



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: February 6, 2019

PLANNER: Veronica Morones, Assistant Planner

SUBJECT: Conditional Use Permit 18-574, Terra Brazil Convenience Store, a request to establish a convenience store in an existing multi-tenant building. The proposed use is located in the Neighborhood Commercial 2 Zone and Architectural, Affordable Housing, and Coastal Zone Overlays, at 709 North El Camino Real.

REQUIRED FINDINGS

The following findings shall be made to approve the proposed project. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

A Conditional Use Permit is required to allow a convenience store per Zoning Ordinance Section 17.36.020.

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of the Zoning Ordinance, Rancho San Clemente Specific Plan, San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed.
- b. The site is suitable for the type and intensity of use that is proposed.
- c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
- d. The proposed use will not negatively impact surrounding land uses.

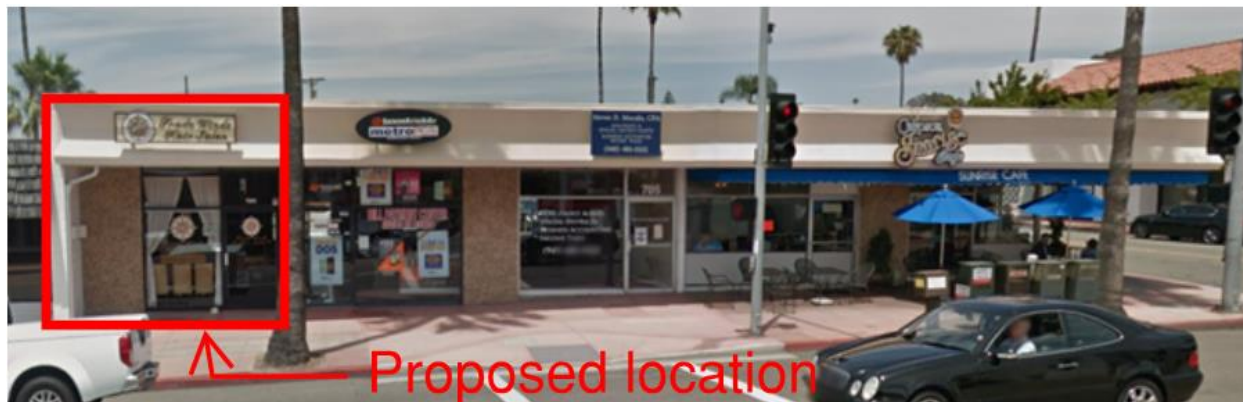
BACKGROUND

The project site is comprised of two lots (lots 5 and 6), with a recorded lot tie holding the lots together as one. The project site is approximately 9,147 square-feet in area and is located within the Neighborhood Commercial 2 Zone. The General Plan designation is Neighborhood Commercial 2. The site is surrounded by commercial buildings to the north, south, and west, and a parking lot to the east. Figure 1 depicts the current frontage of the site and tenant space for the proposed convenience store.

The site was developed in 1959 as a four-unit commercial building, and is addressed as 701, 705, 707, and 709 North El Camino Real. The current tenants in the building are a retail store (707), barbershop (705), and restaurant (701). There are seven parking spaces on the building site, and 12 parking spaces located on the lot (lot 4) directly to

east of the project site. All three lots are tied by a recorded lot tie agreement for parking purposes, and under the same property ownership.

Figure 1 – Existing Site Conditions



Development Management Team Meeting

The City's Development Management Team (DMT) reviewed the project and recommends approval with conditions shown on Attachment 1, Exhibit A.

Noticing

Public notices were distributed and posted per City and State requirements. Staff has not received public comments on this item to date.

PROJECT DESCRIPTION

The applicant requests to change the use of a 638 square-foot tenant space from a hair salon to convenience store. The applicant does not propose to sell alcoholic beverages or display products outdoors as a part of the convenience store operations. The convenience store intends to specialize in Brazilian products, predominantly selling packaged foods, frozen foods, apparel, and specialty Brazilian items. Convenience store hours of operations are proposed from 10:00 AM to 7:00 PM, Monday through Sunday. No exterior changes are proposed to the exterior of the building.

PROJECT ANALYSIS

A Conditional Use Permit (CUP) is required to allow a convenience store in the commercial zone per Table 17.36.020 of the Zoning Ordinance. The purpose and intent of a CUP is to ensure a proposed use is compatible with surrounding properties and uses. Staff supports the CUP based on the analysis below:

Conditional Use Permit

According to Section 17.88.030 of the Zoning Ordinance, a convenience store is defined as “any retail establishment between 100 and 2,500 gross square feet where the primary activity is the display, storage, and/or sale of convenience items, including, but not limited to, prepackaged foods products, beverages, household goods, automotive-related items, or other items which the decision-making body determines are similar in nature.” The prepackaged food sales are expected to comprise 70% of the sales floor area. The applicant proposes to sell beach apparel and specialty Brazilian products, such as sports paraphernalia and musical instruments, in the remaining 30% of sales floor area. Should the applicant propose an outdoor display and/or sale of alcoholic beverages in the future, an amendment to the Conditional Use Permit would be required pursuant to Section 17.12.180 of the Zoning Ordinance.

Parking

Zoning Ordinance Section 17.28.120 stipulates special use requirements for convenience stores, including minimum standards for parking. Per Section 17.28.120.D.2.a of the Zoning Ordinance, convenience store parking is required at a rate of one parking space per 200 square feet of gross floor area. The previous use was a hair salon, which required the same parking standard. Therefore, the proposed use would not change the parking requirements, and the project complies with parking standards.

Required CUP Findings

Based on the above analysis, staff is able to meet the required findings to support the CUP for the following reasons:

- A. The proposed use is in an area intended for retail uses, such as a convenience store. Convenience store uses similar to Terra Brazil have obtained Conditional Use Permits in the Neighborhood Commercial 2 that have proven to be compatible with the mix of commercial uses.
- B. The project site is a commercial building that houses different commercial uses, compatible with the proposed convenience store use.
- C. Business operations will occur wholly indoors, as the proposed use does not request an outdoor display, thereby reducing possible impacts to the aesthetics of the site and encroachment into the public right-of-way. No exterior modifications to the building are proposed.
- D. The site complies with the Zoning Ordinance’s parking standards, and does not intensify the amount of required parking for the site. The business operations will occur wholly indoors, reducing possible concerns related to aesthetics and

encroachment into the right-of-way. Additionally, alcohol sales are not proposed with this request, and there are no exterior modifications to the building proposed.

GENERAL PLAN CONSISTENCY

Table 2 summarizes how the proposed use is consistent with General Plan policies.

Table 2 - General Plan Consistency

Policies and Objectives	Consistency Finding
<p><i>Land Use Plan Primary Goal #8: "Provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use."</i></p>	<p>Consistent. The project is located where commercial retail uses are permitted which ensure the neighborhood character is maintained and that the use is compatible with the intent of the zone. The conditionally permitted use ensures compatibility by implementing conditions of approval to regulate the use.</p>

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA)

The Planning Division completed an initial environmental assessment of the project per the California Environmental Quality Act (CEQA). Staff recommends the Planning Commission determine the project is Categorically Exempt from of the CEQA pursuant to CEQA Guidelines Section 15303 (Class 3: New Construction or Conversion of Small Structures) because the proposed project involves the conversion of an existing structure from one use to another.

CALIFORNIA COASTAL COMMISSION REVIEW

The project is located within the Coastal Zone and is excluded from Coastal Commission review, per Exclusion Order E-82-1.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve the proposed project.

This is the recommended action. This action would result in the adoption of the attached Resolution PC 19-003, approving the project per required findings and conditions of approval. The Commission can take this action if they determine the request meets all required findings shown in Attachment 1.

2. The Planning Commission, at its discretion, may change the project's design or conditions of approval.

This action would result in any modifications to the project or conditions of approval. For example, conditions could be modified to require changes to hours of operations to ensure the project's consistency with required findings.

3. The Planning Commission can deny the proposed project.

This action would result in not allowing the project, requiring this item to be continued so staff can draft a new resolution. The Commission should cite reasons for not being able to meet required findings.

These actions may be appealed by the applicant to the City Council or be called up by the Council for review and action.

RECOMMENDATION

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Planning Commission:

1. Determine the project is Categorically Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15303 (Class 3: New Construction or Conversion of Small Structures), and;
2. Adopt Resolution PC 19-003, approving Conditional Use Permit 18-574, Terra Brazil Convenience Store, subject to the attached Resolution and conditions of approval.

Attachments:

1. Resolution No. PC 19-003
Exhibit A - Conditions of Approval
2. Location Map
3. Photos
4. Plans

RESOLUTION NO. PC 19-003

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP) 18-574, TERRA BRAZIL CONVENIENCE STORE, A REQUEST TO OPERATE A CONVENIENCE STORE, IN AN EXISTING COMMERCIAL BUILDING, LOCATED AT 709 NORTH EL CAMINO REAL

WHEREAS, on September 13, 2018, an application was submitted, and completed on December 21, 2018, by Antonio Demoraes, 30021 Monteras Street, Laguna Niguel, CA, 92677, for Conditional Use Permit (CUP) 18-574; a request to operate a convenience store, in an existing commercial building located at 709 North El Camino Real. The subject property is located in the Neighborhood Commercial 2 Zone and Architectural, Affordable Housing, and Coastal Zone Overlays. The legal lot description is Lots 5 and 6, Block 4, Tract 793, and Assessor's Parcel Number is 057-156-33; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine the project is Categorical Exempt from CEQA pursuant to State CEQA Guidelines Section 15303 (Class 3: New Construction or Conversion of Small Structures). This is recommended as the project involves the conversion of an existing structure from one use to another.

WHEREAS, on September 20, 2018 and November 8 2018, the City's Development Management Team (DMT) reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on February 6, 2019, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Planning Commission, and the facts outlined below, the Planning Commission hereby finds and determines that the proposed project

is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15303 (Class 3: New Construction or Conversion of Small Structures).

The Class 3 exemption specifically exempts from further CEQA review the conversion of existing small structures from one use to another. The proposed use is a change in use from a hair salon to a retail convenience store, with no proposed exterior modifications to the structure.

Furthermore, none of the exceptions to the use of the Class 3 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project is not located in a particularly sensitive environment, and will not impact an environmental resource of hazardous or critical concern, as the surrounding properties are developed with similar uses and structures. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time, as the Conditional Use Permit process allows for staff to review convenience store uses through a discretionary process and impose conditions to ensure code compliance and use compatibility. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment, as the surrounding uses are developed with similar uses and structures. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources, as the proposed change is in use, with no modifications to expand or alter the building footprint. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. Thus, the Class 3 exemption applies, and no further environmental review is required.

Section 3. Conditional Use Permit 18-574, Terra Brazil Convenience Store Findings.

With respect to Conditional Use Permit 18-574 (“CUP 18-574”), the Planning Commission finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of the Zoning Ordinance, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed, in that:
 1. The proposed use is in an area intended for retail uses, such as a convenience store. Convenience store uses similar to Terra Brazil have obtained Conditional Use Permits in the Neighborhood Commercial 2 that have proven to be compatible with the mix of commercial uses. Therefore, the proposed use is consistent with Primary Goal Number 8 of the General Plan Land Use Element that states the intent, *“Provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use.”*
- B. The site is suitable for the type and intensity of development that is proposed, in that:

- 1. The project site is a commercial building that houses different commercial uses, compatible with the convenience store uses, including other retail uses.
- C. The proposed use will not be detrimental to the public health, safety, or welfare, or be materially injurious to the properties and improvements in the vicinity, in that:
 - 1. Business operations will occur wholly indoors, as the proposed use does not request an outdoor display, thereby reducing possible impacts to the aesthetics of the site and encroachment into the public right-of-way.
- D. The proposed use will not negatively impact surrounding land uses, in that:
 - 1. The site complies with the Zoning Ordinance’s parking standards, and does not intensify the amount of required parking for the site.
 - 2. Business operations will occur wholly indoors, as the proposed use does not request an outdoor display, thereby reducing possible impacts to the aesthetics of the site and encroachment into the public right-of-way.
 - 3. No alcohol sales are a part of this request, and there are no exterior modifications to the building proposed

Section 4. Planning Commission Approval.

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Planning Commission approves Conditional Use Permit 18-574, Terra Brazil Convenience Store, subject to the above Findings, and the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on February 6, 2019.

_____ Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on February 6, 2019, carried by the following roll call vote:

- AYES: COMMISSIONERS:
- NOES: COMMISSIONERS:
- ABSTAIN: COMMISSIONERS:
- ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

CONDITIONS OF APPROVAL
 CONDITIONAL USE PERMIT 18-574
 TERRA BRAZIL CONVENIENCE STORE

1.0 GENERAL CONDITIONS OF APPROVAL

- | | | |
|-----|---|----------------|
| 1.1 | Within 30 days of approval of this application, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City. Failure to submit this acknowledgement may be grounds to revoke this approval. | Planning |
| 1.2 | The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. | Planning |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. | All |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. | Code
Comp |
| 1.6 | A separate building permit is required. Plans shall be submitted for plan check review and approval, and shall meet requirements of the City of San Clemente Municipal Code for building, plumbing, mechanical and electrical work, including accessibility requirements of Section 11B-202.4 of CBC. | Building
■■ |

1.7 Any proposed change to the Conditional Use Permit, such as request for alcohol sales, outdoor display, or any other request to the convenience store use shall require an amendment to this CUP pursuant to Section 17.12.180 of the Zoning Ordinance. Planning ■■

1.8 The Applicant (including any property owners and managers, and their designees) understands and agrees that no window, banner, or temporary signage is part of this review, nor is any such signage approved or permitted by this permit. Window, banner, and temporary signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. Applicant understands and agrees that as a condition of approval of this permit that Applicant is aware of the City's window, banner, and temporary sign regulations and that compliance with those regulations is a term of the subject permit's approval by the City. As such, any violation of the City's regulations related to window, banner, or temporary signs shall constitute a violation of SCMC Section 8.52.030(Y), as discussed in accompanying conditions of approval. Code Comp ■■

4.0 PRIOR TO ISSUANCE OF BUILDING PERMITS

4.1 The working drawings shall include within the first four pages a list of all conditions of approval included in this resolution. Planning

All Conditions of Approval are standard, unless indicated as follows:

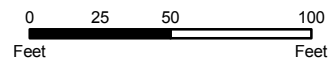
- Denotes a modified standard Condition of Approval.
- Denotes a project specific Condition of Approval



City of San Clemente

Project: CUP 18-574

Address: 709 N. El Camino Real



Photographs and Photographic Location Map





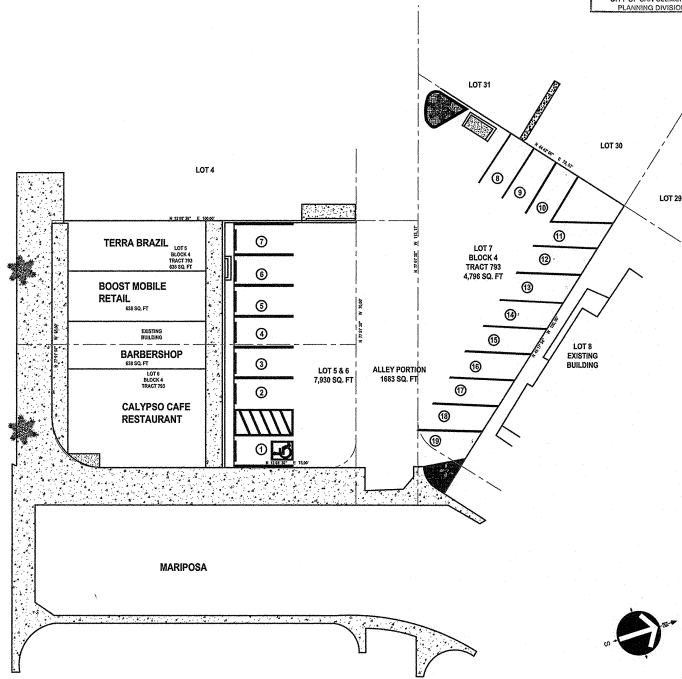


RECEIVED
 DEC 13 2018
 CITY OF SAN CLEMENTE
 PLANNING DIVISION



EL CAMINO REAL

MARIPOSA



1 SITE PLAN
 1/16" = 1'-0"

PREPARED BY: **BOWDEN ASSOCIATES**
 CONSULTING GROUP
 1000 S. GARDEN AVENUE, SUITE 200
 SAN CLEMENTE, CA 92673
 TEL: 949.441.8888 FAX: 949.441.8889
 WWW.BOWDENASSOCIATES.COM

PROJECT: Terra Brazil Improvement Project
 PREPARED FOR: **TERRA BRAZIL**
 700 S. GARDEN AVENUE
 SAN CLEMENTE, CA 92673

DATE: 2018-09-05
 SCALE: AS SHOWN
QF101

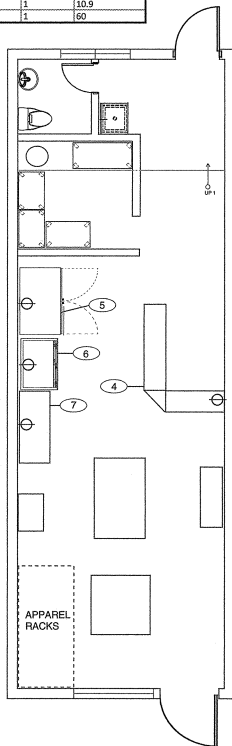
APPROVED FOR SUBMIT: _____
 DATE: _____
 SHEET NO: _____
 TOTAL SHEETS: _____

REVISIONS
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ELECTRICAL SCHEDULE	Item No.	Qty.	Notes	CONNECTION	AFF (in)	VOLTS	CYCLE	PHASE	AMPS
Mop Sink with Mop Rack	1	1	By Plumbing						
Water Heater	2	1	Existing						
Shelving Units	3	4							
Front Counter with POS	4	1	POS By Owner - Verify	SR	TBD	115-208/230	60	1	TBD
2 Door Freezer	5	1		SR	TBD	115-208/230	60	1	11.2
2 Door Refrigerator	6	1		SR	TBD	115-208/230	60	1	10.9
Ice Cream Freezer	7	1		SR	TBD	120	60	1	60

ELECTRICAL ABBREVIATIONS AND SYMBOLS

SWITCH	SW	Ⓢ
ELECTRICAL CONNECTION	EC	Ⓢ
JUNCTION BOX	JB	Ⓢ
SINGLE RECEPTACLE	SR	Ⓢ
DUPLEX RECEPTACLE	DR	Ⓢ
DATA COMMUNICATIONS	DC	Ⓢ
EMPTY JUNCTION BOX		Ⓢ
AMP	A	
KILOWATT	KW	
HORSEPOWER	HP	
VOLT	V	
PHASE	∅	
ABOVE FINISHED FLOOR	AFF	
DOWN FROM ABOVE	DFA	



NOTE: THIS DRAWING IS FOR INFORMATION ONLY.

GENERAL CONTRACTOR SHALL COORDINATE WITH THE KITCHEN EQUIPMENT SUB-CONTRACTOR AND RELATED MECHANICAL, ELECTRICAL AND PLUMBING SUB-CONTRACTORS TO ESTABLISH FINAL SPOT CONNECTIONS LOCATIONS AND CONFIGURATIONS AS REQUIRED. THIS DRAWING SHALL NOT BE USED TO LOCATE ANY UTILITY CONNECTIONS IN THE FIELD OR TO LOCATE ANY ROUGH-IN, PENETRATION, OR OTHER REQUIREMENTS.

First Submittal

REVISIONS

BOWDEN ASSOCIATES
CONSULTING GROUP

1055 West 7th Street
33rd Floor Penthouse
Los Angeles, CA 90017
323-955-7673
www.bowdenaag.com

BAG
BCG

Project: Tenant Improvement Retail Store

TERRA BRAZIL
709 NORTH EL CAMINO REAL
SAN CLEMENTE, CA 92672

Job Number:
2018-0106

Sheet Name:
FOODSERVICE
ELECTRICAL
CONNECTION PLAN

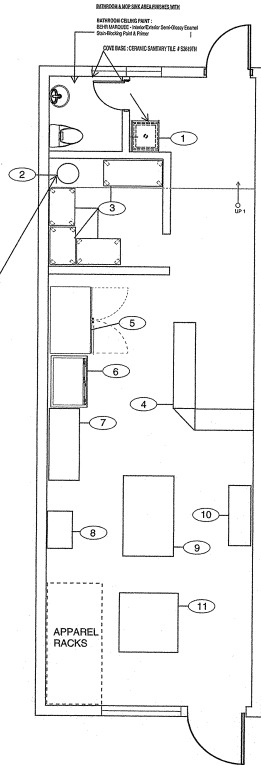
Sheet Number:

DE 102

EQUIPMENT SCHEDULE	Item No.	Qty	Manufacturer	Model	Notes
Shop Sink with Map Rack	1	1	Admission Tapco	E-COP-30	By Plumbing
Water Monitor	1	1	Admission Water Monitor	WGM-30FAS-30W	By Plumbing
Chopping Table	1	1	Slime		
Front Counter with FDS	1	1			
2 Door Freezer	1	1	TELE	SCM-40F-1D	
2 Door Refrigerator	1	1	Turbo Air	TGMR-355	
Ice Cream Freezer	7	1	HS-5	TSZ	
Cabinet Dishes	8	1			Furnished by Owner
Handwashing Station (Shelving)	9	1			Millwork by Owner
Handwashing Station (Shelving)	10	1			Millwork by Owner
Handwashing Station (Shelving)	11	1			Millwork by Owner
Item Number					
Item Number					

EXISTING WATER HEATER DATA

MODEL NUMBER	GAL. CAP.	INPUT BTU PER HR.		GWH RECOVERY HP SIZE		WEIGHT LBS.	E.K.	JACKET DIAM. IN.	HEIGHT		APPROX. SHIP WEIGHT
		NET	MAX.	NET	MAX.				TOP OF VENT	TOP OF HEATER	
UGA-20FD-30W	30	33,000	41,000	3/4-1	0.61	16	16-20	55-58	43-1/2	115	
UGA-30FD-30W	40	44,000	52,000	1-0	0.80	18	21-1/2	60-63	55-1/2	137	
UGA-40FD-30W	50	48,000	47,000	3/4-1	0.58	20	20-1/2	51-53	45-1/2	151	
UGA-60FD-30W	60	48,000	41,000	3/4-1	0.62	20	21-1/2	58-60	50-1/4	138	
UGA-80FD-30W	80	48,000	41,000	3/4-1	0.66	22	20-1/2	62-64	49-1/2	160	



First Submittal

REVISIONS

HEALTH DEPARTMENT REVISION

JULY 28 2018

DEC 09, 2018

BOWDEN ASSOCIATES
CONSULTING GROUP

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Los Angeles, CA 90017
323-925-7673
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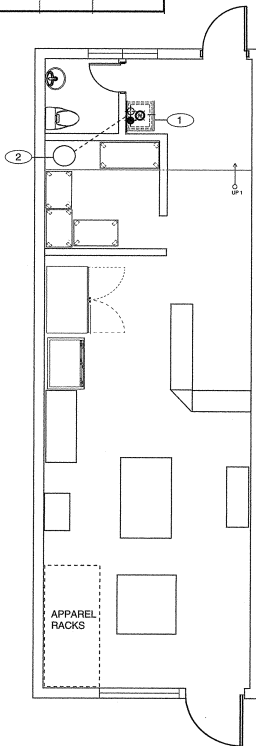
Sheet Name:
FOODSERVICE
EQUIPMENT PLAN AND
SCHEDULE

Sheet Number:

PLUMBING SCHEDULE	Item No.	Qty.	Notes	CW (IN)	CW AFF (IN)	HW (IN)	HW AFF (IN)	DW (IN)	DW AFF (IN)
Mop Sink with Mop Rack	1	1	By Plumbing	1/2"	36"	1/2"	36"	2"	BELOW FLOOR
Water Heater	2	1	Existing Connect to Mop Sink Item #2						

MECHANICAL ABBREVIATIONS AND SYMBOLS

GAS	C	●
BRITISH THERMAL UNIT (000'S)	MBTU	●
HOT WATER	HW	◆
COLD WATER	CW	◆
INTERCONNECTED WATER LINE	IWL	◆
COOLING WATER	CTW	◆
COOLING WATER RETURN	CTWR	◆
WASTE	W	⊗
INDIRECT WASTE	IW	⊗
FLOOR DRAIN	FD	⊗
FUNNEL FLOOR DRAIN	FFD	⊗
FLOOR SINK	FS	⊗
STEAM SUPPLY	SS	◆
CONDENSATE RETURN	CR	◆
GREASE TRAP	GT	◆
EXHAUST DUCT		—
SUPPLY DUCT		—
STATIC PRESSURE, WATER GAUGE	SPWG	—
ABOVE FINISHED FLOOR	AFF	—
DOWN FROM ABOVE	DFA	—
AIR GAP DRAIN	AG	⊗
COMPRESSED AIR	AIR	⊗
REFRIGERATION LINE	REF	○



NOTE: THIS DRAWING IS FOR INFORMATION ONLY.

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PLAN

Sheet Number:
05 of 100