

**ORDINANCE NO.** 7876-23

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2022-0006 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A RESTAURANT WITH DRIVE-THROUGH SERVICE ADJACENT TO RESIDENTIAL PROPERTY IN A C1 RETAIL COMMERCIAL ZONING DISTRICT.

WHEREAS, application number CU-2022-0006 has been made by **SKS HOLDINGS, LLC**, owner and applicant, for a conditional use permit for the hereinafter described property for the purpose of operating a restaurant with drive-through service adjacent to residential property in a C1 Retail Commercial Zoning District; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-2022-0006 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating a restaurant with drive-through service adjacent to residential property in a C1 Retail Commercial Zoning District; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

**Parcel 1**

ALL THAT certain lot, piece of parcel of land with the privileges and appurtenances thereunto belonging, lying and being in the Denbigh Magisterial District, City of Newport News, Virginia, containing 1.063 acres, more or less, and being all of that parcel of land designated as Parcel 2 as set forth on a certain Plat entitled "SUBDIVISION PLAT OF THE PROPERTY OF ANGELINE C. TELLE, DENBIGH MAGISTERIAL DISTRICT-CITY OF NEWPORT NEWS, VIRGINIA" made and prepared by the Sirine Group, Ltd., Surveyors-Engineers-Planners, dated August 2, 1994, and recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia on September 28, 1994 in Deed Book 1380, Page 495 (previously erroneously shown as Deed Book 1559, Page 720), to which Plat reference is made for a more complete description.

**Parcel 2**

ALL THAT certain lot, piece or parcel of land situate, lying and being in the City of Newport News, (formerly Denbigh Magisterial District, City of Warwick) Virginia, containing one (1) acre, more or less, and bounded and described as

follows: Beginning at a point on the West side of U.S. Route No. 168 where the land herein conveyed joins the land now or formerly owned by Joseph M. Davis and Eva May Davis (which point is 200 feet Northerly from the land now or formerly owned by J. M. Dozier marked by a concrete post with a galvanized plat top, 5" disc, marked J.M.D., 7-1946), and from the point thus established running thence in a Westerly direction and perpendicular to U.S. Route No. 168 a distance of 425 feet, more or less, to a point; thence in a Northerly direction and parallel to the Westerly edge of U.S. Route No. 168 a distance of 100 feet, more or less, to a point; thence in an Easterly direction and perpendicular to U.S. Route No. 168 a distance of 100 feet, more or less, to the point of beginning, and being bounded on the North by the property now or formerly owned by Ralph C. Padgett, Jr. and Margaret S. Padgett, on the East by U.S. Route No. 168, on the South by the property now or formerly owned by Joseph M. Davis and Eva May Davis, and on the West by the property now or formerly owned by C.H. Sheild, Jr. and Susie S. Sheild.

### **Parcel 3**

All that certain lot, piece or parcel of land situate, lying and being a 2.823± acre tract in the City of Newport News, Virginia, and being more particularly described as follows:

Beginning at a set iron pin lying in the westerly line of Jefferson Avenue (Virginia Route No. 168), said pin being the southeast corner of property now or formerly owned by Peter H. Varis, said pin being located North 32° 12' 00" West, a distance of 349.03 feet from the intersection of the westerly line of said Jefferson Avenue and the northerly line of Buchanan Drive, and being the true point of beginning; thence South 32° 12' 00" East, a distance of 324.03 feet with the westerly line of said Jefferson Avenue to a set iron pin at a point of curvature on the northerly line of Buchanan Drive; thence along a curve having a radius of 25.00 feet, arc length of 39.27 feet, delta angle of 90° 00' 00", a chord bearing of South 12° 48' 00" West, and a chord length of 35.36 feet with said Buchanan Drive to a set iron pin at a point of tangency; thence South 57° 48' 00" West, a distance of 232.64 feet with said Buchanan Drive to a found iron pipe, said pipe being the southeast corner of Lot 20 of the Addition to Section Two, Hanover Heights, Block "E"; thence leaving said Buchanan Drive North 32° 12' 00" West, a distance of 149.74 feet with the easterly line of said Lot 20 to a set iron pin, said pin being the northeast corner of said Lot 20; thence South 57° 44' 30" West, a distance of 167.03 feet with the northerly line of said Lot 20, Lot 19 and, in part, Lot 18 of Hanover Heights, Section Two, Block "K" to a found iron pipe, said pipe being the southeast corner of Lot 1; thence North 32° 07' 00" West, a distance of 199.03 feet with the easterly line of Lot 1 and, in part, of Lot 2 of said Hanover Heights to a found concrete monument, said monument being the northwest corner of property now or formerly owned by Varis; thence North 57° 44' 30" East, a distance of 424.38 feet with the southerly line of said Varis to a set iron pin, said pin being the true point of beginning, containing 2.823 acres, more or less, as more particularly shown on that certain plat entitled, "PHYSICAL SURVEY OF PROPERTY OF SOTERIOS C. AND ELENI K. SIOKIS", a copy of which is recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia in Deed Book 1330, Page 196.

This conditional use permit shall apply only to that 2.79 acre portion of the above described Property as reflected on Exhibit A-4, prepared by Kimley-Horn dated April 28, 2022, which is attached hereto and made a part hereof.

The Property has a common street address of 12841, 12839, and a portion of 12835 Jefferson Avenue and is assigned Real Estate Assessor ' s Tax I.D.# 080.00-02-40, # 080.00-02-28, and # 080.00-02-13 respectively.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The applicant shall submit a class 1 Site Plan to the Department of Planning for review by the Site Plan Review Committee and approval by the Director of Planning. This site plan shall be in general conformance with the Exhibit for Conditional Use Permit prepared by Kimley-Horn dated April 28, 2022, found in Appendix A-4, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the city's site regulations and the Zoning Ordinance.
2. The property owner shall file a boundary line adjustment plat with the Department of Planning to vacate interior lot lines, and adjust the property lines to create a new parcel to be reviewed and approved by the Director of Planning.
3. The applicant shall implement all traffic improvements including road construction as well as sign installations as stipulated in the August 11, 2022 and updated September 9, 2022 Traffic Impact Analysis (TIA) prepared by McPherson Consulting as found in Appendix A-8, which is attached hereto and made a part hereof. The improvements shall occur as proffered in conditional rezoning CZ-2022-0001.
4. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated January 1, 2022 prepared by Chick-fil-a design development and found in Appendix A-5, which is attached hereto and made a part hereof, to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
5. A tree survey shall be conducted and mature trees that are within proposed and required green areas shall be retained and incorporated in the landscape plan. A landscape plan which is in conformance with the requirements of the Zoning Ordinance, site regulations as well as this permit shall be submitted to and approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by Kimley-Horn dated September 20, 2022, found in Appendix A-5. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.

6. The applicant shall install a six (6) foot tall masonry wall at the edge of the full length of the transitional buffer area (as shown in Appendix A-5.) The final design, materials and location of the wall shall be approved by the Director of Planning.
7. No more than one (1) freestanding sign shall be installed on the Property. The sign shall be a monument style not to exceed eight (8) feet in height, measured from the highest point of the sign structure to the top of the curb. The sign area shall be no more than fifty (50) square feet. The freestanding sign shall be in substantial conformance with the sign identified in Appendix A-7, which is attached hereto and made a part hereof. The design and materials of the freestanding sign and all building signs shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a sign permit. No portable signs shall be permitted on the Property.
8. There shall be no flagpole or additional freestanding signage allowed on the Property.
9. Signage placed in or on any window of the building shall be limited to no more than twenty-five (25) percent of each window.
10. All dumpsters and HVAC systems shall be screened from adjacent properties and rights-of-way with materials and designed to match the building and shall be approved by the Director of Planning prior to building permit approval, and shall be maintained in such condition in perpetuity.
11. The exterior of the restaurant including the transitional buffer area shall be patrolled by the operator at every shift change each day and all debris, litter and graffiti identified during this process must be removed immediately.
12. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty (30) days.



13. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
14. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local government.
15. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
16. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
17. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
18. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
19. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the Property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of February 14, 2023, or,
2. In the event of the continuous nonuse of the Property as herein permitted for a period of twenty-four (24) months.

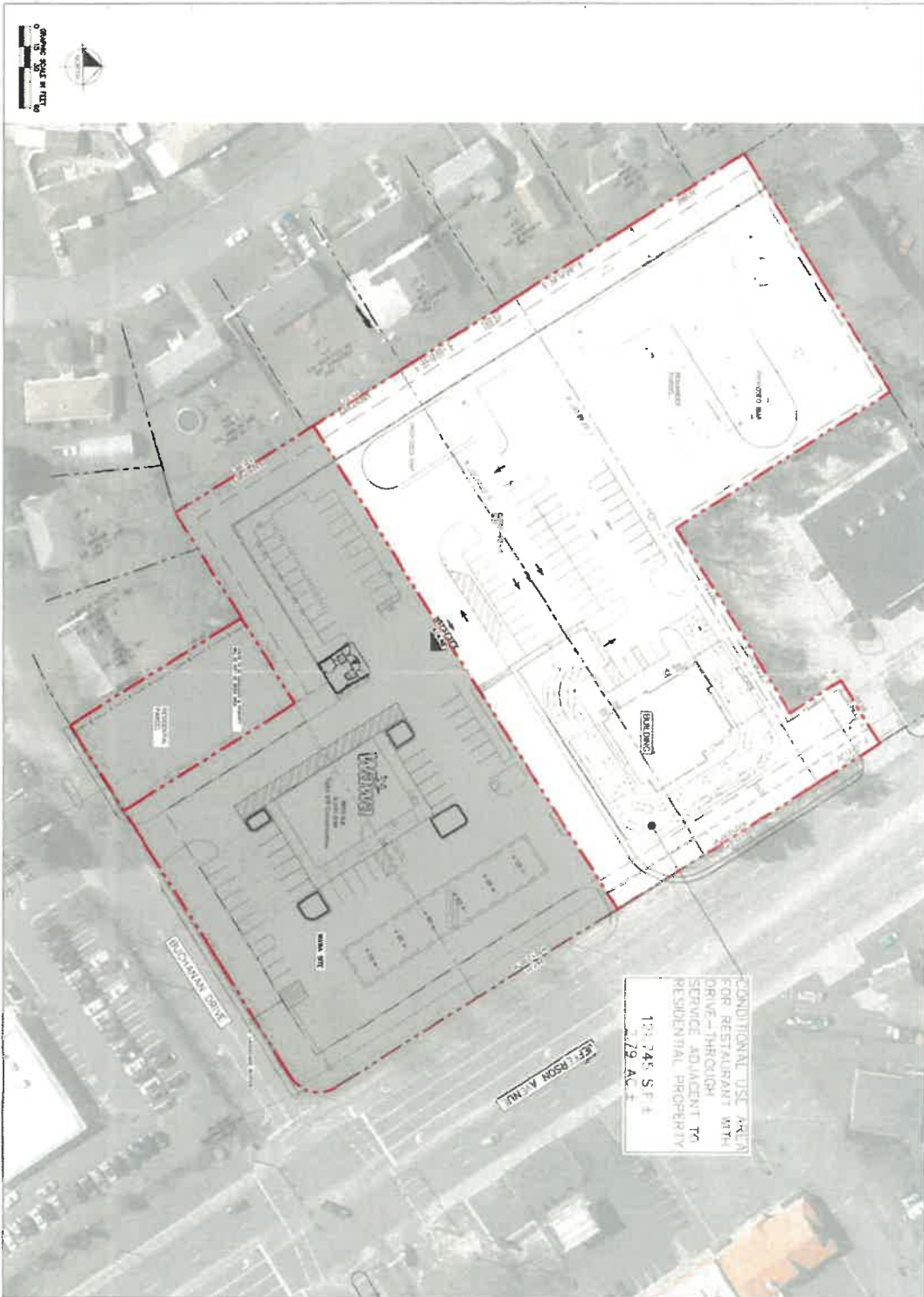
PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON FEBRUARY 14, 2023

Mabel Washington Jenkins, MMC  
City Clerk

Phillip D. Jones  
Mayor

A true copy, teste:

City Clerk



CONDITIONAL USE AREA  
 FOR RESTAURANT WITH  
 DRIVE-THROUGH  
 SERVICE ADJACENT TO  
 RESIDENTIAL PROPERTY  
 129 245 S.F.L.  
 BUCHANAN DRIVE

EXHIBIT FOR CONDITIONAL USE PERMIT	<b>DRIVE THROUGH          RESTAURANT</b> JEFFERSON AVE AND BUCHANAN DRIVE NEWPORT NEWS VIRGINIA	104 PROJECT 1183540336	
		SCALE: AS SHOWN DRAWN BY: JAH CHECKED BY: JAC	
129 245 S.F.L.		© 2002 KIMLEY-HORN AND ASSOCIATES, INC. 4325 MAIN STREET, SUITE 1000, VIRGINIA BEACH, VA 23462 PHONE: 757-213-8800 FAX: 757-213-8801 WWW.KIMLEY-HORN.COM	





**SPECIFICATIONS**

SIGN CABINET IS SIGN COMP #2005 EXTRUDED CABINET WITH A SIGN COMP # 2085/2095 BLEED FLEX FACE FRAME. CABINET IS INTERNALLY ILLUMINATED WHITE LED 6500K LIGHTS, SPACED EVENLY. PAINT INTERIOR OF CABINET'S MATTE WHITE. CLOSED SUNDAY PANEL (IF SHOWN) IS .125" ALUM. ROUTED FACE BACKED ACRYLIC.

READER BOARD CABINET (IF SHOWN) .125" ALUM. FACE PANEL WITH ROUTED OPENING FOR READER BOARD, AND COPY READING "CLOSED SUNDAY" APERCU SENTENCE CASE BOLD. HINGED VANDAL COVER FRAME WITH 187" THICK CLEAR POLYCARBONATE FACE WITH INSET .125" #7328 WHITE READER FACE WITH ZIP TRACK TO ACCOMMODATE WAGNER ZIPLETTER SET THAT INCLUDES FRANKLIN GOTHIC EXTRA CONDENSED UPPERCASE LETTER SET OF 334 CHARACTERS WITH PUNCTUATION MARKS.

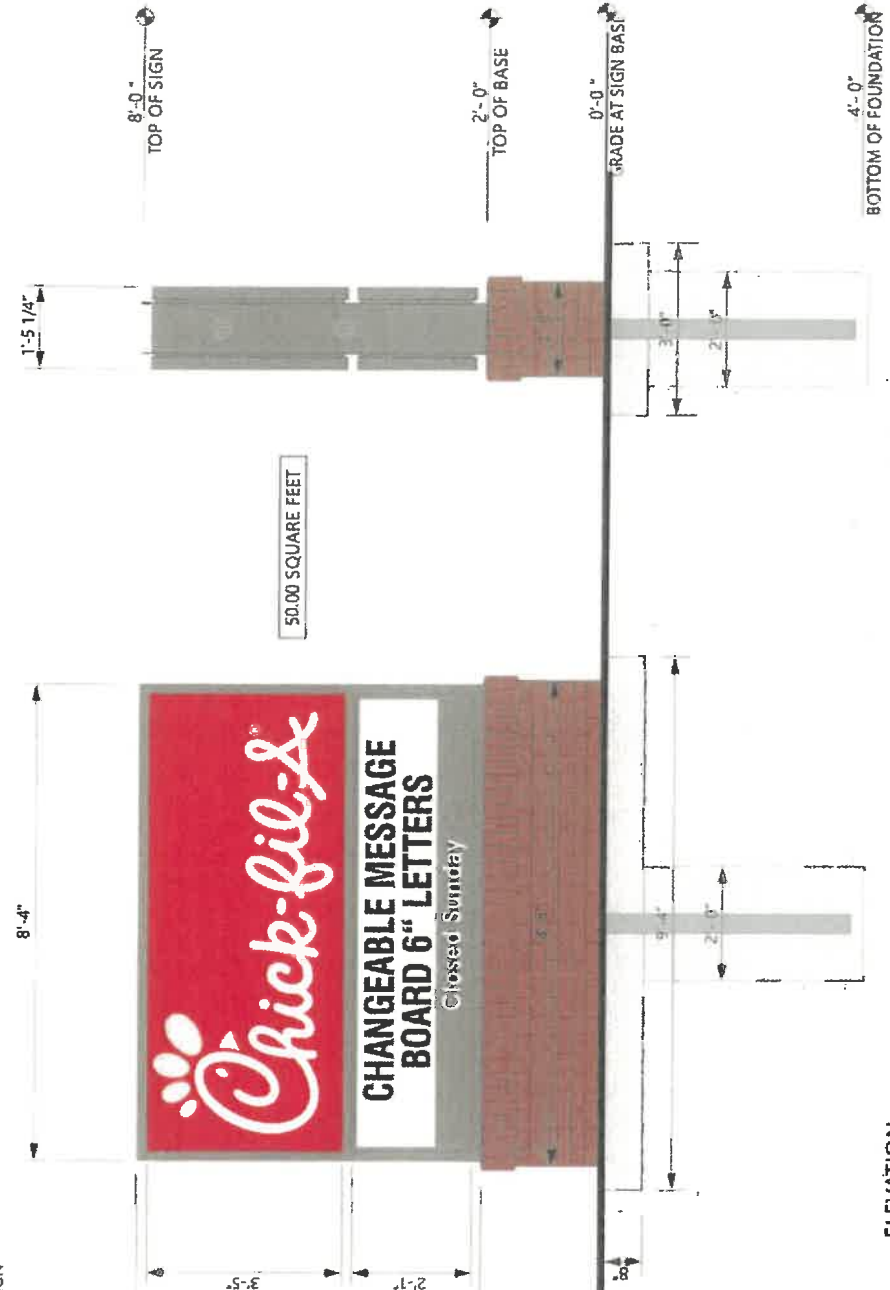
MASONRY WORK AND CONCRETE PAD FOR MASONRY WORK IS FURNISHED BY THE GENERAL CONTRACTOR. SIGN FOUNDATION IS FURNISHED BY CLAYTON SIGNS, INC.

3M #3630-53 TRANSLUCENT CARDINAL RED TENSION FRAME COVER TO BE PAINTED GENESIS M SINGLE STAGE (G2-SERIES) RED #48247

WHITE BLEED 3M PANOGRAPHIC III FLEX FACE W/ .125" #7328 WHITE PLEX

PAINTED MATTHEWS #74155 DARK BRONZE, SEMI-GLOSS

MASONRY TO MATCH BUILDING



**ELEVATION**  
SCALE - 1/2" = 1'-0"

**END VIEW**  
SCALE - 1/2" = 1'-0"

SEE ENGINEER STAMPED DRAWING FOR FOUNDATION DETAILS



5198 North Lake Drive  
Lake City, GA 30260  
404.561.3800  
www.claytonsigns.com

**MONUMENT SIGN**

ALL ELECTRICAL 120 VOLTS UNLESS OTHERWISE INDICATED

ACCOUNT # 104942  
DRAWING DATE February 8, 2023  
VISION DATE February 16, 2023

**L04942**

CLAYTON SIGNS, INC.  
12855/12839 / 12841 PERSON AVENUE  
MARIETTA, GA 30067

**LOCATION**  
**A**

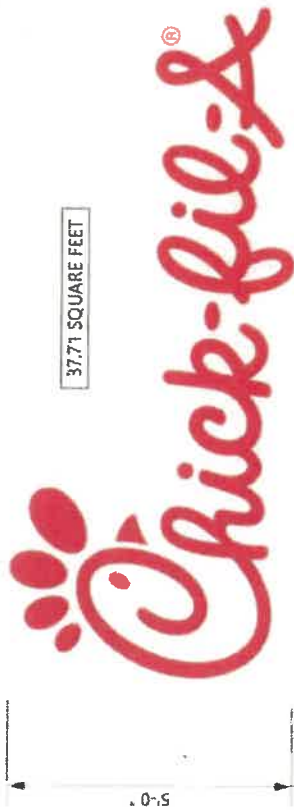
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## SPECIFICATIONS

CHICK-FILE-A SCRIPT LETTERS  
LETTERS ARE LED-ILLUMINATED  
CHANNEL LETTERS MOUNTED  
ON ALUMINUM SURFACE OF BUILDING  
WITH TRANSFORMERS REMOTELY  
LOCATED BEHIND THE WALL IN  
UL APPROVED TRANSFORMER BOXES.  
FACES ARE 3/16" ACRYLIC.  
RETURNS ARE .063 ALUMINUM  
BACKS ARE .080 ALUMINUM  
ALL RETURNS ARE ARC-WELDED TO  
LETTER BACKS

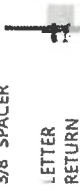
CHANNEL LETTER FACES  
2799 RED ACRYLIC  
TRIMCAP RETAINER-  
1" RED JEWELITE TRIMCAP

ALUMINUM RETURNS  
PAINTED TO MATCH  
SHERWIN WILLIAMS  
SW670B LATTE



ELEVATION  
SCALE - 1/2" = 1'-0"

MASONRY WALL  
3/8" SPACER



FASTENER PER  
FIELD CONDITIONS  
SEE ENGINEERING OR BELOW.

LED MODULES



SCREW-IN  
FLEX CONNECTOR  
LED POWER SUPPLY  
INSIDE OF TRANSFORMER BOX

20 AMP. TOGGLE  
SWITCH DISCONNECT

FASTENER NOTE:  
USE 1/8" STAINLESS STEEL BOLTS W/ SPACERS THRU EIFS.  
EXPANSION BOLTS IN CONCRETE OR BRICK WALLS.  
TOGGLE BOLTS IN CONCRETE BLOCK OR PANEL WALLS.  
TEK SCREWS IN METAL STUDS. LAG-BOLTS IN WOOD STUDS.  
ALL THREAD BOLTS WITH BLOCKING BETWEEN STUDS.

CROSS-SECTION  
SCALE - 1/2" = 1'-0"

**CLAYTON SIGN**  
50 YEARS

CHANNEL LETTERS (RED ILLUMINATION) NET LOCATION

1/2" = 1'-0"

5198 North Lake Drive  
Lake City, GA 30260  
404.361.3800  
www.claytonsigns.com

LED-ILLUMINATED  
CHANNEL LETTERS

ALL ELECTRICAL  
WORKS ARE  
120 VOLTS  
UNLESS  
OTHERWISE INDICATED

CLAYTON SIGN, INC. 5198 NORTH LAKE DRIVE, LAKE CITY, GA 30260

DRAWN BY: Ben Holiday  
ACCOUNT REP: Ben Holiday  
DRAWING DATE: February 8, 2022  
REVISION DATE: February 16, 2022

PROJECT: L04942

CLAYTON SIGN, INC.  
5198 NORTH LAKE DRIVE  
LAKE CITY, GA 30260  
404.361.3800  
www.claytonsigns.com

LOCATION: B, C, E

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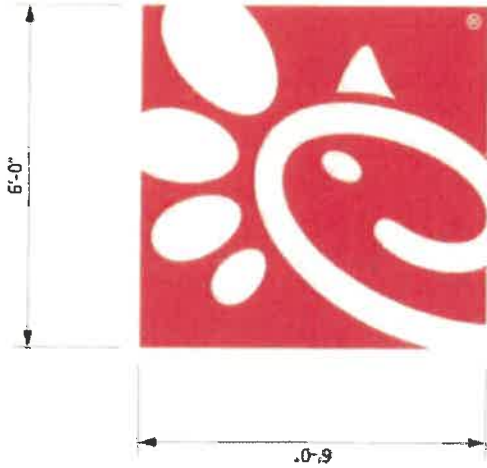
**SPECIFICATIONS**

CABINET  
ALUMINUM CABINET HAS EXTRUDED ALUMINUM  
FACES  
FLEX FACES DECORATED WITH TRANSLUCENT VINYL  
FILM ON SURFACE OF ACRYLIC.  
INTERNALLY ILLUMINATED WITH WHITE LED 6500K LIGHTS.  
DISCONNECT SWITCH AS REQUIRED PER NEC.



FACES  
3M #3630-53 CARDINAL  
RED TRANSLUCENT VINYL  
CABINET  
GENESIS M SINGLE STAGE  
(G2-SERIES) RED #48247

3M PANOGRAPHIC III FLEX FACE



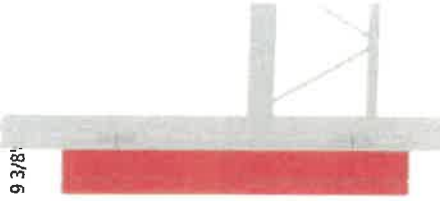
ELEVATION  
SCALE - 1/2" = 1'-0"

WALL SHEATHING  
3/8" SPACER



SIGN  
CABINET

9 3/8"



3/8" STAINLESS  
STEEL LAG BOLT INTO BLOCKING

2 x 8" WOOD BLOCKING  
FOR MOUNTING OF SIGN

2 x 8" WOOD BLOCKING  
FOR MOUNTING OF SIGN

20 AMP. SWITCH DISCONNECT

36.00 SQUARE FEET

END VIEW  
SCALE - 1/2" = 1'-0"

**Signs**  
SINGLE FACED CABINET  
WET LOCATION  
This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code (NEC) and the National Electrical Safety Code (NESC).  
UL LISTED  
UL 188  
UL 188A



5198 North Lake Drive  
Lake City, GA 30260  
404-361-3800  
www.claytonsigns.com

ALL ELECTRICAL  
120 VOLTS  
UNLESS  
OTHERWISE INDICATED

DESIGNED BY Ben Holiday  
ACCOUNT REP Ben Holiday  
DRAWING DATE February 8, 2022  
REVISION DATE February 15, 2022

PROJECT NAME  
LOCATION  
5198 North Lake Drive  
Lake City, GA 30260  
PROJECT NO. 17243  
REVISED: 2/15/22

LOCATION  
D

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## Executive Summary

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The proposed development is located in Newport News, Virginia, on the northwest corner of the intersection of Jefferson Avenue and Buchanan Drive. The developer is requesting a rezoning for five parcels to be consolidated into two parcels with a Retail Commercial (C1) zoning and conditional use permit to support a fast-food restaurant with a drive-thru and a convenience store / gas station. As illustrated in the site plan dated July 30, 2021, the development will have cross access between the two parcels with three driveways: two along Jefferson Avenue and a third on Buchanan Drive.

The traffic study area includes four intersections along Jefferson Avenue in the vicinity of the proposed development. As currently proposed, the development will increase traffic volumes throughout the study area adding 541 and 709 trips during the PM and Weekend peak hours, respectively. The following summarizes the recommendations for the study area intersections:

### **Jefferson Avenue / Richneck Road**

- Maintain existing laneage.

### **Jefferson Avenue / Site Driveway 3**

#### ***(Shared access with Advanced Auto Parts)***

- Construct southbound right-turn lane within available right-of-way to include 150' storage and 50' of taper.
- Construct site driveways with one inbound and one outbound lane each.

### **Jefferson Avenue / Site Driveway 2**

#### ***(shared access with gas/convenience store)***

- Construct southbound right-turn lane within available right-of-way to include 100' storage and 50' of taper.
- Construct site driveways with one inbound and one outbound lane each