



## REPORT TO CITY PLAN COMMISSION

**Common Council Meeting Date:** April 22, 2020

**Item:** Minor Amendment to Special Use Permit #28-01

**Case Manager:** Jessica Titel

### GENERAL INFORMATION

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**Owner:** Decleene-Zellner, LLC

**Applicant:** Sarah Gregory – Sangria’s Mexican Grill

**Address/Parcel #:** 215 S. Memorial Drive (Tax Id #31-3-0883-00)

**Petitioner’s Request:** The applicant is requesting to amend Special Use Permit #28-01 to allow alcohol sales and service on a new outdoor deck area on the north side of the building.

### BACKGROUND

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This item would typically go to Plan Commission for review and final action. However, to help prevent the spread of the COVID-19, standing committees will not meet and Common Council will conduct business as Committee of the Whole.

Special Use Permit #28-01 for a restaurant with alcohol sales (Black & Tan Grille) at 215 S. Memorial Drive was approved by Common Council on January 2, 2002. The approval was granted with the conditions listed as follows:

1. This approval is conditioned upon State building plan approval. State-approved building plans are required prior to Site Plan approval. If it is determined through Site Plan Review that this structure does not have the ability to function as a restaurant, then this Special Use Permit will be null and void. In addition, the property owner must obtain a new variance from the State for the existing building, as it is located closer than 10 feet to the south property line.
  - *Condition satisfied. Occupancy permit was issued.*
2. The applicant shall apply for and receive a Liquor License from the City Clerk prior to serving alcohol on the subject site.
  - *Condition satisfied. Liquor license was issued.*
3. Site Plan review and approval is required prior to issuance of a building permit for building expansion. The location of the dumpsters on the site will be reviewed for accessibility during Site Plan Review.
  - *Condition satisfied. Occupancy permit was issued.*
4. Hours of operation of the restaurant with alcohol sales will be 5:00 p.m. – 10:00 p.m., seven days a week. Deliveries to the site will occur between 12:00 p.m. (noon) and 4:00 p.m.
  - *Condition no longer applicable because Black & Tan Grille no longer operates at this location. Hours of operation were adjusted when Sangria’s began operation.*

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5. On-site parking spaces may not be eliminated for the purpose of snow storage. If this is the case, snow must be hauled off-site during the winter months.
  - *Ongoing condition.*
6. The existing third floor of the building may not be used as occupied space.
  - *Ongoing condition.*
7. This Special Use Permit will be considered and decided by Common Council after the decision on Planned Development Amendment #F-01.
  - *Planned Development Amendment #F-01 was approved by Common Council on January 2, 2002. The Implementation Plan Document was recorded July 10, 2007.*

### **STAFF ANALYSIS**

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**Project Summary:** Sangria's Mexican Grill currently operates at this location. The applicant proposes to allow alcohol sales and service on new two-story deck on the north side of the building. The new deck will total approximately 630 square feet in area (including both levels), as shown on the attached site plan. Approximately 585 square feet of existing outdoor service area on the front side (east side) of the building will be eliminated upon completion of the new deck. This results in a net increase of approximately 45 square feet of outdoor service area for alcohol sales and consumption.

**Existing Site Conditions:** The existing building totals approximately 9,144 square feet, including space that is not being used on the third level. The on-site parking lot provides 23 parking spaces.

**Operational Information:** A plan of operation is attached to the Staff Report.

**Outdoor Seating Area:** The proposed two-story deck is located on the north side of the building. The applicant proposes to utilize the outdoor patio for alcohol sales and service, as shown on the development plan and described in the plan of operation. Approximately 585 square feet of existing outdoor service area will be eliminated upon completion of the new deck.

**Surrounding Zoning and Land Uses:** The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and residential in nature.

North: CBD Central Business District. The adjacent land use to the north is currently used for retail purposes.

South: R-2 Two-Family Residential District, R-3 Multi-Family Residential District. The adjacent land uses to the south are currently two-family and multi-family residential.

East: CBD Central Business District, R-1C Central City Residential District. The adjacent land uses to the east are currently commercial and residential.

West: R-2 Two-Family Residential District. The adjacent land use to the west is currently used for two-family residential.

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**Appleton Comprehensive Plan 2010-2030:** Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Mixed Use designation shown on the City's *Comprehensive Plan 2010-2030* Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

*Goal 1 – Community Growth*

*Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.*

**OBJECTIVE 9.4 Economic Development:**

*Ensure the continued vitality of downtown and the City's neighborhood commercial districts.*

**OBJECTIVE 10.5 Land Use:**

*Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.*

**Zoning Ordinance Requirements:** The Implementation Plan Document requires a minimum of 23 parking spaces for this use. The existing on-site parking lot provides 23 parking spaces. Minor adjustments will be made to the parking lot as a result of placement of the new deck; however, a minimum of 23 parking spaces will still be provided.

**Changes to Special Uses:** The subject property has a zoning designation of PD/C-2 Planned Development General Commercial District. Per the Implementation Plan Document, a restaurant with alcohol sales and service requires a Special Use Permit in this PD/C-2 District, but Special Use Permit #28-01 has been previously approved for this site. This item has been referred to the Plan Commission per Section 23-66(g) of the Municipal Code, which states:

(1) **Minor change.** Minor changes shall be submitted to and reviewed by the Plan Commission. Minor changes include:

- a. Expansions of special uses of less than 10%.

*The outdoor deck and elimination of existing outdoor service area will result in a net increase of approximately 45 square feet of outdoor service area. This constitutes an expansion of less than 10%.*

- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

*This minor amendment request is consistent with the general intent and character of Special Use Permit #28-01, as the subject area will continue to be used as a restaurant with alcohol sales and service.*

Note: Minor amendments to an existing Special Use Permit do not require Common Council action.

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**Technical Review Group (TRG) Report:** This item appeared on the March 24, 2020 TRG Agenda. No negative comments were received from participating departments.

### Approval or Denial by Common Council:

When reviewing an application for a Special Use Permit, the City must look at the requirements and conditions found in the zoning ordinance and determine if the applicant has demonstrated that their proposed application for Special Use Permit satisfies all those requirements and conditions pursuant to Section 23-66(c)(5)c of the zoning ordinance. The Common Council must provide **substantial evidence** supporting their decision to approve, approve with conditions or deny the Special Use Permit. Substantial evidence means *“facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.”*

Public comment that is based on personal opinion or speculation are not sufficient forms of evidence. All requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

**Finding of Fact:** This request was reviewed in accordance with the standards (*proper zoning district, district regulations, special regulations, comprehensive plan and other plans, traffic, landscaping and screening, neighborhood compatibility, and impact on services*) for granting a Special Use Permit under Section 23-66 (e) (1-8), which were found in the affirmative.

### RECOMMENDATION

Staff recommends, based on the above analysis, that Minor Amendment to Special Use Permit #28-01 for an outdoor deck with alcohol sales and service located at 215 S. Memorial Drive (Tax Id #31-3-0883-00), per attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval, may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
  - **Substantial Evidence:** Standardized condition that establishes a process for review and approval of future changes to the special use in order to promote the health, safety and welfare of the City.
2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code. The applicant shall receive approval of a Liquor License premise amendment from the City Clerk prior to serving or consuming alcohol in the outdoor seating area.
  - **Substantial Evidence:** This condition provides notice to the applicant that they are required to follow the standards for serving alcohol in the City of Appleton in order to promote the health, safety and general welfare of the City. This condition also provides notice to the applicant that they are required to receive a premise amendment to their liquor license from the City Clerk’s office prior serving alcohol on the new deck.

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3. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
  - **Substantial Evidence:** This condition assures the applicant understands they must follow the City's Municipal Code and all applicable State and Federal laws which they are required to follow while conducting business in the City; failure to follow City, State and Federal regulations may result in revocation of their special use permit to serve alcohol.
4. On-site parking spaces may not be eliminated for the purpose of snow storage. If this is the case, snow must be hauled off-site during the winter months.
  - **Substantial Evidence:** This condition provides notice to the applicant that they are required to follow this standard per the recorded PD/C-2 Planned Development General Commercial District Implementation Plan Document.
5. The existing third floor of the building may not be used as occupied space, unless applicable Building, Fire, and Municipal Codes are satisfied.
  - **Substantial Evidence:** This condition assures the applicant understands they must follow the City's Building, Fire and Municipal Codes if they have plans to use the third floor in the future.
6. Building permits are required from the Inspections Division for the proposed deck.
  - **Substantial Evidence:** This condition provides notice to the applicant that they must apply for building permits prior to constructing the proposed deck.

## RESOLUTION

### CITY OF APPLETON RESOLUTION AMENDING SPECIAL USE PERMIT #28-01

**WHEREAS**, On January 2, 2002, the Common Council approved Special Use Permit #28-01 for a restaurant with alcohol sales and service (Black & Tan Grille) located at 215 S. Memorial Drive; also identified as Parcel Number 31-3-0883-00; and

**WHEREAS**, Sarah Gregory, owner of Sangria's Mexican Grill, has applied for a Minor Amendment to Special Use Permit #28-01 for a proposed outdoor deck with alcohol sales and service located at 215 S. Memorial Drive and also identified as Parcel Number 31-3-0883-00; and

**WHEREAS**, the City of Appleton Common Council held a public meeting on April 22, 2020, on the Minor Amendment to Special Use Permit #28-01 at which all those wishing to be heard were allowed to speak or present written comments, and other materials presented at the public meeting; and

**WHEREAS**, the City of Appleton Common Council has reviewed and considered the Community and Economic Development Department's staff report and recommendation and other spoken and written evidence and testimony presented at the public meeting; and

**WHEREAS**, the City of Appleton Common Council may approve the proposed Minor Amendment to the Special Use Permit provided all the standards listed in Section 23-66(e)(1-8) are found in the affirmative, and may imposed any condition on the Special Use Permit provided the condition(s) are related to the purpose of the City of Appleton Municipal Code and are based on substantial evidence; and

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the City of Appleton Common Council, based on the application for a minor amendment to the special use permit, Community and Economic Development Department's staff report, testimony and substantial evidence presented at the public meeting with regard the Minor Amendment to Special Use Permit #28-01, that the Common Council:

1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies the Minor Amendment to Special Use Permit #28-01 for an outdoor deck with alcohol sales and consumption located at 215 S. Memorial Drive; also identified as Parcel Number 31-3-0883-00 based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)
3. If YES, the City of Appleton Common Council hereby approves the Minor Amendment to Special Use Permit #28-01 for an outdoor deck with alcohol sales and consumption

located at 215 S. Memorial Drive; also identified as Parcel Number 31-3-0883-00, subject to the following conditions:

**CONDITIONS OF MINOR AMENDMENT TO SPECIAL USE PERMIT #28-01**

1. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval, may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code. The applicant shall receive approval of a Liquor License premise amendment from the City Clerk prior to serving or consuming alcohol in the outdoor seating area.
3. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
4. On-site parking spaces may not be eliminated for the purpose of snow storage. If this is the case, snow must be hauled off-site during the winter months.
5. The existing third floor of the building may not be used as occupied space, unless applicable Building, Fire and Municipal Codes are satisfied.
6. Building permits are required from the Inspections Division for the proposed deck.

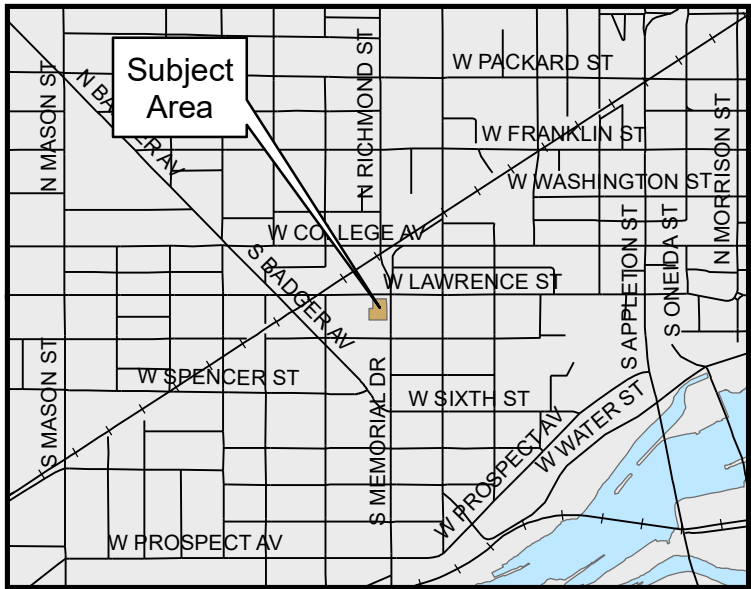
Adopted this 22<sup>nd</sup> day of April 2020.

\_\_\_\_\_  
(\_\_\_\_\_), Mayor

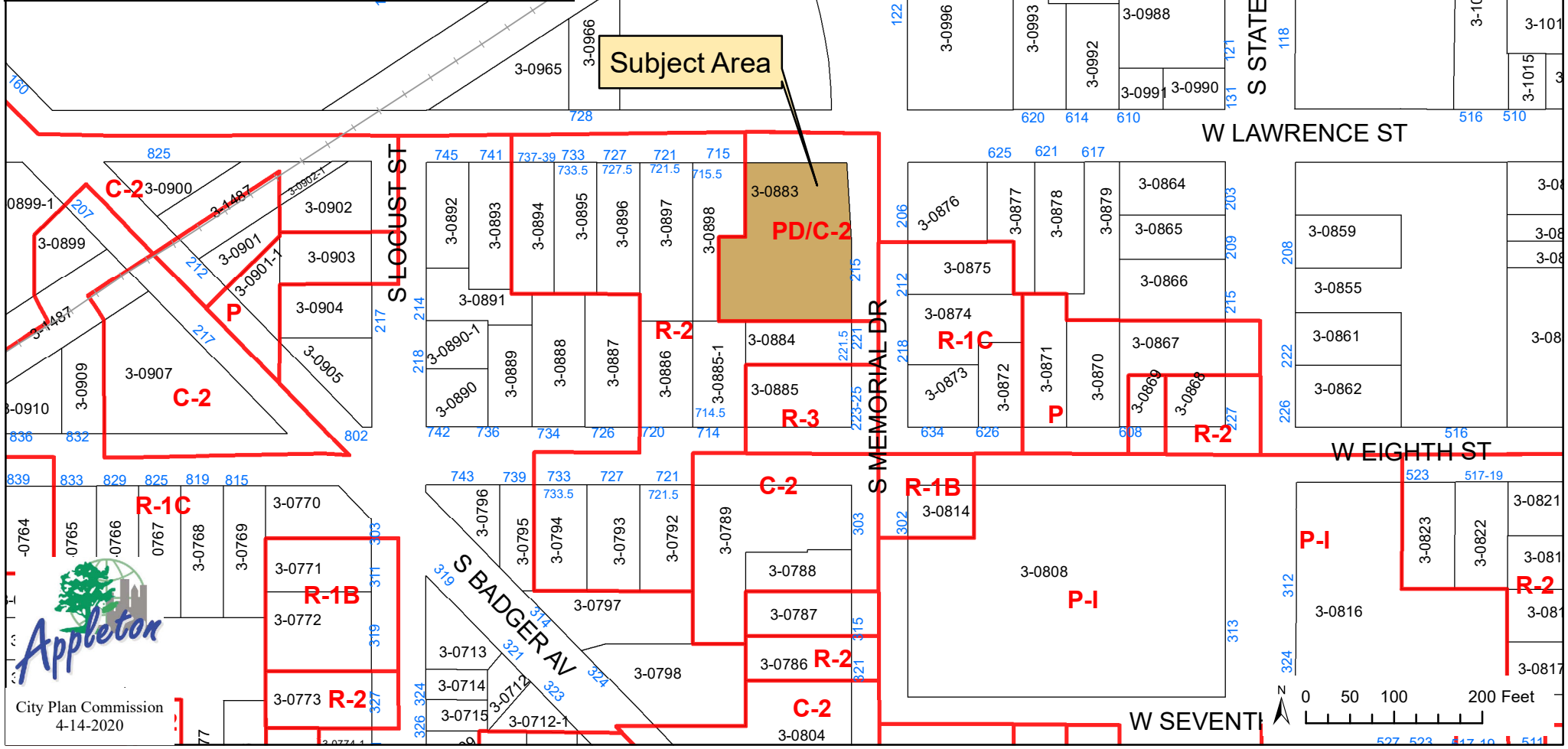
ATTEST:

\_\_\_\_\_  
Kami Lynch, City Clerk

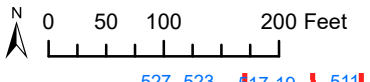
215 S. Memorial Drive  
 Minor Amendment to Special Use Permit #28-01  
 Outdoor deck with alcohol sales and service  
 Zoning Map



Subject Area

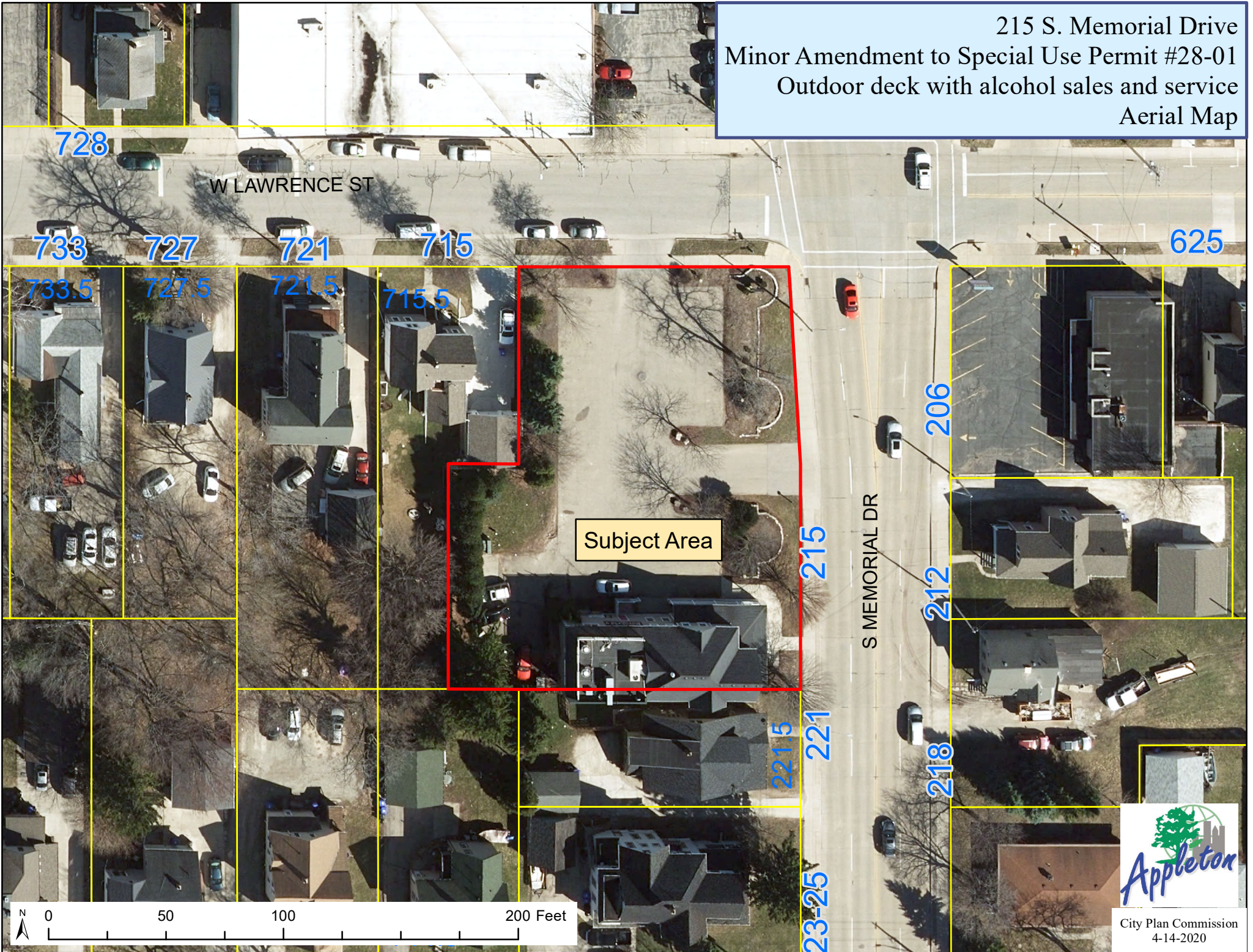


City Plan Commission  
 4-14-2020





215 S. Memorial Drive  
Minor Amendment to Special Use Permit #28-01  
Outdoor deck with alcohol sales and service  
Aerial Map



728

W LAWRENCE ST

733

727

721

715

625

733.5

727.5

721.5

715.5

206

Subject Area

215

S MEMORIAL DR

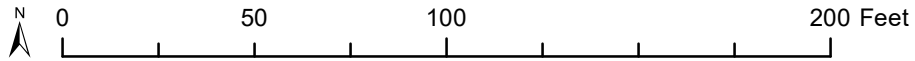
212

221.5

221

218

23-25



# PLAN OF OPERATION AND LOCATIONAL INFORMATION

## Business Information:

Name of business: Sangria's Mexican Grill

Years in operation: 12 (w/9 in appleton)

Type of proposed establishment (detailed explanation of business):

restaurant / bar / patio

## Proposed Hours of Operation:

Day	From	To
Monday thru Thursday	11 am	9 pm (10 pm Thursdays)
Friday	11 am	10 pm
Saturday	11 am	10 pm
Sunday	11 am	8 pm

## Building Capacity and Area:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: \_\_\_\_\_ persons

Gross floor area of the existing building(s):  
5000 ft<sup>2</sup> interior 900 ft<sup>2</sup> exterior outdoor space

Gross floor area of the proposed building(s):  
5000 ft<sup>2</sup> interior 630 ft<sup>2</sup> outdoor deck/patio

315 ft<sup>2</sup> front porch area (includes 12 x 8 porch + two spots for tables (7.5 x 10) 16 x 9)

Identify location, number, capacity and flammable liquid materials stored in storage tanks or containers:

- Bulk CO<sub>2</sub> located in back of building
- 2 nitrogen tanks downstairs
- 1 backup CO<sub>2</sub> in basement
- 1 backup CO<sub>2</sub> upstairs

Describe any potential smoke, odors emanating from the proposed use and plans to control them:

N/A

**Describe Any Potential Noise Emanating from the Proposed Use:**

Describe the noise levels anticipated from all mechanical equipment:

music - ~~two~~ outdoor speakers to be installed on deck

How will the noise be controlled?

controlled by remote/receiver volume inside by host stand

**Outdoor Lighting:**

Type: general lighting of service area

Location: stairs/post building

**Off-Street Parking:**

Number of spaces existing: 23

Number of spaces proposed: 23

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

N/A

**Outdoor Uses:**

Type, location, size of outdoor storage area(s) of business property, goods, or merchandise not intended for customer viewing or immediate sale:

NONE

Type and height of screening of plantings/fencing/gating for outdoor storage area(s):

N/A

Type, location, size of outdoor display area(s) of merchandise for sale or other business property:

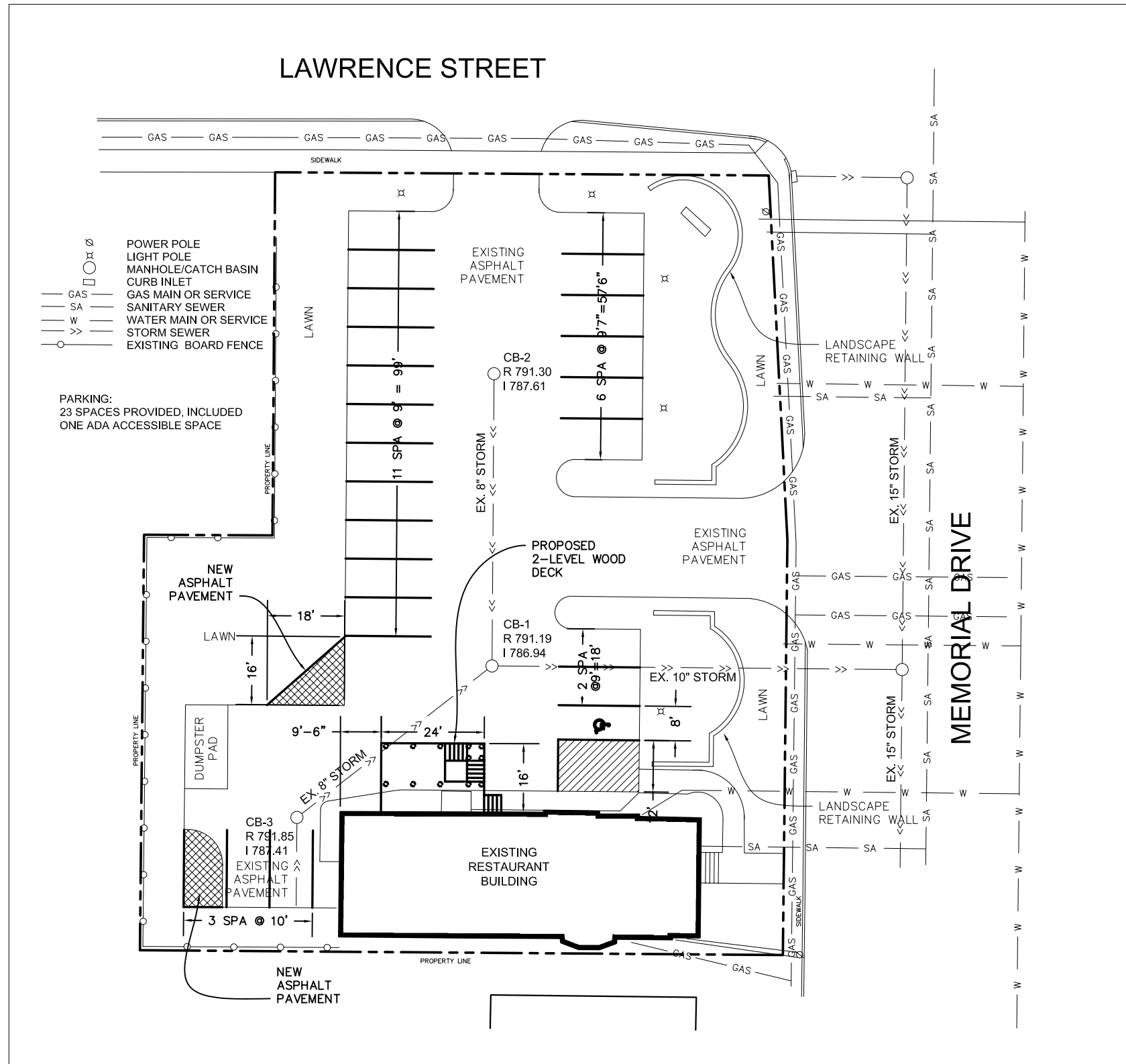
N/A

**Number of Employees:**

Number of existing employees: 20

Number of proposed employees: 20

Number of employees scheduled to work on the largest shift: 15



NORTH

# SITE PLAN

SCALE: 1"=20'



**Larson Engineering, Inc.**  
 2801 E. Enterprise Avenue, Suite 200  
 Appleton, WI 54913-7889  
 920.734.9867 www.larsonengr.com

**NEW DECK**  
 Sangria's  
 215 S. Memorial Drive  
 Appleton, Wisconsin

CLIENT:  
**Tundraland**  
 2277 W. Frontage Rd.  
 Kaukauna, WI

SEAL

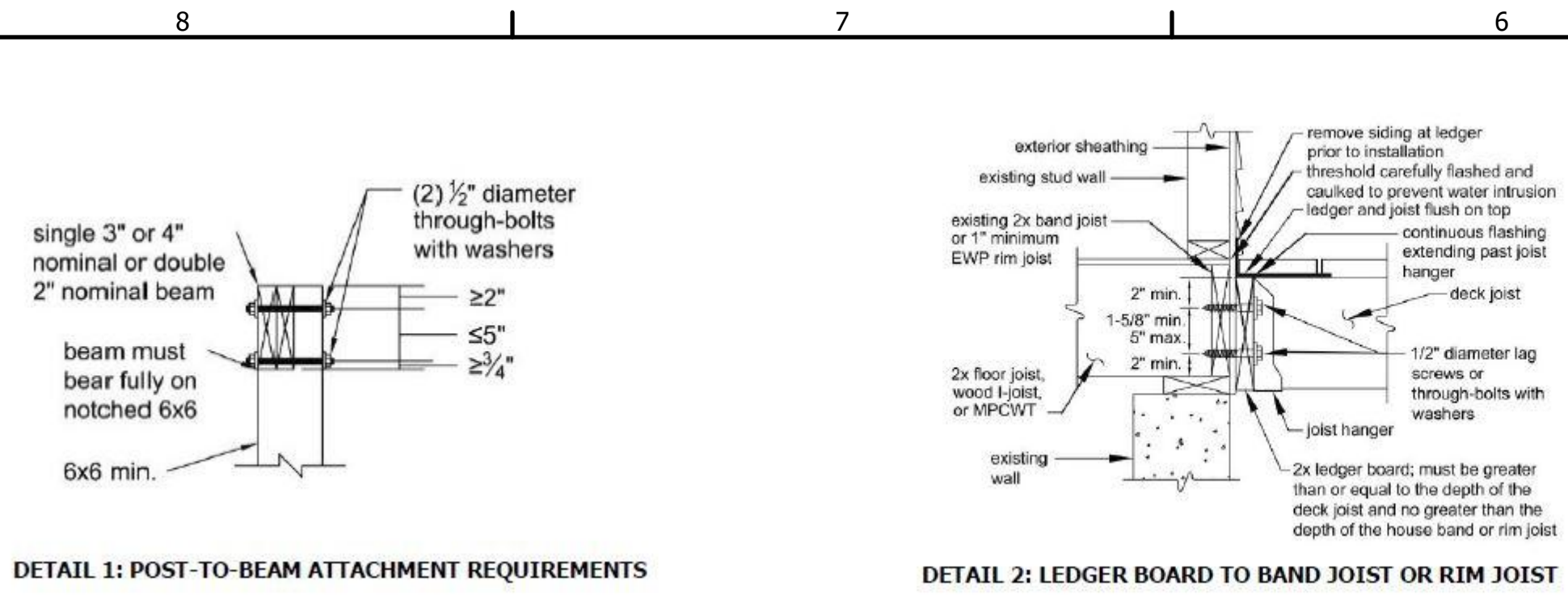
Date:  
 Design Firm#

No.	Date	Description

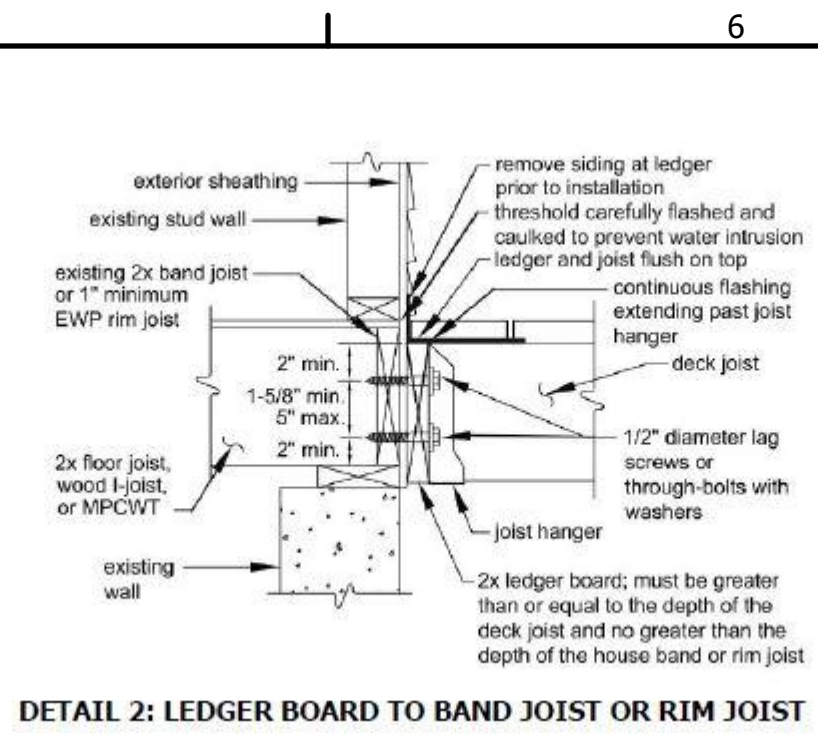
Project#: 31200046  
 Drawn by: SEK  
 Checked by: MEM

Sheet Title:  
**SANGRIA RESTAURANT  
 EXTERIOR DECK**

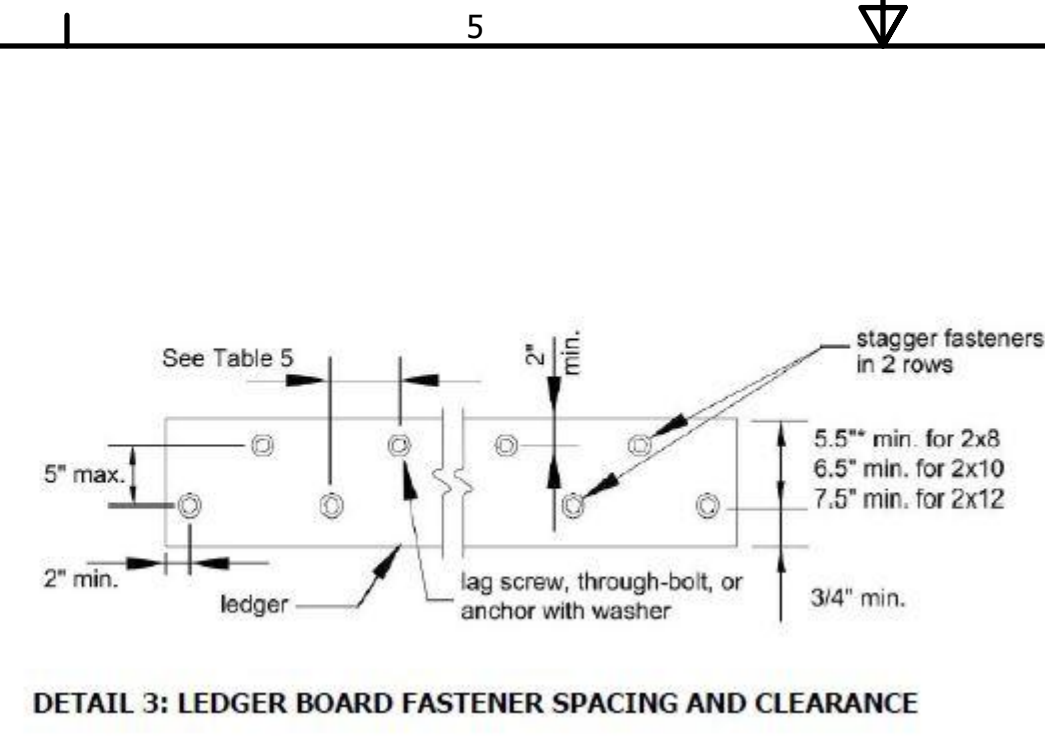
Sheet: 1 of 1



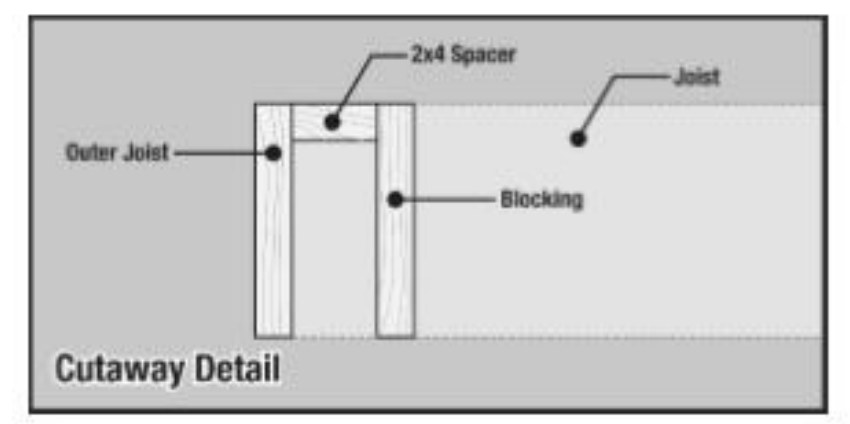
DETAIL 1: POST-TO-BEAM ATTACHMENT REQUIREMENTS



DETAIL 2: LEDGER BOARD TO BAND JOIST OR RIM JOIST

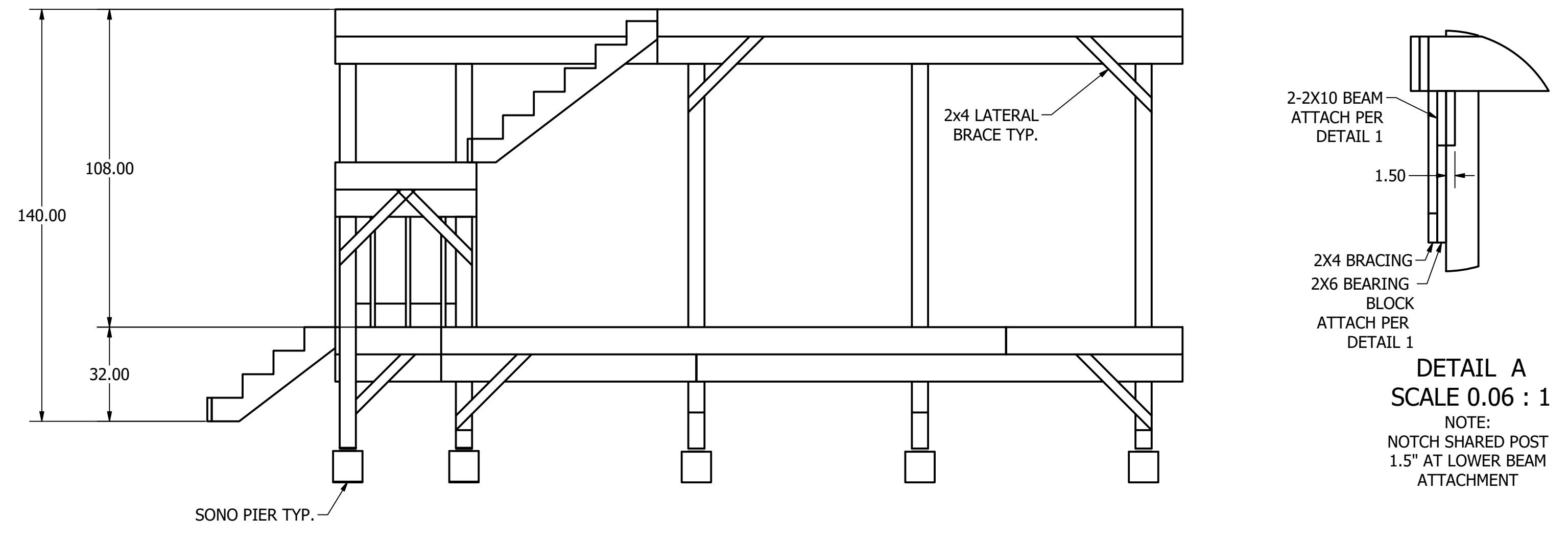
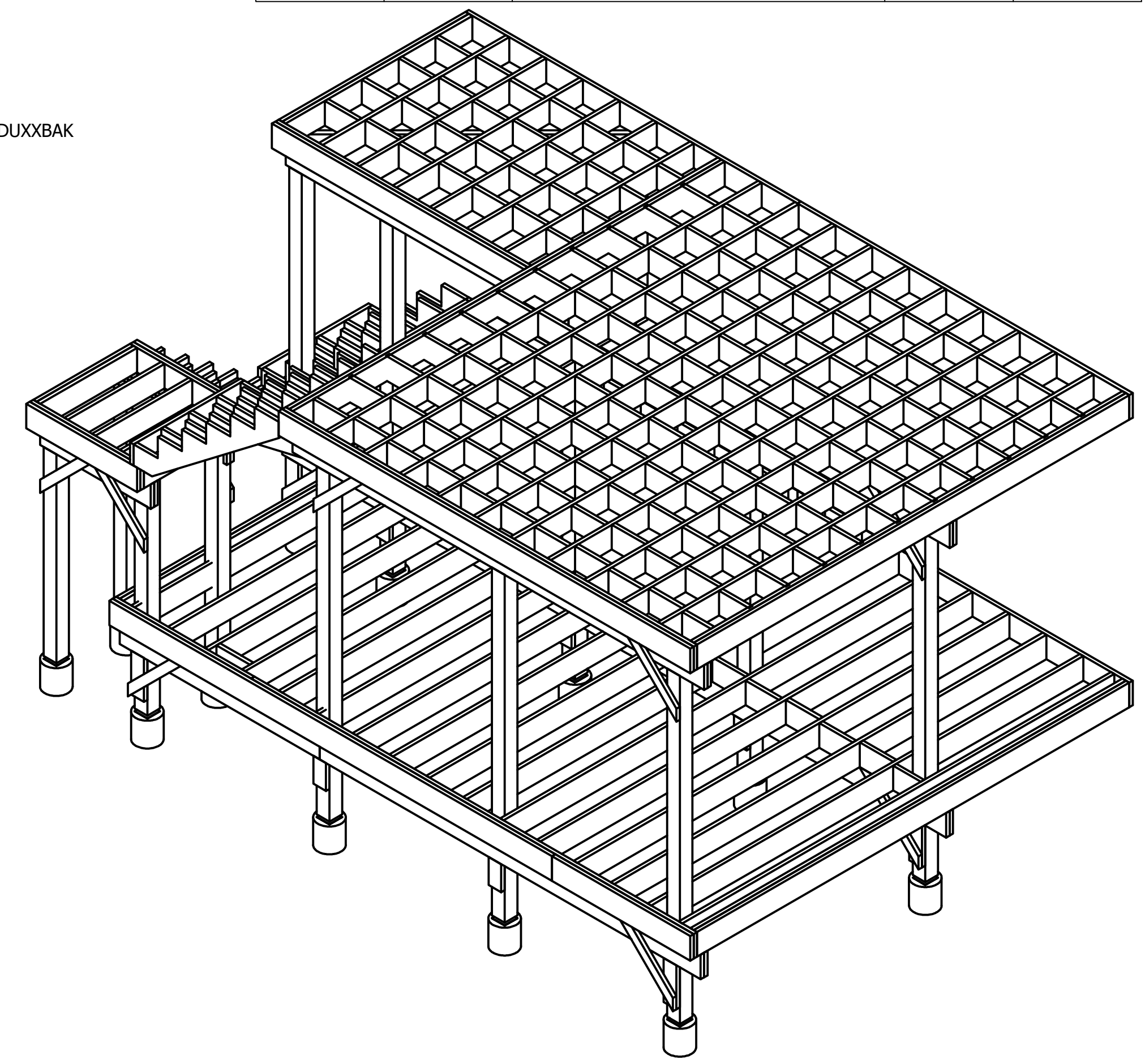
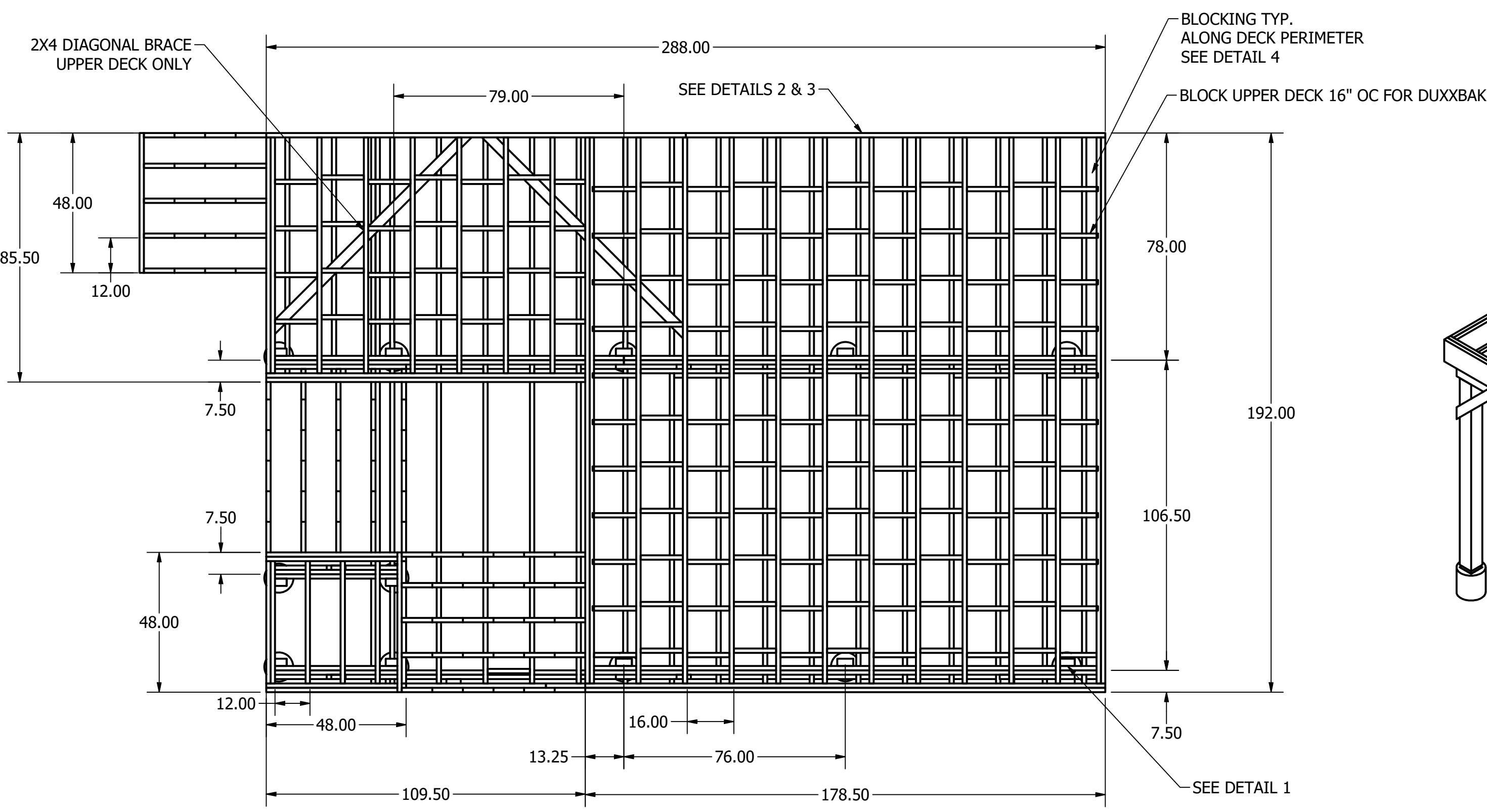


DETAIL 3: LEDGER BOARD FASTENER SPACING AND CLEARANCE



DETAIL 4

REVISION HISTORY				
ZONE	REV	DESCRIPTION	DATE	APPROVED
	A		3/2/2020	
	B	REDESIGN UPPER DECK FOR DUXXBK	3/2/2020	



DETAIL A  
SCALE 0.06 : 1  
NOTE:  
NOTCH SHARED POST  
1.5\"/>

PARTS LIST			
ITEM	QTY	PART NUMBER	DESCRIPTION
28	77	2X10X16	JOISTS/BEAMS/BLOCKING/RIM JOISTS
29	14	2X10X12	LEDGER/BEAMS/RIM JOISTS
30	5	2X12X16	STAIR STRINGERS
48	3	2X12X12	STAIR STRINGERS
32	1	2X8X10	STAIR BASE
31	10	2X4X16	BLOCKING/BRACING
64	1	2x6x16	BEAM BEARING BLOCK
33	8	6X6X12	
34	4	6X6X8	
35	33	POST TO BEAM BOLT ASSEMBLY	
25	12	ABA66Z POST BASE	
26	12	SONO PIER	
36	56	LEDGER SCREWS	
37	6	8\"/>	

MAXIMUM LOAD ON ROUND FOOTING		
2000lb/sqft SOIL BEARING		
DIAMETER	CAPACITY	
8	688	
10	1090	
12	1570	
14	2137	
16	2791	
18	3533	
20	4361	
22	5277	
24	6280	
26	7370	
28	8548	
30	9913	
32	11164	
34	12604	
36	14130	

Minimum 2000 psf Sands/Gravels (SW, SP, SM, SC, GM, GC) <sup>3</sup>						
Model No. / Pin Length	Bearing Load Capacity	Equivalent Base Area	Cylinder Comparison	Frost Zone	Uplift Load Capacity	Lateral Load Capacity
DP-50/36"	3600#	1.8 sf	18" dia	24"	600#	600#
DP-50/42"	* 4000#	2.0 sf	19" dia	36"	* 900#	* 600#
DP-50/50"	4400#	2.2 sf	20" dia	48"	1200#	600#
DP-75/50"	* 5600#	2.8 sf	22" dia	48"	* 1400#	* 600#
DP-75/63"	6400#	3.2 sf	24" dia	60"	1600#	600#

Table 5. Fastener Spacing for a Southern Pine, Douglas Fir-Larch, or Hem-Fir Deck Ledger or Band or Rim Joist and a 2-inch Nominal Solid-Sawn Spruce-Pine-Fir Band Joist or EWP Rim Joist. <sup>3,4,5,6,8</sup>								
(Deck Live Load = 40 psf, Deck Dead Load = 10 psf)								
Joist Span	Rim Joist or Band Joist	On-Center Spacing of Fasteners						
		6'-0" and less	6'-1" to 8'-0"	8'-1" to 10'-0"	10'-1" to 12'-0"	12'-1" to 14'-0"	14'-1" to 16'-0"	16'-1" to 18'-0"
1" diameter lag screw with <sup>15</sup> / <sub>32</sub> " maximum sheathing	1" EWP	24"	18"	14"	12"	10"	9"	8"
	1-1/8" EWP	28"	21"	16"	14"	12"	10"	9"
1/2" diameter bolt with <sup>15</sup> / <sub>32</sub> " maximum sheathing	1" EWP	24"	18"	14"	12"	10"	9"	8"
	1-1/8" EWP	28"	21"	16"	14"	12"	10"	9"
1/2" diameter bolt with <sup>15</sup> / <sub>32</sub> " maximum sheathing and stacked washers <sup>7</sup>	1-1/8" Lumber	36"	36"	34"	29"	24"	21"	19"
	1-1/2" Lumber	36"	36"	29"	24"	21"	18"	16"

DRAWN	3/2/2020	GREEN BAY DECKING LLC. 1518 S. BROADWAY ST. GREEN BAY, WI, 54304	
CHECKED		TITLE	
QA		GREGORY DECK	
MFG		SIZE	REV
APPROVED		DWG NO	B
		TD-100-355	
		SCALE 0.03 : 1	SHEET 1 OF 1