

# CITY OF BLOOMINGTON



December 22, 2021 @ 2:00 p.m.

<https://bloomington.zoom.us/j/82002733544?pwd=c0tWSEJMYnovazNSbjRUYWNxUWhDdz09>

Meeting ID: 820 0273 3544

Passcode: 217510

CITY OF BLOOMINGTON  
HEARING OFFICER  
December 22, 2021 at 2:00 p.m.

❖Virtual Meeting Link:

<https://bloomington.zoom.us/j/82002733544?pwd=c0tWSEJMYnovazNSbjRUYWNxUWhDdz09>

Meeting ID: 820 0273 3544

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**PETITIONS:**

- V-27-21      **MCCSC (Fairview Elementary School)**  
500 W. 7<sup>th</sup> St.  
Request: Variance from the required front building setback for accessory structures to allow for a 5-foot setback.  
Case Manager: Keegan Gulick
- CU-28-21      **Tony Bolotnik (Lingle Design Group)**  
314 E. Kirkwood Ave.  
Request: Conditional Use approval to allow for a standardized business (Dave's Hot Chicken) in the Mixed-use Downtown – University Village Overlay (MD-UV) zoning district.  
Case Manager: Keegan Gulick

**\*\*Next Meeting: January 5, 2022**

**Petition Map: <https://arcg.is/1ieLrn0>**

*Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or E-mail [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov).*

**BLOOMINGTON HEARING OFFICER  
STAFF REPORT  
LOCATION: 500 W 7<sup>th</sup> Street**

**CASE #: V-27-21  
DATE: December 22, 2021**

**PETITIONER:** Monroe County Community School Corporation  
(Fairview Elementary School)  
500 W 7<sup>th</sup> Street, Bloomington, IN 47404

**COUNSEL:** Glenda Murray, PTO Member  
525 W 3<sup>rd</sup> Street, Bloomington, IN 47404

**REQUEST:** The petitioner is requesting a variance from required front setback for accessory structures to allow for a 5' setback.

**REPORT:** The property is located at 500 W 7<sup>th</sup> Street and is zoned Mixed-use Institutional (MI) and is occupied by Fairview Elementary School. The properties to the south are zoned MI, Residential Small Lot (R3), and Residential Urban (R4). Properties to the west are zoned (R3). The properties to the east are zoned Mixed-Use Downtown (MD). The properties to the north are zoned a mix of R3 and MD. The property is located in the Near West Side Conservation District.

The UDO states that accessory structures must be located at least 35' from the front property line and 5' from the side and rear property lines. This property is surrounded by public streets on all sides and would have a 35' setback for all accessory structures from each frontage. In the MI zoning district there is no limit on the number or size of accessory structures.

The petitioner is proposing a new accessory structure on the west side of the property. The structure would be used as an outdoor classroom. The proposed structure is 210 square feet and would be located approximately 5' from the west property line. The structure is an open air structure with a fabric roof that would be no taller than the adjacent chimney. Next to the proposed structure is an existing chimney that will remain. Because of the significant grade change and existing site features, combined with the 35' front setback the property has limited options to construct a compliant accessory structure. An existing structure was recently built just to the southeast of this proposed structure and the presence of underground utilities takes up much of the buildable space on the property.

**CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE**

**20.06.080(b)(3)(E)(i) Standards for Granting Variances from Development Standards:** A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

**PROPOSED FINDING:** No injury to the public health, safety, morals, and general welfare is found as a result of this petition. The size of the structure is appropriate for the use and size of the property. The existing chimney will remain.

2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

**PROPOSED FINDING:** No adverse effect to the use or value of the adjacent properties is found as a result of this petition. The petitioner has worked to address concerns of the neighbors. The proposed structure is within the height limit for the district and not taller than adjacent structures.

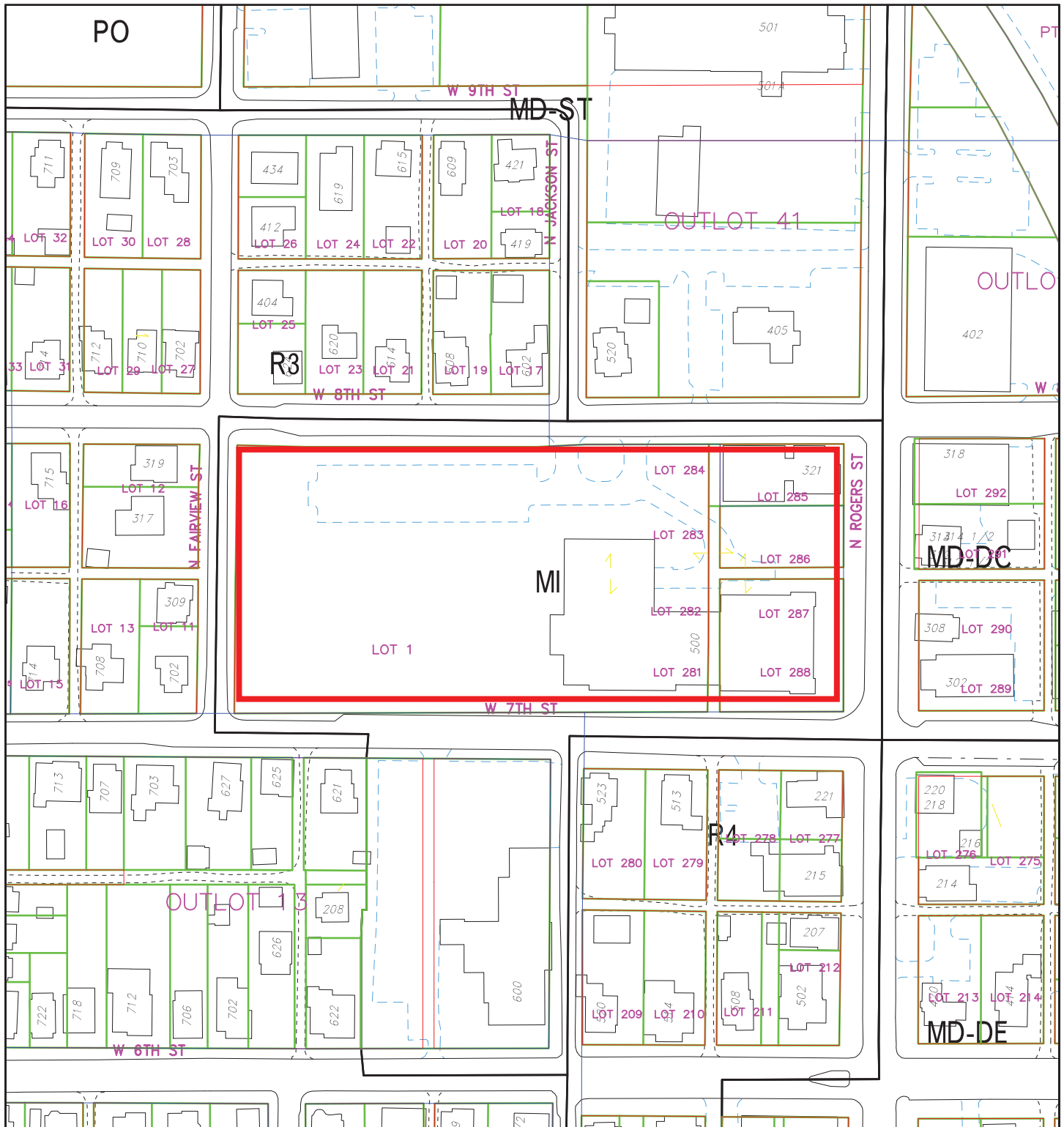
3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

**PROPOSED FINDING:** Practical difficulty is found in the the presence of public streets on all sides of the property. Even though the west side of the property is the functional rear, there is still a 35' setback for accessory structures. Along the west side of the property there is a significant grade change that limits where a structure could feasibly be built. Existing site features such as an accessory structure, playground, and utilities also limit where a new accessory structure can be located. A 5' setback is the typical setback from the rear property line for accessory structures.

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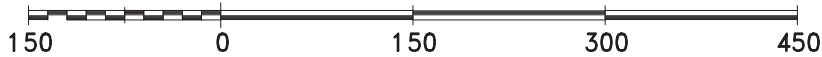
**RECOMMENDATION:** Based upon the written findings above, the Department recommends that the Hearing Officer adopt the proposed findings and recommends approval of V-27-21 with the following conditions:

1. The petitioners must obtain a building permit prior to construction.
2. A Certificate of Appropriateness will be required prior to issuance of a building permit.
3. This variance applies to only the shade structure as shown and described in the application.



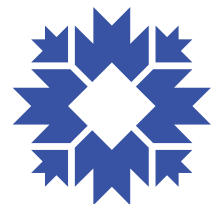
By: keegan.gulick

30 Nov 21



For reference only; map information NOT warranted.

City of Bloomington  
Planning



Scale: 1" = 150'



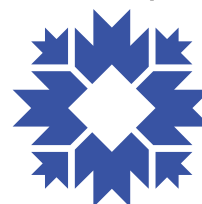
By: keegan.gulick

30 Nov 21



For reference only; map information NOT warranted.

City of Bloomington  
Planning



Scale: 1" = 150'

## Fairview School Outdoor Classroom

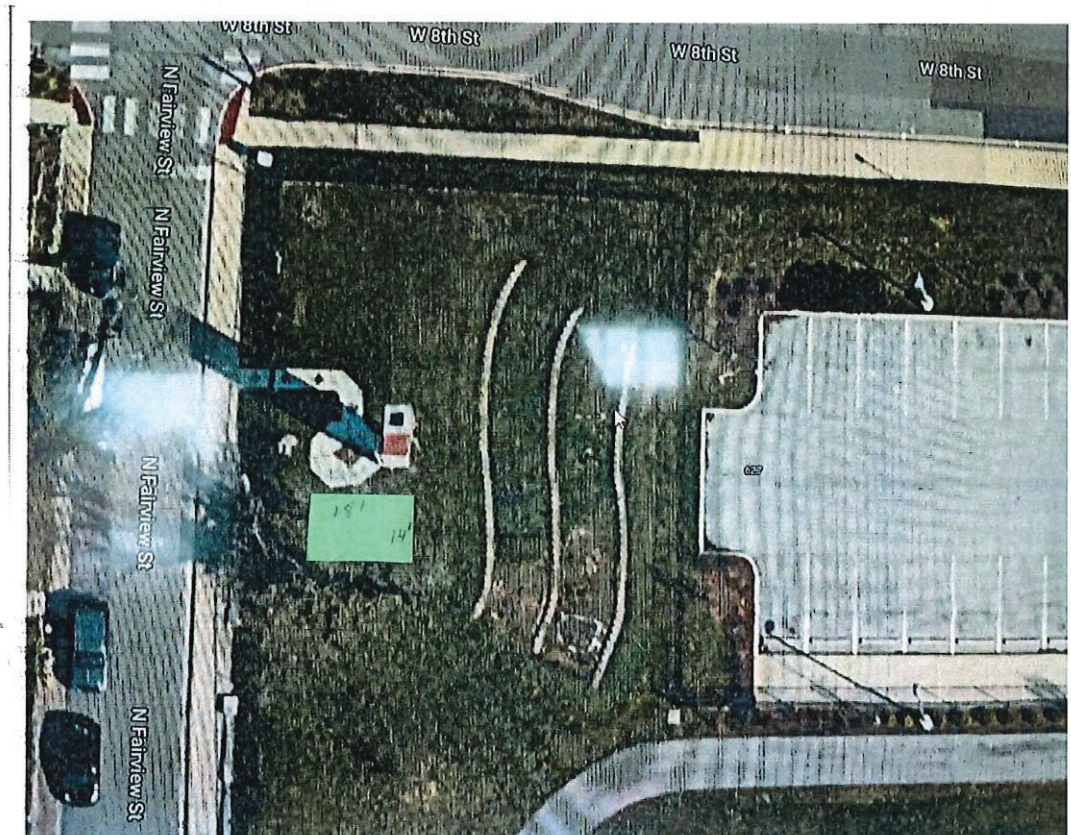
500 West Seventh Street  
Bloomington, IN 47404

*Proposal for outdoor classroom near Fairview Street and Eighth Street,  
With a variance from the city of Bloomington for the Fairview Street side*

The current Fairview School was completed in 2010. The building and grounds occupy most of the block between Rogers and Fairview and Seventh and Eighth Street, with the northeast corner of the block occupied by Second Baptist Church and its grounds. The school is located in the West Side Neighborhood and historic district. There are houses to the west on Fairview Street and to the north on Eighth Street. On Seventh Street, there are some houses and the parking lot for Fairview United Methodist Church. On Rogers Street, Second Baptist Church is located within the block, and there is a business, a house, and Bethel AME Church located east of Rogers Street.

The Fairview PTO had discussed potential projects, including one or more outdoor classrooms, which many MCCSC schools have. With the advent of the coronavirus, outdoor classrooms became even more important areas for students and teachers. Fairview received a grant to have the Building Trades students build a large picnic shelter style classroom in the southwest quadrant of the block. The PTO proposed another outdoor classroom near the chimney swift tower that was built in 2009-10. A student garden was created nearby a few years ago. We are pleased that the PTO has received a grant to build a 14' x 18' shade canopy structure south of the swift tower in the northwest corner of the block.

See the Google map to the right, which is the northwest corner of the Fairview block, showing the sidewalk from Fairview Street sidewalk to the octagon west of the swift tower and the proposed shade canopy outdoor classroom, shown in blue/green.



We are applying to the City of Bloomington for a variance from the 35 feet right of way requirement along Fairview Street. We propose to anchor two posts five feet within the school's fenced yard, in order to build on the flattest area near the swift tower. That means we would like to construct two of the four poles 28 feet from the center of Fairview Street, thus requiring a variance for the 7 feet. The land drops off substantially to the east and south, limiting the flat area available.

We believe the variance "will not be injurious to the public health, safety, morals, and general welfare of the community," that the use and value of the area adjacent "will not be affected in a substantially adverse manner." We further suggest that "strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties." We believe the variance will not unduly affect the neighboring houses and will provide benefit to the school and its students by providing an outdoor classroom near the tower and garden. For example, Fairview conducted a history class the week of November 8, in which each class came to the swift tower to learn about the chimney swifts, the community effort to build the tower, the neighborhood, and the garden. If the canopied outdoor classroom had existed, the students could have used it during the class. Instead, they stood on the sidewalk at the fence.

The fence has a gate close to the swift tower and a sidewalk that leads to the tower from the public sidewalk. The entire fenced area is kept locked except for specific uses. The canopy will be located just south of the sidewalk that leads to the tower, allowing someone in a wheelchair to use the sidewalk to access the canopy. See the attached drawing.

The canopy will nearly align with the concrete octagon to the west of the swift tower and the eastern edge of the swift tower. The completed structure will not have electricity or water. The proposed canopy will have a blue fabric, to match the playground shade canopy and echo the school colors.

The PTO and Fairview School request this variance to construct a shade canopy outdoor classroom. It will provide a sheltered environment for classes, small groups, and other student activities.

Notes for attached drawing and Google map:

- The shade structure will be erected 5 feet inside the school fence (28 feet from center of Fairview Street).
- The shade structure will connect to the octagon sidewalk west of the swift tower, allowing for handicapped access.
- The shade structure will be 18 feet wide, about the same as the distance from the west edge of the octagon to the east edge of the swift tower.
- The shade structure can be accessed within the fenced Fairview playground area or by unlocking the gate that leads to the swift tower sidewalk.
- The Google map shows the contoured garden with the three retaining walls.
- The land also drops off south of the proposed shade structure.



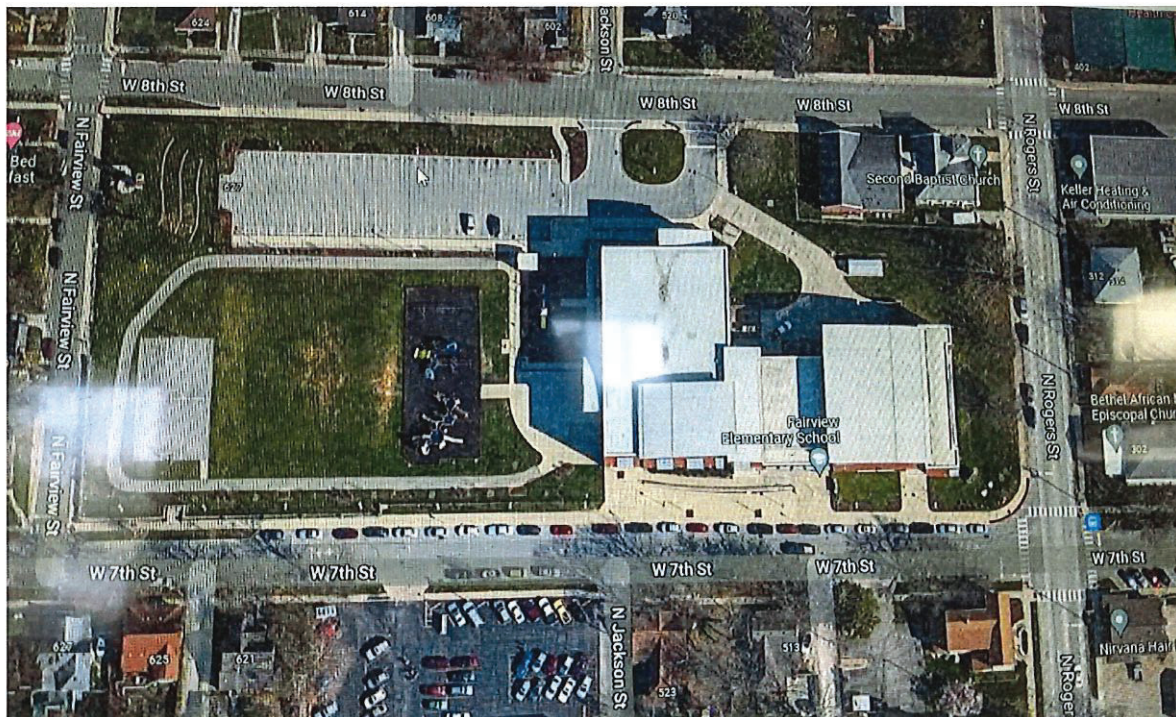
## Hip Roof Shade Structure with 4 Posts and 8 Foot Entry 14 x 18 feet

Rectangle hip roof with 4 posts. Playground Shade Structure. Shade fabric blocks up to 90% harmful UV rays protect kids and play equipment. Ideal for covering playground equipment and picnic areas.



From WillyGoat.com

From Google maps, with the swift tower in the upper left corner



# Fairview School Outdoor Classroom 10



1 square = 3'

Eighth St  
25' wide

Fairview St.

9.75'

6' SW

5' SW

6' grass fence

6' grass fence

32' 0" to gate

11' to center

gate

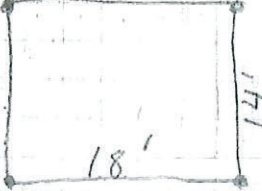
SW

concrete

Swift Tower  
4' 8"

the garden area includes 3 rows of terraces

5'



fence

The playground area

**BLOOMINGTON BOARD OF ZONING APPEALS  
STAFF REPORT  
LOCATION: 314 E Kirkwood Ave**

**CASE#: CU-28-21  
DATE: December 22, 2021**

**PETITIONER:** Tony Bolotnik – Lingle Design Group  
158 W Main Street  
Lena, IL 61048

**OWNER:** Dori Ellis – The Ellis Company L.P.  
P.O. Box 5145  
Bloomington, IN 47407

**REQUEST:** The petitioner is requesting conditional use approval for a standardized business (Dave’s Hot Chicken) in the Mixed-Use Downtown Zoning District.

**REPORT:** The property is located at 314 E Kirkwood Ave and currently zoned Mixed-Use Downtown and located in the University Village downtown character overlay (MD-UV). Surrounding properties are also zoned MD-UV. The property is currently developed with a mixed-use structure with multifamily dwellings above and commercial space on the first floor. The petitioner is proposing a Dave’s Hot Chicken in the commercial space of the structure. Their proposal involves a remodel of the space along with new signage. This property is not within a historic district or listed on a historic preservation survey. This use requires approvals from City of Bloomington Utilities and the Monroe County Health Department.

**STANDARDIZED BUSINESS STANDARDS:** UDO 20.03.010(e)(2) lists the following standards for standardized businesses.

In the MD-CS and MD-UV character areas a standardized business shall require conditional use permit review in accordance with Section 20.06.050(b) (Conditional Use Permit), and shall comply with the following standards:

- i. The proposed standardized business shall be designed and constructed in a style that visually complements its surroundings, especially the existing buildings on both sides of the same block the business is to be located, as well as the character of the particular overlay district. Visual complementation shall include, but may not be limited to:
  - a. Architecture;
  - b. Scale;
  - c. Façade; and
  - d. Signage.
- ii. If the use is proposed for a site that contains an existing building of special historical, cultural, or architectural significance, with or without official historic designation, the proposed use shall seek to preserve and reuse as much of the existing building as possible, particularly the building's façade.
- iii. Visual complementation may also include interior décor. Elements of interior décor such as displays of public art, photos or memorabilia of Bloomington or Indiana University, may be considered.

**PROPOSED FINDING:** This petition meets the criteria for a standardized business. The proposal does call for a remodel of the structure to allow for more outdoor seating, which is similar to other restaurants along Kirkwood. The proposed signage shows differentiation from the typical Dave’s Hot Chicken sign package. The colors visually compliment the surrounding structures by only using red, black, and white colors which is a similar color scheme to other nearby businesses along Kirkwood. The channel letter sign is a unique sign design that is appropriate for this area and using red instead of the typical white letters for a Dave’s Hot Chicken. The design is minimal but still readily identifies the restaurant.

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## CRITERIA AND FINDINGS FOR CONDITIONAL USE PERMIT

### 20.06.040(d)(6) Approval Criteria

**(B) General Compliance Criteria:** All petitions shall be subject to review and pursuant to the following criteria and shall only be approved if they comply with these criteria.

- i. Compliance with this UDO
- ii. Compliance with Other Applicable Regulations
- iii. Compliance with Utility, Service, and Improvement Standards
- iv. Compliance with Prior Approvals

**PROPOSED FINDING:** The petition complies with the UDO, other applicable regulations, and utility, service, and improvement standards as required by the general compliance criteria. No prior approvals are found. The petitioner will comply with CBU and Health Department regulations for this use.

### **(C) Additional Criteria Applicable to Conditional Uses**

- i. Consistency with Comprehensive Plan and Other Applicable Plans

*The proposed use and development shall be consistent with and shall not interfere with the achievement of the goals and objectives of the Comprehensive Plan and any other applicable adopted plans and policies.*

**PROPOSED FINDING:** This proposal is in line with the goals of the Comprehensive Plan. The Comprehensive Plan identifies this area as “Downtown.” The Downtown district is meant to be a commercial hub that offers a variety of businesses and series. This restaurant is ideally located next to other restaurant uses. The MD-UV district and standardized business criteria ensures that businesses in this district will maintain the character of the district while still allowing for new growth and development. This proposal will fill a vacant restaurant space which will improve the character of the block.

- ii. Provides Adequate Public Services and Facilities

*Adequate public service and facility capacity shall exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, streets, potable water, sewer, stormwater management structures, schools, public safety, fire protection, libraries, and vehicle/pedestrian connections and access within the site and to adjacent properties.*

**PROPOSED FINDING:** This use requires a grease interceptor. The petitioner will work with City of Bloomington Utilities regarding grease interceptors and utility capacity.

iii. Minimizes or Mitigates Adverse Impacts

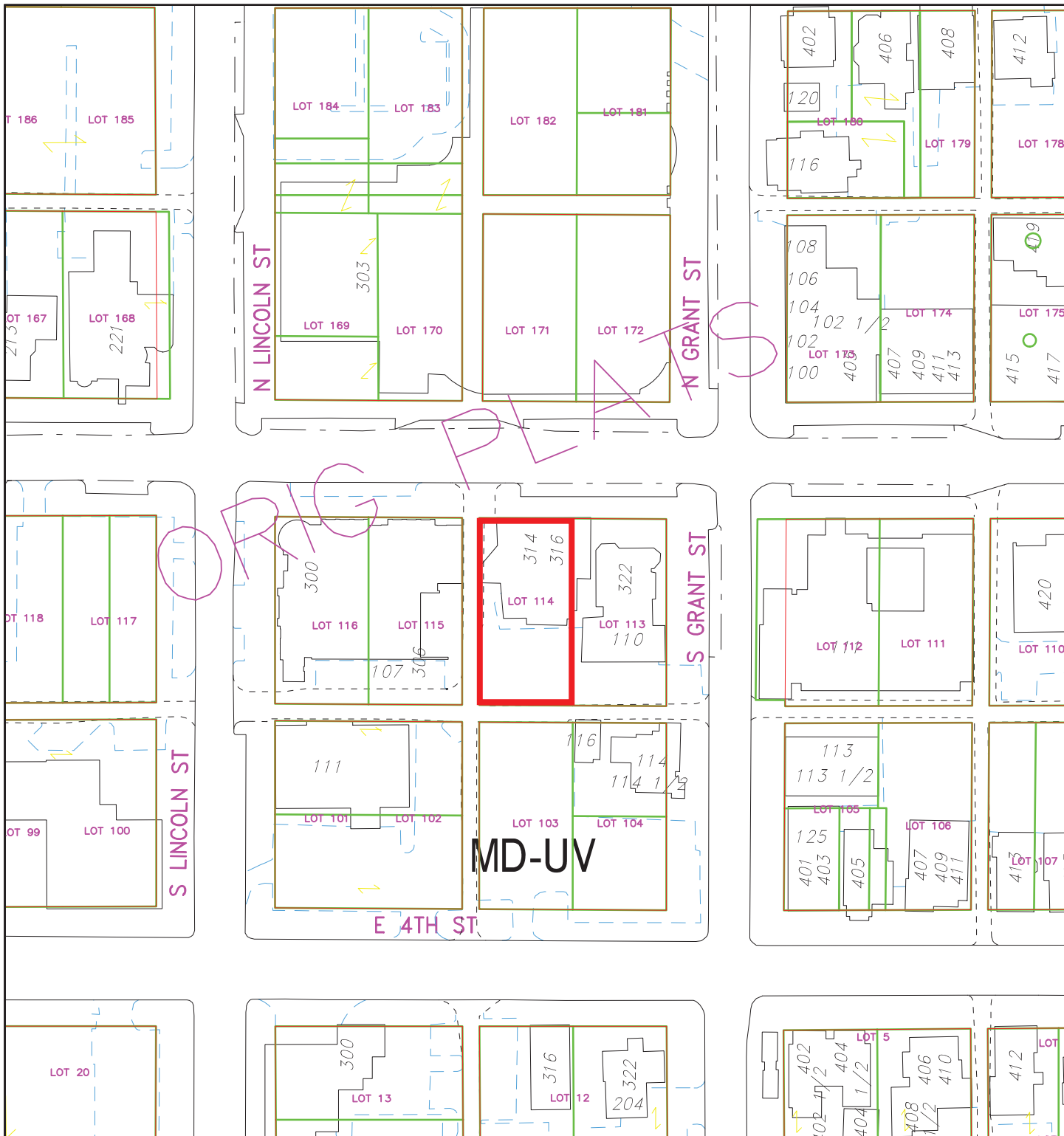
1. *The proposed use and development will not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance.*
2. *The proposed development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights.*
3. *The hours of operation, outside lighting, and trash and waste collection must not pose a hazard, hardship, or nuisance to the neighborhood.*
4. *The petitioner shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting for the specific proposal, if such a meeting is required.*

**PROPOSED FINDING:** Minor exterior changes are being proposed with this conditional use. No additional lighting outside of what is typical of a restaurant is being proposed. No nuisance regarding noise, smoke, odors, vibrations, lighting, or hours of operation is found. The proposed signage will be required to meet lighting requirements and sign reg. No pre-submittal neighborhood meeting is required.

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**RECOMMENDATION:** The Department recommends that the Board of Zoning Appeals adopts the proposed findings and recommends approval of CU-28-21 with the following conditions:

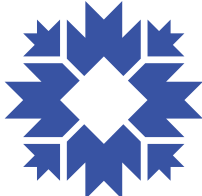
1. This conditional use is limited to the proposed use, no other use is approved.
2. The petitioner must meet all City of Bloomington Utilities standards, including the installation of a grease interceptor.
3. The petitioner must meet all Monroe County Health Department standards.
4. A sign permit is required, and the design shall meet that of the sign shown in this approval.



MD-UV

PLANS

City of Bloomington  
Planning



Scale: 1" = 100'

By: keegan.gulick  
13 Dec 21

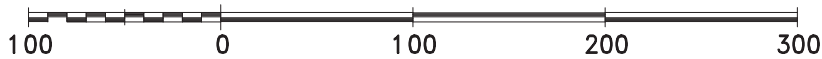


For reference only; map information NOT warranted.



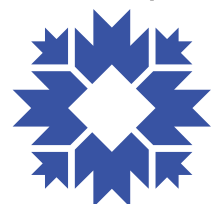
By: keegan.gulick

13 Dec 21



For reference only; map information NOT warranted.

City of Bloomington  
Planning



Scale: 1" = 100'



**DAVE'S HOT CHICKEN**

314 E. KIRKWOOD AVE  
BLOOMINGTON, IN 47408

ORIGINALLY SUBMITTED: November 1, 2021

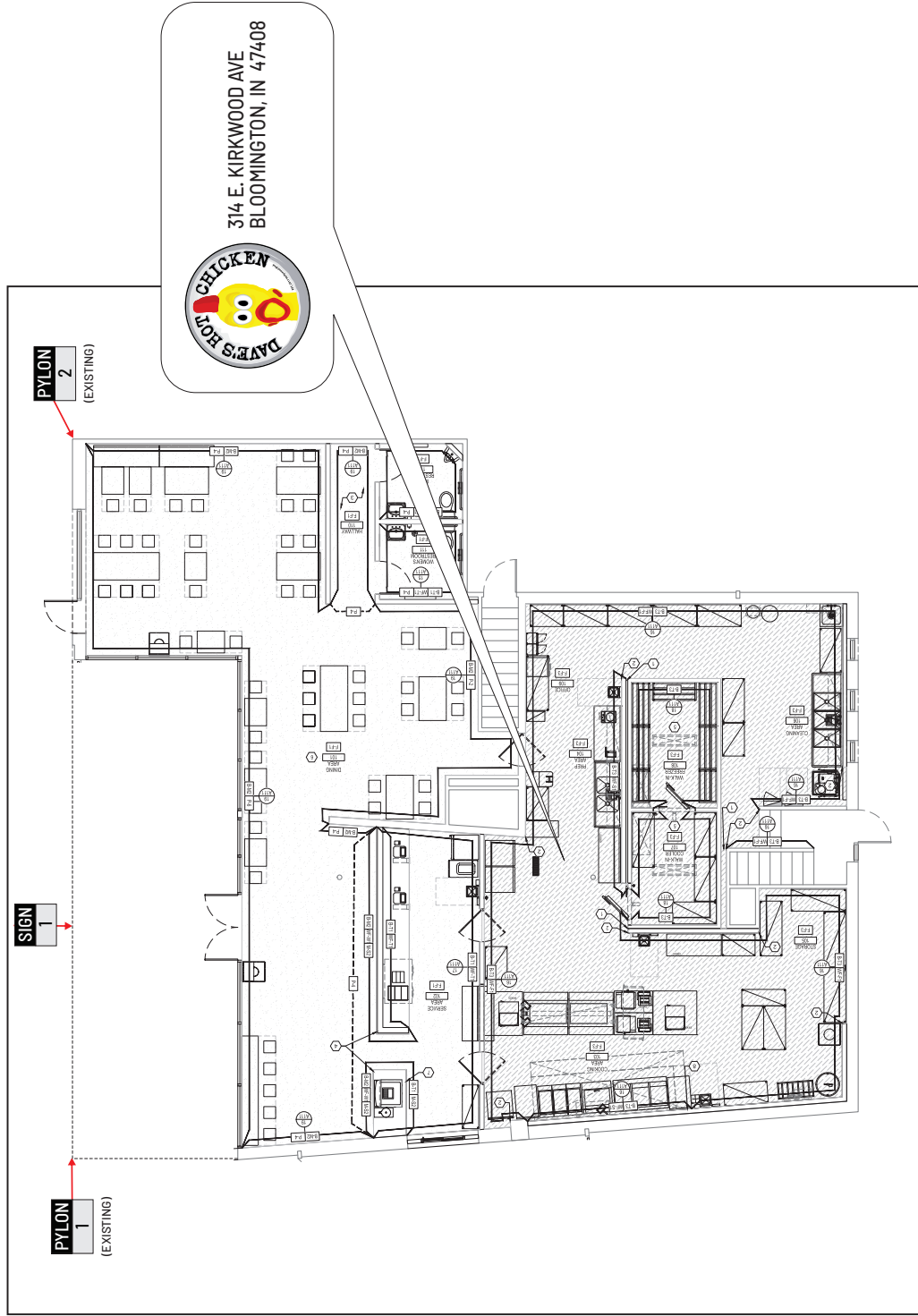
**REVISED: November 12, 2021**



NATIONAL SIGN FABRICATION,  
PROJECT MANAGEMENT AND DESIGN  
LICENSE# 745555 TYPE C-45 EXP: 07/31/2022

9736 Eton Avenue, Chatsworth, CA 91311  
T 818.787.0477 Fax 818.787.0415 www.visiblegraphics.com





Site Plan (Not To Scale)

# V I S I B L E G R A P H I C S

9736 ETON AVENUE  
 CHATSWORTH, CA 91311  
 t 818.767.0477  
 f 818.477.5123  
 www.visiblegraphics.com

PROJECT NAME:  
**DAVE'S HOT CHICKEN INDIANA**  
 PROJECT ADDRESS:  
 314 E. KIRKWOOD AVE  
 BLOOMINGTON, IN 47408

DATE: 11.12.2021  
 PAGE SIZE: 17 X 11  
 SR ACCT MNGR: DAVE MAHIN  
 COORDINATOR: MARY DEL RIO  
 DESIGNER: R. ADAIR



CLIENT APPROVAL  
 COPY - COLORS - SIZES  
 VISIBLE GRAPHICS does NOT provide primary electrical  
 power to sign locations - responsibility of others.

Client Signature \_\_\_\_\_ Date \_\_\_\_\_

LANDLORD APPROVAL

Landlord Signature \_\_\_\_\_ Date \_\_\_\_\_

This design is an exclusive property of  
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 JOB NUMBER

**12657R**

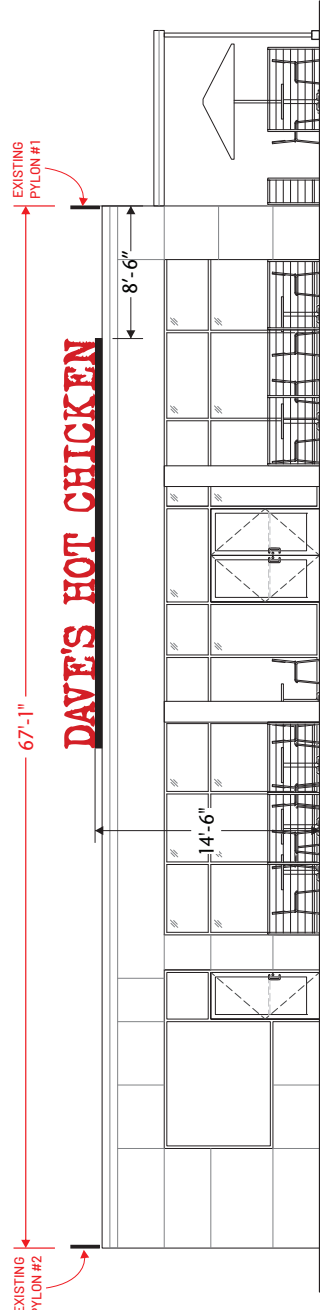
SHEET

**2**



**SIGN** Frontage = 67.10 Ft.  
1 Measurements

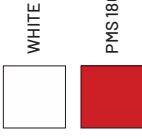
Proposed Square Footage = 49.73 Sq. Ft.  
Scale 1:50



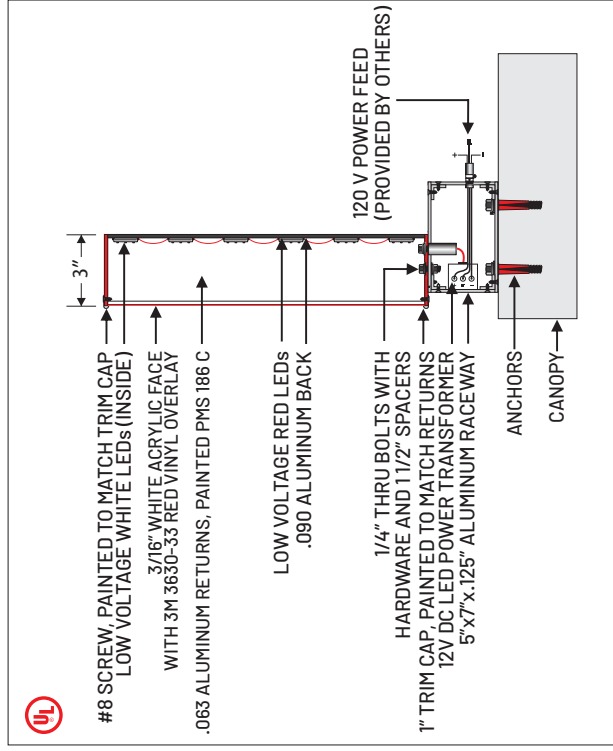
North Elevation

Scale 1/8"=1'-0"

**COLOR KEY**



THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODES, AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF SIGN.



FACE-LIT CHANNEL LETTER ON RACEWAY SIDE VIEW DETAILS (NTS)

**V I S I B L E G R A P H I C S**

9736 ETON AVENUE  
CHATSWORTH, CA 91311  
t 818-787-0477  
f 818-477-5123  
www.visiblegraphics.com

PROJECT NAME:  
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314 E. KIRKWOOD AVE  
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DATE: 11.12.2021  
PAGE SIZE: 17 X 11  
SR ACCT MNGR: DAVE MAHIN  
COORDINATOR: MARY DEL RIO  
DESIGNER: R. ADAIR



CLIENT APPROVAL  
COPY - COLORS - SIZES  
VISIBLE GRAPHICS does NOT provide primary electrical power to sign locations - responsibility of others.  
Client Signature \_\_\_\_\_ Date \_\_\_\_\_

LANDLORD APPROVAL  
Landlord Signature \_\_\_\_\_ Date \_\_\_\_\_

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JOB NUMBER  
**12657R**

SHEET  
**3**

# SPECIFICATIONS

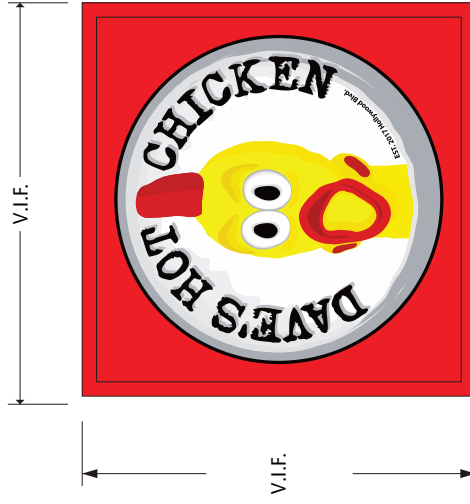
DESCRIPTION: PYLON #1 & #2  
 MATERIAL: 3/16" WHITE PLEX W/ VINYL OVERLAY  
 MOUNTING: N/A  
 QTY: 1(2-SIDED)  
 NOTES: N/A

EXISTING  
PYLON #1

EXISTING  
PYLON #2



COLOR KEY	
	WHITE
	3M 3630-33 RED
	BLACK
	DIGITALLY PRINTED VINYL



## PYLON

### 1 & 2 Measurements

Scale 1:1

## Scale NTS

	CLIENT APPROVAL COPY - COLORS - SIZES VISIBLE GRAPHICS does NOT provide primary electrical power to sign locations - responsibility of others. Client Signature _____ Date _____	LANDLORD APPROVAL _____ Landlord Signature _____ Date _____	This design is an exclusive property of VISIBLE GRAPHICS and cannot be reproduced in whole or in part, without prior written approval. JOB NUMBER <b>12657R</b>	SHEET <b>4</b>
	DATE: 11.12.2021 PAGE SIZE: 17 X 11 SR ACCT MNGR: DAVE MAHIN COORDINATOR: MARY DEL RIO DESIGNER: R. ADAIR	PROJECT NAME: <b>DAVE'S HOT CHICKEN INDIANA</b> PROJECT ADDRESS: 314 E. KIRKWOOD AVE BLOOMINGTON, IN 47408	PROJECT NAME: 9736 ETON AVENUE CHATSWORTH, CA 91311 t 818-767-0477 f 818-477-5123 www.visiblegraphics.com	VISIBLE GRAPHICS