

CITY COUNCIL AGENDA: MARCH 5, 2013

PUBLIC HEARING

SUBJECT: CONSIDERATION OF MODIFICATION OR REVOCATION OF
CONDITIONAL USE PERMIT 8-82 (RESOLUTION 13-2008)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENTS: On February 19, 2008, the City Council adopted Resolution 13-2008, approving Modification No. 1 to Conditional Use Permit 8-82 General and Specific Plans Phase One to allow the construction of a drive-through restaurant and drive-through coffee kiosk located at the southeast corner of Putnam Avenue and Leggett Street, currently addressed as 815 E. Putnam Avenue. The subject site zoning classification at the time of project approval was PD-R1 (Planned Development - One Family Residential) and approved by resolution to be a five (5) phased residential and commercial development. On March 6, 2008, the developer submitted a set of plans to the Public Works Department to obtain permits for the construction of the drive-through restaurant and drive-through coffee kiosk as per City Council approved exhibits. As soon as all required information was obtained from the developer, the plans were approved by all required departments on November 29, 2010, and the building permits were issued to the developer on July 16, 2012.

On February 14, 2013, during the final inspection of 815 E. Putnam Avenue, more specifically the constructed drive-through restaurant, City staff observed deviations in the constructed building from the conditions and plans approved by City Council under Conditional Use Permit 8-82 (Resolution 13-2008). In addition to the deviations, some components of the built development are out of compliance with the design standards of the Zoning Ordinance established upon project approval.

Many of the deviations from the approved plans, listed herein as Attachment 5, are not easily correctable, therefore, the matter has been set for City Council consideration on March 5, 2013. On February 22, 2013, a letter was mailed to the developer stating that a public hearing was scheduled for City Council to consider modification or revocation of CUP 8-82 General and Specific Plans Phase One, and due to the deviations (listed herein) the Community Development Department - Planning Division was unable to approve the developer's occupancy permit without City Council's review and determination. Staff has met with the developer and she is working on resolving the defined code deficiencies and inconsistencies with the conditions of approval. However, the full revision of the project to the original design would be difficult, time consuming, and in some instances cost prohibitive.

It is the City's policy to schedule a public hearing pursuant to Section 3103 (reference is to prior Zoning Ordinance due to permits being issued under prior Code provisions) of the Zoning Ordinance where there is or has been a violation of or failure to observe the terms or conditions of the permit, or that the use has been conducted in violation of the provisions of the ordinance, law, or regulations.

Resolution No. 13-2008 (Attachment 2) contains the following preamble that is pertinent to the issue:

"WHEREAS: The project consists of two drive-through buildings providing restaurant (1,389 square feet) and coffee (600 square feet) services for a total combined square footage of 1,989 square feet of building space. The colors and finish of the proposed buildings will be brown and cream tones compatible to the convenience market on the adjacent parcel to the west. Additionally, landscaping will be installed along the frontage of the property, in front of both buildings, and along the restaurant's menu board; and"

The constructed development at this time has omitted the 600 square foot coffee kiosk. Additionally, the color and finish of the existing building does not incorporate cream tones to make it compatible to the convenience market (Sunnyside Handy Market) on the adjacent parcel to the west, nor is the architecture consistent with that approved by the City Council. The footprint of the building and the architectural treatment to the building including the building entrance enhancements, brick veneer, awning and landscaping are different from that approved by the City Council.

Resolution No. 13-2008 contains the following finding that is pertinent to the issue:

"7. The project as proposed complies with all design standards of the Zoning Ordinance."

Section 2206 (E) of the Zoning Ordinance states: "Lights: If the parking area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare."

Section 2206 (F)(2) of the Zoning Ordinance states; "A minimum of five foot (5') wide screen planting strip shall be provided and permanently maintained adjacent to any property line separating a parking area from a public street."

The constructed development is not in compliance with the design standards of the Zoning Ordinance, due to the referenced sections above. The exterior lighting attached to the building is unshielded and faces residential sites to the north, east and south. The required five (5) foot wide screening planting strip is not installed at the northeast corner of the project site as per City Council findings of approval.

The developer is working on complying with the defined code issues and conditions of approval on lighting.

Resolution No. 13-2008 contains the following conditions that are pertinent issues:

“4. For safety and security, adequate lighting will be required during hours of operation that maintains visibility throughout the lot and designed to minimize glare and spillover onto adjacent parcels. Lighting is to be approved by the Police Chief or Community Development Director.”

As referenced above, the lighting is not designed to limit glare or spillover onto adjacent parcels. In addition, the lighting did not receive required review by the Police Chief or Community Development Director. The developer is working on complying with the defined code issues and conditions of approval on lighting.

“5. All mechanical and electrical equipment is to be screened and maintained from public view.”

The heating and air conditioning unit installed on the roof is not screened from public view. An architecturally compatible screen would need to be installed to obstruct views of the roof mounted equipment. The developer is working on complying with the defined code issues and conditions of approval on screening of mechanical equipment.

“15. The developer/applicant shall provide street lights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. A 9500 lumen street light shall be installed at the northeast property corner.”

A street light is required to be installed along Putnam Avenue, which the developer has not indicated a willingness to install.

“16. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.”

The parking lot layout has been modified from that reviewed by staff and approved by the City Council. For example, a minimum five (5) foot wide landscape planter is required between the easterly row of parking spaces and the street.

“38. At all times, the facilities shall be constructed, operated and maintained to comply with State law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.”

Due to the identified changes in the project, the development does not currently comply with the provision of the Municipal Code and Conditions of approval. With the exception of the changes in site layout and the architectural changes, the developer is working on complying with the defined code issues and conditions of approval on lighting (except the required street light) and screening of mechanical equipment.

“39. That the subject site will be developed in accordance with the site plan and elevation plan labeled Exhibit “A”.”

Current constructed development is not in compliance with the above City Council conditions of approval under Resolution 13-2008 as indicated in the above comments.

It is the City’s policy to consider modification or revocation of a Conditional Use Permit on any one or more of the grounds described herein after a public hearing is held and conducted as per Section 3103 of the Zoning Ordinance.

Section 3101 of the Zoning Ordinance states that grounds for such revocation shall be any of the following:

1. That approval was obtained by means of fraud or misrepresentation of a material fact;
2. That the permittee or holder of the variance has failed to undertake the use in question for an unreasonable period of time;
3. That the use in question has ceased to exist or has been suspended for one (1) year or more;
4. That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of the Ordinance, law or regulation;
5. That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

Section 3102 of the Zoning Ordinance states that grounds for modification shall be any of the following:

1. That the grounds which would otherwise justify a revocation of the permit or variance can be corrected or cured by modification imposing new or additional conditions;

2. That improvement of methods or technological advances permit conducted of the use with adequate safeguards under the proposed modification;
3. That one or more of the original conditions of the permit or variance is unworkable, impractical or otherwise fails to accomplish the original aims.

- OPTIONS:
1. Consider Modification No. 2 to CUP 8-82 to allow occupancy of the drive-through restaurant subject to the original conditions of approval, provided the specific code requirements are met. This would result in an approved revision to the approved site plan, building elevations and floor plans. Due to the time sensitivity of the project, a draft resolution is included for consideration to impose the original and appropriately amended conditions.
 2. Consider Modification No. 2 to CUP 8-82 to allow occupancy of the drive-through restaurant and impose or remove new conditions of approval, under grounds that one or more of the original conditions of the permit is unworkable and impractical to accomplish the original aims.
 3. Consider revocation of Modification No. 1 to CUP 8-82 and not permit occupancy of the drive-through restaurant based on lack of compliance with the approved plans and conditions of approval.

RECOMMENDATION: That the City Council consider the circumstances of the project and consider one of the above alternatives or provide other direction to staff.

ATTACHMENTS:

1. Resolution No. 9746 (Approving CUP 8-82)
2. Resolution No. 13-2008 (Modification No.1 to CUP 8-82)
3. Letter to the developer
4. Approved complete set of plans
5. List of deviations
6. Pictures (815 E. Putnam Avenue)
7. Draft resolution for City Council consideration of Modification No. 2 to Cup 8-82

RESOLUTION NO. 9746

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING CONDITIONAL
USE PERMIT NO. 8-82/GENERAL AND SPECIFIC
DEVELOPMENT PLANS

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that Conditional Use Permit No. 8-82/General Development Plans is approved as recommended in Planning Commission Resolution No. 1387, subject to the following conditions:

1. That all future on-site development shall conform to applicable City of Porterville codes.
2. That all future on-site development shall conform to the City's Zoning Ordinance.
3. That all future on-site uses shall conform to the City's Fire Department Standards.
4. That the requirements of the City Engineer shall be complied with, to-wit:

1. Sewer service Phases 2, 3, and 4 shall be in accordance with the City Sewer Master Plan.

2. That all improvements required shall be constructed in accordance with the City of Porterville standard plans and specifications, that all applicable codes and ordinances along with the recommendations of the City Engineer are to be adhered to, and that all applicable fees required for same shall be paid in accordance with the Municipal Code of the City of Porterville.

5. That the development shall be substantially as shown on the General Development Plans (Exhibit A). Where the zoning ordinance and conditions of a proval differ from the General Development Plans, the ordinance and conditions shall prevail.

6. That the residential development be limited to the General Plan density of 7 units per acre plus the ten percent density bonus allowed by Section 1708.B.1. of the zoning ordinance.

7. That the environmental impacts identified by the Environmental Review Committee be mitigated as follows:

- A. The City has insufficient sewer capacity presently available to serve the area covered by this plan.

This impact may be mitigated as follows:

1. All uses allowed in Phase I of the Project shall be low volume generators of sewer flow.
2. No development beyond Phase I shall be permitted until sewer capacity to serve the project area is assured.

**ATTACHMENT
ITEM NO. 1**

3. The developer is negotiating to use a portion of the excess capacity controlled by the Porter Vista Public Utility District to serve this site.

4. The City is pursuing means of constructing a relief line to serve this area either through its pending redevelopment project or by some other financing method.

B. There is a potential for an impact on the residential area to the north from the glare produced by the lighting of the convenience market in Phase I.

This impact may be mitigated as follows:

1. On-site lighting for the commercial portions of the project shall be so controlled to prevent direct or reflected glare as per Section 2618, F, of the Zoning Ordinance.

C. There is a potential flooding hazard due to water coming onto the site from adjacent areas.

This impact may be mitigated as follows:

1. Further studies and designs to mitigate any potential flooding hazard shall be required with any subsequent specific development plans.

D. The impact on various public services shall be further addressed at the time of future Specific Development Plan reviews. This shall include further review of circulation, traffic, fire and police protection and impacts on schools and other governmental services.

8. Prior to any development occurring, an agreement in writing must be made between the City and any other affected entity which will insure that the sewer problem identified is alleviated.

9. If Specific Development Plans are submitted for approval by phases, the developer may be required to construct reasonable improvements not located within the phase or area of development being proposed.

BE IT FURTHER RESOLVED by the City Council of the City of Porterville, that Conditional Use Permit No. 8-82/Specific Development Plans Phase I is hereby approved as recommended in Planning Commission Resolution No. 1388, subject to the following conditions:

1. That all future on-site development shall conform to applicable City of Porterville codes.

2. That all future on-site development shall conform to the City's Zoning Ordinance.

3. That all future on-site uses shall conform to the City's Fire Department Standards.

4. That the requirements of the City Engineer shall be complied with, to-wit:

1. That all improvements required shall be constructed in accordance with the City of Porterville standard plans and specifications, that all applicable codes and ordinances along with the recommendations of the City Engineer are to be adhered to, and that all applicable fees required for same shall be paid in accordance with the Municipal Code of the City of Porterville.

2. That the subdivider shall pay all fees involved to have any existing utility poles set back behind the future sidewalk.

3. Additional improvements to be added to the specific plans are as follows:

a. Cross gutter across Leggett to join with newly installed cross gutter.

b. Street paveout along Leggett and Putnam after gutter is constructed.

c. Handicap ramp at corner of Leggett and future street.

5. That the development shall be substantially as shown on the Specific Development Plans (Exhibit B). Where the zoning ordinance and conditions of approval differ from the Specific Development Plans, the ordinance and conditions shall prevail.

6. That the environmental impact pertaining to Phase I identified by the Environmental Review Committee be mitigated as follows:

A. The City has sufficient sewer capacity presently available to serve the area covered by this plan.

1) All uses allowed in Phase I of the Project shall be low volume generators of sewer flow.

B. There is a potential for an impact on the residential area to the north from the glare produced by the lighting of the convenience market in Phase I.

1) On-site lighting for the commercial portions of the project shall be so controlled to prevent direct or reflected glare as per Section 2618, F, of the Zoning Ordinance.

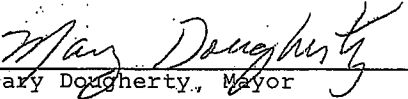
7. That landscaping shall be of the low profile type and shall not be a visual obstruction to vehicular and pedestrian traffic and shall be of the type which shall not cause damage to curbs, gutters and sidewalks.

8. That Specific Plans shall be accompanied by a proposed schedule indicating commencement and completion of construction.

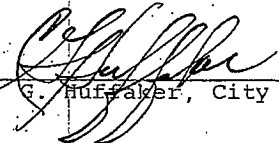
9. Prior to issuance of building permits a proposed schedule of construction shall be submitted to and approved by the City Planner for referral to the City Engineer.

10. If Specific Development Plans are submitted for approval by phases, the developer may be required to construct reasonable improvements not located within the phase or area of development being proposed.

11. That Development of Phase I cannot be started until specific plans for street, gutter and sidewalk improvements in Phase III are submitted and approved by the Planning Commission.


Mary Dougherty, Mayor

ATTEST:


C. G. Huffaker, City Clerk

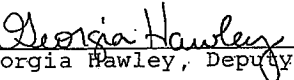
STATE OF CALIFORNIA)
(SS
COUNTY OF TULARE)

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville, do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at a regular meeting of the Porterville City Council regularly called and held on the 7th day of September, 1982.

THAT said resolution was duly passed and adopted by the following vote:

AYES: COUNCILMEN: Durbin, Tree, Dougherty,
NOES: COUNCILMEN: Ferrell, Moran,
ABSENT: COUNCILMEN: None

C. G. HUFFAKER, City Clerk


Georgia Hawley, Deputy

RESOLUTION NO. 13-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF MODIFICATION NO.1
TO CONDITIONAL USE PERMIT NO. 8-82 / GENERAL AND SPECIFIC
DEVELOPMENT PLANS, PHASE ONE, TO ALLOW CONSTRUCTION OF A DRIVE
THROUGH RESTAURANT AND COFFEE KIOSK LOCATED AT THE SOUTHEAST
CORNER OF PUTNAM AVENUE AND LEGGETT STREET

WHEREAS: The City Council at its regularly scheduled meeting of February 19, 2008, reviewed the modified site plans for a modification to CUP 8-82/ General and Specific Plans Phase One to allow proposed construction of a drive through restaurant and drive through coffee kiosk located at the southeast corner of Putnam Avenue and Leggett Street. The subject site is located in the PD-R1 (Planned Development-One Family Residential Zone); and

WHEREAS: The project consists of two drive through buildings providing restaurant (1,389 square feet) and coffee (600 square feet) services for a total combined square footage of 1,989 square feet of building space. The colors and finish of the proposed buildings will be brown and cream tones compatible to the convenience market on the adjacent parcel to the west. Additionally, landscaping will be installed along the frontage of the property, in front of both buildings, and along the restaurant's menu board; and

WHEREAS: This project is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines – construction of in-fill development. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

WHEREAS: The City Council made the following findings with respect to the subject project:

1. The General Plan designates the subject site as Low Density Residential.

The subject site is zoned PD-R1 (Planned Development – One Family Zone) which is supported by the General Plan. The proposed use is allowed pursuant to approval of Conditional Use Permit Specific and General Plan.

2. That a conceptual plan was submitted for Phase Two at the time Phase One was approved.
3. That the site is physically suited for the type of development proposed. The site is level and vacant.

ATTACHMENT
ITEM NO. 2

4. That the design of the project nor the proposed improvements are likely to cause substantial environmental damage. An onsite inspection was conducted by staff. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.
5. That the proposed location of the proposed and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or , materially injurious to properties or improvements in the vicinity.

Conditions of approval are included to ensure adequate development standards are met.

6. That the standards of population density, site area dimensions, site coverage, height of structures, distance between structures, off-street parking facilities, and landscaping areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.
7. The project as proposed complies with all design standards of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Modification #1 to Conditional Use Permit 8-82 subject to the following conditions:

1. Reciprocal ingress/egress agreement is required with the adjacent convenience market to the west. A recorded agreement shall be submitted to the City prior to issuance of building permits for the proposed site.
2. The proposed project will be considered as Modification #1 to CUP 8-22, approved by City Council Resolution 9746 for Phase 1 (Specific Plans).
3. The hours of operation are as follows:

Sunday - Saturday
5:30am to 12:00am
4. For safety and security, adequate lighting will be required during hours of operation that maintains visibility throughout the lot and designed to minimize glare and spillover onto adjacent parcels. Lighting is to be approved by the Police Chief or Community Development Director
5. All mechanical and electrical equipment is to be screened and maintained from public view.

6. Unless otherwise noted, the developer/applicant shall obey the City Master Plans, Standard Specifications for Public Works Construction (2000 Edition), Standard Plans and Specifications (Rev. 8-20-02), the Tulare County Hazardous Waste Management Plan, the Caltrans Traffic Manual, the Porterville Circulation Element, and the Tulare County Congestion Management Program.
7. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.
8. The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.
9. Developer/applicant shall provide a Soils Report in conformance with Chapter 18 of the California Building Code. Expansive soils are known to be in the area of the proposed development. The Soils Report shall include R-Value testing, expansion indexes, etc required for the construction of public improvements.
10. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).
11. The developer/applicant shall remove existing trees at all driveways serving the development for the purpose of provide appropriate visibility for vehicular traffic existing the property.
12. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306).
13. Easements shall be in place that allows for mutual ingress, egress and maintenance of the parking lots shared by the proposed development parcel and the adjacent westerly parcel, if none exists.
14. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 OSA).
15. The developer/applicant shall provide street lights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. A 9500 lumen street light shall be installed at the northeast property corner.


16. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.
17. The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, foundations, septic tanks, irrigation pipes, etc.).
18. The developer/applicant shall abandon existing wells, if any, after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first.
19. The developer/applicant shall comply with Ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:

Wastewater Discharge Permit Application, Part "A"; and

If monitoring is required, based on the responses to questions in Part "A" of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.
20. If hazardous materials are to be stored in jurisdictional quantities anywhere on the property, the developer/applicant shall develop and maintain a Hazardous Materials Business Plan Program, follow Chapter 6.95 of the Health and Safety Code, and shall tell the Hazardous Materials Unit of the Tulare County Division of Environmental Health. The developer/ applicant shall provide proof of compliance with County requirements before issuance of a certificate of occupancy.
21. The developer/applicant shall install a refuse container enclosure according to City standards. **The enclosure location to be approved by City prior to issuance of building permit.** The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.
22. The developer/applicant shall comply with the Flood Damage Prevention Ordinance. The property is within a Flood Hazard Zone AO (1 foot depth). A Licensed Civil Engineer or Land Surveyor shall confirm that the finished floor will be constructed at or above the Base Flood Elevation in letter form or by providing a Preliminary Elevation Certificate. The same professional shall confirm that the finish floor is at or above the Base Flood Elevation by submitting an Elevation Certificate to the City Engineer for approval prior to the issuance of a certificate of occupancy. Preliminary Elevation Certificates and Elevation Certificates are available within the Engineering Division upon request.
23. The developer/applicant shall comply with City standard for "backflow" prevention pursuant to Resolution No. 9615.

24. The developer/applicant is hereby notified that the installation of an additional water meter, servicing the irrigation system would be beneficial for monitoring actual water usage. The City will monitor actual water usage for one year and will bill the owner the impact fees based on the actual water usage.
25. A back-flow device is required on the water meter.
26. A grease trap or grease interceptor is required.
27. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.
28. Compliance with access laws (both State and Federal) is required.
29. Compliance with all applicable codes is required.
30. Plan check fees are required at the time of building permit submittal.
31. Soil report required.
32. School Development fees and all other City fees are due at the time of building permit issuance.
33. Prior to issuance of the building permit need approval from the Tulare County Health Department.
34. Restrooms and main entrance must comply with ADA access laws.
35. All construction offices, storage containers, etc. for temporary use must receive City Council approval.
36. Grease interceptor required.
37. Signs require separate permit.
38. At all times, the facilities shall be constructed, operated and maintained to comply with State law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.
39. That the subject site will be developed in accordance with the site plan and elevation plans labeled Exhibit "A."
40. The conditional use permit shall become null and void if not under taken and actively and continuously pursued within one (1) year.

41. The applicant shall submit clearance from the Regional Water Quality Control Board, to the satisfaction of the City Engineer, regarding groundwater and/or soils contamination prior to issuance of building permits for the proposed site.


Cameron Hamilton, Mayor

Attest:
John Longley, City Clerk

By 
Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 19th day of February, 2008.

THAT said resolution was duly passed adopted by the following vote:

Council:	McCRACKEN	P. MARTINEZ	F. MARTINEZ	HERNANDEZ	HAMILTON
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					

JOHN LONGLEY, CITY CLERK

By *Luisa Herrera*
Luisa Herrera, Deputy City Clerk

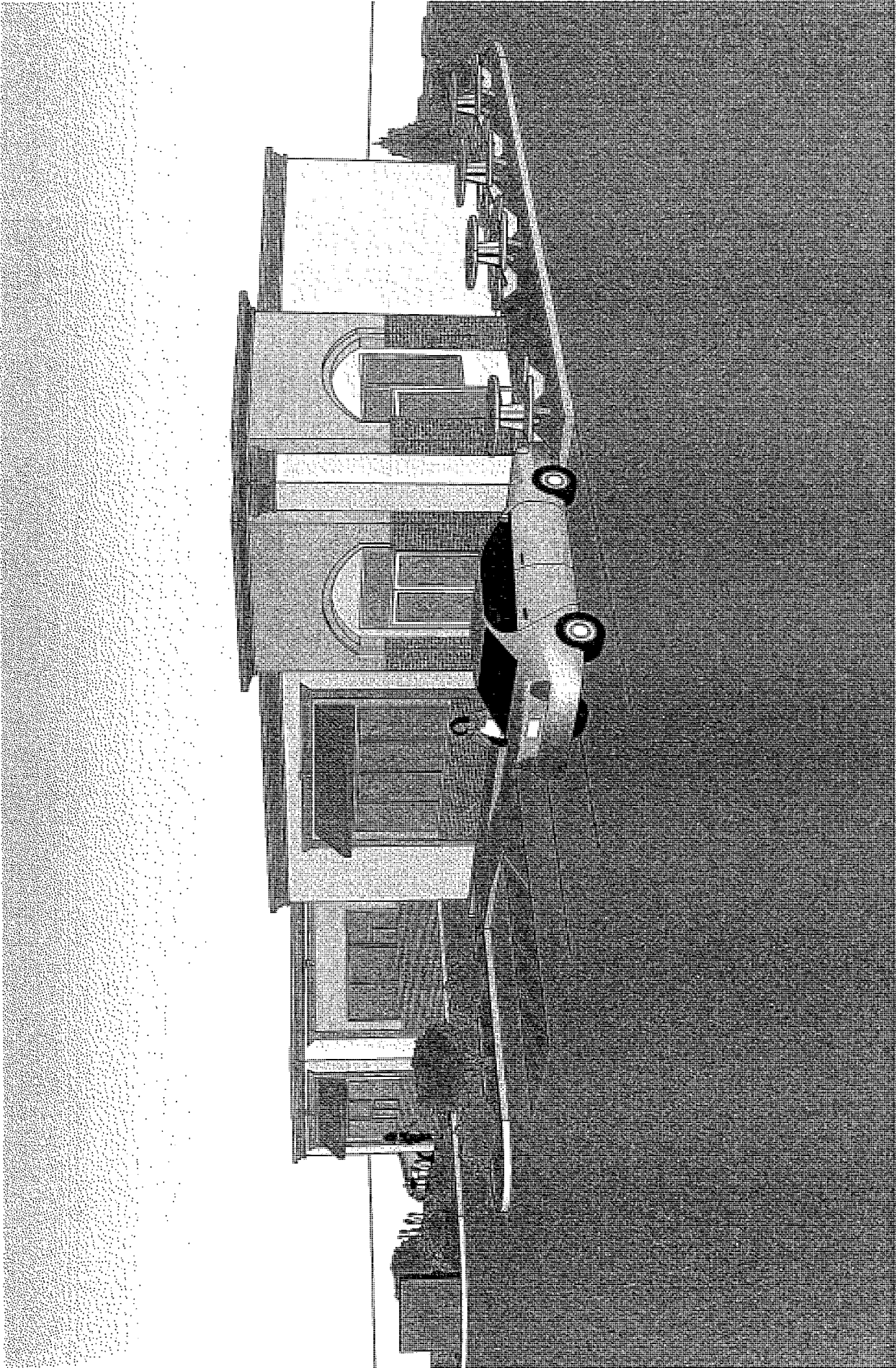
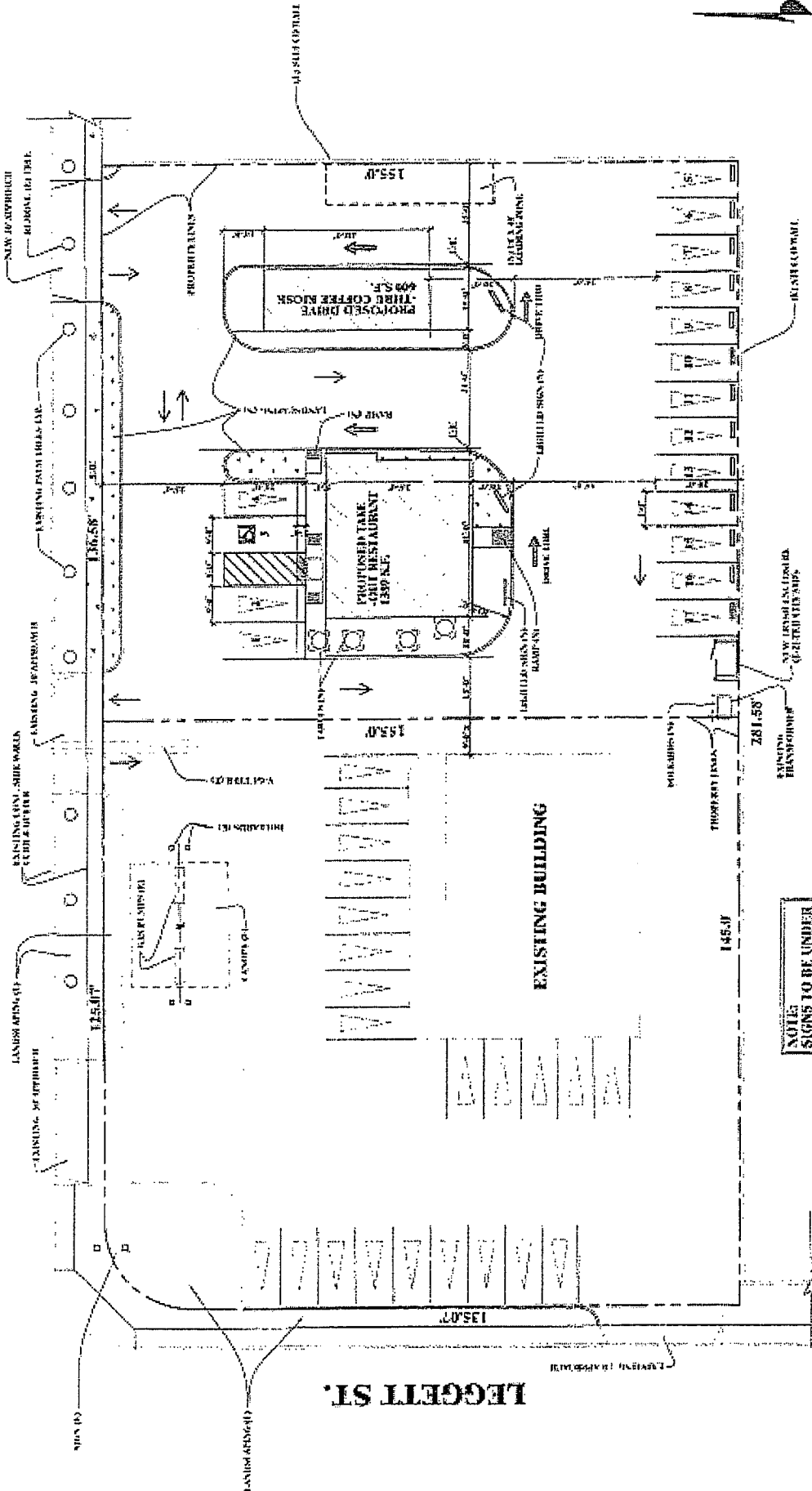


EXHIBIT A



EXHIBIT

PUTNAM AVE.



LEGGETT ST.

SITE PLAN

APN: 154-101-41
 IN THE CITY OF PORTERVILLE
 COUNTY OF TULARE, STATE OF CALIFORNIA

SCALE: 1" = 20'

N O R T H

EXHIBIT A



Community Development
Department

February 22, 2013

Mary McClure
23149 Josef Court
Porterville, CA 93257

Re: 815 E. Putnam Avenue

Dear Ms. McClure,

Thank you for taking the time to contact staff to express your concerns about the development project located at 815 E. Putnam Avenue. We regret any inconvenience you have experienced in the duration of your construction phase. During the final inspection of the above address, staff members observed deviations in the constructed building from the conditions and plans approved by City Council under Conditional Use Permit 8-82 (Resolution 13-2008) on February 19, 2008. Additionally, some components of the built development are out of compliance with the Zoning Ordinance in effect at the time of the project approval. Due to these deviations, the Planning Division is unable to approve your occupancy permit.

This letter is to inform you that a public hearing is scheduled on Tuesday, March 5, at 6:30 p.m. or as soon thereafter in the Council Chambers at City Hall, 291 N. Main Street in Porterville, in order to consider modification or revocation of Conditional Use Permit 8-82 approving the general and specific plans phase 1 (Resolution 13-2008) that approved the construction of a drive through restaurant and coffee kiosk (please see attachment).

Staff will send you a copy of the staff report which will contain a complete list of items identified for correction prior to the Tuesday, March 5, 2013 public hearing.

The Community Development Department is working hard to resolve the issues mentioned above. If you have any questions, feel free to contact Bradley D. Dunlap, Community Development Director.

Sincerely,

Julie Phillips, AICP
Community Development Manager

NOTICE OF PUBLIC HEARING

Notice is hereby given, that the City Council of the City of Porterville will hold a public hearing on Tuesday, March 5, 2013 at 6:30 p.m. or as soon thereafter as the matter can be heard in the Council Chambers at City Hall, 291 N. Main Street, Porterville, California, in order to consider modification or revocation of Conditional Use Permit 8-82 approving the general and specific plans phase 1 (Resolution 13-2008) that approved the construction of a drive through restaurant and coffee kiosk located at 815 E. Putnam Ave.

Pursuant to Section 15332 Class 32 (In-Fill Development Project), the proposed project is categorically exempt from the California Environmental Quality Act (CEQA).

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in these meetings, or to be able to access these agendas and documents in the agenda packets, please contact the Deputy City Clerk at (559) 782 - 7442. Notification 48 hours prior to these meetings will enable the City to make reasonable arrangements to ensure accessibility to these meetings and/or provision of an appropriate alternative format of the agenda and documents in the agenda packets.

DATED: February 23, 2013

John Lollis, City Clerk

NEW RESTAURANT

MARY MCCLURE PUTNAM AVE. & LEGGETT ST. PORTERVILLE CA. 93257

**As Compared Report shall be submitted to the City of
Signs under specific permits

Building Dept. City of Porterville	DATE	BY
Fire	1/14/10	OK
Engineering	1/14/10	OK
Planning	1/14/10	OK
Field Services	1/14/10	OK
Parks	1/14/10	OK
Building	1/14/10	OK
Police	1/14/10	OK

SHEET INDEX

CS	COVER SHEET
A-1	SITE PLAN
A-2	STANDARD NOTES/LEGENDS
A-3	FLOOR/FOUNDATION PLAN
A-4	ELEVATIONS
A-5	ROOF/MECHANICAL PLAN
A-6	EQUIPMENT PLAN
E-1	ELECTRICAL PLAN & NOTES
H-1	HANDICAP DETAILS
H-2	HANDICAP DETAILS
P-1	PLUMBING PLANS & DETAILS
S-1	SECTIONS AND DETAILS
S-2	SECTIONS

B
BUILDING OCCUPANCY
BUILDING CONSTRUCTION
BUILDING HEIGHT MAX
SEISMIC DESIGN CATEGORY
BUILDING DESIGNED UNDER 2007 C.B.C.

TYPE Y-B^A
16
D

ATTACHMENT
ITEM NO. 4

REVISIONS	DATE	BY

HILLMAN BUILDING DESIGNERS
Professional Member
American Institute of Building Design
250 N. MAIN ST., PORTERVILLE, CA. 93257
TEL. (559) 781-1558 FAX (559) 781-2843

ARCHITECT
HECTOR TELIEZ
250 N. MAIN ST., PORTERVILLE, CA. 93257
TEL. (559) 781-1558
FAX (559) 781-2843
LICENSE C16493



MARY MCCLURE
PUTNAM AVE & LEGGETT ST.
PORTERVILLE, CA 93257
PHONE:

DATE: 12-04-07
SCALE: AS SHOWN
DRAWN: JHE
CHECKED: JHE
PROJECT: 21050
COVER SHEET

CS-03-08-0213

REVISIONS	DATE	BY

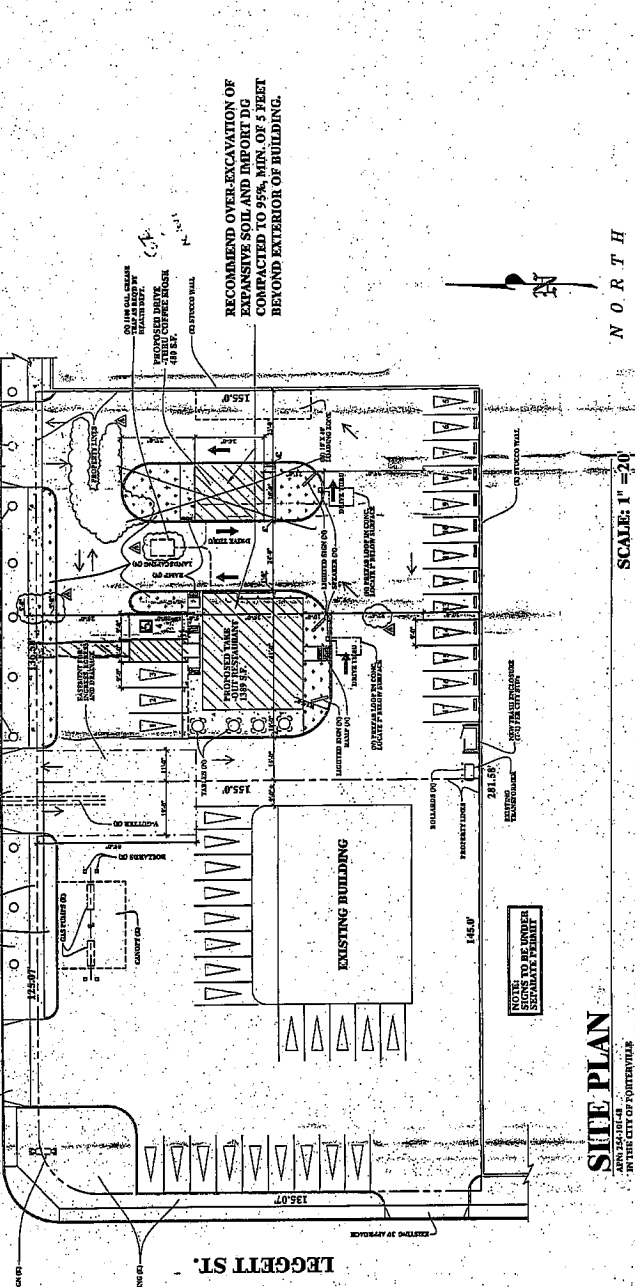
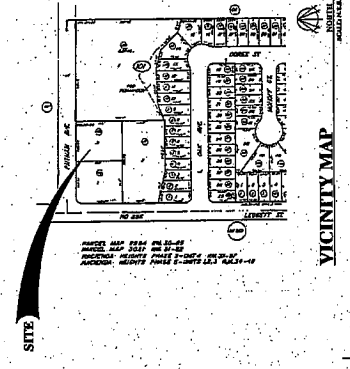
HILLMAN BUILDING DESIGNERS
 Professional Member
 American Institute of Building Design
 250 N. Main St., Porterville, Ca. 93257
 Tel. (559) 781-1538 Fax (559) 781-2343

HECTOR TELFER
 ARCHITECT
 250 N. MAIN ST.
 PORTERVILLE, CA 93257
 FAX (559) 781-1538
 ORF (559) 781-2343
 LICENSE C16450



MARY MCCLURE
 PORTERVILLE, CA 93257
PUTNAM AVE. & LEGGETT ST.
 PHONE

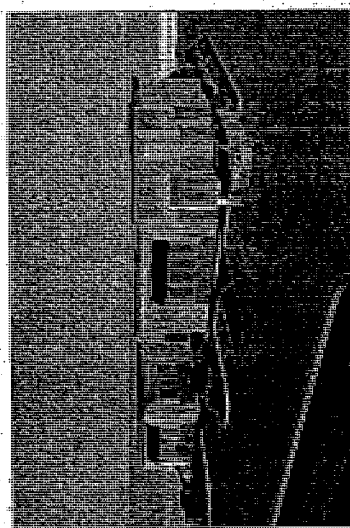
A-1
 DATE: 12/12/77
 DRAWING NO.: 100-06-08
 SHEET NO.: 10330-AM-FET



SITE STATISTICS

ZONE	RESIDENTIAL
LOT SQ. FT.	21,770 ±
BLDG SQ. FT. - REST.	1389
BLDG SQ. FT. - COFFEE	480
TOTAL BLDG. SQ. FT.	1869
LANDSCAPE SQ. FT.	1430 ±
9300 STANDARD	16
17' X 20' HANDICAP	1
17 TOTAL	17
TOTAL ALLOWABLE OUTSIDE SEATS	17 X 4 = 68
SEATS PROVIDED	16

SITE PLAN
 IN ACCORDANCE WITH THE CITY OF PORTERVILLE
 COUNTY OF TULARE STATE OF CALIFORNIA

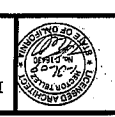


CITY PROGRAMS \land\dwg\100-06-08\10330-AM-FET

REVISIONS BY	DATE	DESCRIPTION

HILLMAN BUILDING DESIGNERS
 Professional Members
 American Institute of Building Design
 263 N. 4th St., #105 Portland, OR 97207
 Tel. (503) 781-1338 Fax (503) 781-2343

ARCHITECT
MARY MCCLURE
 263 N. MAIN ST.
 PORTLAND, OR 97207
 ARCHITECT TELEPHONE
 FAX (503) 781-1338
 LICENSE #16430



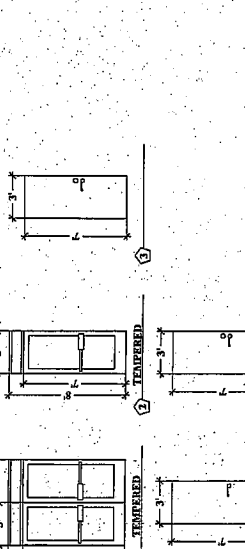
MARY MCCLURE
 PORTLAND, OR 97207
 PHONE: (503) 781-1338
 FAX: (503) 781-2343

DATE: 12-04-07
 SCALE: N/A
 DRAWING NUMBER: 77050
 SHEET: A-2

ROOM FINISH SCHEDULE

ROOM #	ROOM DESCRIPTION	FLOOR	WALLS	CEILING	REMARKS
1	LOBBY				
2	SERVICE AREA				
3	KITCHEN				
4	RESTROOM				
5	STORAGE				

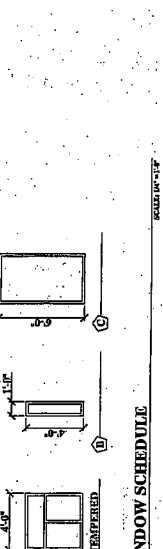
GENERAL ROOM FINISH NOTES
 1. FINISHES TO BE SHOWN ON THIS SCHEDULE.
 2. FINISHES TO BE SHOWN ON THIS SCHEDULE.
 3. FINISHES TO BE SHOWN ON THIS SCHEDULE.
 4. FINISHES TO BE SHOWN ON THIS SCHEDULE.
 5. FINISHES TO BE SHOWN ON THIS SCHEDULE.



DOOR SCHEDULE

SYMBOL	SIZE	DESCRIPTION	HARDWARE	REMARKS
1	3' x 7'	ENTRY DOOR, ALUM. / GLASS W/ TRANSOM	MTL	WITH CLOSER
2	3' x 7'	ENTRY DOOR, ALUM. / GLASS W/ TRANSOM	MTL	WITH CLOSER
3	3' x 7'	INT. ENTRY DOOR, W/ LOCKSET	MTL	WITH CLOSER
4	3' x 7'	INT. ENTRY DOOR, W/ LOCKSET	MTL	WITH CLOSER
5	3' x 7'	INT. ENTRY DOOR, W/ LOCKSET	MTL	WITH CLOSER

NOTE:
 1. ALL DOORS TO HAVE 1/4\"/>



WINDOW SCHEDULE

CONCRETE
 1. ALL CONCRETE SHALL BE CAST IN PLACE.
 2. ALL CONCRETE SHALL BE CAST IN PLACE.
 3. ALL CONCRETE SHALL BE CAST IN PLACE.
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 5. ALL CONCRETE SHALL BE CAST IN PLACE.

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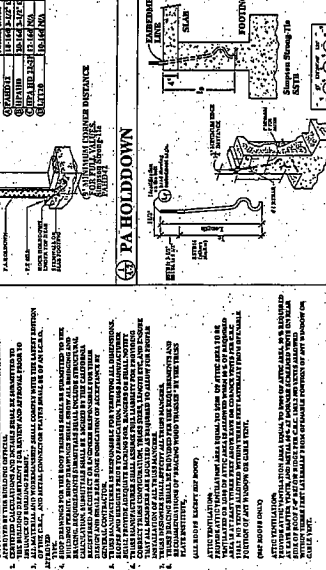
CONCRETE
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DRACED WALL SCHEDULE
 1. ALL DRACED WALLS SHALL BE CAST IN PLACE.
 2. ALL DRACED WALLS SHALL BE CAST IN PLACE.
 3. ALL DRACED WALLS SHALL BE CAST IN PLACE.
 4. ALL DRACED WALLS SHALL BE CAST IN PLACE.
 5. ALL DRACED WALLS SHALL BE CAST IN PLACE.



PA HOLD-DOWN
 1. ALL PA HOLD-DOWNS SHALL BE CAST IN PLACE.
 2. ALL PA HOLD-DOWNS SHALL BE CAST IN PLACE.
 3. ALL PA HOLD-DOWNS SHALL BE CAST IN PLACE.
 4. ALL PA HOLD-DOWNS SHALL BE CAST IN PLACE.
 5. ALL PA HOLD-DOWNS SHALL BE CAST IN PLACE.

HD HOLD-DOWN
 1. ALL HD HOLD-DOWNS SHALL BE CAST IN PLACE.
 2. ALL HD HOLD-DOWNS SHALL BE CAST IN PLACE.
 3. ALL HD HOLD-DOWNS SHALL BE CAST IN PLACE.
 4. ALL HD HOLD-DOWNS SHALL BE CAST IN PLACE.
 5. ALL HD HOLD-DOWNS SHALL BE CAST IN PLACE.

REVISIONS	NO.	DATE	BY

HILLMAN BUILDING DESIGNERS
 ARCHITECTS
 250 N. Main St., Porterville, CA 93257
 Tel. (559) 781-1538 Fax (559) 781-2343

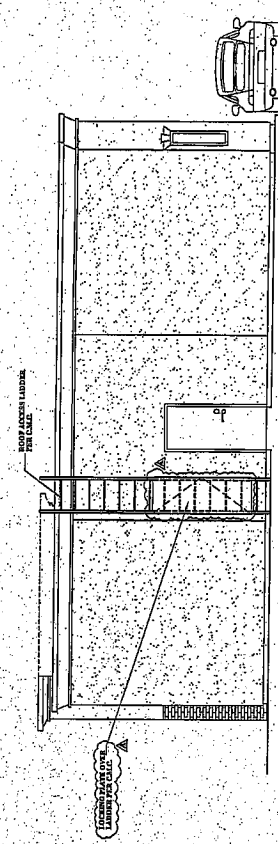


ARCHITECT
HECTOR TELLEZ
 250 N. MAIN ST.
 PORTERVILLE, CA 93257
 TEL. (559) 781-1538
 FAX (559) 781-2343
 LICENSE C16430

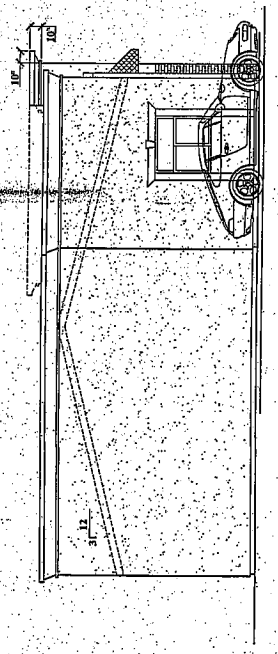


MARY MCCURE
 PORTERVILLE, CA 93257
 PUTNAM AVE. & LEGGETT ST.
 PHONE

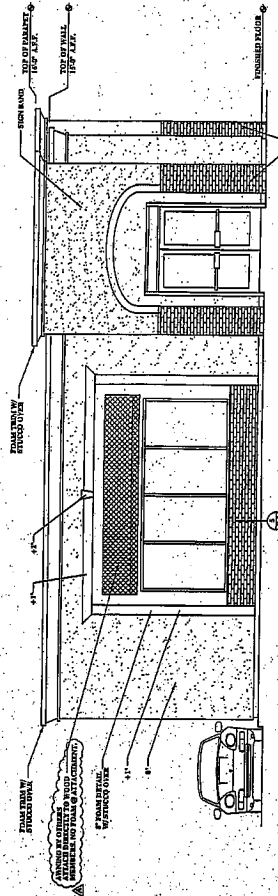
A-4
 SHEET
 DATE: 11-24-07
 DRAWN: ASSET/STW
 CHECKED: JLD
 JOB: 21050



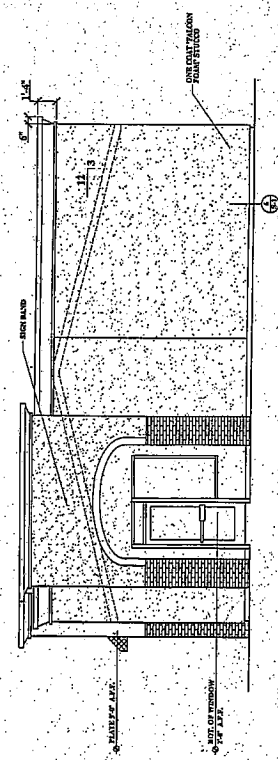
SOUTH ELEVATION - RESTAURANT
 SCALE: 1/4" = 1'-0"



EAST ELEVATION - RESTAURANT
 SCALE: 1/4" = 1'-0"



NORTH ELEVATION - RESTAURANT
 SCALE: 1/4" = 1'-0"



WEST ELEVATION - RESTAURANT
 SCALE: 1/4" = 1'-0"

FOR ARCHITECTURAL FOAM
 SHAPES USE RAY FOAM OR EQUAL
 RAY FOAM
 2073 MACK STREET
 PORTERVILLE, CA 93257
 PHONE: (559) 743-7400
 FAX: (510) 744-4257

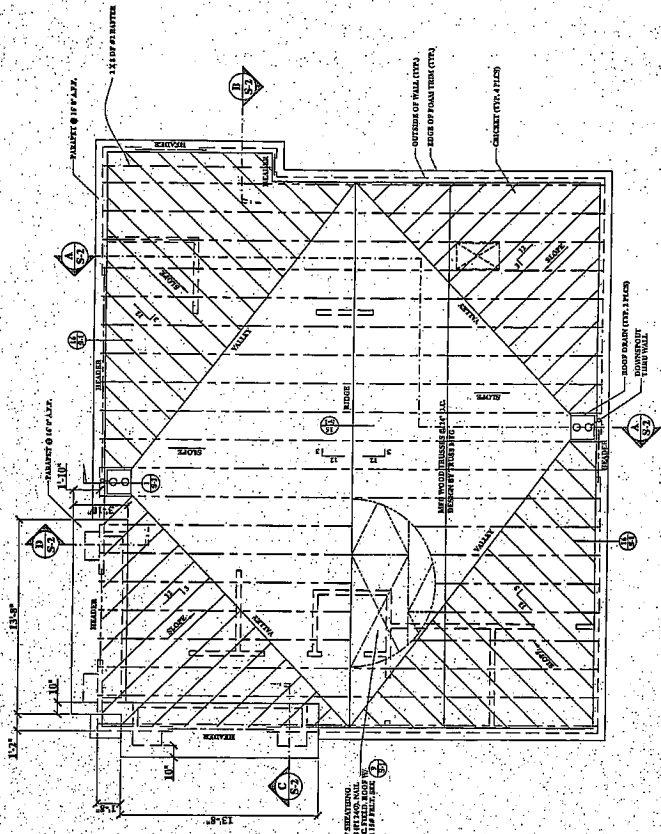
PLACED HERE AND REPLACED
MARY McCURE
 PORTMAN AVE. & LEGGETT ST.
 PORTSMOUTH, CA 93257
 PHONE:



ARCHITECT
H.C. K. FELTZ
 250 N. MAIN ST.
 PORTSMOUTH, CA 93257
 OFF. (559) 781-1438
 FAX (559) 781-2343
 LICENSE C16450

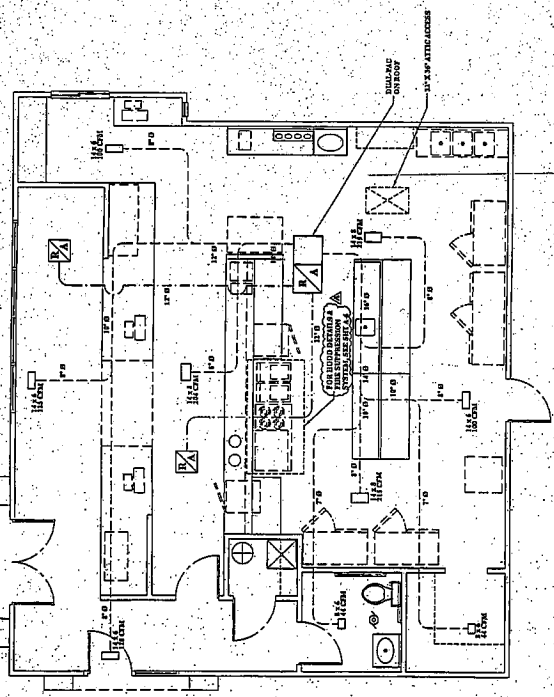
HILLMAN BUILDING DESIGNERS
 Professional Member
 American Institute of Building Design
 250 N. MAIN ST. PORTSMOUTH, CA 93257
 TEL. (559) 781-1535 FAX (559) 781-2343

REVISIONS	BY	DATE
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		



NOTES: 1. ALL HEADERS TO BE
 4" x 12" DFM1 @
 8'-0" HGT. U.O.N.
 2. ALL JOISTS TO BE
 12" x 12" U.O.N.
 @ 24" HGT. U.O.N.
 U.O.N. = UNLESS
 OTHERWISE NOTED

ROOF PLAN - RESTAURANT
 SCALE: 1/4" = 1'-0"



MECHANICAL PLAN - RESTAURANT
 SCALE: 1/4" = 1'-0"

CRITICAL CALCULATIONS			
	FEET	INCHES	CM
LOBBY	1	3	11
MITCHEN	24	3	35
STORAGE	7	3	7
MECHANICAL ROOM	7	3	7
TOTAL	41	10	41

REVISIONS	BY	DATE
1	AW	12-04-97
2	AW	01-15-98
3	AW	02-10-98
4	AW	03-10-98
5	AW	04-10-98
6	AW	05-10-98
7	AW	06-10-98
8	AW	07-10-98
9	AW	08-10-98
10	AW	09-10-98

HILLMAN BUILDING DESIGNERS
 Professional Members
 American Institute of Building Design
 250 W. 4th St., Portland, OR 97204
 (503) 464-1111 Fax (503) 464-1111

ARCHITECTS
HILTON KATZ
 50 N. Main St.
 Portland, OR 97204
 (503) 781-1538
 License C16430



MARY MCCLURE
 REGISTERED PROFESSIONAL ENGINEER
 PORTERVILLE, CA 95257
 PHONE: (916) 468-1111

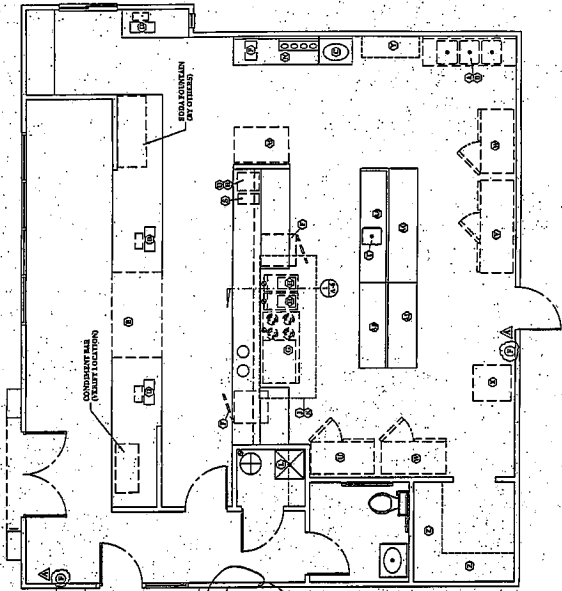
DATE	12-04-97
SCALE	AS SHOWN
DRAWN BY	AW
CHECKED BY	AW
PROJECT	2100

A-6

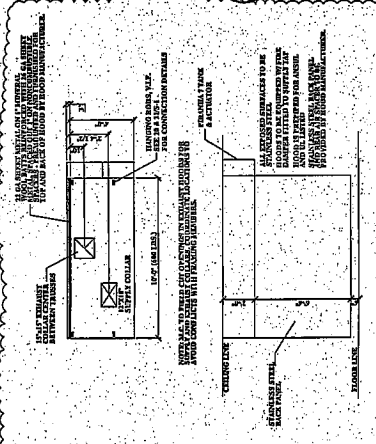
EQUIPMENT SCHEDULE

NO.	TYPE	MANUFACTURER	MODEL	QUANTITY	LOCATION	REMARKS
1	EXHAUST FAN	ANSUL	1166	1	1ST FLOOR	1166
2	EXHAUST FAN	ANSUL	1166	1	2ND FLOOR	1166
3	EXHAUST FAN	ANSUL	1166	1	3RD FLOOR	1166
4	EXHAUST FAN	ANSUL	1166	1	4TH FLOOR	1166
5	EXHAUST FAN	ANSUL	1166	1	5TH FLOOR	1166
6	EXHAUST FAN	ANSUL	1166	1	6TH FLOOR	1166
7	EXHAUST FAN	ANSUL	1166	1	7TH FLOOR	1166
8	EXHAUST FAN	ANSUL	1166	1	8TH FLOOR	1166
9	EXHAUST FAN	ANSUL	1166	1	9TH FLOOR	1166
10	EXHAUST FAN	ANSUL	1166	1	10TH FLOOR	1166
11	EXHAUST FAN	ANSUL	1166	1	11TH FLOOR	1166
12	EXHAUST FAN	ANSUL	1166	1	12TH FLOOR	1166
13	EXHAUST FAN	ANSUL	1166	1	13TH FLOOR	1166
14	EXHAUST FAN	ANSUL	1166	1	14TH FLOOR	1166
15	EXHAUST FAN	ANSUL	1166	1	15TH FLOOR	1166
16	EXHAUST FAN	ANSUL	1166	1	16TH FLOOR	1166
17	EXHAUST FAN	ANSUL	1166	1	17TH FLOOR	1166
18	EXHAUST FAN	ANSUL	1166	1	18TH FLOOR	1166
19	EXHAUST FAN	ANSUL	1166	1	19TH FLOOR	1166
20	EXHAUST FAN	ANSUL	1166	1	20TH FLOOR	1166
21	EXHAUST FAN	ANSUL	1166	1	21ST FLOOR	1166
22	EXHAUST FAN	ANSUL	1166	1	22ND FLOOR	1166
23	EXHAUST FAN	ANSUL	1166	1	23RD FLOOR	1166
24	EXHAUST FAN	ANSUL	1166	1	24TH FLOOR	1166
25	EXHAUST FAN	ANSUL	1166	1	25TH FLOOR	1166
26	EXHAUST FAN	ANSUL	1166	1	26TH FLOOR	1166
27	EXHAUST FAN	ANSUL	1166	1	27TH FLOOR	1166
28	EXHAUST FAN	ANSUL	1166	1	28TH FLOOR	1166
29	EXHAUST FAN	ANSUL	1166	1	29TH FLOOR	1166
30	EXHAUST FAN	ANSUL	1166	1	30TH FLOOR	1166

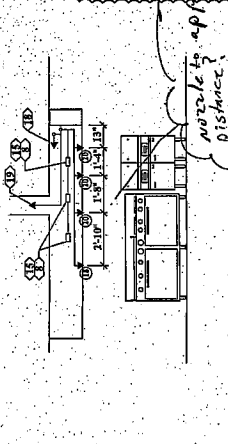
NOTE: ALL EQUIPMENT TO BE "NSP" APPROVED



EQUIPMENT PLAN - RESTAURANT
 SCALE: 1/4" = 1'-0"



HOOD DETAIL



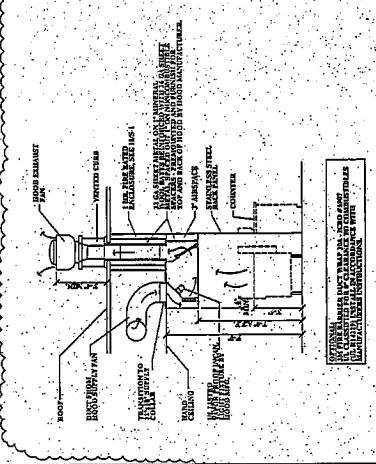
HOOD - FRONT VIEW

HOOD #	MODEL #	FCM
1	1166	1166
2	1166	1166
3	1166	1166
4	1166	1166
5	1166	1166
6	1166	1166
7	1166	1166
8	1166	1166
9	1166	1166
10	1166	1166
11	1166	1166
12	1166	1166
13	1166	1166
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22	1166	1166
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29	1166	1166
30	1166	1166

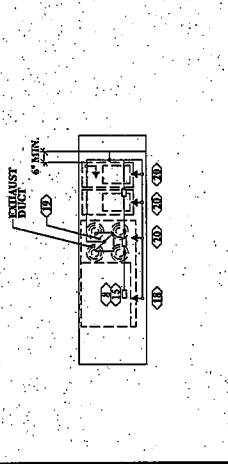
NOTES:

1. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL HEALTH DEPARTMENT.
2. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL FIRE DEPARTMENT.
3. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL INSURANCE COMPANY.
4. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL LABORATORY.
5. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL POLICE DEPARTMENT.
6. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL SHERIFF'S DEPARTMENT.
7. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL TOWNSHIP.
8. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL COUNTY.
9. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL STATE.
10. THE ABOVE EQUIPMENT SHALL BE APPROVED BY THE LOCAL FEDERAL GOVERNMENT.

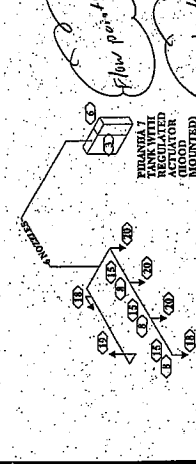
HOOD NOTES & SCHEDULE



HOOD SECTION



HOOD - PLAN VIEW



ANSUL PIRANHA

PANEL LIST

ITEM NO.	DESCRIPTION	QUANTITY
1	ANSUL PIRANHA	1
2	ANSUL PIRANHA	1
3	ANSUL PIRANHA	1
4	ANSUL PIRANHA	1
5	ANSUL PIRANHA	1
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9	ANSUL PIRANHA	1
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24	ANSUL PIRANHA	1
25	ANSUL PIRANHA	1
26	ANSUL PIRANHA	1
27	ANSUL PIRANHA	1
28	ANSUL PIRANHA	1
29	ANSUL PIRANHA	1
30	ANSUL PIRANHA	1

HOOD PIPING ISOMETRIC

please submit a complete set of H40 suppression system plans.

make up the distance to appliance.

R class Exhaust

make up the distance to appliance. make up the distance to the system upon a ceiling or to pass ceiling with exhaust.

pull station should be located in the kitchen.

flow paths

cut sheets

REVISIONS	BY	DATE

HILLMAN BUILDING DESIGNERS
 Professional Members
 American Institute of Building Design
 250 N. Main St., Porterville, Ca. 93257
 Tel. (559) 781-1538 Fax (559) 781-2343



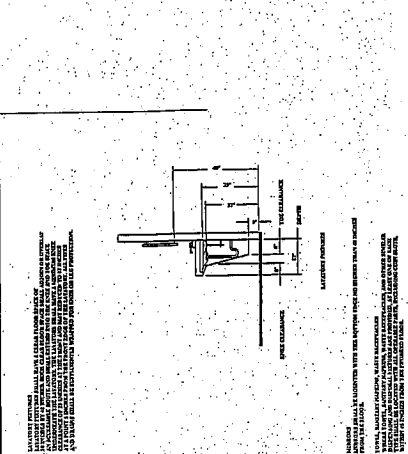
ARCITECT
HECTOR ILLIZ
 150 N. Main St.
 Porterville, CA 93257
 (559) 781-1538
 License C4648



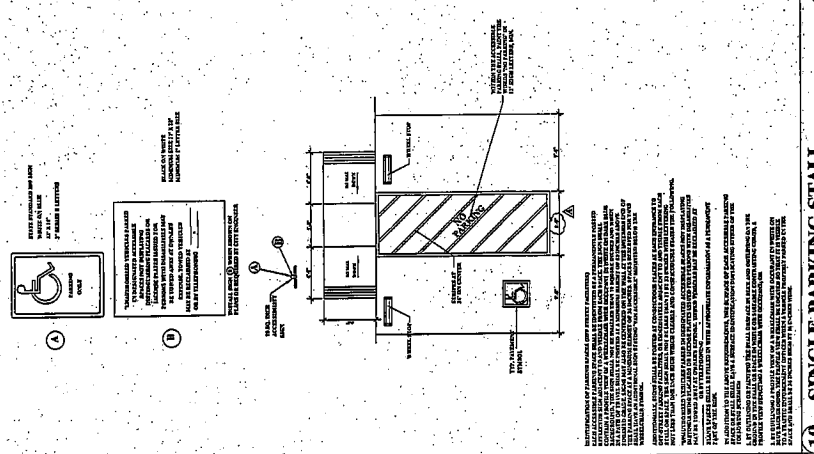
MARY MCCLURE
 PROPOSED DRIVE THRU FOODS STORE
 PORTMAN AVE. & LEGGETT ST.
 PORTERVILLE, CA 93257
 PHONE: _____

DATE	REVISION

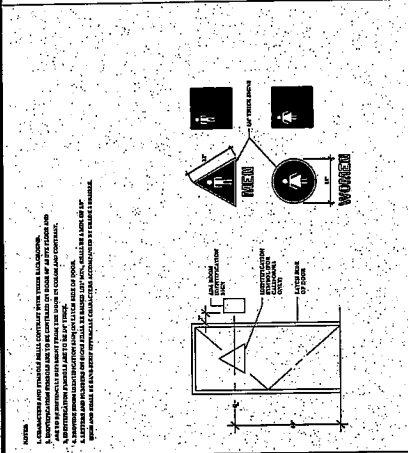
H-1



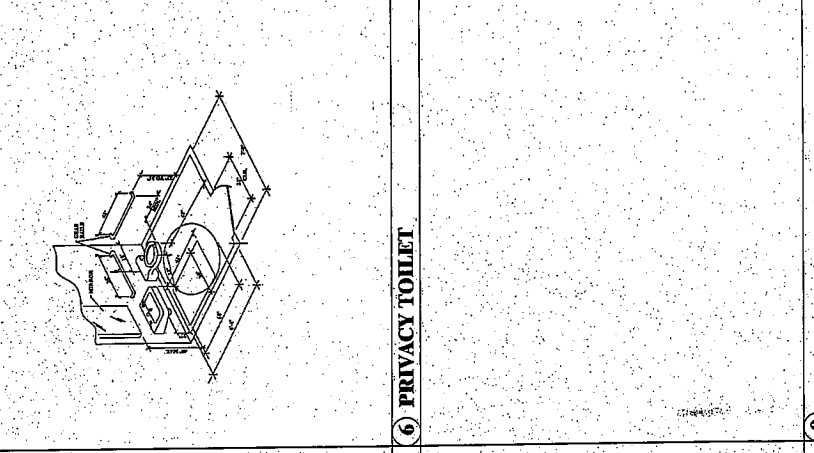
4 TOILET ROOM FIX. & ACCESSORIES



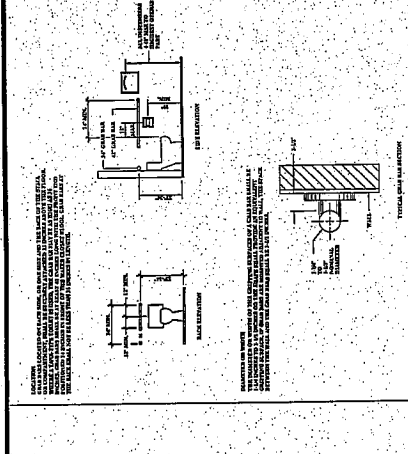
10 SINGLE PARKING STALL



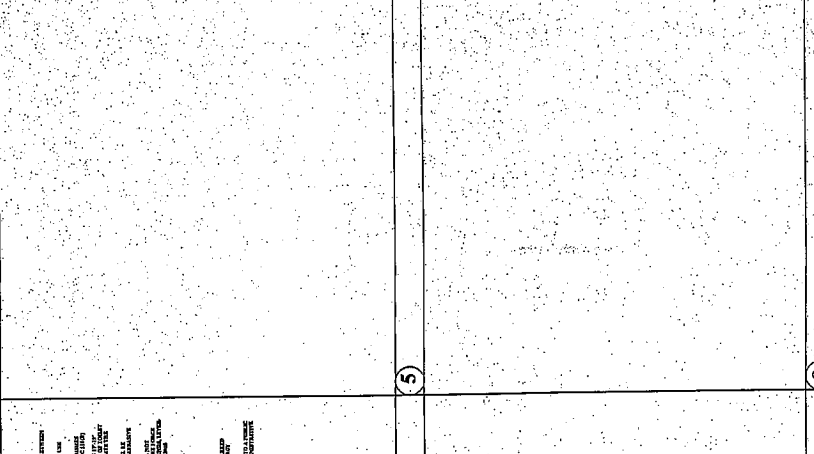
3 REST ROOM DOOR SIGNAGE



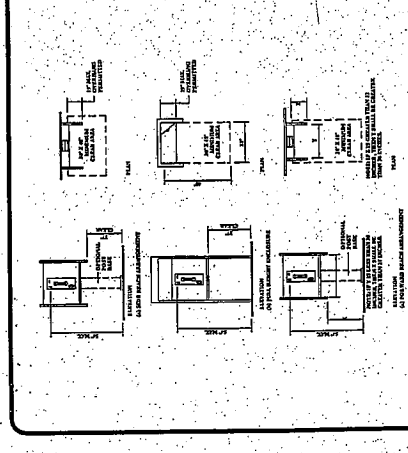
6 PRIVACY TOILET



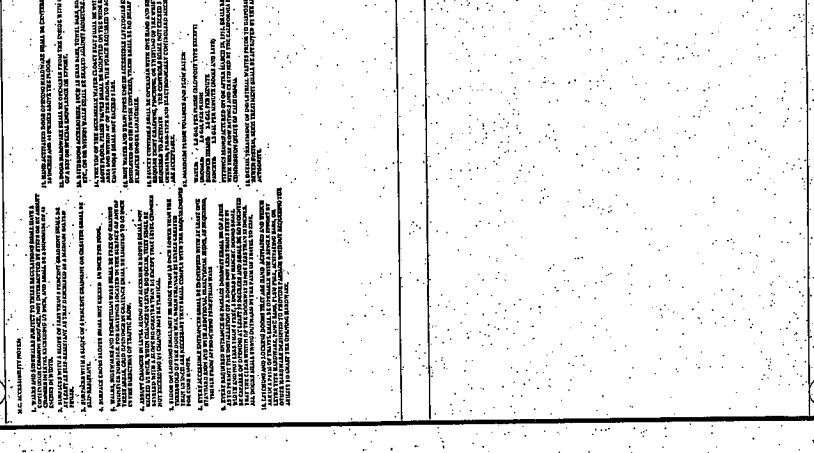
2 GRAB BARS



5 TELEPHONES



1 TELEPHONES



7

REV	DATE	BY

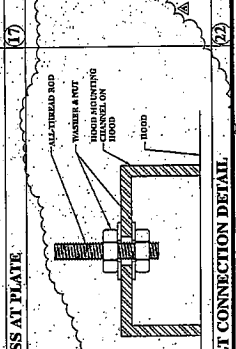
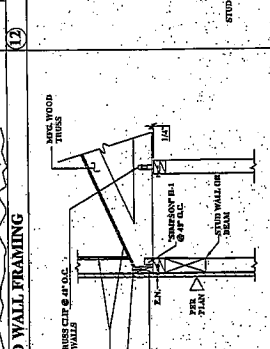
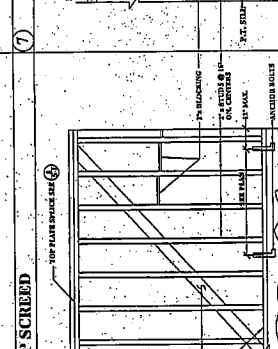
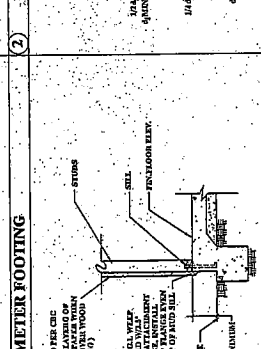
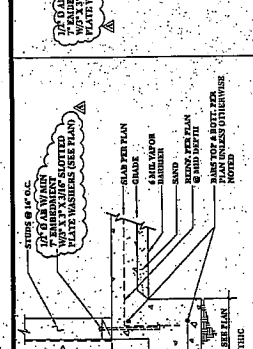
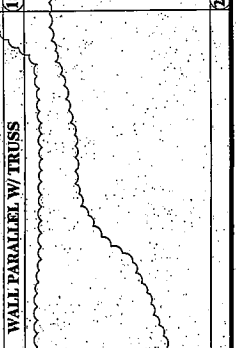
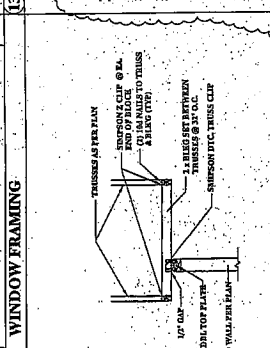
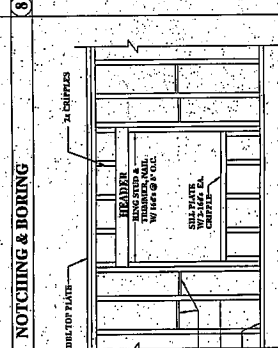
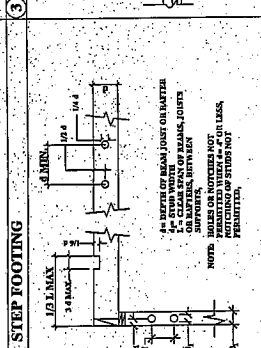
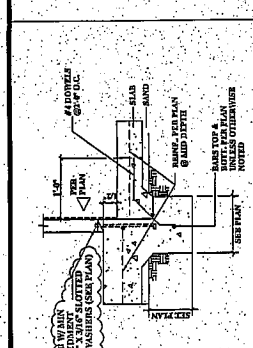
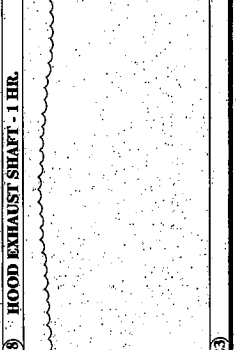
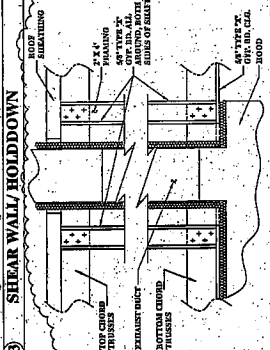
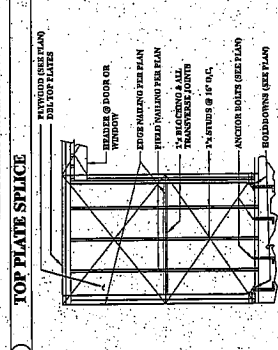
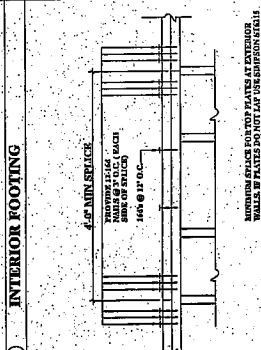
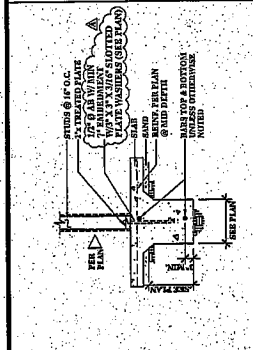
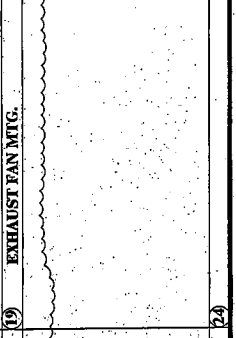
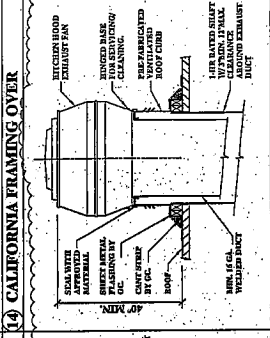
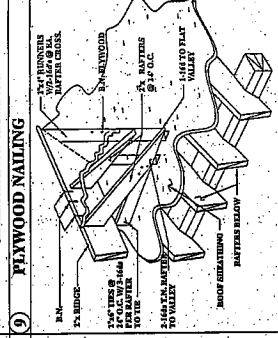
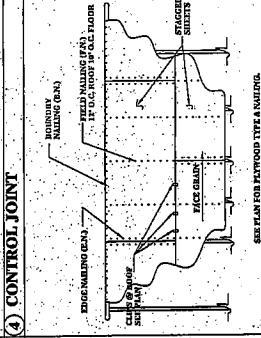
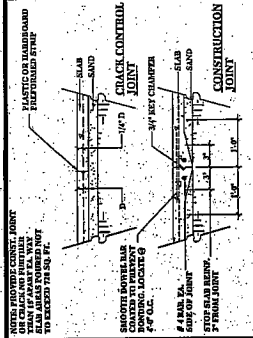
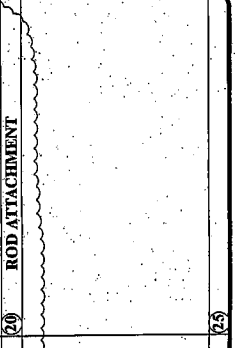
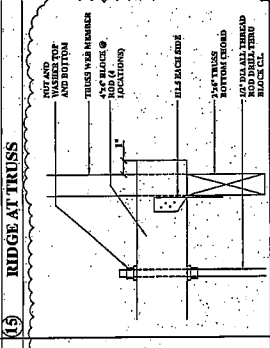
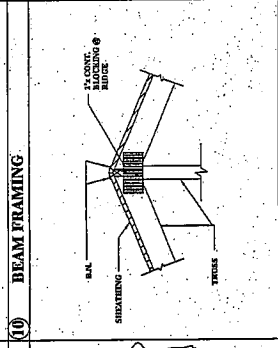
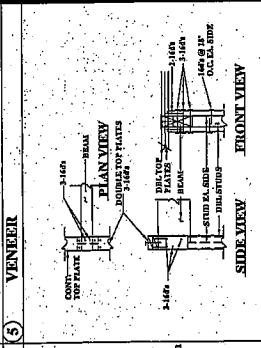
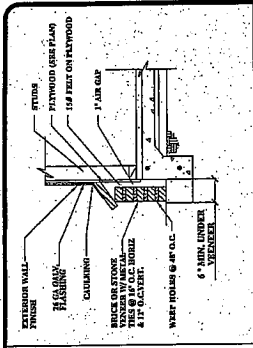
HILLMAN BUILDING DESIGNERS
 Professional Members
 American Institute of Building Design
 250 N. Main St., Porterville, CA 93257
 TEL. (559) 781-1538 FAX (559) 781-2343

RECORDER
 HILLMAN BUILDING DESIGNERS
 250 N. MAIN ST.
 PORTERVILLE, CA 93257
 TEL. (559) 781-1538
 LICENSE C1438



MARY MCCLURE
 PORTERVILLE, CA 93257
 PHONE: (559) 781-1538

DATE	SCALE	NO. SHEETS



List of Deviations

- The exterior lighting attached to the building are facing residential sites to the east and south. (Section 2006 (E) of the Zoning Ordinance)
- The required five foot (5') wide screening planting strip is not installed at the northeast corner of the project site. (Section 2206 (F)(2) of the Zoning Ordinance)
- The Marbelite Pole street light was required but not installed as specified.
- The roof mounted mechanical equipment is not screened from public view as conditioned.
- The awning is not installed. (north elevation)
- The masonry veneer is not installed. (north and west elevation)
- The arch entry ways are not constructed. (north and west elevation)
- The window trims are not per plans.
- Additional windows on the east, north and west elevations have been added.
- The ten foot (10') wide outdoor dining area and tables are not installed.
- The west elevation entry door is not constructed.
- The north elevation entry door has been shifted approximately 10 feet (10') to the east.
- The two foot (2') pop-out drive-thru window is not constructed per plans.
- The three foot (3') wide landscaping strip along the east elevation is not installed.
- The loading zone has been relocated to the southeast corner.
- The landscaped island located adjacent to the ADA parking stall is not constructed.
- The 600 square foot proposed coffee kiosk is not constructed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT NO. 8-82,
MODIFICATION NO. 2, GENERAL AND SPECIFIC DEVELOPMENT PLANS, PHASE
ONE, TO ALLOW OCCUPANCY OF THE CONSTRUCTED DRIVE-THROUGH
RESTAURANT LOCATED AT 815 E. PUTNAM AVENUE

WHEREAS: On February 19, 2008, the City Council adopted Resolution 13-2008 containing findings and conditions in support of Conditional Use Permit 8-82, Modification No. 1, General and Specific Development Plans Phase One, to allow the construction of a drive-through restaurant and drive-through coffee kiosk located at the southeast corner of Putnam Avenue and Leggett Street, currently addressed as 815 E. Putnam Avenue; and

WHEREAS: On February 14, 2013, during the final inspection of 815 E. Putnam Avenue, more specifically the constructed drive-through restaurant, staff members observed deviations in the constructed building from the conditions approved by City Council under Conditional Use Permit 8-82, Modification No. 1 (Resolution 13-2008) and approved plans included as Exhibit A to the resolution; and

WHEREAS: The City Council of the City of Porterville at its scheduled meeting of March 5, 2013, conducted a public hearing to review CUP 8-82, Modification No. 2, General and Specific Plans Phase One, to allow occupancy of the constructed drive-through restaurant subject to the conditions of approval; and

WHEREAS: This project is Categorically Exempt pursuant to Section 15332 Class 32 (In-Fill Development) of the California Environmental Quality Act guidelines; and

WHEREAS: The City Council has considered the proposed amendments to the conditional use permit and has found that the specific requirements of the Zoning Ordinance and other requirements of the City have been met, and that the revisions to the site layout and building architecture can support the proposed use; and

WHEREAS: The City Council made the following findings with respect to the subject modifications:

1. That Conditional Use Permit 8-82, Modification No. 2 is consistent with the Zoning Ordinance provided the parking lot striping, mechanical equipment screening and lighting are in compliance with City standards and original conditions of approval.
2. That the design and improvements of the proposed modifications were consistent with the General Plan and Zoning Ordinance at the time of project approval.
3. That the site is physically suitable for the type of development constructed.

The subject site is flat. Conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be and have been required.

4. That the proposed modifications and improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
5. That the proposed modifications or improvements will not cause serious public health problems.

The location of the constructed building and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area.

6. That the standard of population density, site area dimension, site coverage, height of structure, distance between structures, off-site parking facilities, and landscaping areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.
7. That the subject site shall comply with all design standards of the Zoning Ordinance which was in effect at the time of project approval, more specifically Section 2206 (E) and Section 2206 (F)(2) of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 8-82, Modification No. 2 to allow occupancy of the constructed drive-through restaurant subject to the following conditions:

1. The hours of operation are to remain as originally approved pursuant to CUP 8-82, Modification No. 1 as follows:

Sunday through Saturday
5:30 am to 12:00 am (midnight)

2. For safety and security, adequate light will be required during the hours of operation that maintains visibility throughout the lot and designed to minimize glare and spillover onto adjacent parcels. Lighting is to be approved by the Police Chief or Community Development Director. Exterior lighting mounted on existing building shall install deflectors to prevent direct and annoying glare to the residential uses to the east and south of the project location.
3. Prior to issuance of Certificate of Occupancy, all roof mounted, mechanical and electrical equipment shall be screened and maintained from public view.

4. Prior to issuance of Certificate of Occupancy, an accurate complete set of as-built plans (3 copies) shall be submitted to show all revisions and modifications made to the existing building to the Public Work Department.
5. Prior to issuance of Certificate of Occupancy, the developer shall design and improve the parking lot in conformance with Section 2206 (E) and Section 2206 (F)(2) of the Zoning Ordinance.
6. Comply with all local, state and federal laws, rules and regulations.

PASSED, APPROVED AND ADOPTED this _____ day of March, 2013

By: _____
Virginia R. Gurrola, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. 13-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF MODIFICATION NO.1
TO CONDITIONAL USE PERMIT NO. 8-82 / GENERAL AND SPECIFIC
DEVELOPMENT PLANS, PHASE ONE, TO ALLOW CONSTRUCTION OF A DRIVE
THROUGH RESTAURANT AND COFFEE KIOSK LOCATED AT THE SOUTHEAST
CORNER OF PUTNAM AVENUE AND LEGGETT STREET

WHEREAS: The City Council at its regularly scheduled meeting of February 19, 2008, reviewed the modified site plans for a modification to CUP 8-82/ General and Specific Plans Phase One to allow proposed construction of a drive through restaurant and drive through coffee kiosk located at the southeast corner of Putnam Avenue and Leggett Street. The subject site is located in the PD-R1 (Planned Development-One Family Residential Zone); and

WHEREAS: The project consists of two drive through buildings providing restaurant (1,389 square feet) and coffee (600 square feet) services for a total combined square footage of 1,989 square feet of building space. The colors and finish of the proposed buildings will be brown and cream tones compatible to the convenience market on the adjacent parcel to the west. Additionally, landscaping will be installed along the frontage of the property, in front of both buildings, and along the restaurant's menu board; and

WHEREAS: This project is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines – construction of in-fill development. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

WHEREAS: The City Council made the following findings with respect to the subject project:

1. The General Plan designates the subject site as Low Density Residential.

The subject site is zoned PD-R1 (Planned Development – One Family Zone) which is supported by the General Plan. The proposed use is allowed pursuant to approval of Conditional Use Permit Specific and General Plan.

2. That a conceptual plan was submitted for Phase Two at the time Phase One was approved.
3. That the site is physically suited for the type of development proposed. The site is level and vacant.

EXHIBIT A

4. That the design of the project nor the proposed improvements are likely to cause substantial environmental damage. An onsite inspection was conducted by staff. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.
5. That the proposed location of the proposed and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or , materially injurious to properties or improvements in the vicinity.

Conditions of approval are included to ensure adequate development standards are met.

6. That the standards of population density, site area dimensions, site coverage, height of structures, distance between structures, off-street parking facilities, and landscaping areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.
7. The project as proposed complies with all design standards of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Modification #1 to Conditional Use Permit 8-82 subject to the following conditions:

1. Reciprocal ingress/egress agreement is required with the adjacent convenience market to the west. A recorded agreement shall be submitted to the City prior to issuance of building permits for the proposed site.
2. The proposed project will be considered as Modification #1 to CUP 8-22, approved by City Council Resolution 9746 for Phase 1 (Specific Plans).
3. The hours of operation are as follows:

Sunday - Saturday
5:30am to 12:00am

4. For safety and security, adequate lighting will be required during hours of operation that maintains visibility throughout the lot and designed to minimize glare and spillover onto adjacent parcels. Lighting is to be approved by the Police Chief or Community Development Director
5. All mechanical and electrical equipment is to be screened and maintained from public view.

6. Unless otherwise noted, the developer/applicant shall obey the City Master Plans, Standard Specifications for Public Works Construction (2000 Edition), Standard Plans and Specifications (Rev. 8-20-02), the Tulare County Hazardous Waste Management Plan, the Caltrans Traffic Manual, the Porterville Circulation Element, and the Tulare County Congestion Management Program.
7. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.
8. The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.
9. Developer/applicant shall provide a Soils Report in conformance with Chapter 18 of the California Building Code. Expansive soils are known to be in the area of the proposed development. The Soils Report shall include R-Value testing, expansion indexes, etc required for the construction of public improvements.
10. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).
11. The developer/applicant shall remove existing trees at all driveways serving the development for the purpose of provide appropriate visibility for vehicular traffic existing the property.
12. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306).
13. Easements shall be in place that allows for mutual ingress, egress and maintenance of the parking lots shared by the proposed development parcel and the adjacent westerly parcel, if none exists.
14. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 OSA).
15. The developer/applicant shall provide street lights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. A 9500 lumen street light shall be installed at the northeast property corner.

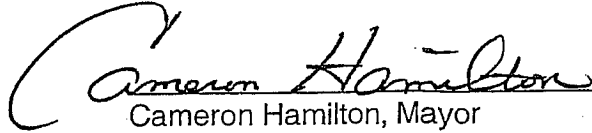
16. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.
17. The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, foundations, septic tanks, irrigation pipes, etc.).
18. The developer/applicant shall abandon existing wells, if any, after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first.
19. The developer/applicant shall comply with Ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:

Wastewater Discharge Permit Application, Part "A"; and

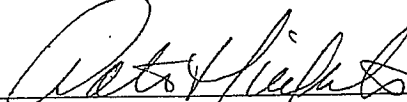
If monitoring is required, based on the responses to questions in Part "A" of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.
20. If hazardous materials are to be stored in jurisdictional quantities anywhere on the property, the developer/applicant shall develop and maintain a Hazardous Materials Business Plan Program, follow Chapter 6.95 of the Health and Safety Code, and shall tell the Hazardous Materials Unit of the Tulare County Division of Environmental Health. The developer/ applicant shall provide proof of compliance with County requirements before issuance of a certificate of occupancy.
21. The developer/applicant shall install a refuse container enclosure according to City standards. **The enclosure location to be approved by City prior to issuance of building permit.** The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.
22. The developer/applicant shall comply with the Flood Damage Prevention Ordinance. The property is within a Flood Hazard Zone AO (1 foot depth). A Licensed Civil Engineer or Land Surveyor shall confirm that the finished floor will be constructed at or above the Base Flood Elevation in letter form or by providing a Preliminary Elevation Certificate. The same professional shall confirm that the finish floor is at or above the Base Flood Elevation by submitting an Elevation Certificate to the City Engineer for approval prior to the issuance of a certificate of occupancy. Preliminary Elevation Certificates and Elevation Certificates are available within the Engineering Division upon request.
23. The developer/applicant shall comply with City standard for "backflow" prevention pursuant to Resolution No. 9615.

24. The developer/applicant is hereby notified that the installation of an additional water meter, servicing the irrigation system would be beneficial for monitoring actual water usage. The City will monitor actual water usage for one year and will bill the owner the impact fees based on the actual water usage.
25. A back-flow device is required on the water meter.
26. A grease trap or grease interceptor is required.
27. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.
28. Compliance with access laws (both State and Federal) is required.
29. Compliance with all applicable codes is required.
30. Plan check fees are required at the time of building permit submittal.
31. Soil report required.
32. School Development fees and all other City fees are due at the time of building permit issuance.
33. Prior to issuance of the building permit need approval from the Tulare County Health Department.
34. Restrooms and main entrance must comply with ADA access laws.
35. All construction offices, storage containers, etc. for temporary use must receive City Council approval.
36. Grease interceptor required.
37. Signs require separate permit.
38. At all times, the facilities shall be constructed, operated and maintained to comply with State law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.
39. That the subject site will be developed in accordance with the site plan and elevation plans labeled Exhibit "A."
40. The conditional use permit shall become null and void if not under taken and actively and continuously pursued within one (1) year.

41. The applicant shall submit clearance from the Regional Water Quality Control Board, to the satisfaction of the City Engineer, regarding groundwater and/or soils contamination prior to issuance of building permits for the proposed site.


Cameron Hamilton, Mayor

Attest:
John Longley, City Clerk

By 
Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
 CITY OF PORTERVILLE) SS
 COUNTY OF TULARE)

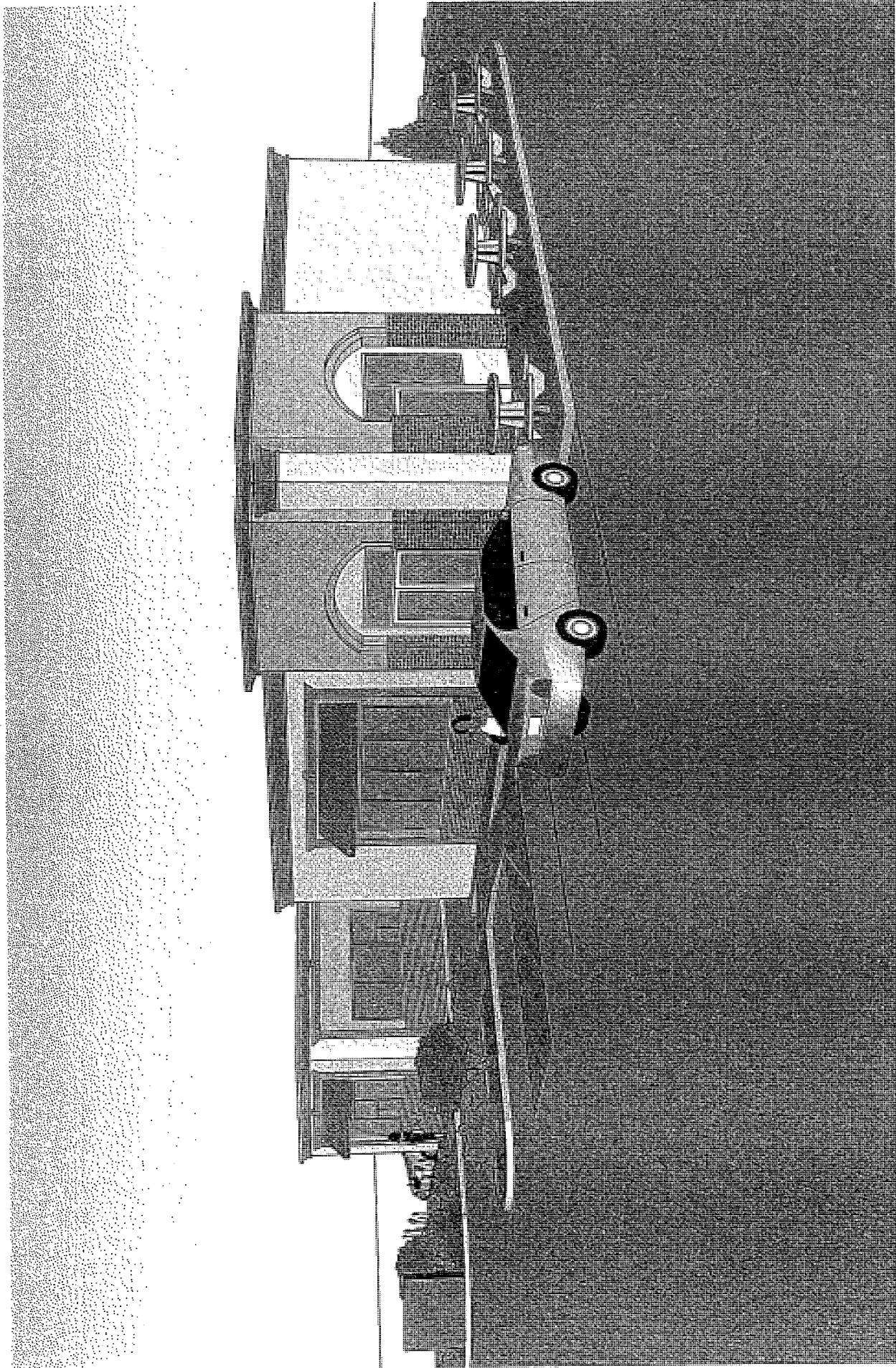
I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 19th day of February, 2008.

THAT said resolution was duly passed adopted by the following vote:

Council:	McCRACKEN	P. MARTINEZ	F. MARTINEZ	HERNANDEZ	HAMILTON
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					

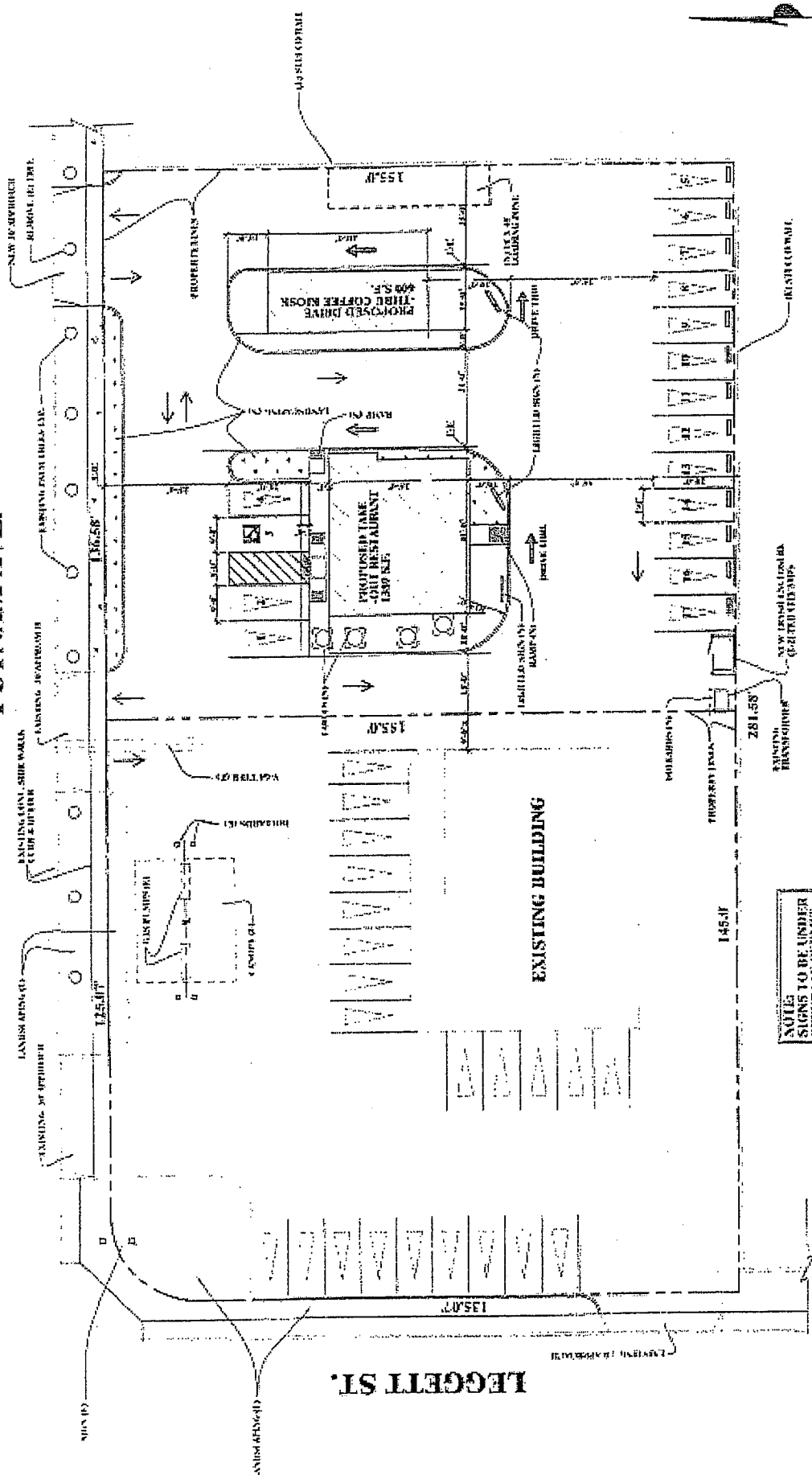
JOHN LONGLEY, CITY CLERK

By Luisa Herrera
 Luisa Herrera, Deputy City Clerk



EXHIBIT 

PUTNAM AVE.



SITE PLAN

APN 244-094-01
IN THE CITY OF FORTYVILLE
COUNTY OF TULARE STATE OF CALIFORNIA

SCALE: 1" = 20'

EXHIBIT A

NORTH



LEGGETT ST.

NOTES TO BE UNDER SEPARATE PERMIT

DATE	11-24-67
SCALE	AS SHOWN
BY	MM
CHECKED	MM
DATE	11-24-67
SCALE	AS SHOWN
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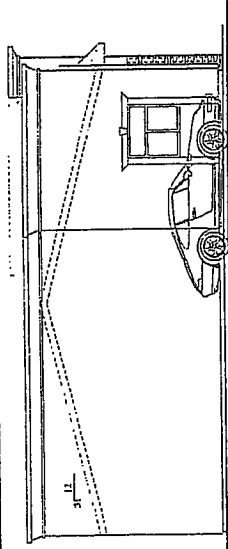
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MARY MCCLURE
 PORTER AVENUE & LEGGETT ST.
 PORTERVILLE, CA 93257
 PHONE: (559) 781-1535

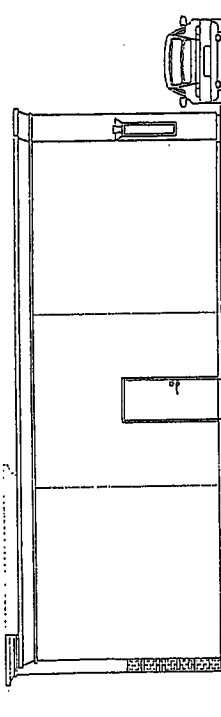
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 DATE 11-24-67
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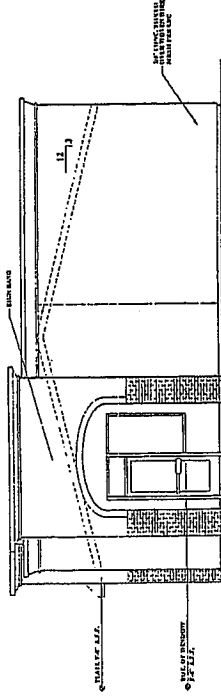
WEST ELEVATION - RESTAURANT

SCALE 1/4" = 1'-0"



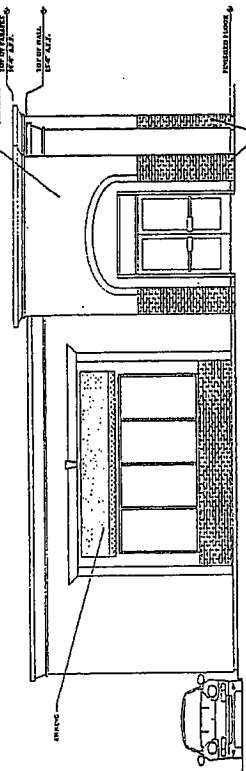
SOUTH ELEVATION - RESTAURANT

SCALE 1/4" = 1'-0"



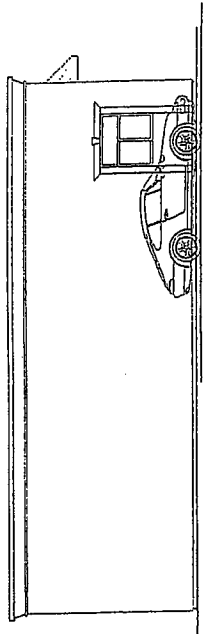
EAST ELEVATION - RESTAURANT

SCALE 1/4" = 1'-0"



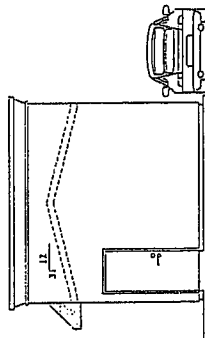
NORTH ELEVATION - RESTAURANT

SCALE 1/4" = 1'-0"



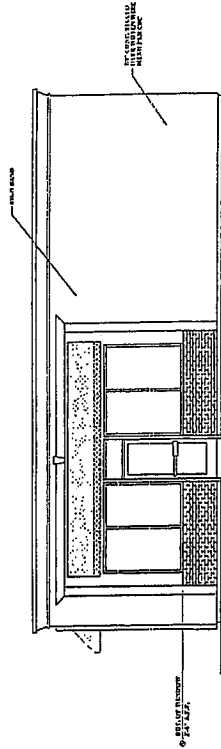
WEST ELEVATION - KIOSK

SCALE 1/4" = 1'-0"



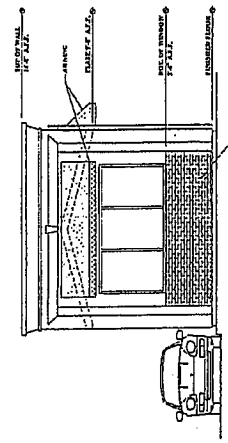
SOUTH ELEVATION - KIOSK

SCALE 1/4" = 1'-0"



EAST ELEVATION - KIOSK

SCALE 1/4" = 1'-0"



NORTH ELEVATION - KIOSK

SCALE 1/4" = 1'-0"

EXHIBIT A

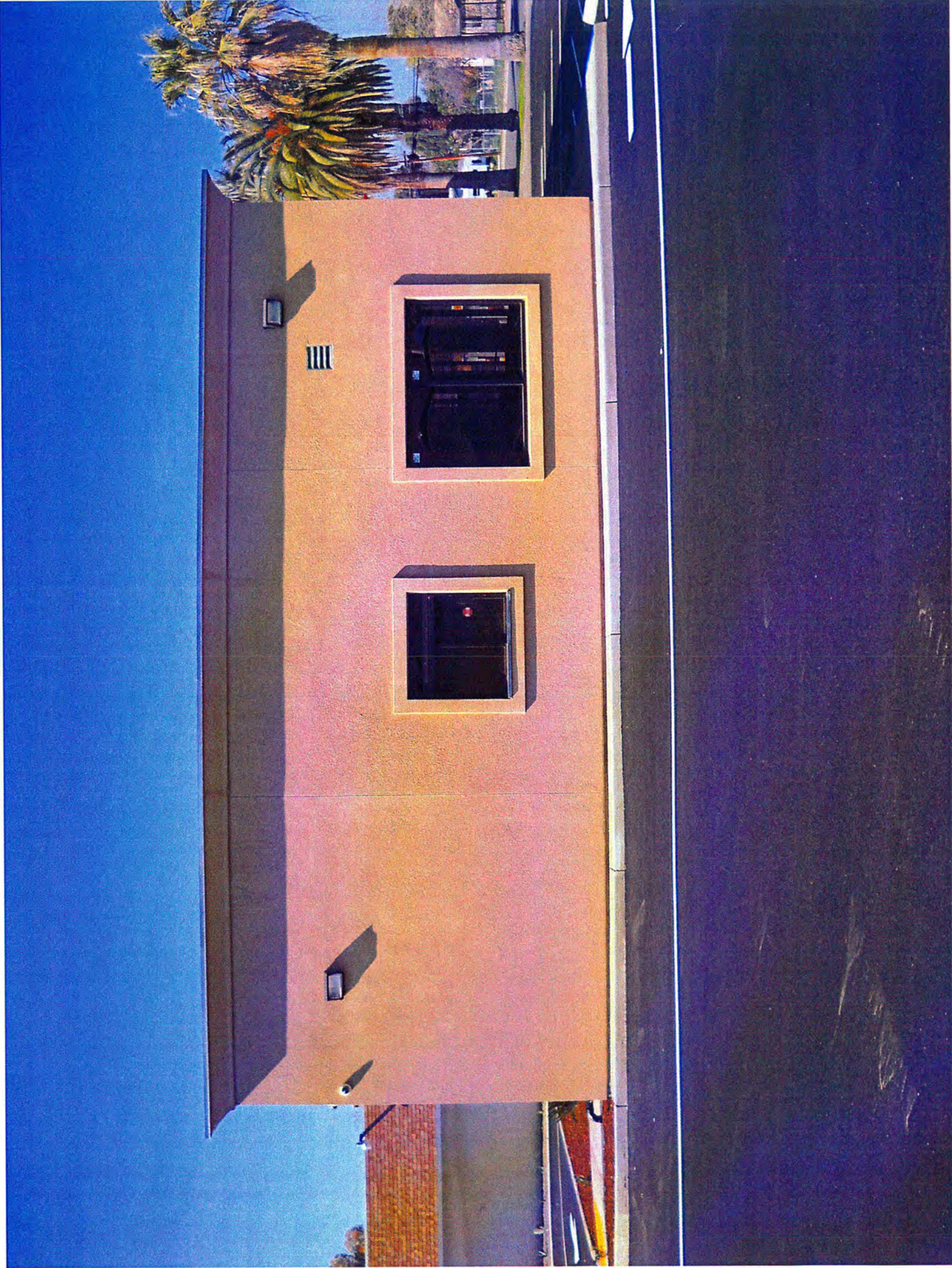
North Elevation



North Elevation

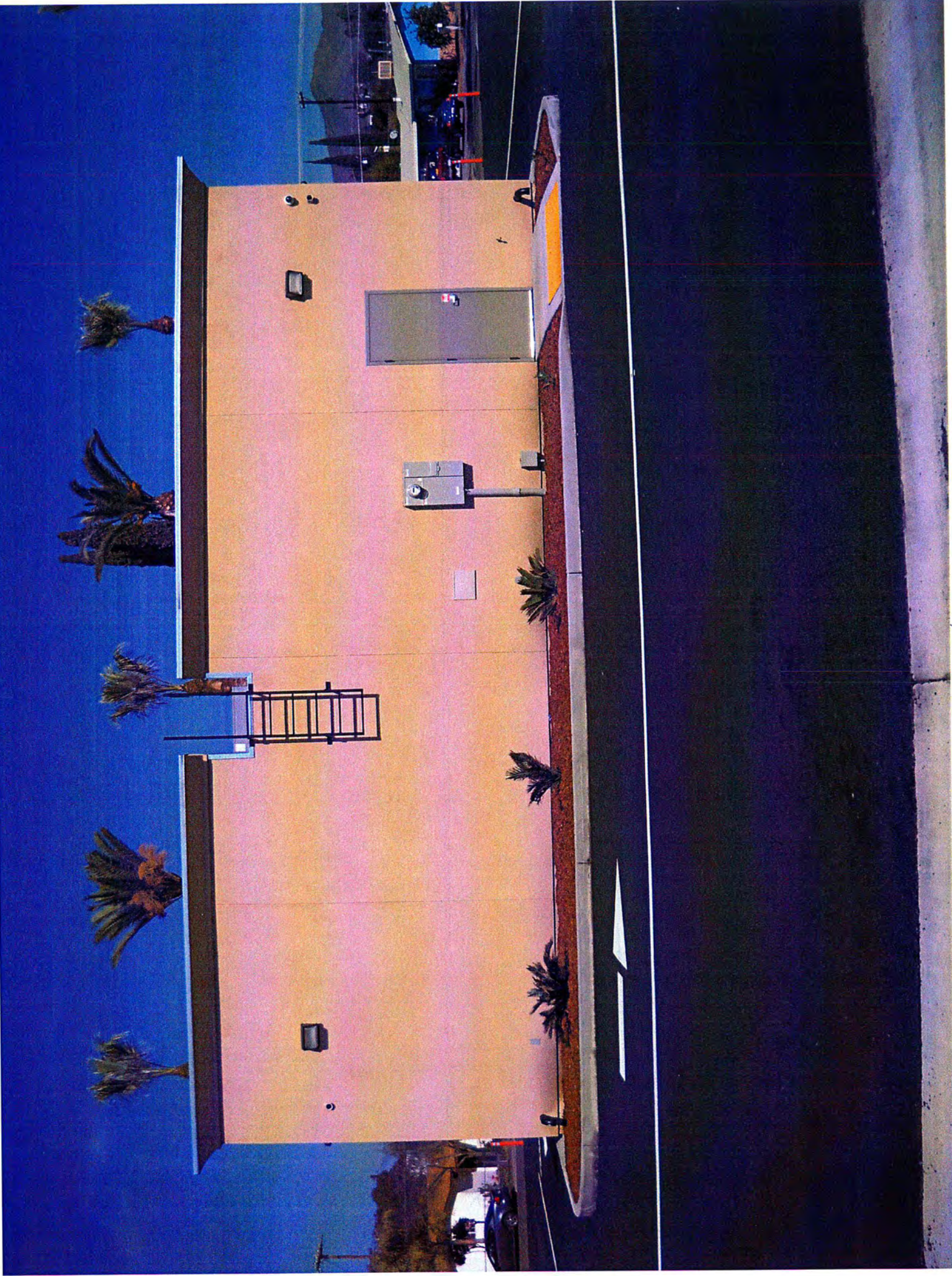
**ATTACHMENT
ITEM NO. 6**

East elevation



East Elevation

South Elevation



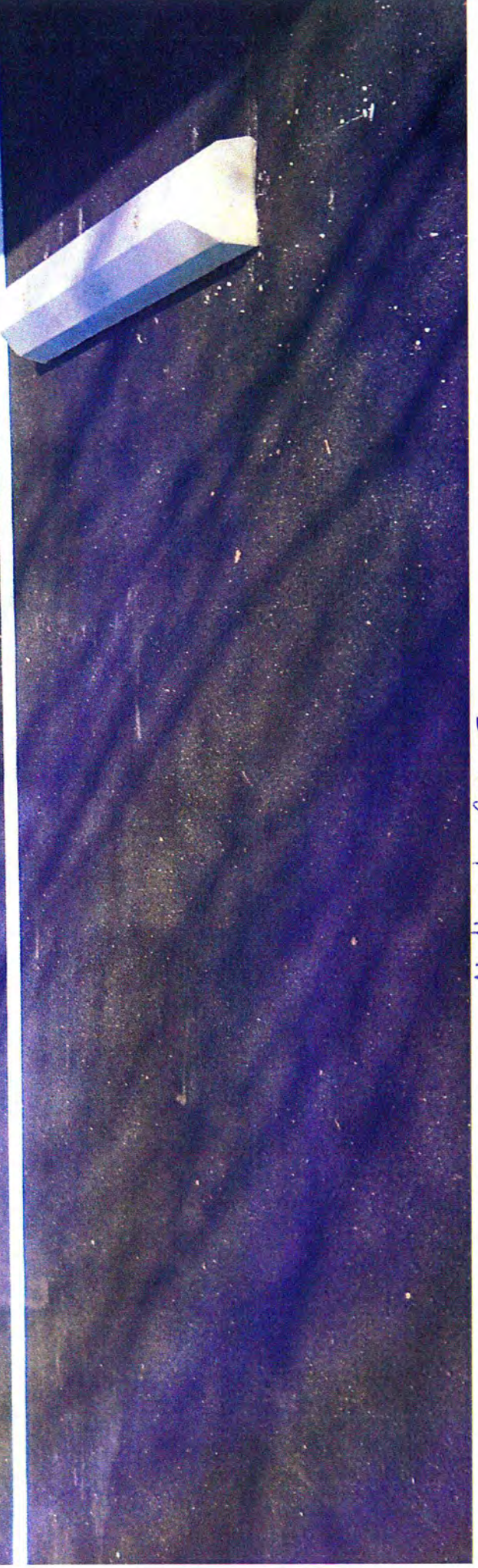
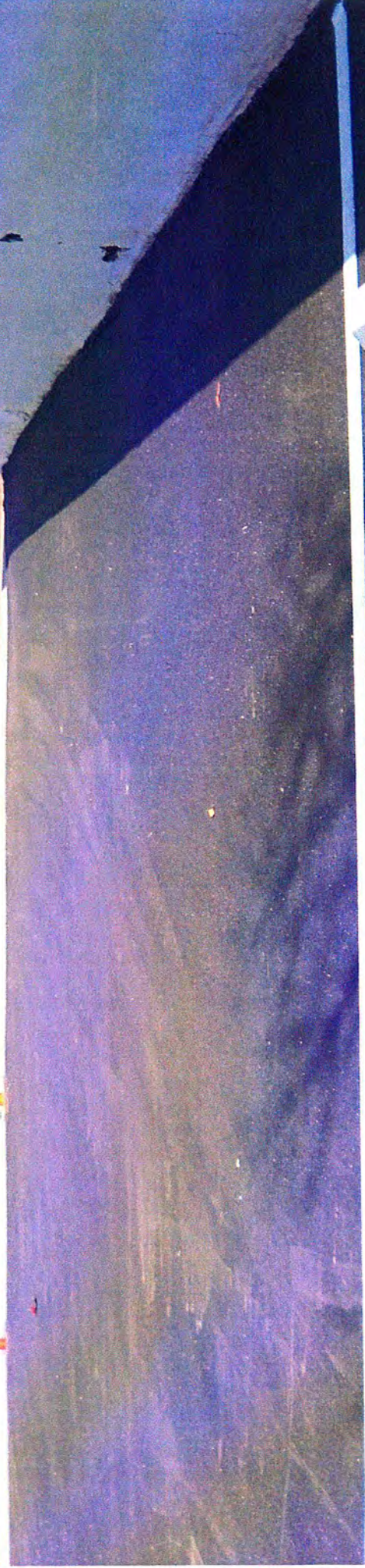
South Elevation

Parking lot facing south



Parking Lot facing South

N/E corner



North-east corner

East parking lot



East Parking Lot

Loading Zone



Loading Zone

South



South

Rear parking lot



Rear Parking Lot

Frontage



frontage

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT NO. 8-82,
MODIFICATION NO. 2, GENERAL AND SPECIFIC DEVELOPMENT PLANS, PHASE
ONE, TO ALLOW OCCUPANCY OF THE CONSTRUCTED DRIVE-THROUGH
RESTAURANT LOCATED AT 815 E. PUTNAM AVENUE

WHEREAS: On February 19, 2008, the City Council adopted Resolution 13-2008 containing findings and conditions in support of Conditional Use Permit 8-82, Modification No. 1, General and Specific Development Plans Phase One, to allow the construction of a drive-through restaurant and drive-through coffee kiosk located at the southeast corner of Putnam Avenue and Leggett Street, currently addressed as 815 E. Putnam Avenue; and

WHEREAS: On February 14, 2013, during the final inspection of 815 E. Putnam Avenue, more specifically the constructed drive-through restaurant, staff members observed deviations in the constructed building from the conditions approved by City Council under Conditional Use Permit 8-82, Modification No. 1 (Resolution 13-2008) and approved plans included as Exhibit A to the resolution; and

WHEREAS: The City Council of the City of Porterville at its scheduled meeting of March 5, 2013, conducted a public hearing to review CUP 8-82, Modification No. 2, General and Specific Plans Phase One, to allow occupancy of the constructed drive-through restaurant subject to the conditions of approval; and

WHEREAS: This project is Categorically Exempt pursuant to Section 15332 Class 32 (In-Fill Development) of the California Environmental Quality Act guidelines; and

WHEREAS: The City Council has considered the proposed amendments to the conditional use permit and has found that the specific requirements of the Zoning Ordinance and other requirements of the City have been met, and that the revisions to the site layout and building architecture can support the proposed use; and

WHEREAS: The City Council made the following findings with respect to the subject modifications:

1. That Conditional Use Permit 8-82, Modification No. 2 is consistent with the Zoning Ordinance provided the parking lot striping, mechanical equipment screening and lighting are in compliance with City standards and original conditions of approval.
2. That the design and improvements of the proposed modifications were consistent with the General Plan and Zoning Ordinance at the time of project approval.
3. That the site is physically suitable for the type of development constructed.

ATTACHMENT
ITEM NO. 7

The subject site is flat. Conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be and have been required.

4. That the proposed modifications and improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
5. That the proposed modifications or improvements will not cause serious public health problems.

The location of the constructed building and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area.

6. That the standard of population density, site area dimension, site coverage, height of structure, distance between structures, off-site parking facilities, and landscaping areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.
7. That the subject site shall comply with all design standards of the Zoning Ordinance which was in effect at the time of project approval, more specifically Section 2206 (E) and Section 2206 (F)(2) of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 8-82, Modification No. 2 to allow occupancy of the constructed drive-through restaurant subject to the following conditions:

1. The hours of operation are to remain as originally approved pursuant to CUP 8-82, Modification No. 1 as follows:

Sunday through Saturday
5:30 am to 12:00 am (midnight)

2. For safety and security, adequate light will be required during the hours of operation that maintains visibility throughout the lot and designed to minimize glare and spillover onto adjacent parcels. Lighting is to be approved by the Police Chief or Community Development Director. Exterior lighting mounted on existing building shall install deflectors to prevent direct and annoying glare to the residential uses to the east and south of the project location.
3. Prior to issuance of Certificate of Occupancy, all roof mounted, mechanical and electrical equipment shall be screened and maintained from public view.

4. Prior to issuance of Certificate of Occupancy, an accurate complete set of as-built plans (3 copies) shall be submitted to show all revisions and modifications made to the existing building to the Public Work Department.
5. Prior to issuance of Certificate of Occupancy, the developer shall design and improve the parking lot in conformance with Section 2206 (E) and Section 2206 (F)(2) of the Zoning Ordinance.
6. Comply with all local, state and federal laws, rules and regulations.

PASSED, APPROVED AND ADOPTED this _____ day of March, 2013

By: _____
Virginia R. Gurrola, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk