and orderly condition.
11. The Community Development Director may approve revisions to the Comprehensive Sign Program if the intent of the original approval is not affected. Revisions that would substantially deviate from the original approval shall require approval of a new/revised comprehensive sign program.
12. Any future revisions or changes to the signs approved by this Comprehensive Sign Program due to a change in the use or tenants of the building shall be reviewed and approved by the Planning Division, so long as the sign size, copy configuration, and number of signs authorized by this approval does not substantially change or increase. The mandatory reduction or elimination of signs shall be exercised as necessary.

13. The Planning Commission may add to or modify conditions of this approval, or revoke this approval upon a determination that any sign that is authorized by this approval has been altered beyond the parameters of the authorization and therefore beyond the justification.
14. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 20 Planning and Zoning.
15. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of The Crab Cooker Sign Signage and Encroachments including, but not limited to, Comprehensive Sign Program No. CS2019-006 and Modification Permit No. MD2020-003 (PA2019-126). 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.

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Attachment No. PC 2

Draft Resolution for Approval of Policy L-6
Waiver

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RESOLUTION NO. PC2020-011

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, WAIVING CITY COUNCIL POLICY L-6 AND APPROVING ENCROACHMENT PERMIT NO. N2019-0361 FOR A REQUEST TO RECONSTRUCT AND REFURBISH PERMANENT IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY LOCATED AT 2200 NEWPORT BOULEVARD (PA2019-126)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James Wasko of The Crab Cooker Restaurant (“Applicant and Owner”), with respect to property located at 2200 Newport Boulevard, and legally described as Lots 15 and 16 of Tract No. 814, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 24, Pages 35 and 36 of Miscellaneous Maps, in the Office of the County Recorder of said County (“Property”), requesting a waiver of City Council Policy L-6 (Encroachments in the Public Right-of-Way) (“Policy”) and approval of an encroachment permit.
2. The Applicant and Owner requests to reconstruct benches that encroach up to 15 inches into the 22nd Street public right-of-way and to refurbish a freestanding clock that encroaches up to 8 feet, 6 inches into the Newport Boulevard public right-of-way (“Project”).
3. The requested encroachments are not specifically listed within the Policy; therefore, the request is considered as private encroachments that are prohibited without a waiver and approval under Section A of said Policy. Due to this prohibition, the requested encroachment may only be approved through a waiver of the Policy and approval of an encroachment permit by Planning Commission.
4. A public hearing was held on March 19, 2020, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach. 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 Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 and 15311 (Class 3 [New Construction or Conversion of Small Structures] and Class 11 [Accessory Structures]) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment.

2. The Project is the construction of small private encroachments within the public right-of-way that do not comply with the Policy and are accessory to the primary structure and use of the Property as a restaurant.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with the Policy, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The proposed permanent improvements will not be a detriment to the health, safety and welfare of the public.*

Facts in Support of Finding:

1. The reconstructed and refurbished permanent private improvements will not hinder the present or future use of the public right-of-way, including any utilities. The existing utilities located within the encroachment area are not impacted.
2. The reconstructed and refurbished permanent improvements will not diminish the present or future right of the public.

Finding:

- B. *The individual circumstances applicable to this application and the proposed encroachment are consistent with the public interest.*

Facts in Support of Finding:

1. The Project will still maintain adequate pedestrian access to Newport Boulevard and 22nd Street sidewalks, as well as the Arcade area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby waives the Policy and approves Encroachment Permit N2019-0361, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.

2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning.

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF MARCH, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowery, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The Project shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant and Owner 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 Encroachment Permit and any associated Encroachment Agreements.
4. The Applicant and Owner shall enter into an encroachment agreement within one (1) calendar year upon receipt of approval, otherwise this approval shall automatically expire.
5. 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 Crab Cooker Encroachment Permit for the property located at 2200 Newport Boulevard, Newport Beach, California, including, but not limited to, Encroachment Permit No. N2019-0361. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. PC 3

Draft Resolution for Denial of Signage

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RESOLUTION NO. PC2020-010

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING COMPREHENSIVE SIGN PROGRAM NO. CS2019-006 AND MODIFICATION PERMIT NO. MD2020-003 TO ESTABLISH A COMPREHENSIVE SIGN PROGRAM, AND TO DESIGNATE A HERITAGE SIGN FOR THE CRAB COOKER RESTAURANT LOCATED AT 2200 NEWPORT BOULEVARD (PA2019-126)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James Wasko of The Crab Cooker Restaurant ("Applicant"), with respect to property located at 2200 Newport Boulevard, and legally described as Lots 15 and 16 of Tract No. 814, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 24, Pages 35 and 36 of Miscellaneous Maps, in the Office of the County Recorder of said County ("Property"), requesting approval of a comprehensive sign program and a modification permit, as well as the designation of a heritage sign.
2. The Applicant proposes to establish a comprehensive sign program for the reconstructed "Crab Cooker" restaurant building that would allow for replacement of most of the signage that was existing prior to its demolition. This proposal requires approval of a modification permit to allow an increase in maximum cumulative sign area over what is allowed by the Zoning Code. The previously existing rooftop "Don't Look Up Here" fish-shaped sign is proposed to be refurbished, reinstalled and designated as a heritage sign ("Project").
3. The Property is designated Mixed Use Water Related ("MU-W2") by the General Plan Land Use Element and is located within the Mixed-Use Water Related ("MU-W2") Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water ("MU-W") and it is located within the Mixed-Use Water Related ("MU-W2") Coastal Zone District. Coastal Development Permit No. CD2017-069 was approved by the Zoning Administrator on November 16, 2017, and was made effective on December 27, 2017. This approval allowed for both the reconstruction and continued operation of The Crab Cooker. The proposed replacement signage is appurtenant to the approved use of the structure and is an integral part of the approved reconstruction project; therefore, a new coastal development permit is not required.
5. A public hearing was held on March 19, 2020, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.***Comprehensive Sign Program and Modification Permit***

In reviewing this comprehensive sign program, the review authority must evaluate the standards in NBMC Section 20.42.120(E) (Comprehensive Sign Programs – Standards) and must also make the findings for a modification permit, as identified in NBMC Section 20.52.050(E) (Modification Permits – Required Findings). In this case, the Planning Commission has determined the Project is inconsistent with the required standards and the findings cannot be made for the following reasons:

1.

Heritage Sign Designation

In reviewing the request to designate the fish-shaped “Don’t Look Up Here” sign as a heritage sign, the Planning Commission must evaluate the criteria listed in NBMC Section 20.42.180(C) (Heritage Sign Criteria). In this case, the Planning Commission determined the sign does not meet the criteria for the following reasons:

1.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from CEQA pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Projects which a public agency rejects or disapproves are not subject to CEQA review.
2. The Planning Commission of the City of Newport Beach hereby denies Comprehensive Sign Program No. CS2019-006, Modification Permit No. MD2020-003, and the request to designate the fish-shaped “Don’t Look Up Here” sign as a heritage sign.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning.

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF MARCH, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowrey, Secretary

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Attachment No. PC 4

Draft Resolution for Denial of Policy L-6
Waiver

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RESOLUTION NO. PC2020-011

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING A REQUESTED WAIVER OF CITY COUNCIL POLICY L-6 AND ENCROACHMENT PERMIT NO. N2019-0361 FOR A REQUEST TO RECONSTRUCT AND REFURBISH PERMANENT IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY LOCATED AT 2200 NEWPORT BOULEVARD (PA2019-126)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James Wasko of The Crab Cooker Restaurant (“Applicant and Owner”), with respect to property located at 2200 Newport Boulevard, and legally described as Lots 15 and 16 of Tract No. 814, in the City of Newport Beach, County of Orange, State of California, as per Map recorded in Book 24, Pages 35 and 36 of Miscellaneous Maps, in the Office of the County Recorder of said County (“Property”), requesting a waiver of City Council Policy L-6 (Encroachments in the Public Right-of-Way) (“Policy”) and approval of an encroachment permit.
2. The Applicant and Owner requests to reconstruct benches that encroach up to 15 inches into the 22nd Street public right-of-way and to refurbish a freestanding clock that encroaches up to 8 feet, 6 inches into the Newport Boulevard public right-of-way (“Project”).
3. The requested encroachments are not specifically listed within the Policy; therefore, the request is considered as private encroachments that are prohibited without a waiver and approval under Section A of said Policy. Due to this prohibition, the requested encroachment may only be approved through a waiver of the Policy and approval of an encroachment permit by Planning Commission.
4. A public hearing was held on March 19, 2020, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach. 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 Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

In reviewing this request, the review authority must make the required findings identified within the Policy. In this particular case, the Planning Commission has determined the required findings cannot be made for the following reasons:

1.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies the Policy waiver and Encroachment Permit No. N2019-0361.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning.

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF MARCH, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowery, Secretary

Attachment No. PC 5

City Council Policy L-6

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ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY

It is the general policy of the City that the public rights-of-way shall be reserved for public use or open space; and that the rights of the public, present and future, shall not be diminished by the installation of private improvements within the public rights-of-way. For any project located within the Coastal Zone also look to Newport Beach Municipal Code Title 21, or any successor title.

Categories of encroachments and improvements are listed below, together with the permit requirement for each category.

Permit and/or encroachment agreement required.

- A. Except as expressly set forth herein, permits and/or encroachment agreements are required for encroachments into the public rights-of-way.
- B. Application for any permit, as required by this policy, shall be filed with the Public Works Department on a form to be provided by the City and shall show the proposed planting or work and the nature thereof. Drawings for encroachment permits requiring Planning Commission review shall be prepared to scale. Plan and elevation drawings shall accurately depict location, height, and extent of the proposed encroachments.
- C. If the application is for a permit required under *private encroachments that are prohibited without a waiver*, it shall be submitted to the Planning Commission for consideration.
 1. The Planning Commission is designated to grant or deny a waiver and approve, conditionally approve, or deny applications for encroachment permits, subject to the findings in subsection (a), of this Section.
 - a. The Planning Commission may grant a waiver and may approve or conditionally approve an application for an encroachment permit if the Planning Commission finds the encroachment will not be a detriment to the health, safety, and welfare of the public.
 - b. If an application for a private encroachment that is prohibited without a waiver is part of a larger approval requiring City Council approval, then the Planning Commission shall make a recommendation to the City Council regarding whether this policy should be waived and the permit granted.

- c. The Planning Commission shall have discretion to refer any request for a waiver or encroachment permit before the Planning Commission to the City Council for consideration.
 - d. Any decision made by the Planning Commission may be appealed or called for review in accordance with Chapter 20.64.
2. Notice of the Planning Commission's review of a request to waive a provision of this policy shall be:
- a. Mailed to property owners within 300 feet of the project site at least ten (10) calendar days in advance of a meeting. The notice shall contain the address of the project site, the applicant's name, a brief description of the improvements, date, time, and place of the meeting, and a statement informing the public that they have the ability to provide comments to the Planning Commission; and
 - b. Posted on or close to the subject property in a prominent location at least ten (10) calendar days before the scheduled hearing by the Planning Commission in the following manner:
 - i. One or more sign(s) shall be posted as determined by the Public Works Director.
 - ii. The size and location of the sign(s) shall be as determined by the Public Works Director.
 - iii. The applicant for the encroachment permit/waiver shall be responsible for maintaining the sign(s) in a satisfactory condition.
 - iv. The applicant for the encroachment permit/waiver shall remove all sign(s) at the end of the appeal period.

Private encroachments that are prohibited without a waiver and approval.

- A. All structural encroachments including, but not limited to, fences, walls, patios, raised planters, landscaping, etc., which encroach in excess of one (1)-foot into the public right-of-way, or exceed three (3)-feet in height, measured from the top of curb elevation/or from sidewalk elevation where sidewalk exists.
- B. Driveway approaches not conforming to Council Policy L-2.
- C. Modifications to original design concepts approved by the City.
- D. Private signs except as provided for in the Building Code.
- E. Lighting.
- F. Parkway walkway surfacing of loose rock, gravel, or any surfacing other than standard or colored/textured concrete or flat stone/brick/pavers installed at grade.
- G. Private dwellings and appendages including raised patios decks and bay windows, except as provided for in this section and the Building Code.
- H. Pay telephones and private mail carriers drop boxes.

General private encroachments that require an encroachment permit and if applicable, an encroachment agreement from the Public Works Department.

- A. Drive approaches conforming to Council Policy L-2.
- B. Standard sidewalks.
- C. Carriage walks (not to exceed twenty-five percent (25%) of the parkway area).
- D. Parkway surfacing (standard or colored/textured concrete or flat stone/brick) installed at grade (not to exceed twenty-five percent (25%) of the parkway area).
- E. CATV and public utility facilities.

- F. Structural encroachments including, but not limited to, fences, walls, patios, raised planters, etc., which encroach one (1) foot or less and do not exceed three (3) feet in height within the public right-of-way. If, however, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that Planning Commission review is warranted, the Department may forward the item to the Planning Commission for action in accordance with the procedures set forth for granting waivers for private encroachments that would otherwise be prohibited.
- G. Mailboxes, when required by the U.S. Postal Service. Mailboxes shall be installed per U.S. Postal Service requirements. Mailbox base construction length and width shall not exceed the length of the mailbox, or twenty-four (24) inches, whichever is less.
- H. The placement of utility pedestals shall be at the back of sidewalks on arterials and major pedestrian thoroughfares without zero setbacks. There shall be at least four (4) feet of clear sidewalk width and/or pedestals shall be placed in the parkway outside of walk area.
- I. When connecting to or relocating public utilities.
- J. Artificial Turf (permeable) up to 100% of the required parkway landscape area. Artificial turf grass shall be installed in accordance to manufacturers' recommendations. Material must be securely anchored and maintained so as to eliminate disrepair, fading, tearing, wrinkling and or edge curling or any other type of material performance. Material shall be replaced prior to the aforementioned conditions occur. Prohibited application: Indoor and outdoor carpet, green in color or otherwise. The Director of Public Works shall from time to time update the standards for this application. See Artificial Turf Material and Installation Standards.
- K. Tree and shrub planting and removal.
- L. Median landscaping.

If, in the opinion of the Public Works Departments, the approved planting is not being maintained for view, safety clearance and sight distance, Newport Beach Municipal Code Chapter 10.50, "Public Nuisance Abatement," or any successor statute, shall be used to remove offending plant material.

The permit applicant shall reimburse the City of Newport Beach for the value of any City tree removed by this process. This value shall be determined by the City Arborist using the International Society of Arboriculture's "Guide for Plant Appraisal" or a minimum forty-eight (48) inch box tree replacement value.

Area specific private encroachments requiring an encroachment permit from the Public Works Department and subject to the execution of an encroachment agreement for non-standard improvements.

- A. Structural encroachments which do not exceed three (3) feet in height measured from the top of curb elevation/or from sidewalk elevation where sidewalk exists, including, but not limited to fences, walls, and raised planters in public rights-of-way in areas that are more than eight (8) feet behind the face of curbs on the following streets:
 - 1. Santa Ana Avenue from Cliff Drive to Fifteenth Street.
- B. Permitted Structural Encroachments on Balboa Island along South Bay Front, North Bay Front, Grand Canal, and East Bayfront are as follows:
 - 1. Planters that do not exceed one (1) foot in height may be installed between the back of existing sidewalk and property line, planted with ground cover and shrubs not to exceed two (2) feet in height measured from sidewalk elevation;
 - 2. Fences and walls with a minimum setback of two (2) feet six (6) inches from back of sidewalk.
 - a. For patios constructed at grade elevation to one (1) foot above sidewalk grade elevation, fences and walls may be three (3) feet high above sidewalk grade.
 - b. For patios constructed greater than one (1) foot above sidewalk grade elevation, fences and walls must be set back a minimum of three (3) feet from back of sidewalk, not exceed two (2) feet six (6) inches in height above the patio, have at least forty percent (40%) visibility through them, and not to exceed four (4) feet in height above existing public sidewalk grade.

3. Patios with a minimum setback of two (2) feet six (6) inches from the back of sidewalk.
 - a. Raised Patios are permitted provided they have a maximum height of two (2) feet six (6) inches above sidewalk grade, are set back a minimum of two (2) feet six (6) inches from back of sidewalk, and provided all bulkhead deadman and tiebacks supporting the Bay front bulkhead are replaced "If required by the Public Works Department" in conformance with the requirements of the Public Works Department; Stairs located a minimum of two (2) feet six (6) inches from back of sidewalk.
- C. Structural encroachments which do not exceed three (3) feet in height, including, but not limited to fences, walls, patios, and raised planters in public rights-of-ways in areas that are five (5) feet behind the face of curb on the following streets:
 1. Southerly side of West Bay Avenue between 8th Street and 15th Street.
- D. Non-standard encroachments, including, but not limited to fences, walls, and raised planters within City easements as approved by the Public Works Director.
- E. Buena Vista Boulevard – Bay Avenue to Edgewater Avenue. The street right-of-way in this reach is ten (10) feet wide, with private property on both sides of the public way. Improvements allowed at this location shall consist of the following:
 1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way line maintained by the City.
 2. Landscaping under twenty-four (24) inches in height and park-like improvements in the remaining portion of the right-of-way shall be allowed if installed and maintained by the adjoining property owners. Private improvements such as walls, fences, gates, signs and living areas such as cabanas and other roofed structures shall not be allowed.
 3. Access to existing private piers and floats shall be allowed where a harbor permit has been granted, but such access structures shall not be expanded beyond the original permit dimensions.
- F. Edgewater Avenue – Buena Vista Boulevard to Island Avenue. The street right-of-way in this reach is forty (40) feet wide with private property on the inland side. The bay side is improved with a privately constructed bulkhead on public property. Improvements allowed at this location shall consist of the following:

1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way line maintained by the City.
 2. Landscaping under twenty (24) inches in height and park-like improvements in the remaining portion of the right-of-way (between the sidewalk and the bulkhead) shall be allowed if installed and maintained by the adjoining property owner. Private improvements such as fences, gates, signs, and living areas shall not be allowed.
 3. Access to private piers and floats shall be allowed where a harbor permit has been granted, but such access structures shall not be expanded beyond the permit dimensions.
- G. Edgewater Avenue – Island Avenue to Alvarado Street. The street right-of-way in this reach is forty (40) feet wide with private property on the inland side. The bay side is improved with a sloping beach leading to the waters of the bay. Improvements allowed at this location shall consist of the following:
1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way maintained by the City.
 2. The remaining portion of the right-of-way shall be reserved as a public beach and no private improvements, impediments or boat storage shall be allowed except for access to existing piers and floats where a harbor or a mooring permit has been granted, but such access structures shall not be expanded beyond the original permit dimensions. Any existing permits to encroach on the right-of-way shall be rescinded
- H. Edgewater Avenue – Alvarado Street to Fernando Street. The street right-of-way in this reach is fifty (50) feet wide. The bay side is improved with a sloping beach leading to the waters of the bay. The private lots bayward of the public right-of-way are under water and within State Tidelands. Improvements allowed at this location shall consist of the following:
1. A minimum six (6) foot wide public sidewalk along the inland side of the right-of-way maintained by the City.
 2. The remaining portion of the right-of-way shall be reserved as a public beach and no private improvements, impediments or boat storage shall be allowed except for access to existing piers and floats where a harbor permit has been granted, but such access structures shall not be expanded beyond the original permit dimensions.
- I. Bay Front Street Ends

1. Bay front street ends at beach level may contain two (2) foot wide planting areas bounded by redwood or concrete strips and containing hedges no more than two (2) feet in height above the adjacent surface. The planting areas may be installed:
 - a. At each side of the prolongation of the street and extending no more than fifteen (15) feet from the end of the paved street.
 - b. At the end of the paved street, except that a twelve (12) foot wide opening must be left for City emergency and maintenance equipment, and pedestrians to enter the beach area.
2. Bay front street ends where tidal flow prevents standard installation may be landscaped, subject to the prior approval by the City of specific plans prepared by the applicant. Access to beach areas shall be provided for in any such specific plans.
3. Improvements shall be installed at the expense of the adjacent property owners.
4. Landscape maintenance and watering shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property shall be installed in each planter

J. Unimproved Ocean Front Street Ends

1. Improvements shall be installed at the expense of the adjacent property owners.
2. Landscape maintenance and watering shall be provided by the adjacent property owners to the satisfaction of the City. A sprinkler system connected to the adjacent property shall be installed in each planter.
3. All work shall be installed to grades established by the Public Works Department.
4. A four (4) foot wide sidewalk shall be provided on each side of the street right-of-way adjacent to the property line.
5. A minimum of twelve (12) feet of unobstructed access to the beach in the center of the right-of-way shall be surfaced with brick, asphalt, concrete or artificial turf, or an equivalent surfacing approved by the City.

- a. Portland Cement Concrete. A minimum six (6) inches over native compacted material.
 - b. Asphalt Concrete. A minimum two (2) feet six (6) inches of asphalt concrete over a six (6) inch thick aggregate.
 - c. Brick. Brick installed over four inches of imported aggregate base. A dry mix of one-to-one cement and clean plaster sand to be swept into the one-quarter (1/4) to one-half (1/2) inch space between bricks. The dry mix shall be moistened with a fine spray of water after it is in place.
- 6. Planters five (5) feet wide shall be provided between the side and the center access along a portion of each side of the street with a heavy emphasis on drought resistant plant materials. Plant materials shall be installed to City specifications. A six (6) inch to eighteen (18) inch high lip of concrete, brick or rock may be installed as part of the planter.
 - 7. Special provisions shall be made in the design when garage access is required from street ends.
 - 8. Where unusually large quantities of sand exist in a street end area, the City shall assist the adjacent owners by moving the sand to an area determined by the City.

K. Unimproved Alleys that End at the Ocean Front

- 1. Improvements shall be installed at the expense of the adjacent property owner.
- 2. All work shall be installed to grades established by the Public Works Department.
- 3. Landscaping of potted plants shall be permitted in the portion of the alley right-of-way that terminates at the ocean front sidewalk. A six (6) foot wide inviting passageway shall be maintained for pedestrian access.
- 4. Where vehicles or pedestrians will travel, alleys may be surfaced with brick, asphalt, concrete or equivalent surfacing.
- 5. Improvements shall extend from the nearest street of alley improvement to the northerly line of the ocean front.

If, in the opinion of the Public Works Department, the nature or location of this type of encroachment is such that Planning Commission review is warranted, the Department may forward the application to the Planning Commission for original action in accordance with the procedures set forth for granting waivers for private encroachments that would otherwise be prohibited.

The City Manager is authorized to execute, on behalf of the City, agreements for non-standard improvements, which are entered into pursuant to this section or other authorization.

Private encroachments not requiring a permit:

- A. Parkway lawn, ground cover and drought tolerant planting. Parkway areas with the exception of carriage walks/parkway paving/artificial turf shall be entirely planted with lawn, ground cover and/or drought tolerant planting.
- B. Parkway sprinkling systems.
- C. Use of public streets and projections over public property, which are covered by the latest adopted edition of the California Code of Regulations Title 24 under a valid building permit issued by the City.

Encroachments on public sidewalks

Newport Beach sidewalks are a desirable place to walk, stroll and jog and it is, therefore, the policy of the City that public sidewalks are to provide unobstructed passage whenever possible.

Sidewalks shall be reserved for public use and the rights of the public shall not be diminished by the installation of benches, planters, bicycle racks, etc., by private entities nor by the installation of facilities by public utilities or other public agencies. It is the policy of the City that encroachments on public sidewalks shall be subject to the following:

- A. General
 - 1. Permitted encroachments shall not reduce the sidewalk width available for normal pedestrian movement.
 - 2. Permitted encroachments may be located in areas between tree wells or other existing improvements as long as they do not interfere with pedestrian travel.

3. Permitted encroachments shall be located at least eighteen (18) inches from the curb face. In areas where vehicles do not park or otherwise extend over the sidewalk, this setback may be reduced.
4. Permitted encroachments shall not be located within thirty-six (36) inches of a parking meter or street light, nor shall they be located where they will interfere with the normal use of other facilities.
5. Encroachments shall not block access from parked cars.
6. They shall not be located within ten (10) feet of a crosswalk, fire hydrant or driveway.
7. Encroachments may not be chained or otherwise anchored to any tree, streetlight, parking meter or other property.
8. Applicant shall pay all costs for City and/or the California Department of Transportation ("CalTrans") permit processing where necessary.
9. Applicant shall pay all costs associated with the installation and maintenance of the encroachments by the City or private installer.

B. Public Benches

1. When applying the above requirements to benches, allowance shall be made for the space required for a person sitting on the bench.
2. Benches to be installed in an area where there is a theme or bench style shall conform to that theme or style.

C. Public Bicycle Racks

1. Bicycle racks shall be located to allow bicycles to extend five (5) feet from the center of the rack and comply with the above requirements.

History

(1969, 08/25) - L-6 - Adopted (Private Encroachments in Public Rights-of-Way)
 (1969, 08/25) - I-12 - Adopted (Ocean Front Street-End Improvements)
 (1970, 03/09) - L-6 - Reaffirmed

(1970, 03/09) - I-12 - Amended
 (1971, 02/08) - L-6 - Reaffirmed
 (1972, 02/14) - L-6 - Amended
 (1972, 02/14) - I-12 - Reaffirmed
 (1973, 12/10) - L-6 - Reaffirmed
 (1973, 12/10) - I-12 - Amended
 (1974, 11/11) - L-6 - Reaffirmed
 (1974, 11/11) - I-12 - Amended
 (1975, 08/11) - L-6 - Amended
 (1977, 03/14) - L-7 - Adopted (Encroachments and Bay Access on Buena Vista Blvd. -
 Edgewater Ave. Between bay Ave. and Fernando St.)
 (1977, 09/12) - L-7 - Reaffirmed
 (1981, 02/09) - L-6 - Amended
 (1981, 02/09) - I-12 - Amended
 (1981, 08/24) - L-10 - Adopted - incorporating I-12 & L-10
 (1981, 11/23) - L-6 - Amended
 (1982, 11/08) - L-10 - Amended
 (1986, 10/27) - L-6 - Amended
 (1987, 01/26) - L-6 - Amended
 (1987, 07/13) - L-6 - Amended
 (1989, 02/13) - L-6 - Amended
 (1989, 08/14) - L-6 - Amended
 (1989, 11/27) - L-6 - Amended
 (1989, 11/27) - L-10 - Amended
 (1991, 12/09) - L-6 - Amended
 (1992, 12/14) - L-6 - Amended
 (1993, 01/11) - L-18 - Adopted (Encroachments on Public Sidewalks)
 (1993, 07/12) - L-6 - Amended
 (1994, 01/24) - L-6 - Amended
 (1994, 01/24) - L-7 - Reaffirmed
 (1994, 01/24) - L-8 - Amended - changed to L-8
 (1994, 01/24) - L-15 - Amended - changed to L-15
 (1994, 05/09) - L-6 - Amended
 (1995, 02/27) - L-6 - Amended
 (1996, 02/26) - L-6 - Amended
 (1996, 02/26) - L-15 - Amended
 (2001, 05/08) - L-6 - Amended
 (2001, 05/08) - L-7 - Amended
 (2001, 05/08) - L-8 - Amended
 (2015, 01/27) - L-6 - Amended
 (2018, 08/14) - L-6 - Amended (incorporating L-6, L-7, L-8 & L-15)
 (2018, 11/27) - L-6 - Amended

Attachment No. PC 6

Applicant's Project Description and
Justification

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COMPREHENSIVE SIGN PROGRAM & HERITAGE SIGN DESIGNATION

The Crab Cooker Restaurant

Project Description:

The purpose of a comprehensive Sign Program and Heritage Sign Designation is to integrate all a project's sign, including a project identification sign with the overall site design and the structure's design into a unified architectural statement. Additionally, it is to recreate and keep whole the original elements of The Crab Cooker. The attached Comprehensive Sign Program and request of a Heritage Sign Designation provides a means for the flexible application of sign regulations for The Crab Cooker Restaurant, a third generation veteran owned family business that through no fault of its own, building sustained structural damage caused by the permitted construction activities of the neighbor to the north. The damaged sustained required the existing structure to be demolished and completely rebuilt.

As a result of compiling an archive of the historic existing signage on the original building, and recreating (as shown on the sign program) the square footage of the signs exceeds the total allowable amount. For Primary Signage we exceed the allowable amount of 90 square-feet by 20 square-feet, and Secondary Signage is over the allowable amount of 45 square feet by 30 square feet. Thus, we are also requesting a Modification Permit to allow the signage to exceed the allowable amounts.

The Crab Cooker Restaurant and Fish Market has been in operation at the current address for over 65 years. The Crab Cooker is a family dining establishment that has been a Newport Beach landmark for locals and visitors alike for many decades. In recreating the original building, one of the key elements are the signs and building elements that existed on the iconic old building.

Justification:

The Crab Cooker finds itself in the position to respectfully request a Heritage Sign Designation, Sign Program and Modification Permit as a result of the above detailed process. It is critical for The Crab Cooker to preserve its signage as it has existed for over 65 years in order to maintain its identity, and overall look that has become a fixture on the peninsula.

As has been the case for over 65 years, it is The Crab Cooker's hope to continue to enjoy the same uses and privileges we currently have, including our historic signs, which are trademarked as part of The Crab Cooker brand and are key to our clientele's recognition of the building.

Compliance with the Coastal Act

Coastal Access

The Crab Cooker is rebuilding on the same footprint as it existed prior to being damaged. The rebuilding of the structure will not interfere with the public's right of access.

Scenic and Visual Quality

The Crab Cooker is rebuilding on the same footprint as it existed prior to being damaged. No scenic and visual qualities of coastal areas will be impacted. There were no protected views prior to damage and those conditions remain unchanged. In fact, the damage to

the structure was caused by a project that is between the Crab Cooker and the Bay. There are no alterations to natural landforms or changes to the character of the surrounding areas that would degrade the visual quality in any way.

Request

The Crab Cooker is requesting a Heritage Sign Designation, Sign Program and Modification Permit be approved. Per City of Newport Beach Municipal Code 20.42.180 Heritage Signs, the Sign Program being presented complies with the municipal code as it pertains to Heritage Signs and should be granted.

Detailed below is a justification for the request. The signs included in the request are detailed in the attached Sign Program. They include the famous "Don't Look Up Here" sign on the roof, painted windows and building signage throughout the exterior of the building.

Compliance with Newport Beach Municipal Code

1. Historically Significant – a sign is historically significant if the sign was erected or created at least thirty-five (35) years ago and represent an establishment that is an important part of Newport Beach history.
 - a. All of The Crab Cooker signage has been in existence well over 65 years and is integral to the identity of the business.
 - b. The additional signs are integral to the identity and character of the building and business
 - c. All signage is trademarked by the Federal Trademark Commission and the California Secretary of State, and critical to the brand identity of the restaurant
2. Visually Significant – a sign is visually significant if it is an inventive representation of the business.
 - a. The "Don't Look Up Here" sign, in the shape of fish uniquely identifies the Crab Cooker and creates an inventive sense of irony to draw diners in
 - b. Residents, visitors and diners all note the "Don't Look Up Here" sign as wayfinding on the Peninsula and specifically identify it with the Crab Cooker
 - c. The building signage and painted windows all lend to the identity and character – they are unmistakably identified with the Crab Cooker – and represent an era gone by of hand-painted windows meant to attract diners with the restaurant's offerings

A Modification Permit is necessary to allow the total square footage of both Primary and Secondary Signage to exceed the allowable amounts.

Justification for a Modification Permit pursuant to 20.52.050 E:

1. The Crab Cooker's request for a Modification Permit is compatible with existing development in the neighborhood. The Peninsula is an eclectic mix of restaurant, retail, residential and other visitor serving uses. The signage had been in existence for over 65 years prior to the building being damaged. The request is to merely replicate/reuse what was once there.
2. The granting of the Modification Permit is needed to accommodate the square footage of Primary and Secondary Signage that exceeds the allowable amount per

the Municipal Code. The signage is unique and historical, and essential to the brand of the Crab Cooker. The request is to replace/reuse like for like.

3. The granting of the Modification Permit is necessary due to the practical difficulties that the signs that have been in place pre-date the city's code and should be "grandfathered" by way of a Modification Permit. At no fault of their own, the Crab Cooker was damaged and necessitated rebuilding and recreating/reusing the signage.
4. There are no alternatives to a Modification Permit, both the granting of a Sign Program and Heritage Sign designation still result in exceeding the allowing square footage for signage.
5. The granting of the Modification Permit would not be detrimental to public health, safety, or welfare to the occupants, nearby properties, the neighborhood, or the City, or result in any changes to density of intensity that would make it inconsistent with the provisions of the Zoning Code.

As part of the demolition process, numerous elements of the building and interior decor, including all signs (less the ones painted on the windows) have been painstakingly preserved and archived until the construction is complete.

Having met with City staff and City elected officials, who agree that these items all are keeping with the spirit of recreating the same look and feel and "should" be allowed, we are requesting the City grant a Heritage Sign Designation and approve a Sign Program to allow their continued existence. The request is driven by the ardent desire to maintain the original look and feel, as well as, provide diners and visitors that same familiar feel when they visit the Newport Peninsula. From the "Don't Look Up Here" sign to painted windows and building motif, most of these features have been in existence more than 65 years and will add to the charm and historic character being recreated for the new structure.

Standards:

1. The submitted program enhances the overall development by maintaining the same look, feel and brand that we have all come to know and love over the last 65+ years.
2. The Sign criteria addresses all signs, including Heritage Signs.
3. The sign program has built in flexibility that can accommodate future revisions.
4. The program as submitted complies with the standard of the Comprehensive Sign Program of the City of Newport Beach zoning code. The deviations from the code are noted in the application and 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 the Chapter. Further, the submitted findings support the signage program.

Aggregate Sign Area

The primary signage includes two wall signs, one on the West Elevation that is 75 square feet, and one on the South Elevation that is 75 square feet. The roof sign is 35 square feet. Total square footage for the West elevation is 110 square feet, total for the south elevation is 75 square feet. All these signs existed previously. There are two secondary hand painted wall signs proposed, one on the South Elevation and one on the rear of the building. These signs are wayfinding for patrons looking for parking and easy identity to avoid traffic problems on the smaller street and rear of building. Please visit the plans to see previous hand painted signs and their old locations.

WEST ELEVATION	SQUARE FEET
Wall Sign	75 sq. ft.
Roof Sign	35 sq. ft.
TOTAL WEST:	110 sq. ft.

SOUTH ELEVATION	SQUARE FEET
Wall Sign – south elevation	75 sq. ft.
TOTAL SOUTH:	75 sq. ft.

Additional Information:

ALL original sign designs are being re-used as practical. In some instances, new materials are being used as they are both better environmentally and for longevity. All power sources will be modernized to achieve energy efficiency and comply with current energy codes and standards.

Additionally, some craftsmanship trades no longer exist.

Hand Painted Signs

The hand painted signs on the building and windows were impossible to salvage as the building was demolished. They were meticulously photographed and measured. ALL hand painted signs will be re-hand painted identical to the old ones. To the naked eye there will be no difference.

Wayfinding/Message Signs

As has been the practice of the Crab Cooker through the years, these signs are replaced with new material as they wear out from exposure to the elements. Replicas of these signs will be created using new materials that are better suited for the marine environment. Over time they will be repaired and replaced as they wear out. These include chalkboard signs in metal frames, parking signs and display cases with cork boards.

Gingerbread

One of the unique visual elements to the Crab Cooker are the decorative elements to the building – the gingerbread. These include board shutters with fish on them and carved and painted clipper ship applique. The applicant would like to request that these be recreated with new more durable materials. Many original elements were painted, and hand carved by the late Crab Cooker founder Robert Roubian. The family wishes to retain these items for sentimental reasons and not continue to expose them to the elements.

Don't Look Up Here

Arguably the most famous sign on the Peninsula, the Don't Look Up Here fish sign will be refurbished and reinstalled. The original sign is a combination of aluminum and stainless steel. As part of the refurbishment process the aluminum portions of the sign will be replaced with stainless steel, and the steel will be refurbished and/or replaced as determined through the refurbishment process. The electrical will be completely replaced by a combination of neon and LED lighting. The stainless-steel support structure will be new and built to building code requirements.

Crab Cooker Encroachment Permit Project Description – **UPDATED 11.20.19**

Background

The Crab Cooker is a legal nonconforming family business that through no fault of their own sustained structural damage to the building caused by the permitted construction activities of the neighbor to the north. The damage sustained requires significant repairs that will require building permits – and at the direction of the City those “repairs” necessitate a complete teardown. Since this determination, The Crab Cooker has worked with City staff to obtain a Minor Conditional Use Permit, Coastal Development Permit and Building Permits. All permits have been issued

Situation

Since The Crab Cooker is a legal nonconforming family business, there are several “items” that necessitate the request for an Encroachment Permit. The Crab Cooker is a zero lot-line structure, and the rebuild is designed to re-create the original structure as much as possible. The items being requested represent the charm and quirky appeal the Crab Cooker has provided residents and visitors to Newport Beach for decades – they are part of the building’s identity.

Request

The Crab Cooker is requesting an Encroachment Permit be granted for the following items¹:

1. Fish Sign (“Don’t Look Up Here”)² – proposed to be reinstalled after reconstruction in same location, on the roof of the building, **at a minimum 15’ per CBC 3202.3.3 above the sidewalk, with a 6’4” maximum projection over the sidewalk**
2. Gooseneck Lights – proposed to be reinstalled after reconstruction in same location, on the upper façade of the building to illuminate The Crab Cooker neon sign, **at a minimum 15’ per CBC 3202.3.3 above the sidewalk, with a 40” projection over the sidewalk**
3. Gas Lamps – once installed as gas lamps in Los Angeles, these now electric lamps are proposed to be reinstalled at a **minimum 15’ per CBC 3202.3.3 above the sidewalk, with a 38” projection over the sidewalk**
 - a. **These lamps were not and are not planned to be fueled by gas, they were converted to electricity some decades ago and are currently being restored and upgraded to LED**
4. Clock – currently installed on the sidewalk along Newport Blvd. it is proposed that the clock will be reinstalled in the same location – where it has been for decades – and be restored prior to reinstallation; the clock is 8’1” from the building and is approx. 16’ tall (see exhibit for placement)

¹ Please see Elevation Exhibits (Sheet A3.1) for illustrations of items being described.

² A Heritage Sign designation and sign program is also being sought to keep the “Don’t Look Up Here” sign and balance of the signage

5. String Canopy Lights – these low voltage lights currently installed on the awnings are one of the quirky features that draws guests to The Crab Cooker, it is proposed that they will remain after reconstruction
 - a. The string canopy lights will be hung within the awnings and not hang below the awnings
 - b. The awnings are 10'6" above the ground and project 5' from the building over the sidewalk
6. Bench – the bench along 22nd Street is an area where guest wait for tables, and diners who have purchased food to go sit to eat; these benches provide the public and guests with a place to rest, particularly older guests of The Crab Cooker who often rest while their guests look for parking; the benches currently extend over the public right of way 15" and are proposed to be reinstalled in the same manner after reconstruction
7. Awnings – the awnings are proposed to be reinstalled after reconstruction, they are 10'6" above the ground and project 5' from the building over the sidewalk
 - a. The original copper awning is to re-installed over the entry ramp and will also be 10'6" above the ground and project 5' over the sidewalk

All encroachments (i.e. sign, gooseneck lights, gas lamps, awnings, string canopy lights, clock foundation) will need to be covered by a building permit.

Having met with Public Works and Planning staff, who agree that these items all are keeping with the spirit of recreating the same look and feel and "should" be allowed, we are requesting the City grant an Encroachment Permit to allow their continued existence. The request is driven by the ardent desire to maintain the original look and feel, as well as, provide diners and visitors that familiar feel when they visit. From the "Don't Look Up Here" sign to the "green benches," most of these features have been in existence more than 70 years and will add to the charm and historic character being recreated for the new structure. Again, this request to encroach into the public right of way is the result of damage to the original structure. In addition to seeking to recapture and preserve the historic charm of the original building, once so restored the Crab Cooker will significantly add to preserving the authenticity and appeal of the greater McFadden Square locale.

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Attachment No. PC 7

Project Plans

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THE CRAB COOKER

2200 Newport Blvd.
Newport Beach, CA. 92663

**PLANNED SIGN PROGRAM
DECEMBER, 2018**

**WORKING DRAWINGS
REVISED 8-16-2019**

Richard & Richard Construction
234 Venture Street
Suite 100
San Marcos, CA 92078
760.759.2260
www.rrconstruction.com

Architect
Gary M. Seward
760.759.2260
gary@rrconstruction.com

MConsensus
Marice H. DePasquale
3609 W. MacArthur Blvd.
Suite 811
Santa Ana, Ca 92704
949.433.4261
marice@mconsensus.com


GERARD
Signs & Graphics, Inc.
2000 Placentia Ave. Costa Mesa California 92627
Ph. 949/631.2499 Fx. 949/548.7058
www.gerardsigns.com

Summary of Sign Types

Sign Types	Previous Quantity	Proposed Quantity
Illuminated wall signs	2	2
Decorative wall accessories	4	5
Rooftop blade sign	1	1
Painted wall signs	2	2
Painted window signs	3	3
Changeable copy signs	3	2
Aluminum display case	1	1
Incidental signs	8	8

Table of Contents

Page		
	Cover Page	
1	Photo Page	
2	Summary of Sign Types	
3	Table of Contents	
4	Old Sign Inventory	
5	New Sign Types	
6	New Sign Inventory-Ground Level	
7	New Sign Inventory-Second Level	
8	New Sign Locations	
9	Sign Type 1	Hand painted on building, White on Red
10	Sign Type 2	4mm Die Bond Panel, Red vinyl letters on White
11	Sign Type 3	4mm Die Bond Panel in frame, White vinyl letters on Black
12	Sign Type 4	4mm Die Bond Panel, Red on White
13	Sign Type 5	Handpainted on inside of glass, Red with White shadows
14	Sign Type 6	Magnetic Sheeting Changeable Messages. White on Black
15	Sign Type 7	Aluminum and glass display case, cork board interior
16	Sign Type 8	Magnetic Sheeting Changeable Messages. White on Black
17	Sign Type 9	Handpainted on inside of glass, Red with White shadows
18	Sign Type 10	4mm Die Bond Panel. White on Black
19	Sign Type 11	4mm Die Bond Panel, White on Red
20	Sign Type 12	4mm Die Bond Panel, White on Red
21	Sign Type 13	3" Thick 25lb. HDU, Carved and Painted
22	Sign Type 14	Exposed Neon Letters & Aluminum Painted Letters
23	Sign Type 15	Hand painted on building, White on Red
24	Sign Type 16	Aluminum, Exposed Neon, Push thru Letters, LED Internally Illuminated, Red, White and Blue



SITE PLAN

Old Sign Inventory



- 1** Qty: 1 32"x54.5"
Hand painted on building
White on Red



- 2** Qty: 2 8"x19.5"
.5" MDO Panel
Red vinyl letters on White



- 3** Qty: 1 24"x26"
.5" MDO Panel in frame
White vinyl letters on Black



- 4** Qty: 1 18"x12"
.5" MDO Panel
White on Chalk Board



- 5** Qty: 2 36"x65.5"
Hand painted on inside of glass
Red with White shadows



- 6** Qty: 1 26.25"x32.25"
.5" MDO Panel in frame
White on Chalk Board



- 7** Qty: 1 26.25"x32.25"
.5" MDO Panel in frame
White on Chalk Board



- 8** Qty: 1 36"x29"
Glass display case
Cork board interior



- 9** Qty: 1 27"x27"
.5" MDO Panel in frame
White on Chalk Board



- 10** Qty: 1 34"x56"
Hand painted on inside of glass
Red with White shadows



- 11** Qty: 1 18"x12"
.5" MDO Panel
White on Chalk Board



- 12** Qty: 1 18"x24"
Hand painted on inside of glass
White and Red



- 13** Qty: 1 23"x32"
.5" MDO Panel
White and Red vinyl



- 14** Qty: 1 78"x19"
.5 Pine board Shutter
White



- 15** Qty: 4 26.25"x26.26"
Dimensional Applique
Carved and Painted



- 16** **THE CRAB COOKER**
Qty: 2 25"x21" 2"
Illuminated Wall Sign
Hand painted on building
White on Red
Exposed Neon



- 17** Qty: 1 47"x107.5"
Aluminum and Steel
Exposed Neon



- 18** Qty: 1 49"x72"
Hand painted on building
White on Red



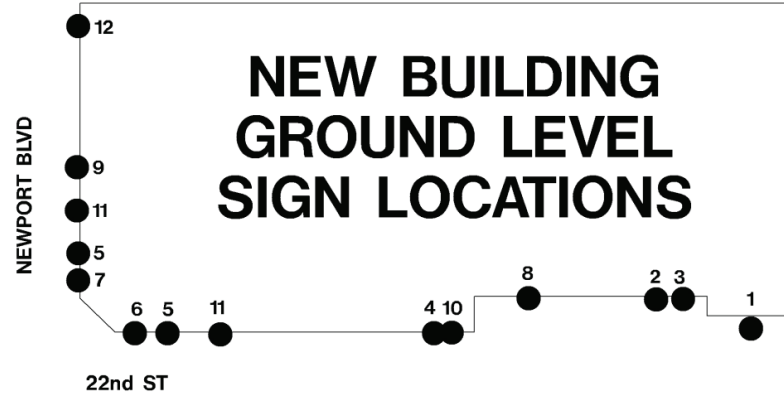
New Sign Types

Page	Sign Type	Description	Size	Quantity
8	1	Hand painted on building, White on Red	32"x84"	1
9	2	4mm Die Bond Panel, Red vinyl letters on White	8"x19.5"	2
10	3	4mm Die Bond Panel in frame, White vinyl letters on Black	24"x26"	1
11	4	4mm Die Bond Panel, Red on White	18"x12"	1
12	5	Handpainted on inside of glass, Red with White shadows	36"x65.5"	2
13	6	Magnetic Sheeting Changeable Messages. White on Black	26.25"x32.25"	1
14	7	Aluminum and glass display case, cork board interior	36"x29"	1
15	8	Magnetic Sheeting Changeable Messages. White on Black	27"x27"	1
16	9	Handpainted on inside of glass, Red with White shadows	34"x56"	1
17	10	4mm Die Bond Panel. White on Black	18"x12"	1
18	11	4mm Die Bond Panel, White on Red	18"x24"	2
19	12	4mm Die Bond Panel, White and Red	23"x32"	1
20	13	3" Thick 22lb. HDU, Carved and Painted	26.25"x26.25"	5
21	14	Exposed Neon Letters & Aluminum Painted Letters	34" x319"	2
22	15	Hand painted on building, White on Red	49"x72"	1
23	16	Aluminum, Exposed Neon, Push thru Letters, LED Internally Illuminated, Red, White and Blue	47"x107.5"	1



SITE PLAN

New Sign Inventory



- 1** Qty: 1 32"x 84"
Hand painted on building
White on Red



- 2** Qty: 2 8"x19.5"
4mm Die Bond Panel
Red vinyl letters on White



- 3** Qty: 1 24"x26"
4mm Die Bond Panel in frame
White vinyl letters on Black



- 4** Qty: 1 18"x12"
4mm Die Bond Panel
Red on White



- 5** Qty: 2 36"x65.5"
Handpainted on inside of glass
Red with White shadows



- 6** Qty: 1 26.25"x32.25"
Sheet Metal in Frame, Painted Silver
Magnetic Sheeting Changeable Messages
White on Black



- 7** Qty: 1 36"x29"
Aluminum & Glass display case
Fabricated Filagreed
Painted White-Matthews Satin Finish
Cork Board Interior
Locking Door



- 8** Qty: 1 27"x27"
Sheet Metal in Frame, Painted Silver
Magnetic Sheeting Changeable Messages
White on Black



- 9** Qty: 1 34"x56"
Handpainted on inside of glass
Red with White shadows



- 10** Qty: 1 18"x12"
4mm Die Bond Panel
White on Black



- 11** Qty: 2 18"x24"
4mm Die Bond Panel
White on Red



- 12** Qty: 1 23"x32"
4mm Die Bond Panel
White and Red



SITE PLAN

New Sign Inventory



- 13** Qty: 5 26.25" x 26.26"
3" Thick 25lb. HDU
Carved and Painted



- 14** THE CRAB COOKER
Qty: 2 34" x 319"
Exposed Neon Letters-White
Hand Painted Letters on Building
White on Red



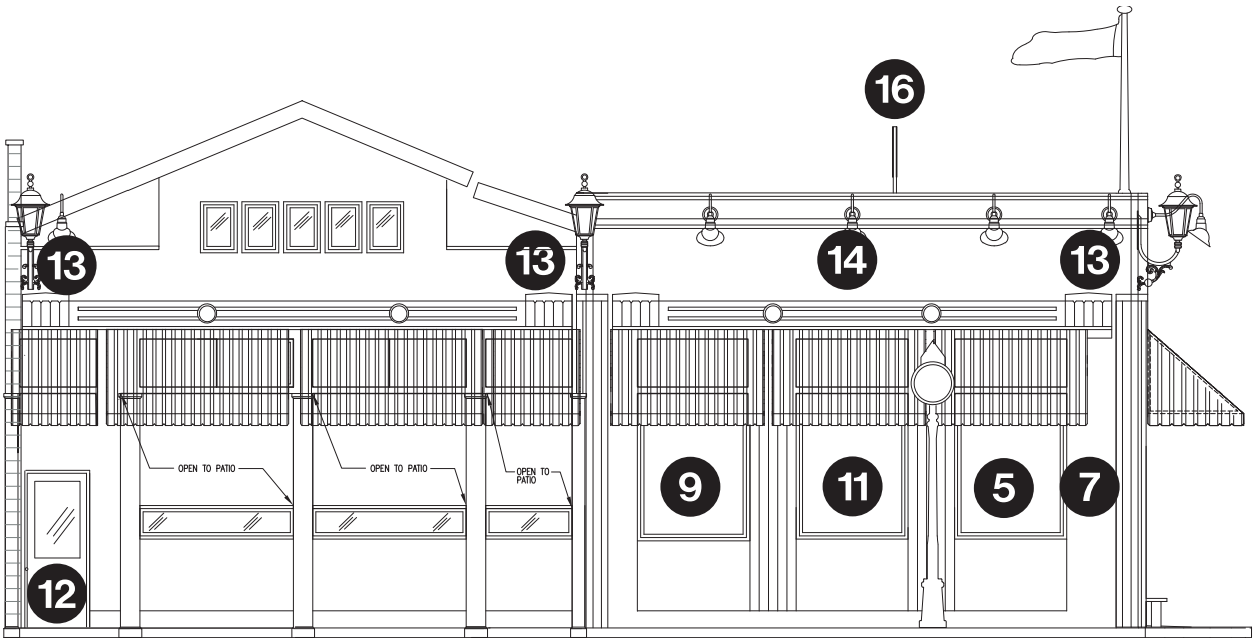
THE CRAB COOKER

- 15** Qty: 1 27" x 254"
Hand painted on building
White on Red

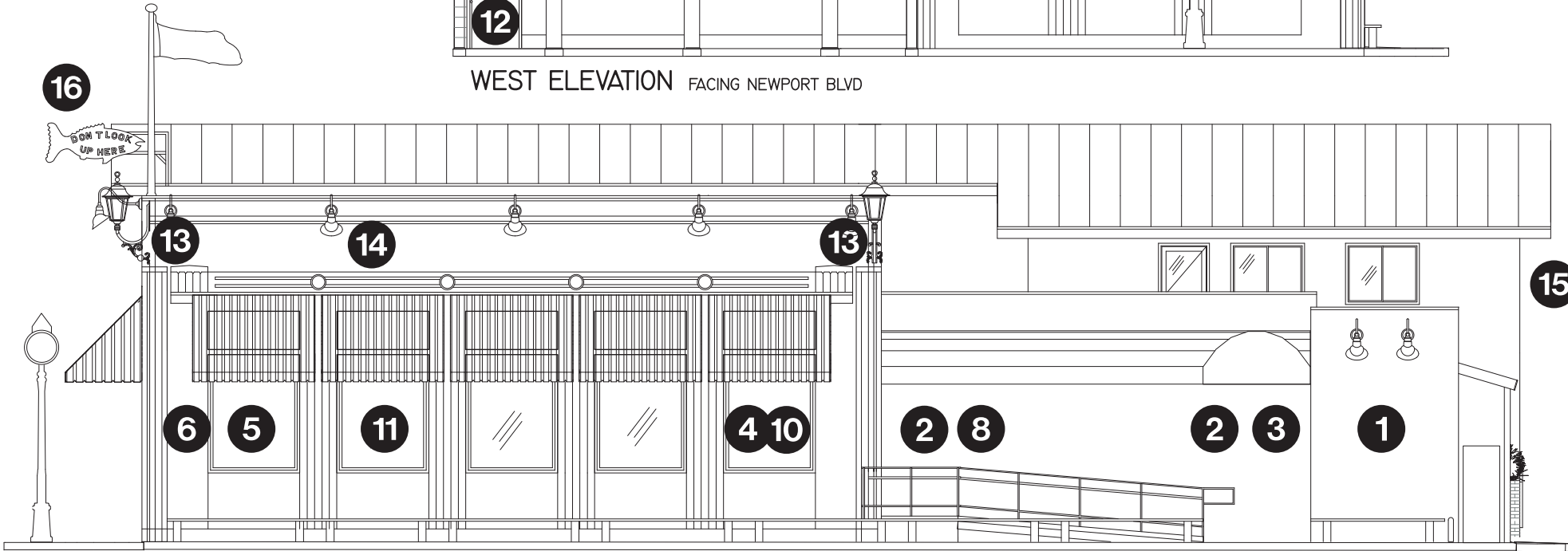


- 16** Qty: 1 47" X 107.5"
Stainless Steel Construction
Exposed Neon Perimeter Lighting-Blue
Push Thru Lettering-White
LED Internal Illumination
Stainless Steel Support Structure

New Sign Locations



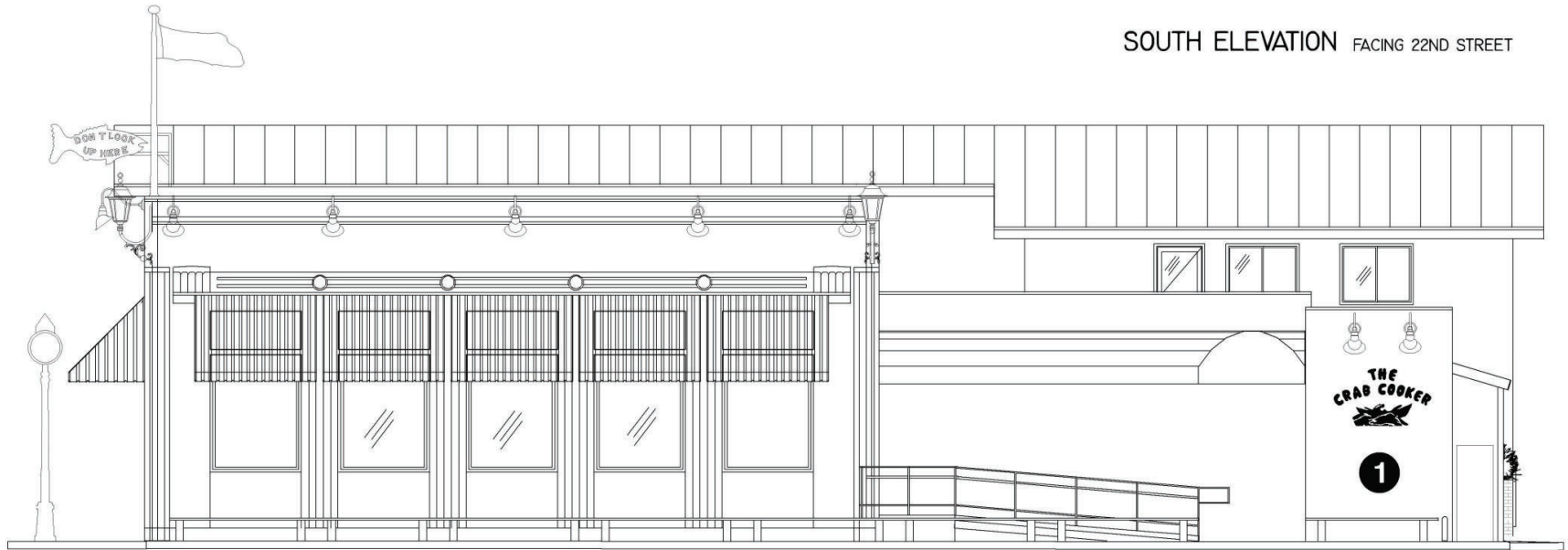
WEST ELEVATION FACING NEWPORT BLVD



SOUTH ELEVATION FACING 22ND STREET

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET



PREVIOUS



NEW

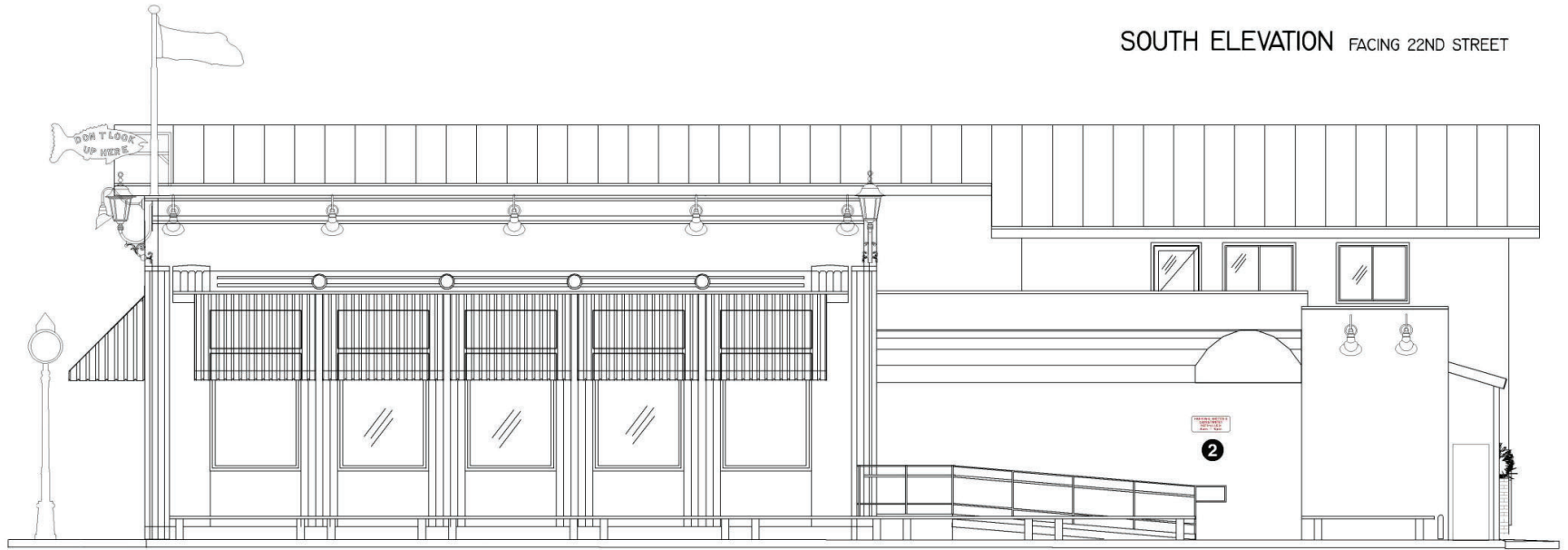


1

Qty: 1 32"x 84"
Hand painted on building
White on Red

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET



PREVIOUS



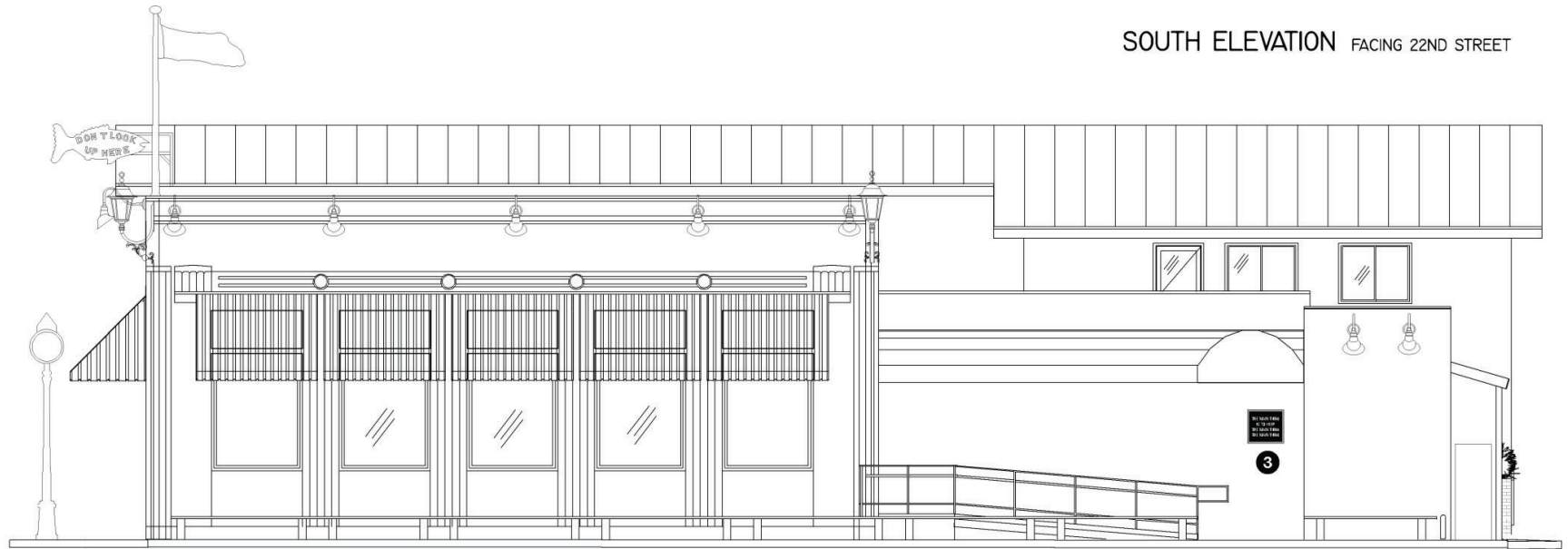
NEW



- 2** Qnty: 2 8"x19.5"
4mm Die Bond Panel
Red vinyl letters on White

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET



PREVIOUS



NEW



3

Qty: 1 24"x26"
4mm Die Bond Panel in Frame
White vinyl letters on Black

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET



PREVIOUS



NEW

4 Qnty: 1 18"x12"
4mm Die Bond Panel
Red on White



**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET



**GROUND LEVEL
SIGN LOCATIONS**

NEWPORT BLVD

5

5

22nd ST



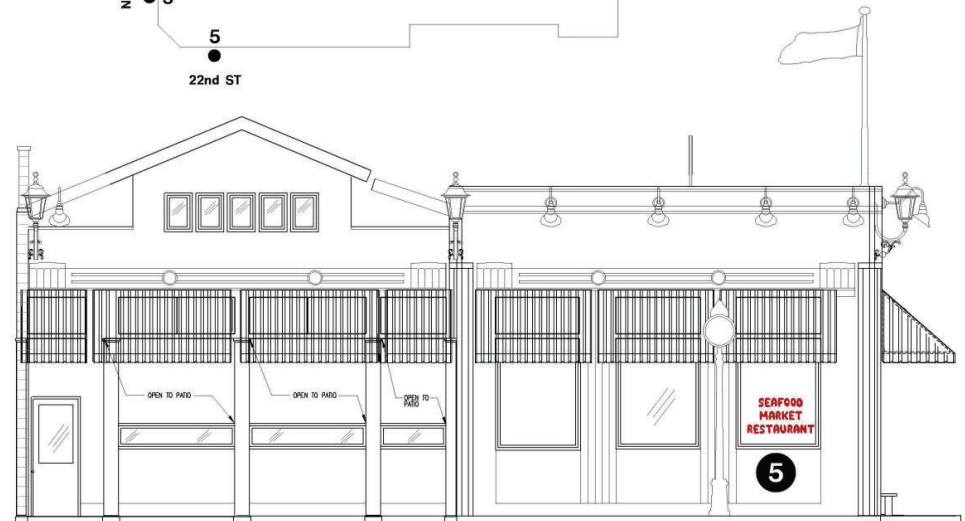
PREVIOUS



NEW

5

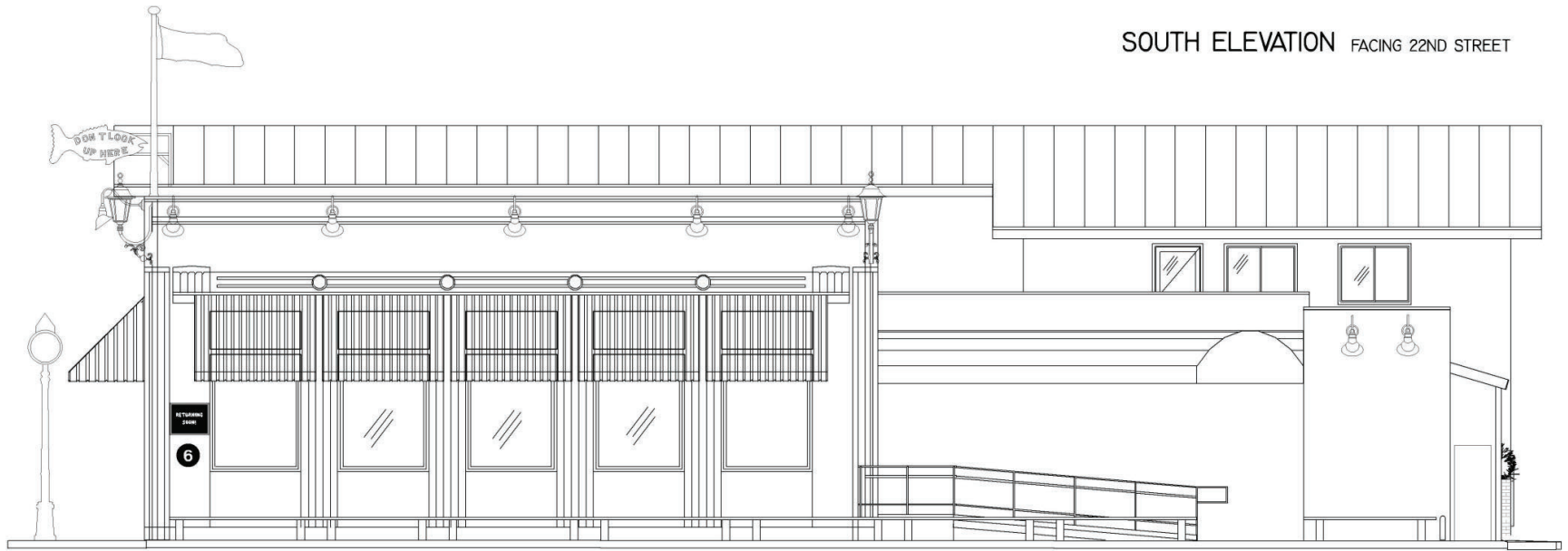
Qty: 2 36"x65.5"
Handpainted on inside of glass
Red with White shadows



WEST ELEVATION FACING NEWPORT BLVD

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET

**PREVIOUS****NEW**

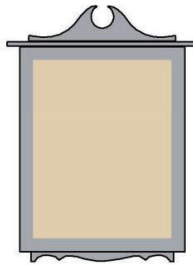
- 6** Qty: 1 26.25"x32.25"
Sheet Metal in Frame, Painted Silver
Magnetic Sheeting Changeable Messages
White on Black

**KEY
LOCATOR**

WEST ELEVATION FACING NEWPORT BLVD



PREVIOUS



NEW

7

Qty: 1 36"x29"
Aluminum and Glass display case
Fabricated filagree
Painted White-Matthews Satin Finish
Cork board interior
Locking Door

NEWPORT BLVD

7

**GROUND LEVEL
SIGN LOCATIONS**

22nd ST

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET

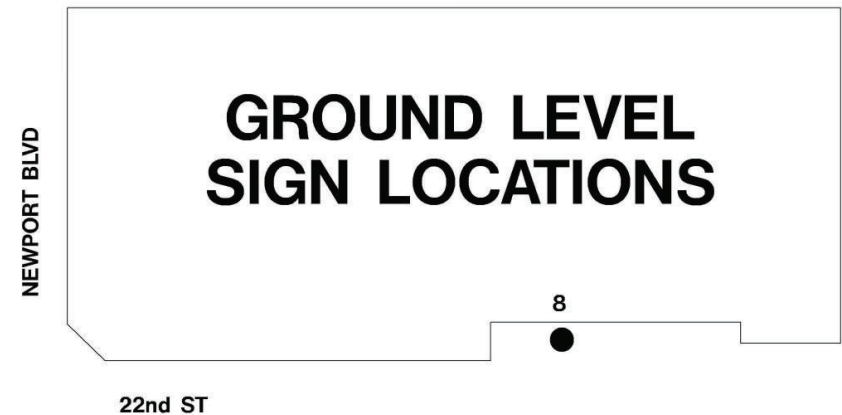


PREVIOUS



NEW

- 8** Qty: 1 27"x27"
Sheet Metal in Frame, Painted Silver
Magnetic Sheeting Messages
White on Black



KEY
LOCATOR



PREVIOUS



NEW

9

Qty: 1 34"x56"
Handpainted on inside of glass
Red with White shadows

WEST ELEVATION FACING NEWPORT BLVD



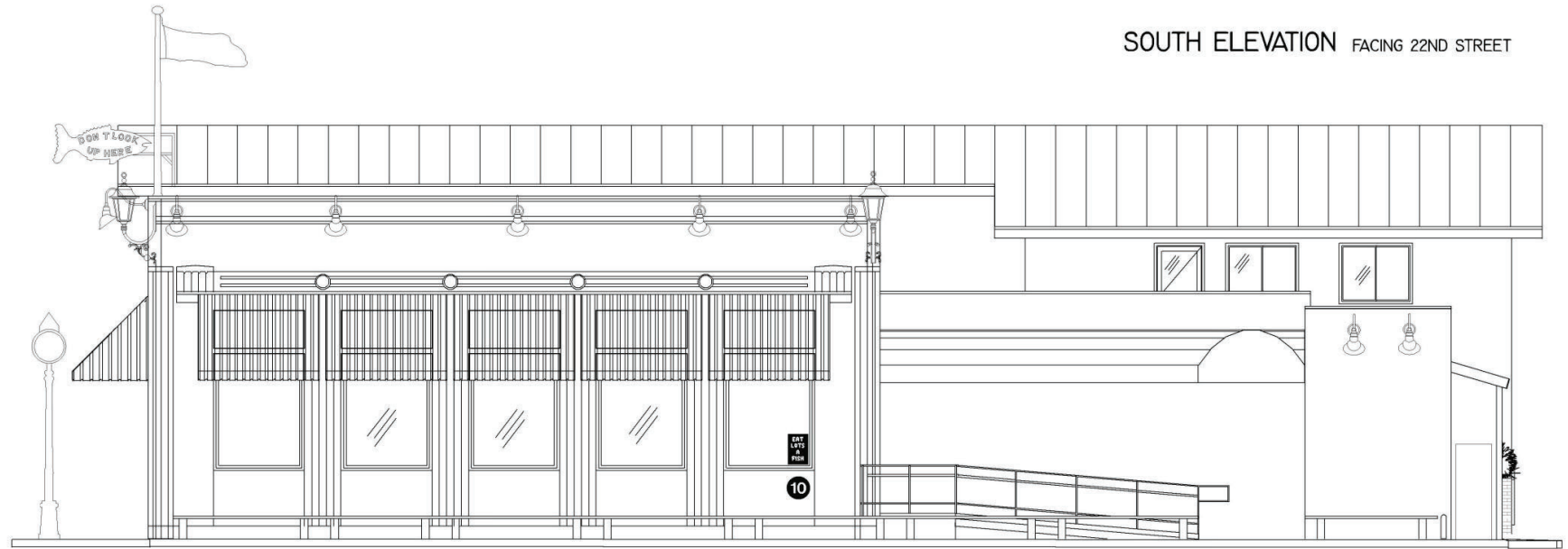
NEWPORT BLVD

9

GROUND LEVEL
SIGN LOCATIONS

22nd ST

SOUTH ELEVATION FACING 22ND STREET



KEY
LOCATOR

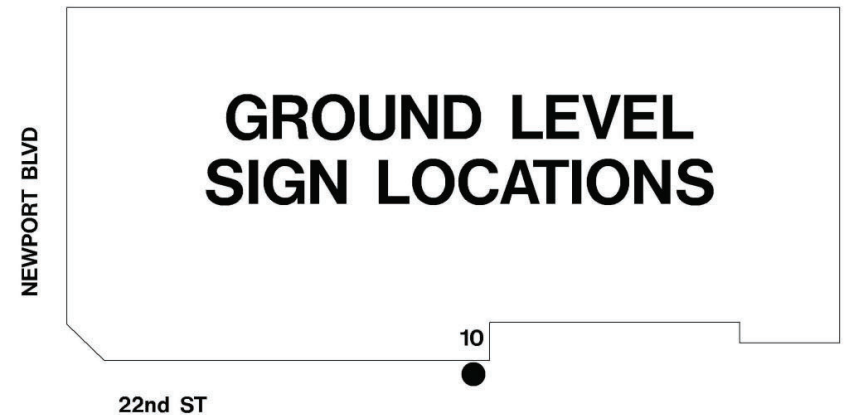


PREVIOUS



NEW

10 Qty: 1 18"x12"
4mm Die Bond Panel
White on Black



KEY
LOCATOR



SOUTH ELEVATION FACING 22ND STREET



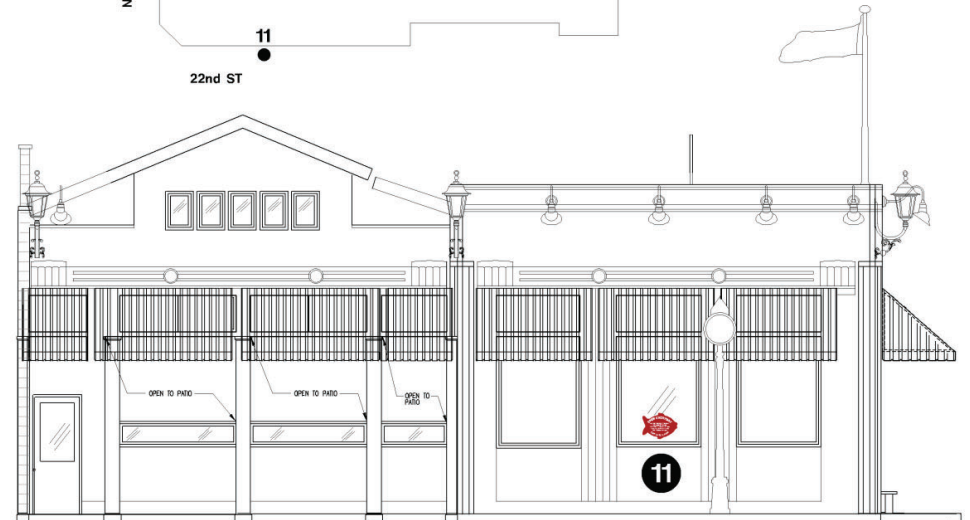
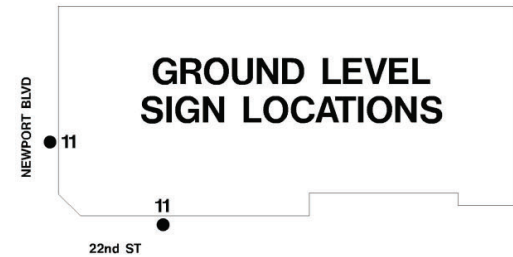
PREVIOUS



NEW

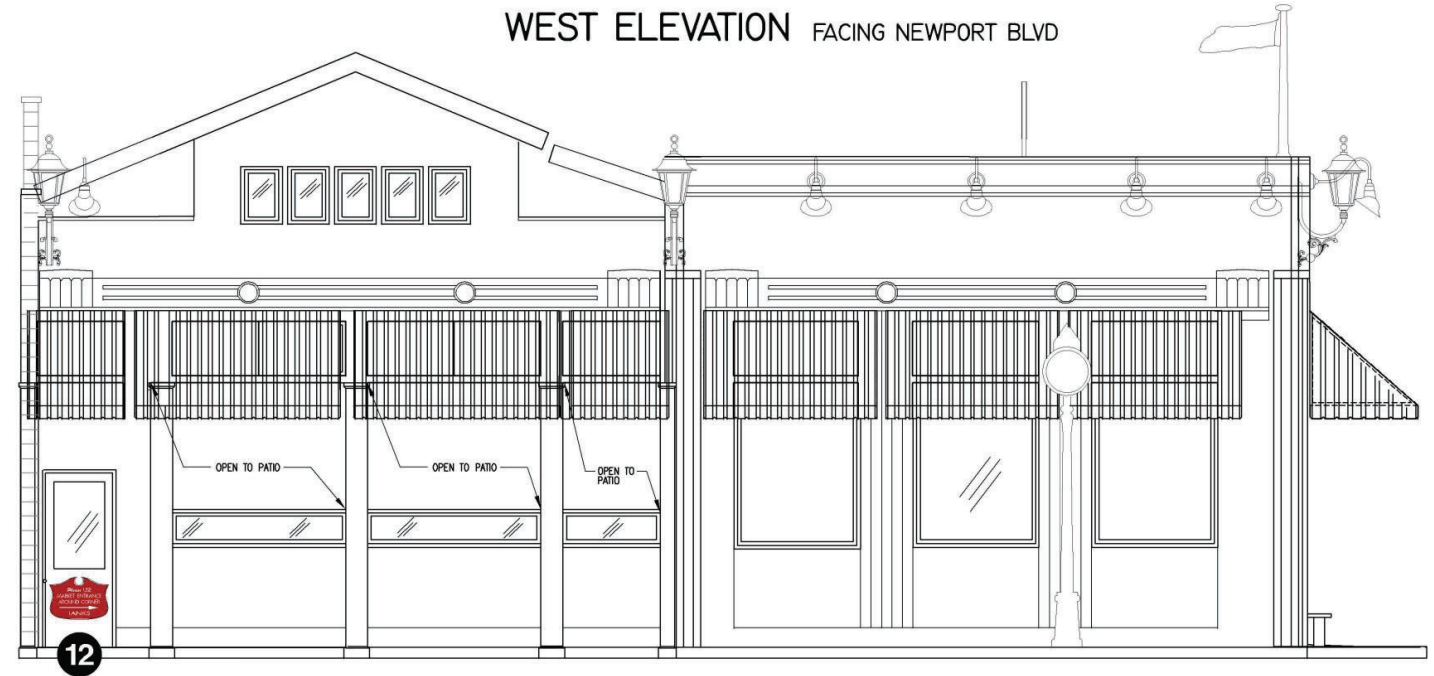
11

Qty: 2 18"x24"
4mm Die Bond Panel
White on Red



WEST ELEVATION FACING NEWPORT BLVD

**KEY
LOCATOR**



PREVIOUS



NEW



12

Qty: 1 23"x32"
4mm Die Bond Panel
White and Red vinyl

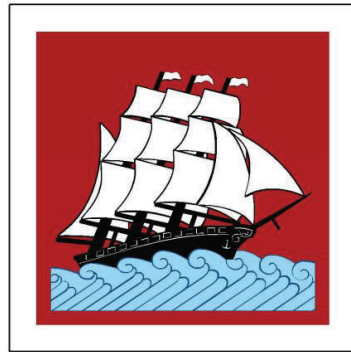
KEY
LOCATOR



SOUTH ELEVATION FACING 22ND STREET



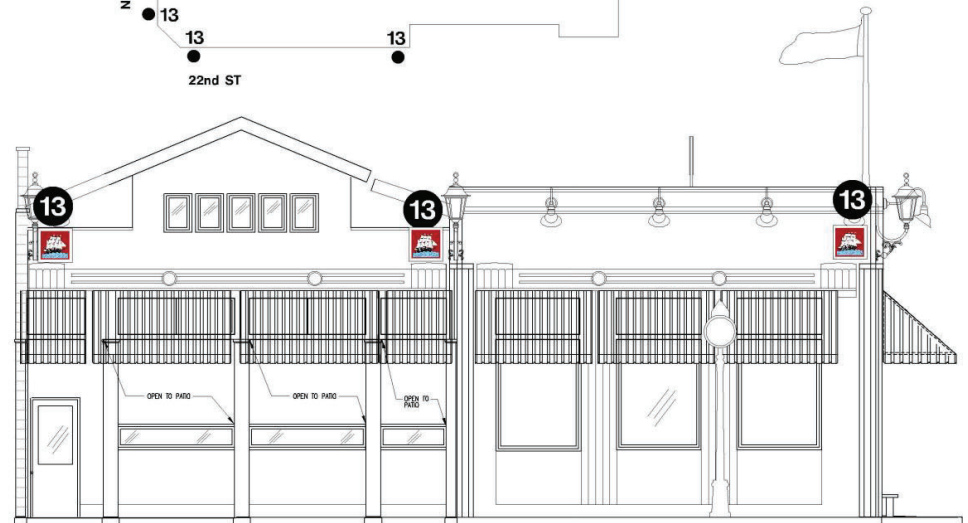
PREVIOUS



NEW

13

Qty: 5 26.25"x26.26"
3" Thick 25 lb. HDU
Carved and Painted



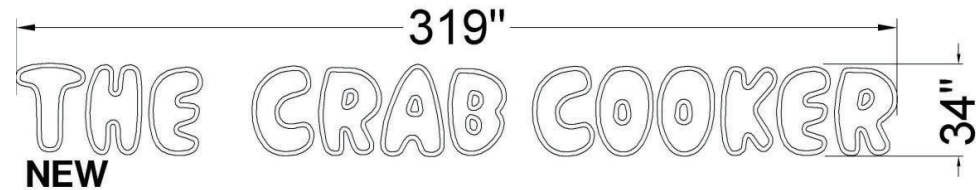
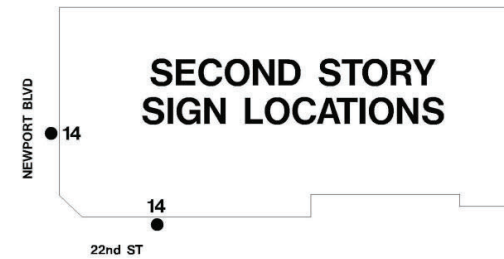
WEST ELEVATION FACING NEWPORT BLVD

**KEY
LOCATOR**

SOUTH ELEVATION FACING 22ND STREET



PREVIOUS

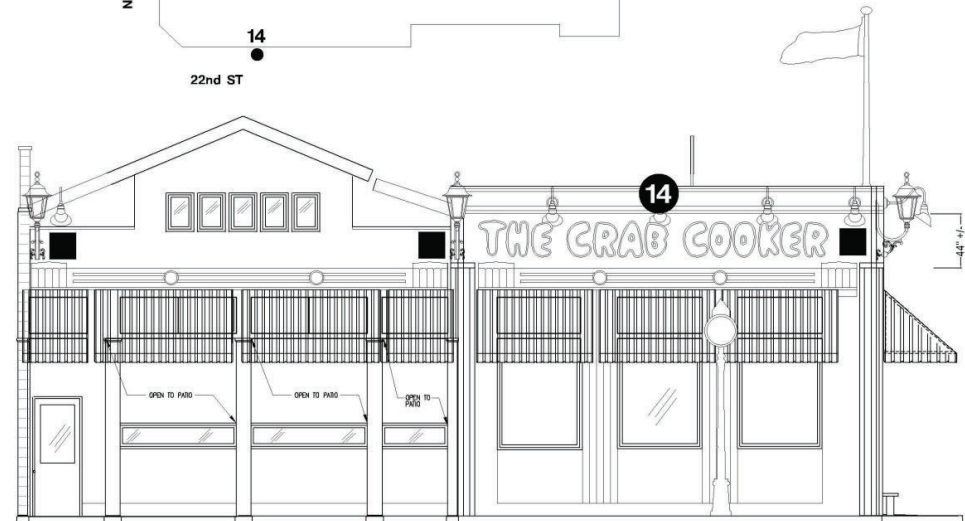


14 NEW EXPOSED NEON & PAINTED LETTERS

SPECIFICATIONS:

.063 ALUMINUM PAINTED LETTERS ON THE BUILDING.
& WHITE NEON.
THE NEON TUBES SHAPED TO FOLLOW THE PERIMETER
OF EACH LETTER SHAPE.

Qty: 2

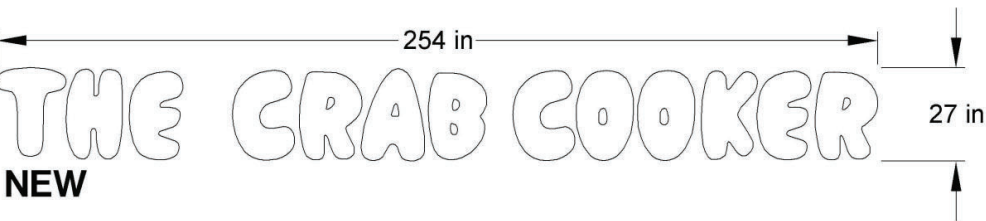


WEST ELEVATION FACING NEWPORT BLVD

KEY
LOCATOR



PREVIOUS



- 15** Qty: 1 27" x 254"
Hand painted on building
Center Justified
White on Red



**KEY
LOCATOR**



PREVIOUS



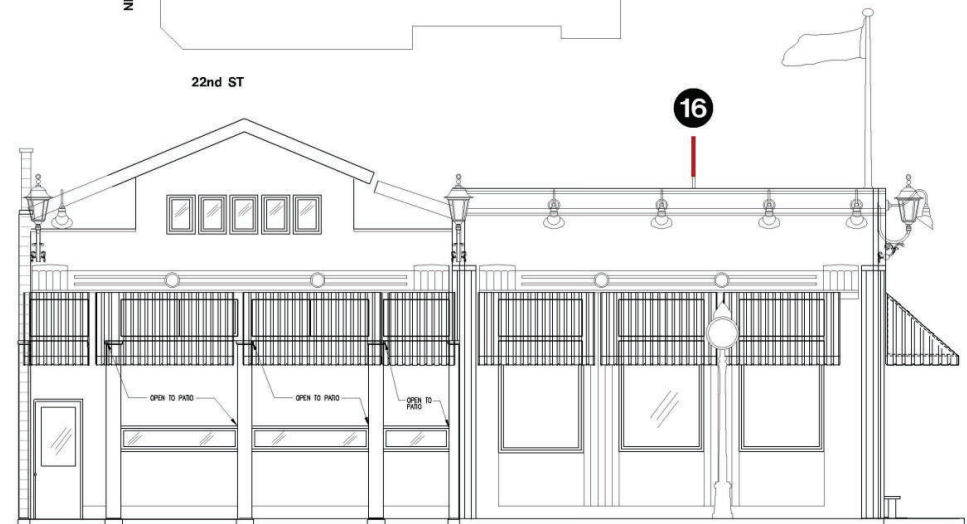
SOUTH ELEVATION FACING 22ND STREET



NEW

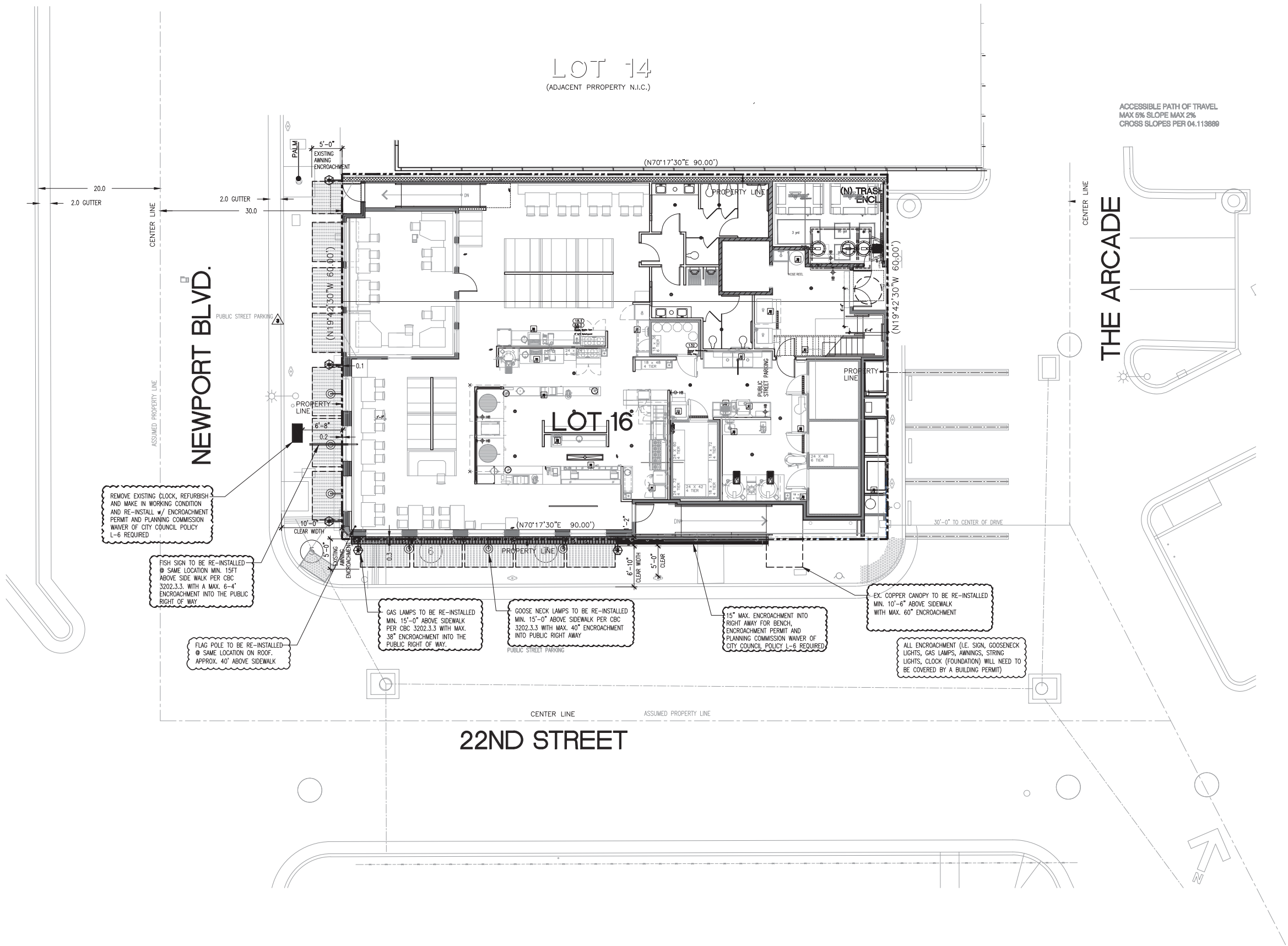


**SECOND STORY
SIGN LOCATIONS**



WEST ELEVATION FACING NEWPORT BLVD

- 16** Qty: 1 47" X 107.5"
Aluminum Construction
Exposed Neon Perimeter Lighting-Blue
Push Thru Lettering-White
LED Internal Illumination
Aluminum Support Structure



STEVE HOPKINS
CADD SERVICES
 26441 Via Gaviola
 Mission Viejo, 92691
 (949) 859-7385-office
 (949) 861-0464-mobile
 caddman1@cox.net - email

RICHARD & RICHARD
 CONSTRUCTION COMPANY, INC.
 294 VENTURE ST., STE 100
 SAN MARINO, CA 91078
 760-780-2300 FAX 760-780-2300

R&R

LICENSED ARCHITECT
 GARY MICHAEL SEMA
 2/27/18

THE CRAB COOKER
 OWNER: JIM WASKO

2200 NEWPORT BLVD.
 NEWPORT BEACH, CA 92663
 BUSINESS 714-573-1065

REVISIONS

2/27/18	- RESUBMITTAL 2
4/17/18	- RESUBMITTAL 3
5/29/18	- RESUBMITTAL 4
1/11/19	- RESUBMITTAL 6
5/17/19	- CONST CHANGE 7

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C 2018 BY STEVE HOPKINS

PROJECT NO.
2015-09

DRAWN BY
S.H.

CHECKED BY
R.N.

ISSUE DATE
2/27/18

SHEET TITLE
SITE PLAN

A11

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