



Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT # AUP2013-0114

Property Address: **3264 ADELIN STREET**

Permittee Name: **HEIDI MILLER**
Permit Expeditors

Use and/or Construction Permitted:

to establish a 2,037 square-foot quick service restaurant and waive three required off-street parking spaces in the South Area Commercial (C-SA)

- Administrative Use Permit to establish a quick service restaurant greater than 1,000 square feet, under BMC Section 23E.52.030
- Administrative Use Permit to waive required off-street parking, under BMC Section 23E.28.130

RESOLUTION, FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the City Council and is in effect on July 9, 2014.

RESOLUTION NO. 66,746-N.S.

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT NO. 2013-0114 TO ESTABLISH A 2,037 SQUARE-FOOT QUICK SERVICE RESTAURANT AND TO WAIVE THREE REQUIRED OFF-STREET PARKING SPACES IN THE SOUTH AREA COMMERCIAL (C-SA) ZONING DISTRICT AND DISMISSING THE APPEAL

WHEREAS, on September 4, 2013, Heidi Miller of Permit Expeditors ("applicant") filed an application for an Administrative Use Permit to establish a 2,037 square-foot quick service restaurant and to waive three required off-street parking spaces at 3264 Adeline Street ("project"); and

WHEREAS, on December 18, 2013, staff deemed this application complete; and

WHEREAS, on January 8, 2014, the Zoning Officer approved the application in accordance with BMC Section 23B.32.020; and

WHEREAS, on January 29, 2014, Houshmand Ghaderi filed an appeal of the Zoning Officer's decision; and

WHEREAS, on March 27, 2014, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on April 10, 2014, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and

WHEREAS, on April 17, 2014, staff issued the notice of the ZAB decision; and

WHEREAS, on May 1, 2014, Houshmand Ghaderi filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on July 8, 2014, the Council considered the record of the proceedings before the ZAB, and the staff report and correspondence presented to the Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, do not warrant further hearing.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit No. 2013-0114, adopts the conditions in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

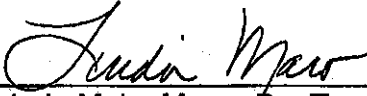
* * * * *

The foregoing Resolution was adopted by the Berkeley City Council on July 8, 2014 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Wengraf, Worthington and Wozniak.

Noes: None.

Absent: Moore and Bates.



Linda Maio, Mayor Pro Tempore

Attest: 

Mark Numairville, CMC, City Clerk

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 10, 2014

3264 Adeline Street

Administrative Use Permit #2013-0114 to establish a 2,037 square-foot quick service restaurant and to waive three required off-street parking spaces.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversions of Small Structures"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Officer finds that the establishment of a 2,037 square foot quick service restaurant, *under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:*
 - A. The creation of a quick service restaurant will encourage commercial activity, helping to develop a more pedestrian-oriented environment compatible with adjacent commercial uses. The restaurant is in keeping with the purposes of the C-SA District in that it provides a service for uses and residences located in the immediate vicinity.
 - B. The reduction in the number of required off-street parking spaces in conjunction with the restaurant's location near multiple bus lines will encourage the use of public transit thus implementing the General Plan's goals to encourage alternative modes of transportation.
 - C. Conditions of Approval #10-23 pertaining to food service will be implemented to limit detriment.

OTHER REQUIRED FINDINGS

3. Pursuant to Berkeley Municipal Code Section 23E.52.090.B, the Zoning Officer finds:
 - A. The proposed use is consistent with the purposes of the District in that:
 1. The restaurant is commercial in nature and thus helps to implement the General Plan's designation of a Commercial District. The establishment of the quick service restaurant will help intensify the pedestrian activity and strengthen the local economy by providing an eating establishment that caters to the neighboring residences as well as patrons utilizing other established uses in the area.
4. Pursuant to Berkeley Municipal Code Section 23E.28.130, the Zoning Officer finds that the reduction in the number of required parking spaces for the proposed 2,037 square-foot quick service restaurant will not substantially reduce the availability of on-street parking in the vicinity of the use and is permissible because the application meets the required findings as further detailed below:
 - A. The project is compatible with the surrounding uses and buildings in that it is changing the existing retail space into a quick service restaurant, a use that is allowed in the district.
 - B. The waiver of the three additional required parking spaces would not significantly reduce the availability of on-street parking because many of the clients are likely to take public transportation and/or ride bicycles to the location. Additionally, the owner will install additional bike racks to facilitate easy access to bicycle parking.
 - C. As required under Section 23E.28.140.B1, the use is a food service establishment.
 - D. As required under Section 23E.28.140.B.2, the parking reduction will meet the purposes of the C-SA District in that it will promote use of public transportation as well as increase the pedestrian activity within the commercial district.
 - E. In addition to the above factors, the site is located along AC Transit lines F and 12 and is a quarter of a mile from the Ashby Berkeley BART station.

STANDARD CONDITIONS

1. **Applicant Responsible for Compliance with Conditions**
The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.
2. **Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**
 - A. This Permit authorizes only those uses and activities actually proposed in the application and exclude other uses and activities.
 - B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.
3. **Modification of Permits (Section 23B.56.020)**
No change in the use for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.
4. **Plans and Representations Become Conditions (Section 23B.56.030)**
Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.
5. **Subject to all City and Other Regulations (Section 23B.56.040)**
The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.
6. **Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**
Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #7 below.
7. **Exercise and Lapse of Permits (Section 23B.56.100)**
 - A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
 - B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
 - C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has (1) applied for a building permit or (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

ADDITIONAL CONDITIONS

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

Prior to Issuance of Occupancy Permit or Final Inspection:

8. The project shall conform to the plans and statements in the Use Permit.
9. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **December 12, 2014**.

At All Times (Operation) / Standard Food Service Conditions:

(These requirements are in addition to any other requirements under the City's Building, Health or Fire Codes or by agencies such as the Alcoholic Beverage Control Department of the State of California. The applicant is responsible for contacting these and other departments and agencies to identify and secure all applicable permits and licenses).

10. The approved floor plan shall be followed and the operation shall be conducted as presented. The maximum occupancy shall be as specified in the application unless otherwise required by applicable regulations.
11. Changes to the building's facade, including doors or windows, site plans, landscaping, signage, and awnings are subject to Design Review and approval prior to issuance of a building permit. Final plans shall address the following conditions:
 - 1) **COLORS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Design Review Staff. All materials will be matte unless otherwise noted.
 - 2) **CLEAR GLASS** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Design Review Staff.
 - 3) **DETAILS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit window, door and soffit details for review and approval by the Design Review Staff.
 - 4) **ROOF EQUIPMENT** Any above ground or roof equipment, such as transformer(s), utilities, fire apparatus, air conditioning units, compressors, etc. shall be shown to scale on the architectural drawings of the building permit set of drawings in both plan and elevation, in order to determine if additional screening and design review may be required.
 - 5) **SIGNAGE** Prior to Design Review sign-off of the building permit set of drawings, the applicant shall submit complete signage details, including colors, materials, letter heights, dimensions, placement on building, and installation details. All materials will be matte unless otherwise noted.

All non-temporary signage and awnings not previously approved and not listed in this application are prohibited.

Exhibit A - Finding and Conditions

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WALL SIGN shall be mounted on standoffs so it does not sit directly against the brick and letters shall not cover up brick border detailing.

WINDOW SIGN installation shall have minor visual impact.

Face and background of window sign shall be opaque with a 1/2" push through illumination.

- 6) **LIGHTING** Prior to Design Review sign-off of the building permit set of drawings; the applicant shall submit lighting details showing all existing and proposed site and building lighting. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

SIGN LIGHTS should be consistent for all tenants of the building.

12. The hours of operation of the restaurant portion of the business shall be limited to 7:00 a.m. to 11:00 p.m. Hours of operation refer to arrival of the first patron and departure of the last patron.
13. Cooking odors, noise, exterior lighting and operation of any parking area shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.
14. Smoke and odor control equipment approved by the City Environmental Health Division and providing adequate protection to residential uses above and to the east of the restaurant shall be installed prior to issuance of an Occupancy Permit.
15. Garbage and trash containers that are suitably enclosed and screened from view shall be provided subject to approval of the Zoning Officer, the Health Department and, where applicable, the Design Review Planner. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall provide separate bins or cans for the placement of such cans or bottles to ensure recycling of such containers.
16. Containers used for the dispensing of prepared food shall identify the establishment. Polystyrene foam food packing is prohibited by Section 11.60.030 of the Berkeley Municipal Code.
17. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall recycle such containers.
18. The operator of the restaurant shall place a waste receptacle near the entry way and shall insure that garbage on the sidewalk in front of the establishment and within 50 feet thereof will be picked up periodically during each day, so that the sidewalk remains clean.
19. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall

Exhibit A - Finding and Conditions

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- include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets. The operator shall give surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity.
20. The operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.
 21. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.
 22. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
 23. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

At All Times:

24. The applicant shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area.
25. The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.



Prepared by: Claudine Asbagh, Assistant Planner

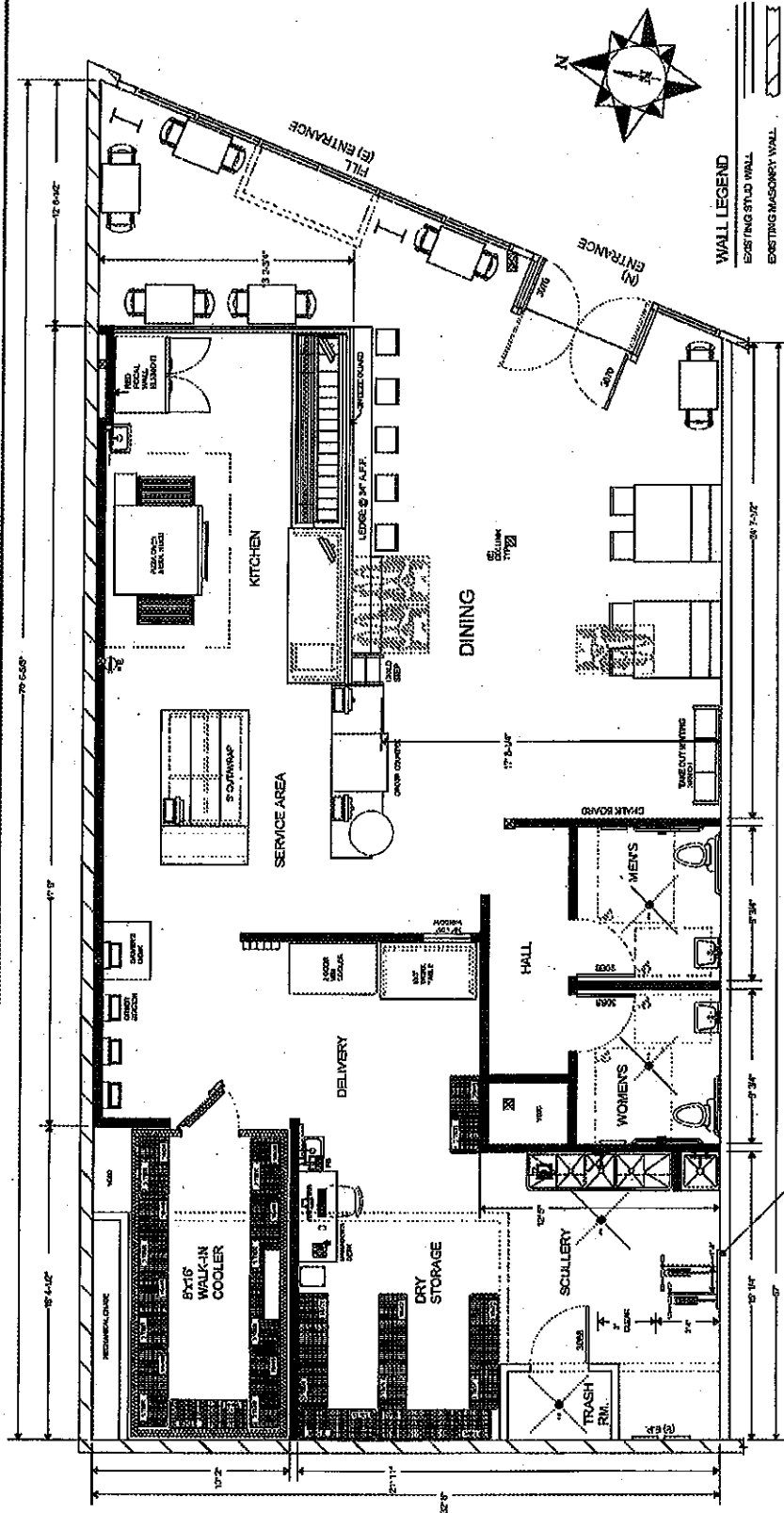
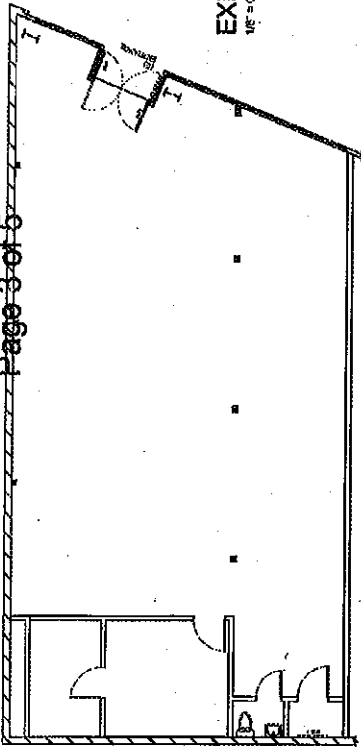
Dominos Pizza

3264 Adeline St. Berkeley, Ca. 94703

FLOOR PLANS

DRAWN	DATE	SCALE	SHEET
	11-12-10	AS NOTED	A-2
3 OF 2 SHEETS			

EXISTING FLOOR PLAN
VF = ONE FOOT



PROPOSED FLOOR PLAN

TERMS TO INSTALL TWO WALL MOUNTED:
 FIRE RACKS FOR EXPI. 270'S PER:
 City of Berkeley (Berkeley Planning)
 Fire Department (Berkeley Fire Dept.)
 Don't Use a Stack Street
 Vertical, modular, integrated with existing system
 Minimum ceiling height of 8'6"
 Brands meeting either 18" or 15"

Dominos Pizza

3264 Adeline St. Berkeley, Ca. 94703

FRONT ELEVATIONS

DRAWN

DATE

3-18-13

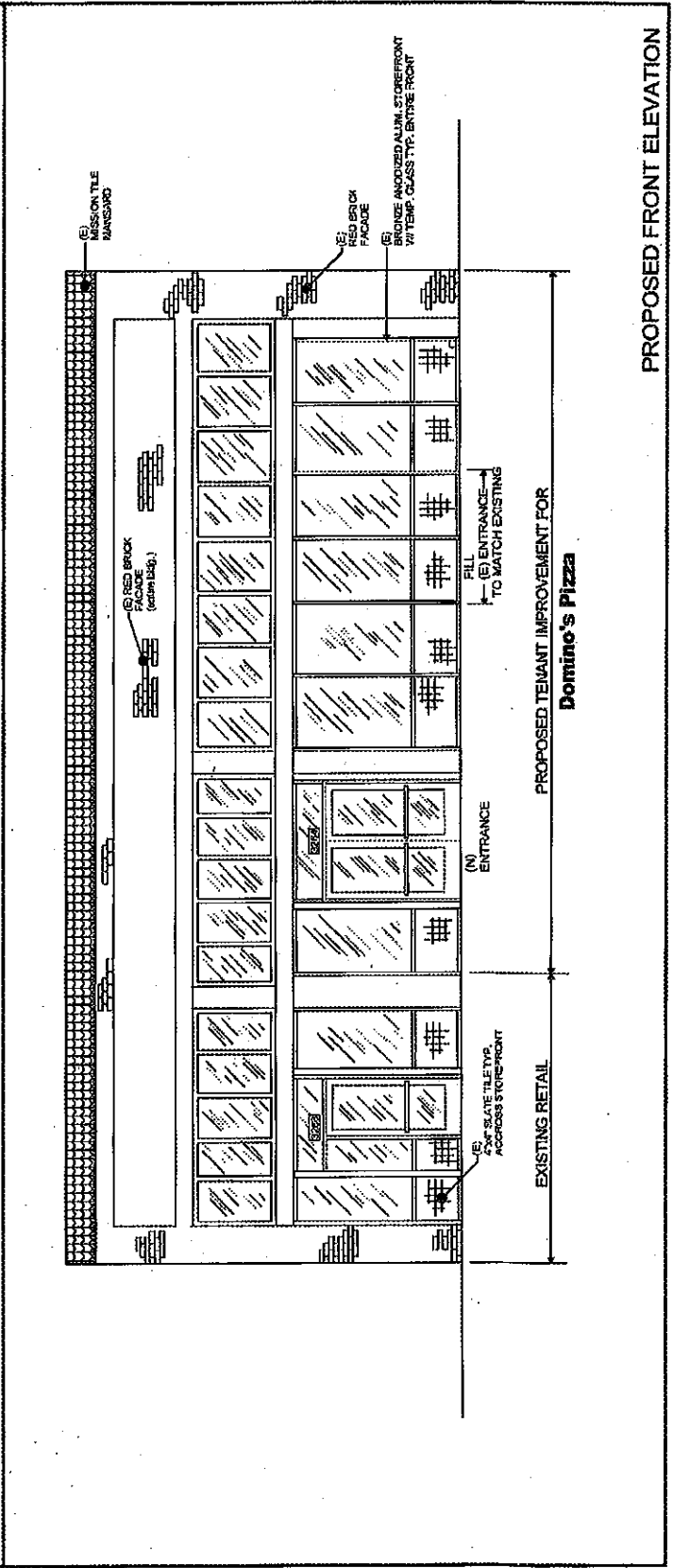
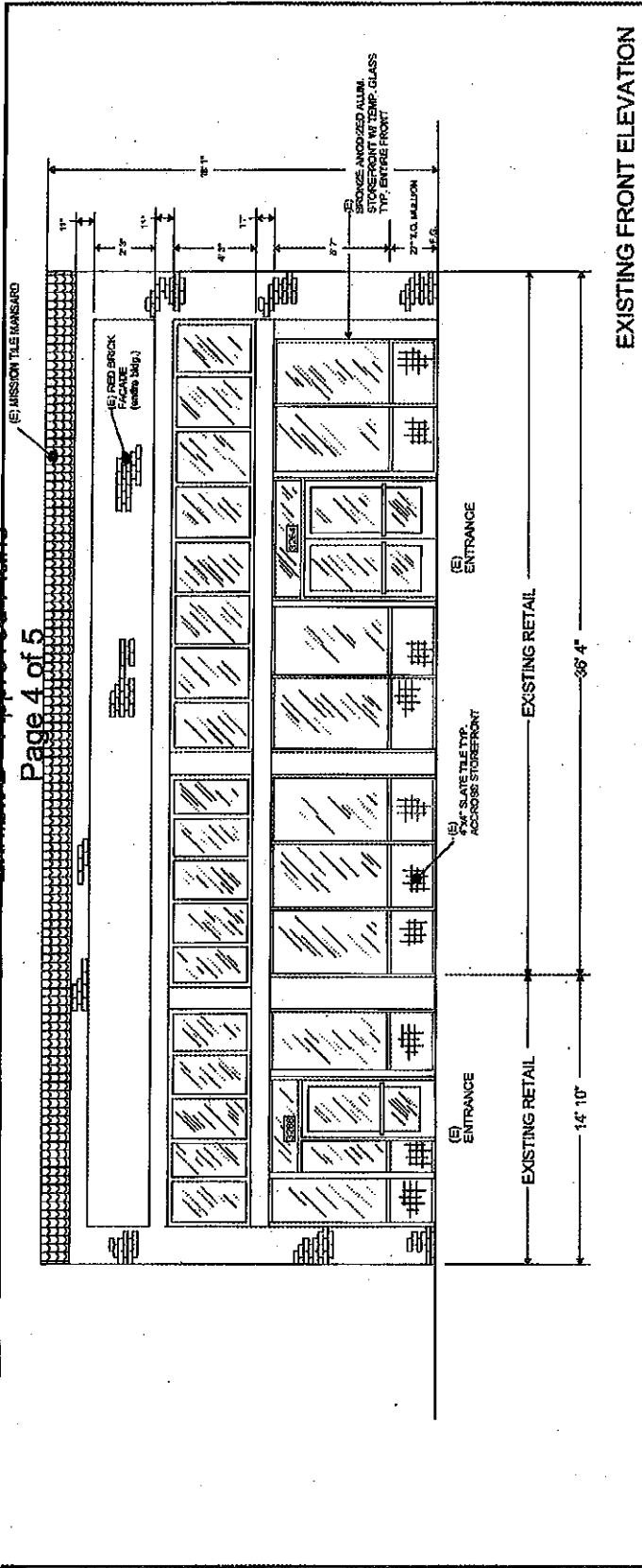
SCALE

1/4" = ONE FOOT

SHEET

A-3

4 OF 5 SHEETS



Dominos Pizza

3264 Adeline St. Berkeley, Ca. 94703

SIGNAGE

DRAWN

DATE

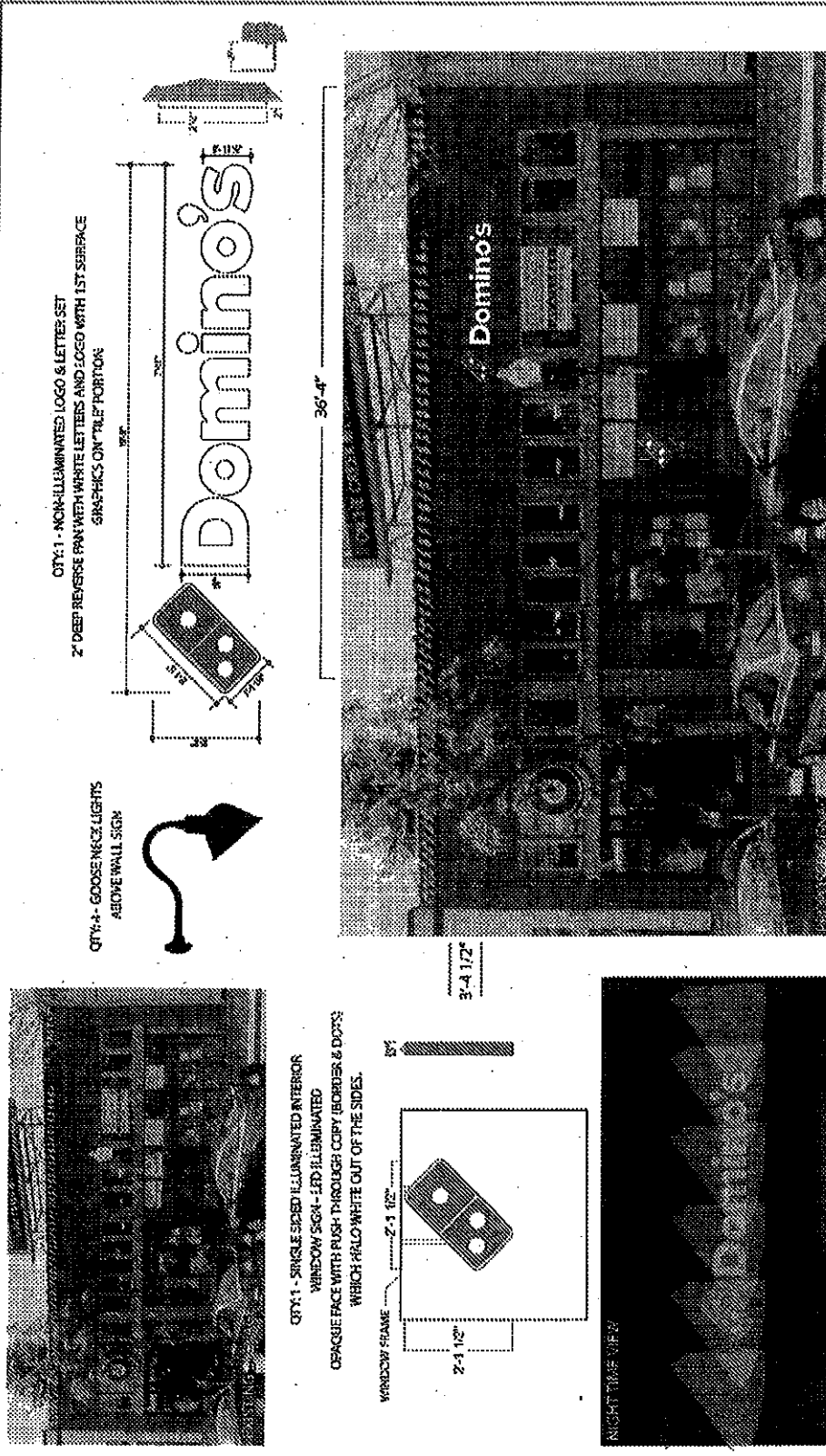
8-19-19

SCALE

SHEET

A-4

5 OF 5 SHEETS



IDENTICOM

Dominos

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DATE	8-19-19
SCALE	
SHEET	A-4
5 OF 5 SHEETS	