

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP10-039

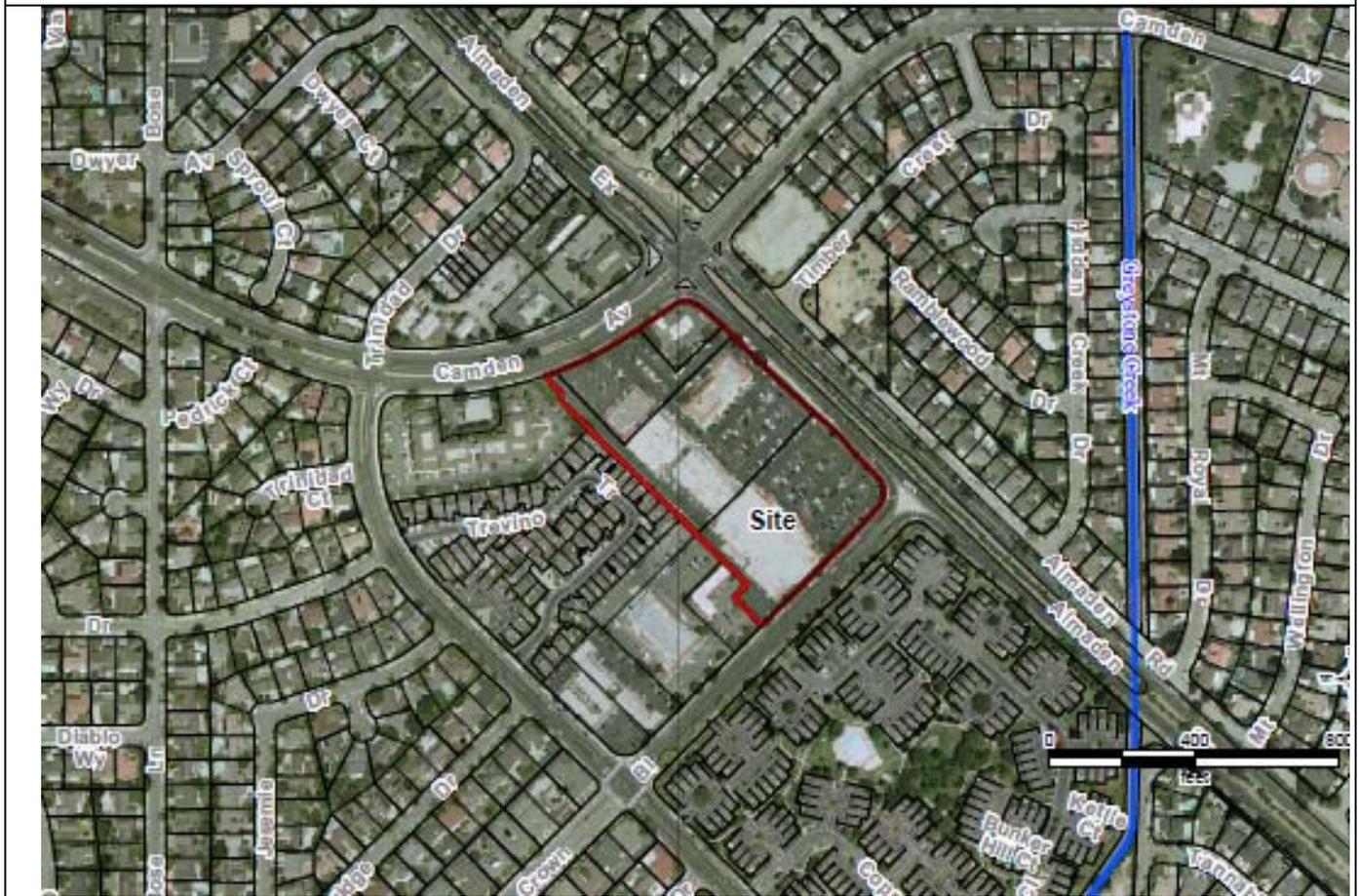
Submitted: 07/02/2010

PROJECT DESCRIPTION: Conditional Use Permit to allow a drinking establishment in conjunction with a bona fide public eating establishment and an approximately 763 square-foot outdoor seating area at an existing tenant space (formerly occupied by BlockBuster Video) at a shopping center on a 3.61 gross-acre site in the CN Commercial Neighborhood Zoning District

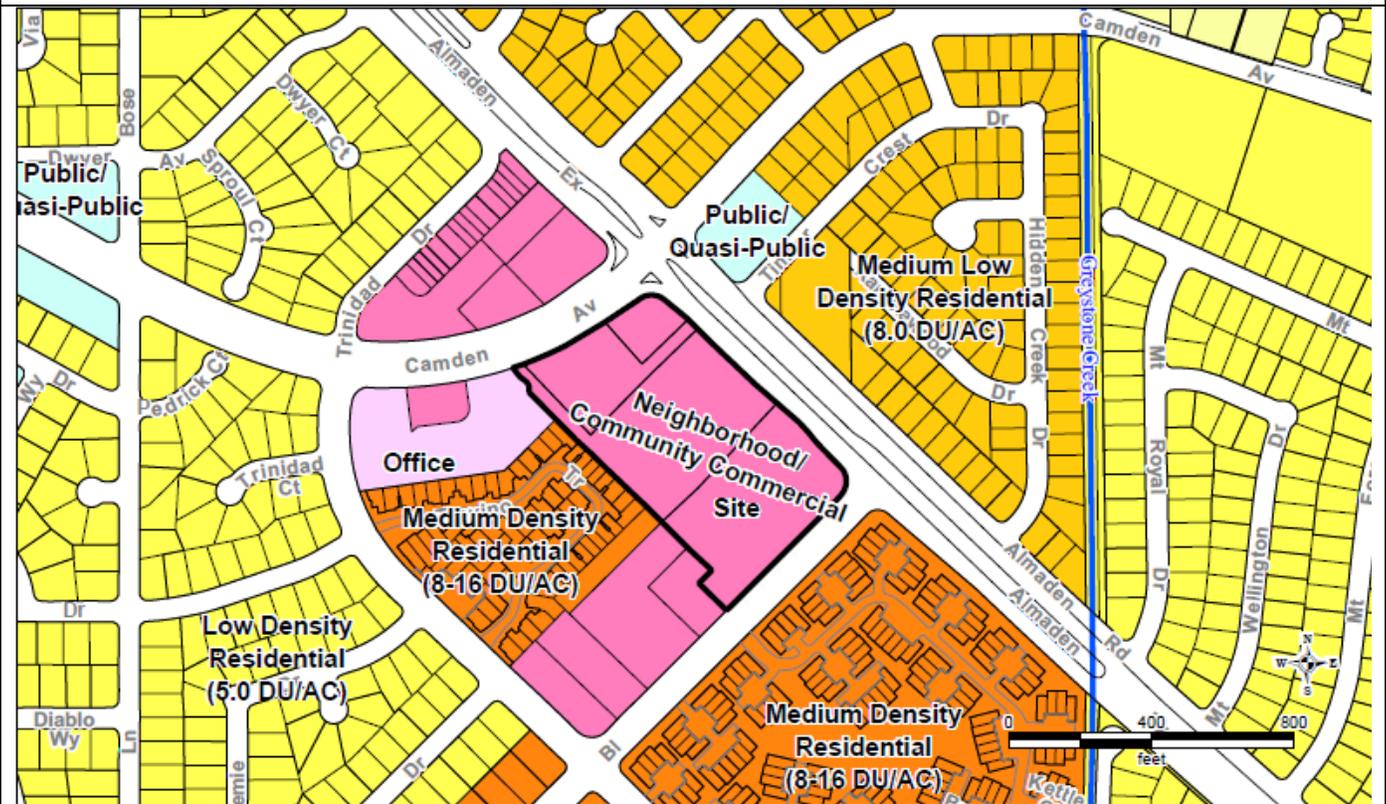
LOCATION: Northwest corner of Almaden Expressway and Crown Boulevard (6477 Almaden Expressway)

| | |
|--------------------|-----------------------------------|
| Zoning | CN-Commercial Neighborhood |
| General Plan | Neighborhood/Community Commercial |
| Council District | 10 |
| Annexation Date | 02/15/1960 |
| SNI | No |
| Historic Resource | No |
| Redevelopment Area | None |
| Specific Plan | No |
| CEQA | Exempt |

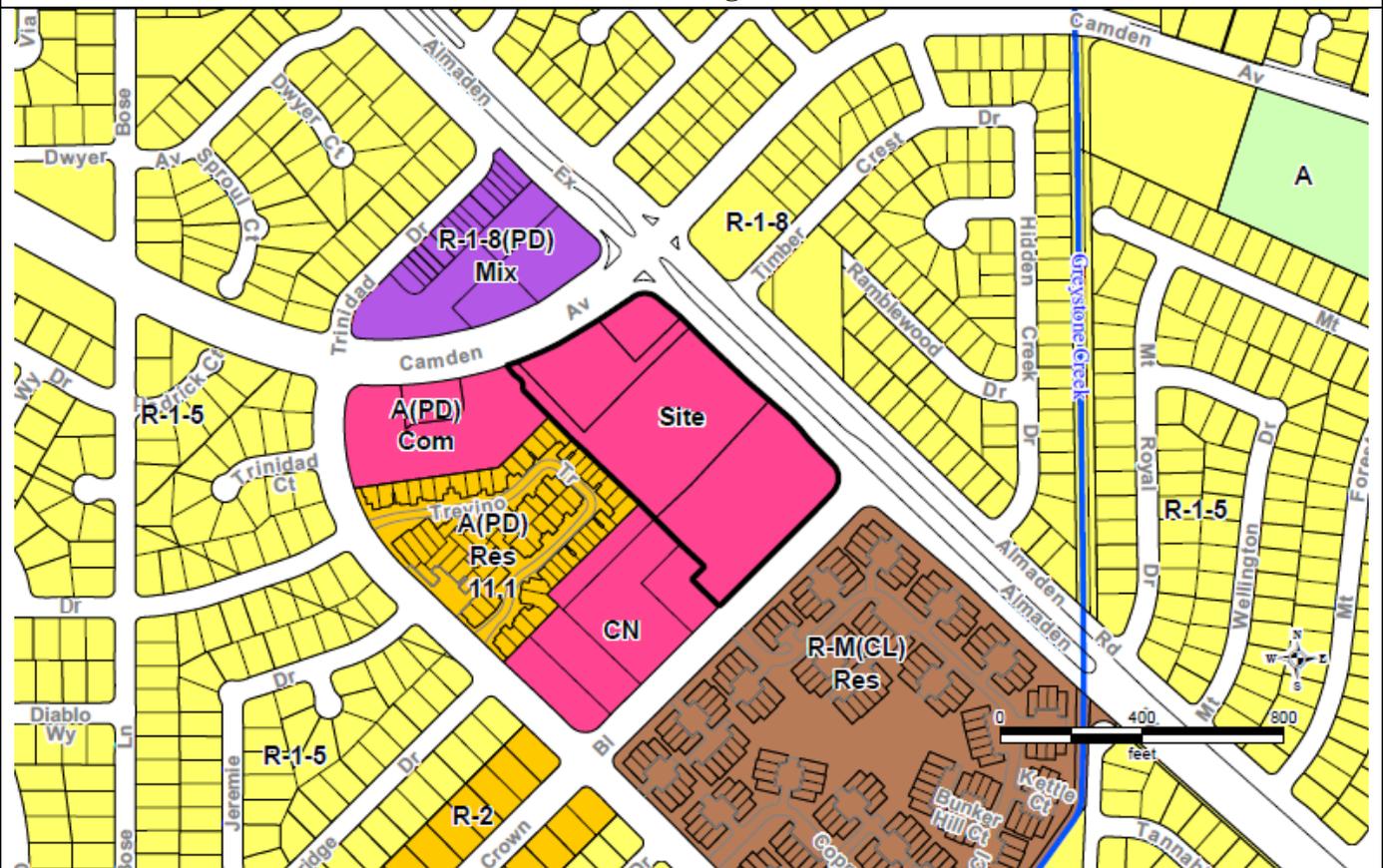
Aerial Photo



General Plan



Zoning



RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the findings and conditions as stated in the attached draft Resolution for the following reasons:

1. The project conforms to the San José 2020 General Plan:
 - a. The site is designated as Neighborhood/Community Commercial on the Land Use/Transportation Diagram and the proposed use is a retail commercial use within the commercial development. The proposed use is consistent with the General Plan land use designation in that commercial uses including a drinking establishment and outdoor dining on retail premises in conjunction with a bona fide public eating establishment located in an existing retail tenant space promote commercial activity within the City of San José.
 - b. The proposed use also furthers the City's General Plan Balanced Communities Goals and Policies as well as the City's Economic Development Policies in that the proposed use encourages the development of social and economic uses in all neighborhoods, and encourages sales tax-revenue generation from retail uses.
2. The project conforms to the Zoning Ordinance (Title 20).
3. The proposed project as conditioned is compatible with the surrounding land uses.
4. The proposed project conforms to the requirements of CEQA.

BACKGROUND

On July 2, 2010, the applicant, Thuer Family Partnership, represented by Wayne Renshaw, Architect, requested a Conditional Use Permit to allow a drinking establishment and an approximately 763 square-foot outdoor dining area to be added to a permitted bona fide public eating establishment use in an approximately 3,188 square-foot tenant space in an existing commercial building. The sale of alcohol for on-site consumption is permitted as incidental to the bona fide public eating establishment if it is served to patrons with their meal. To serve alcohol to patrons independent of a meal, a Conditional Use Permit is required for a drinking establishment. The proposed outdoor dining area is within 150 feet of residentially zoned property, and therefore is classified as a Special Use in the San José Zoning Ordinance. Because a Conditional Use Permit is a higher-level permit than a Special Use Permit, the Zoning Ordinance provides for the higher level permit to include conditions for Special Uses such as outdoor dining.

The subject building is in a retail shopping center on approximately 3.61 acres at the northwest corner of Almaden Expressway and Crown Boulevard (6477 Almaden Expressway) surrounded by other commercial uses and adjacent to residential uses to the southwest of the subject shopping center. Most recently, the subject tenant space was occupied by Blockbuster Video.

Project Description

The proposed Conditional Use Permit will allow for the sale of alcohol for on-site consumption in a drinking establishment in conjunction with a bona fide public eating establishment and allow outdoor dining in an approximately 763 square-foot patio area in a breezeway that is adjacent to the subject tenant space. The proposed public eating establishment will contain up to 89 seats indoors and the outdoor dining area will contain up to 52 seats. There is no off-sale of alcohol or late night hours of operation (hours after midnight) proposed.

Community Engagement

At a community meeting held for the project that approximately 70 community members attended, key concerns raised by the attendees were security, safety, additional traffic, inadequate parking to meet the additional customer demand from the bar and outdoor dining uses, noise from patrons, potential misbehavior from customers drinking or dining outdoors, and privacy concerns regarding the residential backyards behind the parking area next to the tenant spaces. The applicants emphasized that the proposal is for a family-oriented restaurant, and that it could serve as a community gathering place. Some attendees commented that they would appreciate a new restaurant in the neighborhood to provide some more local dining options. The applicants noted that the area had 22 restaurants to serve approximately 38,000 people.

Planning staff has proposed permit conditions to address community concerns, and the applicant modified project plans for the outdoor dining area. In response to concerns regarding noise and security from restaurant and bar patrons parking near residents, the plans and permit conditions now require employee-only parking to be designated by signage located in the parking area between the subject commercial building and the residential property boundary. Staff has also limited hours of operation of the outdoor dining patio to between 7:00 A.M. to 9:00 P.M., Sunday through Thursday, and 7:00 A.M. to 10:00 P.M. Friday and Saturday. As is required by the Zoning Code, conditions related to noise and the prohibition of outdoor cooking are recommended by staff. To address security concerns, the applicant revised project plans to include a wall at the back of the breezeway to minimize access of patrons to the parking area adjacent to the residential properties.

ANALYSIS

The primary issues analyzed for the review of the proposed project are: 1) conformance with the San José 2020 General Plan; 2) conformance with City Council Policy 6-23: Guidelines for the Evaluation of Bars and Nightclubs; 3) the Zoning Code; and 4) compatibility with surrounding uses.

General Plan Conformance

The subject site is designated Neighborhood/Community Commercial on the San José 2020 General Plan Land Use/Transportation Diagram. The site is developed as a retail commercial shopping center building. The proposed use is consistent with the General Plan land use designation in that commercial uses including a drinking establishment and outdoor dining on retail premises in conjunction with a bona fide public eating establishment in an existing retail tenant space promote commercial activity within the City of San José.

The proposed use also furthers the City's General Plan Balanced Communities Goals and Policies as well as the City's Economic Development Policies in that the proposed use encourages the development of social and economic uses in all neighborhoods, and encourages sales tax-revenue generation from retail uses.

Consistency with City Council Policy 6-23: Guidelines for the Evaluation of Bars and Nightclubs

City Council Policy 6-23 (Policy) discourages drinking establishments (bars) from locating adjacent to or near any existing or planned residential uses or any areas planned for residential uses in the adopted General Plan. The Policy states that new bars outside the Downtown Core should be dispersed and, at a minimum, not be located within 500 feet of an existing bar or any existing school. Bars should be located and oriented in such a manner that would not adversely affect any nearby residential or school uses.

The subject site is adjacent to other commercial uses and buildings within the shopping center and adjacent to existing residences. The closest residential uses are on Trevino Terrace, and their rear property line is approximately 76 feet from the proposed uses and 106 feet from the proposed outdoor patio. These residential uses are separated from the proposed uses by an existing rear parking and loading area of the shopping center. According to Planning data and a memorandum from the San José Police Department, the site is not in an area designated as over concentrated for either off-sale or on-sale licenses (see Police Memo attached to this staff report). Planning data show that the nearest on-sale uses are Tacos Al Pastor at 6469 Almaden Expressway (within the same shopping center as the subject tenant space) and the Country Inn Café, a public eating establishment at 6484 Camden Avenue on the northerly side of Camden Avenue across the street from the subject shopping center. As of September 10, 2010 Planning data did not show any pending on-sale licenses within 1,000 feet.

The Policy states that new bars are discouraged from locating in areas where there have been above-average police calls for service. According to City records and the San José Police Department, the subject proposal is not located within a census tract that has such a designation (high crime).

The Policy states that the most appropriate General Plan land use designations for nightclubs and bars are Commercial, except for Office and Neighborhood/Community Commercial. The subject site is designated Neighborhood/Community Commercial and located in the CN-Commercial Neighborhood Zoning District within approximately 76 feet of residential development. The proposal does not include a nightclub or stand-alone bar, but rather a drinking establishment integrated with a restaurant. With standard hours of operations (6:00 A.M. to midnight) for the use and restricted hours of operation of the outdoor patio (7 A.M. to 9 P.M. Sunday through Thursday and 7 A.M. to 10 P.M. Friday and Saturday), designated employee parking and signage, and security measures controlled by permit conditions, as recommended by staff, the proposed use, inclusive of the drinking establishment, can be operated in a manner that does not negatively impact the adjacent residential uses, and therefore can be a use that is appropriate in the neighborhood shopping center.

Compatibility With Surrounding Land Uses

Because the proposed outdoor dining area is within 150 feet of residentially zoned property, a Special Use Permit is required. Although the outdoor dining area is within 150 feet of the rear property line of an adjacent residential use, the closest part of the patio is approximately 106 feet. Additionally, the outdoor patio is separated from the residential use by an existing drive aisle behind the shopping center that includes parking and loading for the retail center. To minimize any impacts from the outdoor dining beyond what the existing situation presents, staff has conditioned the project to replace an existing fence between the breezeway and the parking aisle that is chain link with a more aesthetically pleasing alternative that consists of a masonry wall with planter boxes.

Additionally, staff has also included a condition that restricts the use of the outdoor patio to hours to between 7:00 A.M. and 9:00 P.M., Sunday through Thursday, and 7:00 A.M. to 10:00 P.M. Friday and Saturday, and prohibited cooking on the patio. Because the outdoor patio is proposed in a location that is not any closer to the residential property than the existing buildings, and is separated from the residential property by a parking aisle and loading area, staff is confident that the proposed use including the outdoor patio will not have a detrimental affect on the quality of life of the residents adjacent to the shopping center.

The proposed drinking establishment use in conjunction with the public eating establishment is a typical use in a neighborhood shopping center, and the project has been conditioned so that if the public eating establishment does not continue to occupy the subject tenant space, the use in the tenant space cannot become solely a drinking establishment. The use also is not proposed to operate past midnight, thus reducing any potential negative activity associated with a late night use.

Zoning Ordinance

The Zoning Ordinance has a parking requirement of 1 space per 40 square feet of net floor area or 1 space per 2.5 seats for drinking establishment and public eating establishment uses. Outdoor dining areas require 1 space per 2.5 seats for any seats in excess of 25 seats. A parking analysis included in the plan set entitled "Almaden Mining Company Restaurant Conditional Use Permit, 6477 Almaden Expr, Suite B7, San Jose, CA," dated September 9, 2010 shows that there are 46.4 parking spaces required for the proposed uses, 451 spaces required for all the uses in the shopping center, and 478 spaces provided in the shopping center, which is sufficient parking for the proposed uses.

Environmental Review

The Director of Planning found the proposed project to be exempt from environmental review under Section 15301(a) of the California Environmental Quality Act (CEQA) Guidelines, which exempts existing facilities involving little or no expansion of use including interior or exterior alterations. The proposed project is exempt because it will be located in an existing commercial building.

Conclusion

Based on the above analysis, staff concludes that the proposed drinking establishment use and outdoor dining use, without late night operating hours, are appropriate uses at this location and compatible with both existing commercial and residential uses in the surrounding area. The drinking establishment will be incidental to the public eating establishment, and will not create an overconcentration of on-sale licenses in the census tract. As conditioned, the proposed outdoor dining use will include measures to mitigate noise, and will be required to comply with noise standards of 55 decibels DNL at the residential property line.

PUBLIC OUTREACH

Per the provisions of City Council Policy 6-30: Public Outreach, notices of the public hearing for this project were sent to all property owners and tenants within 1,000 feet of the subject property. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report, and staff has been available to discuss the project with members of the public.

A community meeting on the project was held on August 24, 2010 at the Almaden Community Center at 6445 Camden Avenue, San José. Approximately 70 community members attended the meeting. Councilmember Pyle also attended the meeting and welcomed community members. Planning staff and the applicant's architect presented the application and the City's public hearing process to the attendees. The issues raised at the community meeting are discussed in the Background section of this staff report.

Project Manager: Jenny Nusbaum **Approved by:**  **Date:** 09-10-10

| Owner/Applicant: | Attachments: |
|--|---|
| Owner: Thuer Family Partnership/Terra Commercial Inc. 160 West Santa Clara Street, Unit 990 San José, CA, 95113-1700 Applicant: Wayne Renshaw 111 W St. John Street, Suite 950 San José, CA 95113 | Resolution Police Memo Public Correspondence Planset |

RESOLUTION NO. _____

Resolution of the Planning Commission of the City of San José granting, subject to conditions, a Conditional Use Permit to use certain real property described herein for the purpose of allowing a drinking establishment in conjunction with a bona fide public eating establishment and an approximately 763 square-foot outdoor seating area at an existing tenant space in a shopping center on a 3.61 gross-acre site in the CN Commercial Neighborhood Zoning District located at/on the northwest corner of Almaden Expressway and Crown Boulevard (6477 Almaden Expressway)

FILE NO. CP10-039

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Chapter 20.430 of Title 20 of the San José Municipal Code, on July 2, 2010, an application (File No. **CP10-039**) was filed for a Conditional Use Permit, for the purposes of allowing a drinking establishment in conjunction with a bona fide public eating establishment and an approximately 763 square-foot outdoor seating area on that certain real property (hereinafter referred to as “subject property”), situate in the CN Commercial Neighborhood Zoning District, located at an existing tenant space in a shopping center on a 3.61 gross-acre site located on the northwest corner of Almaden Expressway and Crown Boulevard (6477 Almaden Expressway) San José, and

WHEREAS, the subject property is all that real property described in Exhibit “A,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.40 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a site plan and floor plan for the subject property entitled, “Almaden Mining Company Restaurant Conditional Use Permit, 6477 Almaden Expr, Suite B7, San Jose, CA,” dated

September 9, 2010. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The applicant/owner, Thuer Family Partnership, is requesting a Conditional Use Permit to allow a drinking establishment in conjunction with a bona fide public eating establishment and an approximately 763 square-foot outdoor seating area at an existing tenant space in a shopping center on a 3.61 gross-acre site in the CN Commercial Neighborhood Zoning District located on the northwest corner of Almaden Expressway and Crown Boulevard (6477 Almaden Expressway).
2. The subject site is zoned CN Commercial Neighborhood.
3. Per Table 20-90 of the San Jose Municipal Code, a Conditional Use Permit is required for drinking establishments.
4. Per Section 20.40.520 of the San Jose Municipal Code, Outdoor Uses within 150 Feet of Residentially Zoned Property, a Special Use Permit is required for outdoor dining that is less than 100 feet from a residential property that is not separated by a public street or nonresidential building.
5. The proposed drinking establishment is within an existing 3,188 square-foot tenant space.
6. The project does not include the off-sale of alcohol.
7. The proposed outdoor dining use is a 763 square-foot breezeway adjacent to the tenant space where the drinking establishment and public eating establishment are located.
8. The project does not include late night hours.
9. The proposed tenant space is within a multi-tenant building near the central area of the existing shopping center.
10. The subject tenant space is approximately 76 feet from the closest residential use which is located on Trevino Terrace.
11. The proposed outdoor dining patio is approximately 106 feet from a residential use and is separated from the residential use by a parking lot/loading area behind the shopping center.

12. The existing and proposed use of the commercial building is consistent with the San José General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial in that drinking establishment uses and outdoor dining uses are an intended use under the designation.
13. The City allows drinking establishments only through the discretionary Conditional Use Permit process to ensure that the use conforms to City requirements.
14. The proposed project is subject to City Council Policy 6-23: Evaluation of Nightclubs and Bars.
15. The City sent public hearing notices for this project to all property owners and occupants within 1,000 feet of the subject property. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with members of the public.
16. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act, this project is found by the Director of Planning to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.

Based on an analysis of the above facts and findings, the Planning Commission concludes and finds that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project conforms to City Council Policy 6-23: Evaluation of Nightclubs and Bars.
4. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features in this title, or as otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service for facilities as are requested.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance of Permit.** Per Section 20.430.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit pursuant to Title 20 of the San Jose Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Use Authorization.** This Conditional Use Permit authorizes the following uses to be implemented on the property subject to the terms of this permit:
 - a. A public drinking establishment in conjunction with a bona fide public eating establishment.

- b. An outdoor dining area of approximately 763 square feet as designated in the approved plans.
4. **Conformance with Plans.** The use of this property shall conform to approved plans entitled, "Almaden Mining Company Restaurant Conditional Use Permit, 6477 Almaden Expr, Suite B7, San Jose, CA," dated September 9, 2010 on file with the Department of Planning, Building and Code Enforcement.
5. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
6. **Maximum Occupancy.** The project operator shall comply at all times with the occupancy limit provided by the San José Fire Department.
7. **Alcohol Service.** Alcohol service shall be limited to those hours and areas allowed and specified in the State Department of Alcoholic Beverages license for this site and use.
8. **Food Service.** Food service shall be available for the patrons during all operating hours.
9. **Outdoor Dining Area.** The outdoor dining area hours of operation shall be between 7:00 A.M. and 9:00 P.M. Sunday through Thursday, and between 7:00 A.M. and 10:00 P.M. Friday and Saturday. No cooking shall be allowed in the outdoor dining area.
10. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Nor shall the use adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance must be abated immediately upon notice by the City.
11. **Noise.** Any noise generated from the use between the hours of 10 p.m. and 12 midnight that is audible by normal hearing within a residential unit with their windows closed shall be reduced to a level such that it is no longer audible, or it will constitute a nuisance.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
13. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage, including but not limited to the maximum occupancy of the facility.
14. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
15. **Cleaning.** Cleaning shall include keeping all publicly used areas along the project frontages free of litter, trash, cigarette butts and garbage and shall include damp washing as necessary of all exterior walls and sidewalks along the project's frontages. All visible trash, cigarette butts, and any other materials shall be removed from the adjacent sidewalk. Hose washing of the sidewalks shall occur as necessary to accomplish this task, however, solid waste and bodily fluids shall not be rinsed into the storm drains. For vomit, human excrement, and bodily fluids such as blood, other cleaning methods such as use of sawdust shall be chosen.
 - a. Mechanical equipment used for outside maintenance, including blowers and street sweepers shall not be used between 10:00 P.M. and 6:00 A.M. daily.

- b. The facility operator shall provide adequate ashtrays along the business frontage to accommodate patrons who wish to smoke outdoors. Patrons smoking outdoors shall not impede pedestrian traffic along the adjacent sidewalk or parking area, nor create a nuisance for adjoining businesses.
16. **Lighting.** This permit allows no new exterior lighting except as designated on the approved plans.
 17. **Changes to the Structure.** Any future exterior changes shall require approval by the Director of Planning, Building, and Code Enforcement.
 18. **Sign Approval.** Other than posting directional signage designating employee-only parking within the parking area adjacent to the residential property boundary and the subject commercial building as designated on the plan set entitled “Almaden Mining Company Restaurant Conditional Use Permit, 6477 Almaden Expr, Suite B7, San Jose, CA,” dated September 9, 2010 on file with the Department of Planning, Building and Code Enforcement, no new signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning, Building, and Code Enforcement.
 19. **Waste Discharge.** The proposed facility shall conform to the City of San José industrial waste discharge regulations. Any non-domestic wastewater discharge into the sanitary sewer system shall require Source Control Staff to review and approve the final plans. Contact Environmental Engineering Staff at (408) 945-3000 with any questions.
 20. **Hours of Glass Recycling.** No outdoor sorting, collection or disposal of glass from the facilities is permitted between 6:30 P.M. and 8:00 A.M.
 21. **Permittee Responsibility.** The permittee shall ensure that the use/s authorized by this Permit is/are implemented in conformance with all of the provisions of this Permit.
 22. **Discretionary Review.** The Director of Planning maintains the right of discretionary review of requests to alter or amend structures, conditions or restrictions of this Conditional Use Permit incorporated by reference in this Permit in accordance with the San José Municipal Code.
 23. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 of Chapter 20.430 of Title 20 of the San José Municipal Code, it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of noncompliance; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

ADOPTED and issued this **22nd day of September 2010**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST:

Joseph Horwedel, Secretary

Deputy

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.



Memorandum

TO: Jenny Nusbaum
 Planning Department

FROM: Ofc. C. Zarate #3165
 San Jose Police Vice Unit

SUBJECT: CP10-039
 Almaden Mining Company

DATE: August 25, 20100

Approved

Date

I have received your request for input regarding Almaden Mining Company, located at 6477 Almaden Exp., San Jose, Ca. 95120. Almaden Mining Company is seeking a Conditional Use Permit to allow a drinking establishment in conjunction with a bona fide public eating establishment..

Per Business and Professions (B&P) Code Section 23958, the State of California Department of Alcohol Beverage Control shall deny an ABC Application for an ABC License if the issuance of that license would tend to create a law enforcement problem or if it would result in or add to an undue concentration of ABC Licenses, as described in B&P Sections 23958.4 (a)(1) and 23958.4(a)(2). A location can be unduly concentrated because of its criminal statistics and/or it's proximity to other ABC Licenses. ABC can issue the license per B&P Sections 23958.4 (b)(1), and 23958.4 (b)(2) if the local governing body determines that the public convenience or necessity would be served. The City of San Jose Planning Department or the Planning Commission are the delegated authorities to grant these exceptions.

The location is not currently in a Strong Neighborhood Initiative area or a Neighborhood Revitalization area.

Almaden Mining Company is located in San Jose Police Beat A5. The reported crime statistics as defined by B&P Section 23958.4(c) **are not** over the 20% crime index thus the location **is not** considered unduly concentrated per B&P Section 23958.4 (a)(1).

Police Beat Crime Statistics

| Beat | Index Crimes | Arrests | Total | 20% Above Average |
|--------------|--------------|---------|-------|-------------------|
| A5 (2009) | 380 | 182 | 562 | No |
| City Average | 327 | 256 | 583 | |

Department of Alcohol Beverage Control (ABC) records indicate that 5477 Almaden Expressway is in census tract 5119.05. Pursuant to B&P Section 23958.4 (a)(2), the ratio of on-sale retail licenses population in census tract 5119.05 **does not** exceed the ratio of on-sale retail licenses retail licenses to population in the county in which the applicant premises are located.

Authorized and Current ABC Licenses in Census Tract 5119.05

| Census Tract | Authorized ABC Licenses as of August 2005 | | Current ABC Licenses as of December 5, 2006 | | Unduly Concentrated | |
|--------------|---|------------|---|------------|---------------------|------------|
| | On - Sale | Off - Sale | On - Sale | Off - Sale | On - Sale | Off - Sale |
| 5119.05 | 4 | 2 | 1 | 1 | No | No |

The San Jose Police Department is **neutral** to the issuance of a Conditional Use Permit for a drinking establishment in conjunction with a bona fide public eating establishment at this location. Please feel free to contact me at 277-4322 if you have any questions.

Ofc. Christine Zarate #3165
Administrative Officer
Special Investigations/Vice

Nusbaum, Jenny

From: Public Mail [publicmail@comcast.net]
Sent: Thursday, September 02, 2010 7:02 PM
To: Nusbaum, Jenny

Hi,

I just read about a possible new restaurant in Almaden (Almaden Mining Co.). I'm thrilled at the possibility. I live in Almaden and I've always thought that the area could support a few more restaurants. For us, who often travel outside our neighborhood for a good meal, the thought of having more choices close by, especially a "family restaurant" is great!

Alma Baillif
Almaden

Nusbaum, Jenny

From: rott51@aol.com
Sent: Saturday, August 21, 2010 6:59 PM
To: Nusbaum, Jenny
Subject: grill in almaden

we would love a bar and grill in almaden! less that a mile away is the chicken coop. a lady came to my door, complaining it would cause traffic, thats more lanes, nothing to do with a bar. there are kids that hang in the lot that cause noise, they are under 21. a bar would bring more police which would be a GOOD thing! i am in support and would like to know how??? Jenny there is already a 24 hr safeway which draws people from the valley at all hours of the night. we live right across the street in the condos eileen and jeff hufferd 408 268 5676.....thanks

Nusbaum, Jenny

From: BJ Bushur [bj@uresults.com]
Sent: Thursday, September 02, 2010 6:52 PM
To: Office of Councilmember Nancy Pyle
Cc: Nusbaum, Jenny
Subject: Almaden Mining Company Restaurant

Hi Nancy-

We think it would be great to have a restaurant/bar where families can eat, have a glass of wine, and baseball, basketball teams, scouts can gather right down the street in Almaden. We love Legend's, but it's not big enough for our teams' outings, and we're forced to go to Round Table on Camden in Campbell or Amato's. And, it would be nice to have a "non-pizza" kind of place where we can get good food, eat outside, closeby, and see other local families. I saw the article in the Almaden Times, and wanted to voice our opinion. I don't think it will attract "riff-raff" if it's a place like Aqui or Willow Street Pizza. We're in Almaden!!! It would be a great thing for families in Almaden. We need a place like this.

Just wanted to give you our two cents.

Thanks,

Barbara & Chris

BJ Bushur | bj@uresults.com | office: 408-323-0313 | mobile: 408-930-0860

Nusbaum, Jenny

From: tmfdem@yahoo.com
Sent: Wednesday, August 18, 2010 8:41 AM
To: Nusbaum, Jenny
Subject: RE: CP10-039 Plan Set

Jenny, thank you so much for both of your emails. FYI, many of the neighbors in our area are not in favor of this bar/eating establishment. FYI, one of the mgrs. currently in a store in the shopping center told me (yesterday) that there are many accidents already in the parking lot (terribly congested). We get a heavy feed of traffic off the Almaden Expressway, ingressing and egressing via the Crown Blvd. entrance, not to mention the traffic from the rest of the Almaden Valley in and out of the Crown entrance. So adding a bar to this shopping center would compound safety and traffic issues immensely.

I am planning to attend the meeting on Tuesday.

Have you gotten responses from anyone other than me about their concerns??

Barbara

--- On Tue, 8/17/10, Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov> wrote:

From: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>
Subject: RE: CP10-039 Plan Set
To: tmfdem@yahoo.com
Date: Tuesday, August 17, 2010, 7:10 PM

Hi Barbara,

I am re-sending the attachment. Some e-mail services do not accept files that are above a certain size, and that may be why it did not go through. Your property appears to be beyond 1000 feet of the subject site, and I am not sure why you received the notice. It was actually intended to be sent to tenants and property owners within 1000 feet of the subject tenant space. This may explain why some of your neighbors did not receive the mailing. The format of the community meeting notice is from a standard template. The applicant sends it out, and they are not required to include a return address. The notice itself has contact information for the applicant and the Planning Division Project Manager. Anyone can track the progress of this project by accessing the following link and typing CP10-039 into the search box that asks for the file number.

<https://www.sjpermits.org/permits/>

Thanks.

From: tmfdem@yahoo.com [mailto:tmfdem@yahoo.com]

9/9/2010

Sent: Tuesday, August 17, 2010 4:50 PM
To: Nusbaum, Jenny
Subject: Re: CP10-039 Plan Set

Hi Jenny,

There was no attachment in your appended note.

I left you a phone msg. today stating that several of my neighbors on Crown Blvd. and Northridge Drive did not receive the flier that I received in the mail on Aug. 13. This begs the question about whether due notification has been given in this case. I recommend you promptly resend the notification to all neighbors within the affected neighborhood so that they are all aware of the proposed action. When sending the notification, please use an envelope that contains the return address so that the sender is clearly identified; the envelope we rec'd contained no return address.

Thanks, Jenny. I look forward to meeting you on Tuesday, Aug. 24.

Barbara

--- On Fri, 8/13/10, Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov> wrote:

From: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>
Subject: CP10-039 Plan Set
To: tmfdem@yahoo.com
Date: Friday, August 13, 2010, 4:41 PM

Hello Barbara,

Attached is the plan set. I look forward to seeing you at the community meeting on the 24th.

Jenny Nusbaum
Planning Division
Planning, Building and Code Enforcement
City of San José
200 East Santa Clara Street
San José, CA 95113-1905
PHONE: (408) 535-7872
FAX: (408) 292-6055
e-mail: jenny.nusbaum@sanjoseca.gov

Nusbaum, Jenny

From: Shirley Huang [kimie_huang@yahoo.com]
Sent: Tuesday, August 24, 2010 5:05 PM
To: Nusbaum, Jenny
Subject: project file cp10-039

Dear Madam:

I am a 30+ year resident of Almaden Valley. It has been a quiet and a family oriented community. The proposed project CP10-039 is not appropriate for the community. The project will be surrounded by about 10 schools. The drunken drivers and the level of noise will disturb the peaceful and quiet neighborhood and become an unsafe community for the residents here especially for children.

it will require more law enforcement here and cost the city more money. I strongly oppose the proposed project of cp10-039, please take my opinion into your planning consideration.

Sincerely concerned citizen,

Shirley Huang

Nusbaum, Jenny

From: Jackie Phillips [jackiegirl8@comcast.net]
Sent: Tuesday, September 07, 2010 1:14 PM
To: Nusbaum, Jenny
Cc: Geoff Phillips
Subject: Proposal CP10-039 restaurant/bar Almaden

Dear Ms. Nusbaum:

My husband and I did attend the meeting held on Tuesday, August 24th at the Almaden Community Center to discuss the proposed Almaden Mining Company restaurant and bar. Our home is situated in the country club area of Almaden.

We sat in the front row and were able to listen, ask questions and make our comments regarding this topic. We appreciated your managing that process so that all could be heard. Thank you.

As many of the other members in our community, my husband and I feel that it would NOT be a benefit to have a restaruant with a bar situated in the Safeway Shopping Center. We would be more amenable to JUST a restaurant being established serving only wine and beer with a meal. But, the people living just behind the center, in the townhome community, MUST be taken into consideration in the planning and building of the patio aspect of the restaruant, as well as how/when deliveries are made and the entrance and exit doors. Those poor folks have enough noise and nusiance to contend with, adding more to their personal living situation just is NOT THE RIGHT THING TO DO. I feel the community should be looking out for everyone.....our living situations must be paramount in the planning and building process. If this cannot be accomplished, then we say NO to the restaruant being established.

Safety and parking issues abound already at this center....it is very crowded! I just don't see how the center would be able to accomodate any additional parking issues and the ability to move cars about in and out of the center without more accidents happening; just walking from your car to the stores is dangerous.

We do plan to attend the meeting at City Hall on the 22nd of this month. Please forward to me any additional information you may have and the notice to attend this meeting.

Sincerely,
Jacqueline T. Phillips
6637 Hampton Drive
San Jose, CA 95120

9/9/2010



wayne renschow
architect

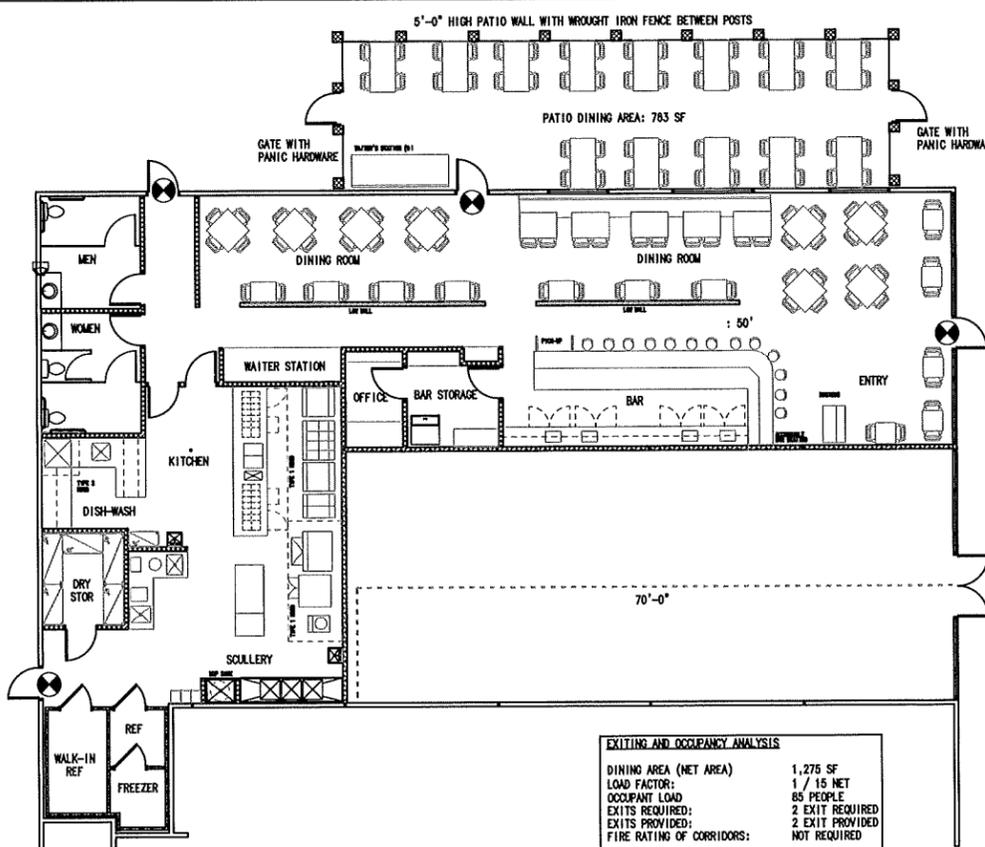
Suite 950
111 West St. John Street
San Jose, CA 95113
(408) 288 8033
fax 999 6637

consultant

consultant

Conditional Use Permit for The Almaden Mining Company Restaurant

THESE DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION UNLESS THE ARCHITECT'S STAMP AND SIGNATURE APPEAR ON THE DRAWINGS AND INDICATE THAT THEY HAVE BEEN RELEASED FOR CONSTRUCTION. EACH DRAWING IS PART OF THE SET AND IS NOT TO BE USED ALONE. DO NOT SCALE DRAWINGS. ALL DIMENSIONS ARE TO THE FACE OF STUD OR CONCRETE UNLESS OTHERWISE NOTED. CEILING HEIGHT DIMENSIONS ARE FROM FINISHED FLOOR TO FINISH FACE OF CEILING UNLESS OTHERWISE NOTED. VERIFY ALL DIMENSIONS PRIOR TO PROCEEDING WITH WORK. NOTIFY ARCHITECT OF ANY DISCREPANCIES BEFORE PROCEEDING WITH WORK. ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE REQUIREMENTS OF LOCAL BUILDING CODES AND ALL APPLICABLE FEDERAL, STATE, COUNTY AND CITY ORDINANCES. NOTHING IN THE ACCOMPANYING DOCUMENTS SHALL BE CONSTRUED TO PERMIT WORK THAT DOES NOT CONFORM TO THESE REGULATIONS. CONTRACTOR SHALL INVESTIGATE, VERIFY AND BE RESPONSIBLE FOR ALL CONDITIONS AND DIMENSIONS OF THE PROJECT AND SHALL NOTIFY ARCHITECT REGARDING ANY CONDITION REQUIRING MODIFICATION OR CHANGE BEFORE PROCEEDING WITH THE WORK. SHOULD ANY CONDITIONS DEVELOP NOT COVERED IN THE CONTRACT DOCUMENTS, A CHANGE ORDER SHALL BE SUBMITTED AND APPROVED PRIOR TO THE WORK. CONTRACTOR SHALL COORDINATE ANY WORK THAT MAY BE PERFORMED BY OTHER CONTRACTORS AND/OR SUBCONTRACTORS. DISCREPANCIES, IF ANY, SHOULD BE BROUGHT TO THE ATTENTION OF THE ARCHITECT FOR RESOLUTION PRIOR TO PROCEEDING. THE CONTRACTOR SHALL CONFINE OPERATIONS AT THE SITE TO AREAS PERMITTED BY LAW, ORDINANCES, PERMITS AND THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL NOT UNREASONABLY ENCUMBER THE SITE WITH ANY MATERIALS OR EQUIPMENT. AT ALL TIMES THE CONTRACTORS SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR THE CONDITIONS ON THE JOB SITE, INCLUDING THE SAFETY OF PERSONS AND PROPERTY, AND SHALL SECURE THE AREA TO MINIMIZE NOISE AND DUST DRIFTING INTO ADJACENT AREAS. SHOULD THE DRAWINGS, FOR ANY REASON, DISAGREE IN THEMSELVES OR WITH THE SPECIFICATIONS, OR THE SPECIFICATIONS DISAGREE IN THEMSELVES THE BETTER QUALITY AND/OR GREATER QUANTITY OF WORK AND MATERIAL WILL BE ESTIMATED UPON, AND UNLESS OTHERWISE ORDERED IN WRITING, SHALL BE FURNISHED AND INSTALLED. NO STRUCTURAL MEMBER SHALL BE NOTCHED, BORED OR OTHERWISE MODIFIED WITHOUT PERMISSION FROM THE ARCHITECT. PATCH AND REPAIR AREAS DAMAGED DURING CONSTRUCTION TO MATCH ADJACENT MATERIAL, COLOR AND FINISH. GENERAL CONTRACTOR IS TO PROVIDE PORTABLE FIRE EXTINGUISHER(S) AS SHOWN ON THE FLOOR PLAN, AND/OR AS REQUIRED BY THE FIRE MARSHAL. FIRE EXTINGUISHERS MUST BE PLACED WITHIN 75 FEET OF TRAVEL FROM ALL AREAS IN BUILDING. VERIFY NUMBER AND PLACEMENT OF FIRE EXTINGUISHERS WITH THE FIRE MARSHAL. PLUMBING FIXTURES ARE SHOWN IN GENERIC FORM ONLY. REFER TO PLUMBING DRAWINGS FOR SPECIFIC INFORMATION. THE CONTRACTOR, IN THE WORK OF ALL TRADE DISCIPLINES, WILL PERFORM ANY AND ALL CUTTING, PATCHING, REPAIRING, RESTORING AND THE LIKE AS NECESSARY TO COMPLETE THE WORK AND RESTORE DAMAGED OR AFFECTED SURFACES RESULTING FROM THE WORK OF THIS CONTRACT TO THEIR ORIGINAL CONDITIONS TO THE SATISFACTION OF THE ARCHITECT AND OWNER. IF ANY ERRORS OR OMISSIONS APPEAR IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL NOTIFY THE ARCHITECT IMMEDIATELY VIA TELEPHONE CALL AND IN WRITING OF SUCH ERROR OR OMISSION BEFORE PROCEEDING WITH THE WORK. ALL LEGAL EXITS SHALL BE OPENABLE FROM THE INSIDE WITHOUT THE USE OF A KEY, SPECIAL KNOWLEDGE OR EFFORT, PER CHAPTER 10 OR THE CBC.



| EXITING AND OCCUPANCY ANALYSIS | |
|---|-----------------|
| DINING AREA (NET AREA) | 1,275 SF |
| LOAD FACTOR: | 1 / 15 NET |
| OCCUPANT LOAD | 85 PEOPLE |
| EXITS REQUIRED: | 2 EXIT REQUIRED |
| EXITS PROVIDED: | 2 EXIT PROVIDED |
| FIRE RATING OF CORRIDORS: | NOT REQUIRED |
| KITCHEN/SERVICE AREAS: | |
| LOAD FACTOR: | 1 / 200 GROSS |
| OCCUPANT LOAD | 10 PEOPLE |
| EXITS REQUIRED: | 1 EXIT REQUIRED |
| EXITS PROVIDED: | 1 EXIT PROVIDED |
| FIRE RATING OF CORRIDORS: | NOT REQUIRED |
| MAXIMUM EXIT ACCESS TRAVEL DISTANCE: 63'-0" | |
| TOTAL OCCUPANT LOAD SUITE : | 95 PEOPLE |

⊗ LIGHTED EXIT SIGN WITH BATTERY BACK-UP AND EMERGENCY LIGHT
EMERGENCY LIGHTS ARE PROVIDED IN THE HALLWAY, OFFICE AND TOILET ROOMS.

PROJECT SUMMARY
THIS PROJECT PROPOSES TO BUILD A NEW FAMILY STYLE RESTAURANT WITHIN AN EXISTING EMPTY RETAIL TENANT SUITE IN AN EXISTING RETAIL SHOPPING CENTER.

SCOPE OF WORK:
SUBDIVIDE EXISTING TENANT SPACE TO CREATE A NEW VACANT RETAIL SUITE AND A NEW "L" SHAPED RESTAURANT SUITE. CREATE NEW OUTDOOR DINING AREA IN EXISTING BREEZE WAY. CONSTRUCT NEW DINING, BAR, KITCHEN, AND RESTROOMS.

BUILDING INFORMATION
APN: 581-11-025
AREA OF WORK: NEW RESTAURANT: 3,188 SF.
VACANT RETAIL SUITE: 1,500 SF
TYPE OF CONSTRUCTION: V-B
OCCUPANCY TYPE: (CHAPTER 3) A-2 - FOOD AND/OR DRINKING ESTABLISHMENTS
NUMBER OF STORIES: 1

HAZARDOUS MATERIALS:
THIS PROJECT DOES NOT PROPOSE THE USE OR STORAGE OF HAZARDOUS MATERIALS.
FIRE SPRINKLERS:
EXISTING TO REMAIN. FIRE SPRINKLER CONTRACTOR SHALL PREPARE A SET OF CONSTRUCTION DRAWINGS OUTLINING ANY PROPOSED CHANGES TO THE SPRINKLER SYSTEM. DRAWINGS WILL BE SUBMITTED TO THE FIRE DEPARTMENT FOR REVIEW AND APPROVAL AS PART OF A DEFERRED SUBMITTAL.

OCCUPANCY AND AREA SEPARATION:
OCCUPANT LOAD: 95. SEE EXITING AND OCCUPANCY ANALYSIS, THIS PAGE
ADJACENT USE: FUTURE RETAIL SPACE
FIRE RATING OF SEPARATION: A ONE HOUR FIRE SEPARATION WALL IS REQUIRED BETWEEN A3 AND B/M USES. NEW DEMISING WALL WILL HAVE A ONE HOUR FIRE RATING.

APPLICABLE BUILDING CODES:
2007 CALIFORNIA BUILDING, PLUMBING, AND MECHANICAL CODES
2007 CALIFORNIA ELECTRICAL CODE
2007 CALIFORNIA ENERGY CODE

ACCESSIBILITY:
THIS TENANT SUITE WILL BE FULLY ACCESSIBLE MEET ALL THE REQUIREMENTS FOR ACCESSIBILITY.

SITE AREA: 3.61 NET ACRES.
THE EXISTING SITE IS AN COMMERCIAL SHOPPING CENTER. NO NET CHANGE IN THE AREA OF THE EXISTING BUILDING IS PROPOSED

NO CHANGES ARE PROPOSED TO THE EXISTING PARKING AREAS.
NO CHANGES ARE PROPOSED TO THE EXISTING PUBLIC RIGHT OF WAY

ALLOWABLE AREA:
BUILDING AREA: 14,706 SF. AREA OF B/M OCCUPANCIES: 13,808 SF. AREA OF A2 OCCUPANCY: 3188 SF.
AREA OF ADJACENT BLDG: 14,710 SF. (ALL AREA OF ADJ BLDG IS B/M OCCUPANCIES)
NOTE: SAFEWAY MARKET BUILDING IS SEPARATED BY A 4 HOUR WALL WITH PARAPETS, AND IS THEREFORE CONSIDERED SEPARATE. BOTH RETAIL BUILDINGS ARE ON THE SAME PROPERTY, AND WILL BE CONSIDERED AS ONE BUILDING INSTEAD OF INSERTING AN IMAGINARY PROPERTY LINE.

$A_n = [A_1 + (A_2 * k)]$ where
 A_n = ALLOWABLE AREA
 A_1 = BASIC ALLOWABLE AREA FROM TABLE 503 = 9,000 SF FOR B/M USES, 6,000 SF FOR A2 USE
 k = INCREASE BASED ON SPRINKLERS = 3
 $A_n = 9000 + (9000 * 3) = 36,000$ sf.
 $A_n = 9000 + (9000 * 3) = 36,000$ sf.
ALLOWABLE AREA FOR MIXED USES: SUM OF RATIOS OF ACTUAL USE/ALLOWED AREA < 1
(13,808 + 14,710/36,000) + (3,188/24,000) = 0.82. AREA OF USE IS THEREFORE ALLOWABLE.

SEISMIC UPGRADE:
AS PER SECTION 901.1040 OF THE SAN JOSE MUNICIPAL ORDINANCE, A SEISMIC UPGRADE SHALL BE REQUIRED WHEN THE NATURE OF THE CHANGE TO THE BUILDING RESULTS IN A HIGHER SEISMIC OCCUPANCY FACTOR PER TABLE 1804.5 (THE OCCUPANT LOAD IS 95, SO BOTH THE EXISTING OCCUPANCY AND THE PROPOSED OCCUPANCY FALL INTO THE SAME CATEGORY (ON TABLE 1804.5) OR WHERE THE CHANGE RESULTS IN A RECLASSIFICATION OF THE BUILDING TO A HIGHER HAZARD CATEGORY AS SHOWN IN TABLE 1804.4 (BOTH THE EXISTING AND PROPOSED USES ARE IN THE SAME HAZARD CATEGORY) OR A PROPOSED CHANGE FROM "A" TO "A" OCCUPANCY AND THE TOTAL WORK AREA EXCEEDS 50% OF THE BUILDING (THE TENANT AREA IS 21% OF THE RETAIL BUILDING AREA, 6% OF THE ENTIRE BUILDING AREA, INCLUDING SAFEWAY). THUS, THE PROPOSED RESTAURANT WILL NOT TRIGGER A SEISMIC UPGRADE OF THE BUILDING.

building code summary

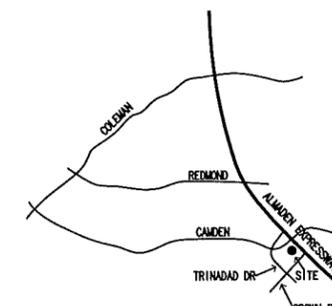
- THE ALMADEN MINING COMPANY RESTAURANT WILL BE A FULL SERVICE RESTAURANT, SERVING A VARIETY OF DISHES INCLUDING BURGERS, PASTA, PIZZA, MEATS AND VEGETARIAN DISHES.
- THE RESTAURANT WILL HAVE A FAMILY FRIENDLY ATMOSPHERE.
- THE RESTAURANT WILL INCLUDE A TABLE SERVICE AS WELL AS A FULL SERVICE BAR SERVING A VARIETY OF BEER, WINE AND COCKTAILS.
- HOURS OF OPERATION:
 - FOOD PREPARATION WILL BEGIN IN THE EARLY MORNING HOURS AROUND 8:00 AM.
 - BREAKFAST WILL BE SERVED BEGINNING AT 7:00 AM SEVEN DAYS PER WEEK.
 - LUNCH WILL BE SERVED BEGINNING AT 11:00 AM
 - DINNER WILL BE SERVED BEGINNING AT 5:00 PM.
 - CLOSING HOURS WILL BE 10:00 MONDAY-THURSDAY.
 - CLOSING HOURS WILL BE AT 12:00 AM FRIDAY-SUNDAY.
 - STAFF WILL REMAIN BEYOND CLOSING HOURS FOR CLEANING.
- DINING PATIO HOURS:
 - THE PATIO WILL CLOSE AT 9:00 PM, ON SUNDAYS THROUGH THURSDAYS.
 - THE PATIO WILL CLOSE AT 10:00 PM ON FRIDAY AND SATURDAY NIGHTS.
- RESTAURANT WILL TAKE DELIVERIES AT THE BACK DOOR BETWEEN 7:00 AM AND 5:00 PM

8

sheet index

- A1.0 COVER SHEET
- A1.1 SITE PLAN
- A2.1 FLOOR PLAN
- A3.1 EXTERIOR ELEVATION PHOTOS

3



- This sheet is part of a set and is not to be used alone.
- This sheet is not to be used for construction unless the architect's stamp and signature appear on drawings and status box indicates drawings have been released for construction.
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- Copyright Wayne Renschow, Architect 2010

Almaden Mining Co Restaurant

Conditional Use Permit.

6477 Almaden Expr
Suite B7
San Jose, CA

| description | date |
|--------------------|--------|
| PLANNING REVISIONS | 9/9/10 |
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| client review | date |
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7/2/10

1022

WR

WR

cover sheet

sheet number
A1.0

site plan notes

TOTAL EXISTING PARKING @ SHOPPING CENTER
 PARKING AVAILABLE: 478 SPACES
 ACCESSIBLE PARKING AVAILABLE: 17 SPACES
 ACCESSIBLE PARKING REQUIRED: 9 SPACES

NOTE:
 PATH OF TRAVEL IS A MINIMUM OF 48" WIDE, AND IS CONTINUOUSLY ACCESSIBLE. CROSS SLOPE DOES NOT EXCEED 1/4" PER FOOT. ELEVATION CHANGES (SIDEWALK TRANSITIONS OR "BOUMPS") DO NOT EXCEED 1/2". SLOPE AND PATH OF TRAVEL DOES NOT EXCEED 1:20.



wayne rensshaw
 architect

111 W Saint John St. #950
 San Jose, CA 95113
 (408) 288 8033
 fax 999 6637

storm water run-off

THIS PROJECT DOES IS EXEMPT FROM THE REQUIREMENTS FOR STORM WATER RUN-OFF, AS DEFINED BY SAN JOSE POLICY 6-20.

- S1. POLICY 6-20 APPLIES TO NEW DEVELOPMENT AND "SIGNIFICANT" REDEVELOPMENT PROJECTS THAT CREATE OR REMODEL 10,000 SQUARE FEET OF IMPERVIOUS SURFACE. THIS PROJECT DOES NOT CREATE ANY NEW IMPERVIOUS SURFACES (THE PATIO AREA (ALREADY AN IMPERVIOUS SURFACE) IS APPROXIMATELY 850 SQUARE FEET)
- S2. THE PROPOSED USE IS NOT LISTED AS A "PROJECT OF CONCERN"
- S3. POLICY 6-20 SPECIFICALLY EXEMPTS INTERIOR REMODELING PROJECTS FROM THE REQUIREMENTS FOR STORM WATER RUN-OFF.

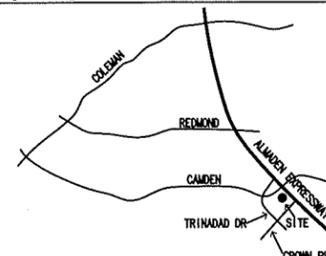
THIS PROJECT IS THEREFORE EXEMPT FROM THE REQUIREMENTS FOR MANAGING STORM WATER RUNOFF.

parking analysis

| Address | Store Name | Use | Hour Area | Net Floor Area | Dining Room Area | Seats | Parking Demand (per hour) | Parking Demand (based on dining area) | Parking Demand (based on seating) | Parking Required |
|----------------------------------|------------------------------|--------------------|-----------|----------------|------------------|-------|---------------------------|---------------------------------------|-----------------------------------|------------------|
| 6477 | Safeway | Retail | 42,484.00 | 36,111.40 | - | - | 200 | - | - | 180.56 |
| 6477 B1 | Starbucks | Restaurant | 1,665.00 | - | 491.00 | 14 | 40 | 12.28 | 5.6 | 12.28 |
| 6477 B8 | Push Bagel | Restaurant | 1,790.00 | - | 600.00 | 20 | 40 | 15.00 | 8 | 15.00 |
| 6477 B2 | Lee's Village | Restaurant | 1,020.00 | - | 288.00 | 20 | 40 | 7.20 | 8 | 7.20 |
| 6477 B7 | Vacant Retail | Retail | 1,800.00 | 1,530.00 | - | - | 200 | - | - | 7.65 |
| 6477 B7 | One Hour Cleaner | Dry Cleaner | 1,980.00 | 1,683.00 | - | - | 200 | - | - | 8.42 |
| 6477 B5 | Chase Bank | Financial Services | 2,698.00 | 2,293.30 | - | - | 250 | - | - | 9.17 |
| 6477 B7 | Almaden Mining Co Restaurant | Restaurant | 3,188.00 | - | 1,275.30 | 89 | 40 | 31.68 | 35.6 | 35.68 |
| 6477 B7 | *Almaden Mining Co Patio | Restaurant Patio | 783.00 | - | - | - | 37 | - | - | 10.8 |
| 6477 B6 | Vacant Retail | Retail | 1,500.00 | 1,275.00 | - | - | 200 | - | - | 6.38 |
| 6475 | Vacant Retail | Retail | 900.00 | 816.00 | - | - | 200 | - | - | 4.08 |
| 6473 | Maple Leaf Donuts | Restaurant | 1,200.00 | - | 320.00 | 20 | 40 | 8.00 | 8 | 8.00 |
| 6471 | Toggs | Restaurant | 1,600.00 | - | 640.00 | 22 | 40 | 16.00 | 8.8 | 16.00 |
| 6469 | Texas All Pastor | Restaurant | 2,150.00 | - | 740.00 | 34 | 40 | 18.50 | 13.6 | 18.50 |
| 6469 | ACE Hardware Store | Retail | 8,800.00 | 7,480.00 | - | - | 200 | - | - | 37.40 |
| 6477 D6 | Lovely Nails | Personal Service | 1,141.00 | 972.40 | - | - | 200 | - | - | 4.86 |
| 6477 D9 | Baskin Robbins | Food, To Go | 1,141.00 | - | 420.00 | 12 | 75 | 5.60 | 4.8 | 5.60 |
| 6475 SF | Wells Fargo Bank | Financial Services | 6,400.00 | 5,440.00 | - | - | 250 | - | - | 21.76 |
| 6477 D4 | Beauty Supply | Retail | 1,141.00 | 972.40 | - | - | 200 | - | - | 4.86 |
| 6477 D3 | Great Clips | Personal Service | 1,141.00 | 972.40 | - | - | 200 | - | - | 4.86 |
| 6477 D2 | Tutoring | Personal Service | 1,141.00 | 972.40 | - | - | 200 | - | - | 4.86 |
| 6477 D1C | Hair Block | Financial Services | 1,320.00 | 1,085.70 | - | - | 250 | - | - | 4.36 |
| 6477 D1B | Ophthalmist | Medical Office | 1,320.00 | 1,122.00 | - | - | 250 | - | - | 4.49 |
| 6477 D1A | Burger King | Restaurant | 1,820.00 | - | 718.00 | 41 | 40 | 12.95 | 16.4 | 17.95 |
| Total | | | | 90,740.00 | | | | | | 451 |
| Total Parking Available on-site: | | | | | | | | | | 478 |

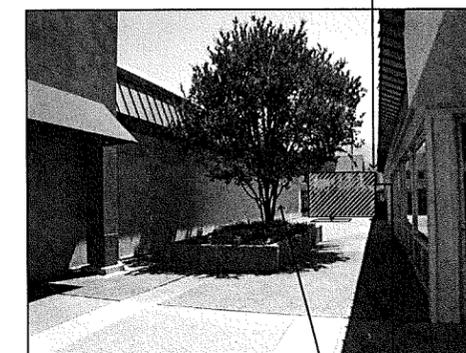
*Note: patio seating demand is 1 per 25 seats over 25 seats. Proposed patio has 52 seats. 52-29=27. 27 seats are therefore shown above

vicinity map



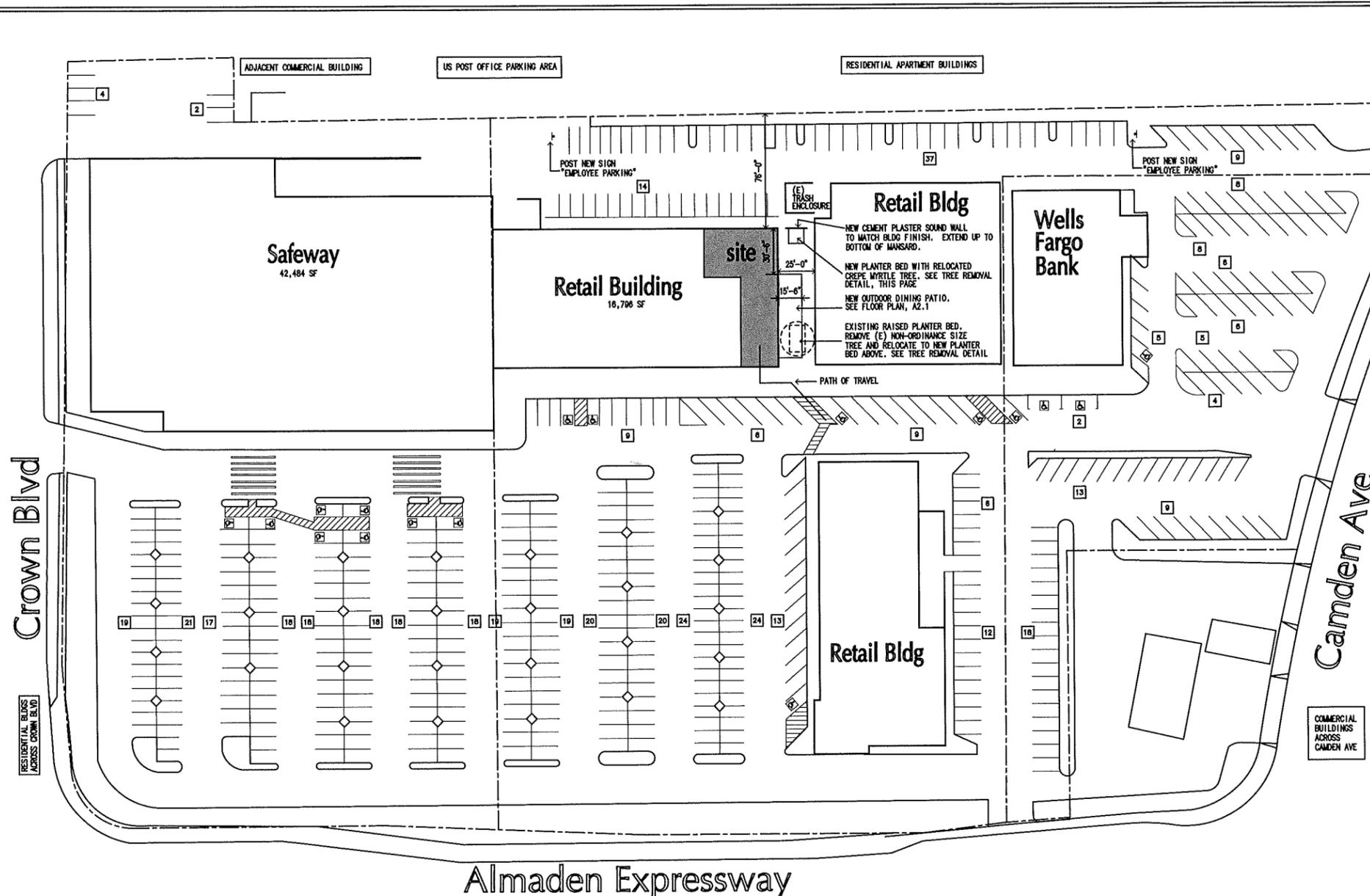
tree removal and new sound wall

NEW SOUND WALL: NEW CEMENT PLASTER WALL EXTENDING UP TO BOTTOM OF MANSARD ROOF ON EACH SIDE. RELOCATE TREE IN FRONT OF WALL



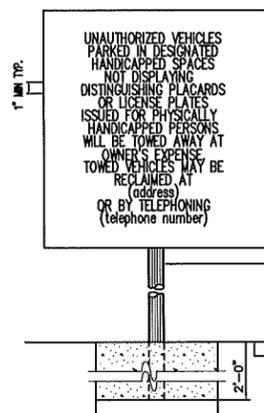
EXISTING MULTI-TRUNK CRAPE MYRTLE (LAGERSTROMIA) MAX TRUNK CIRCUMFERENCE: 28" (NON-ORDINANCE SIZE). REMOVE AND RELOCATE TREE TO NEW PLANTER AREA AT BACK OF BREEZEWAY.

RELOCATED TREE AND PLANTER BED.

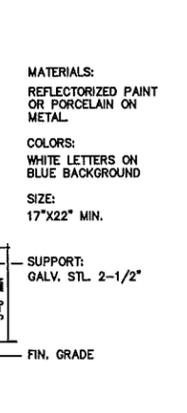


site plan

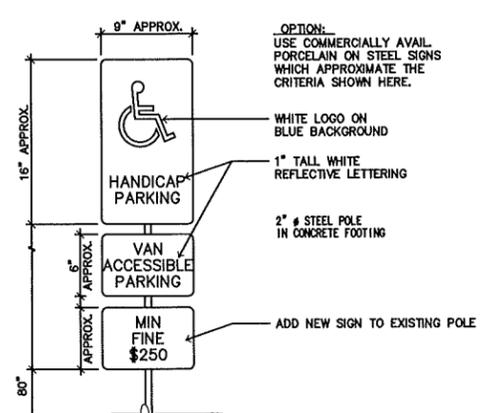
1"=40'-0" 7



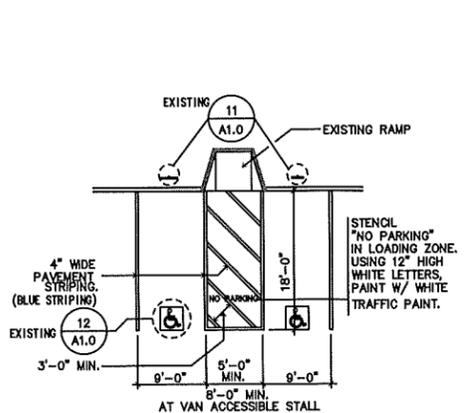
lot entrance sign



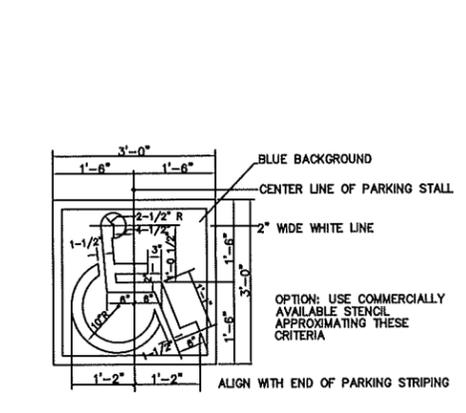
parking stall sign



16



accessible stall layout



parking stall logo

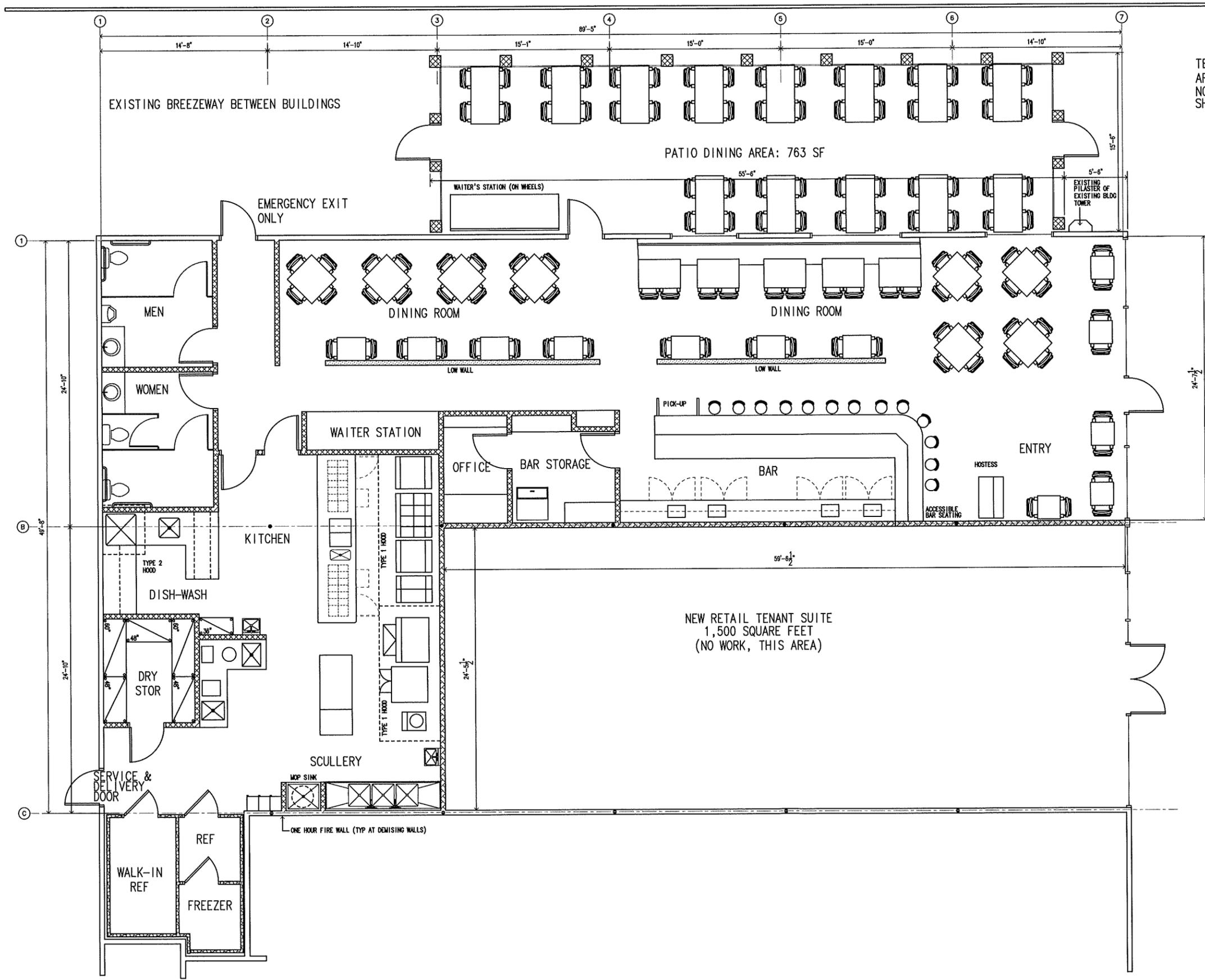
8

| description | date |
|--------------------|--------|
| PLANNING REVISIONS | 9/9/10 |

| revision history | date |
|------------------|------|
| client review | |
| plan check | |
| bidding | |
| construction | |

date: 5/12/10
 proj num: 1022
 proj mgr: wr
 proj arch: wr
 scale:
 sheet number: A1.0

site plan



TENANT AREA: 3,188 SF.
 AREA OF ADJACENT SUITE 1,500 SF
 NOTE: SEE PARKING ANALYSIS, SHEET
 SHEET A1.1 FOR AREA OF ALL TENANTS



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**Almaden Mining Co
 Restaurant**

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| revision history | description | date |
|------------------|--------------------|--------|
| ▲ | PLANNING REVISIONS | 9/9/10 |
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| revision status | client review | date |
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date 7/2/10
 proj num 1022
 proj mgr wr
 proj arch wr
 scale 1/4"=1'-0" 0 1 2 3 4 5

floor plan

sheet number **A2.1**

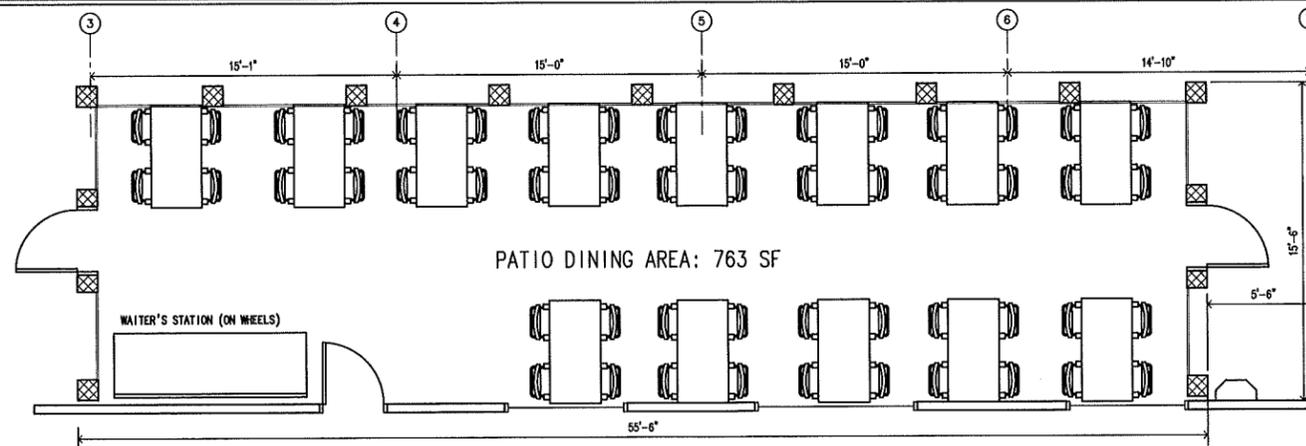


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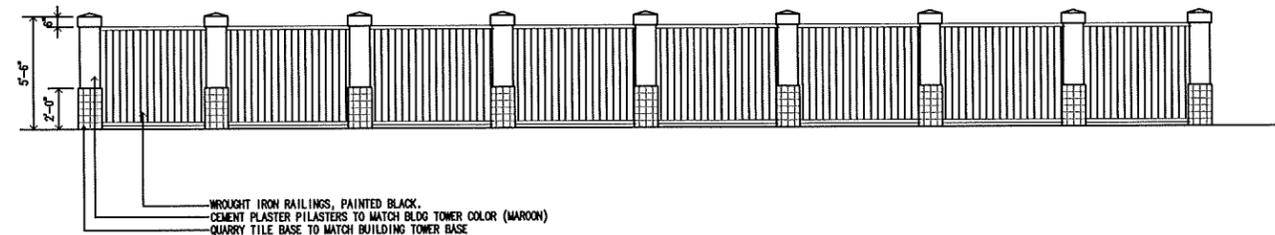
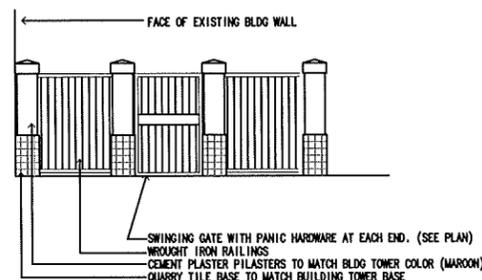
consultant

consultant



patio detail plan

5



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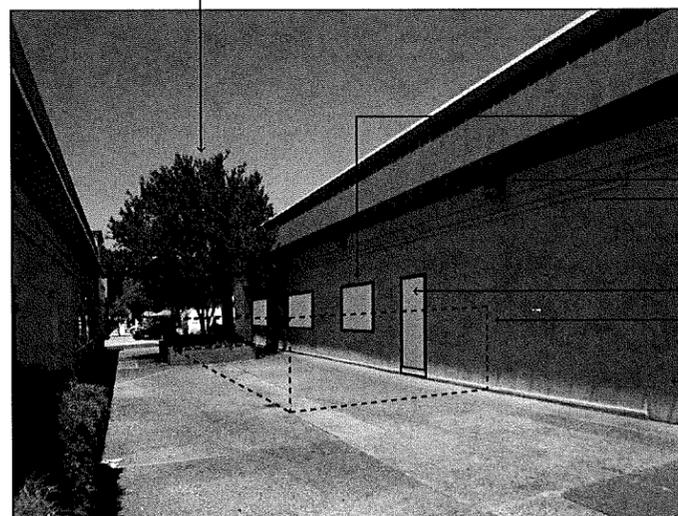
end elevation of patio wall

front elevation of patio wall

5

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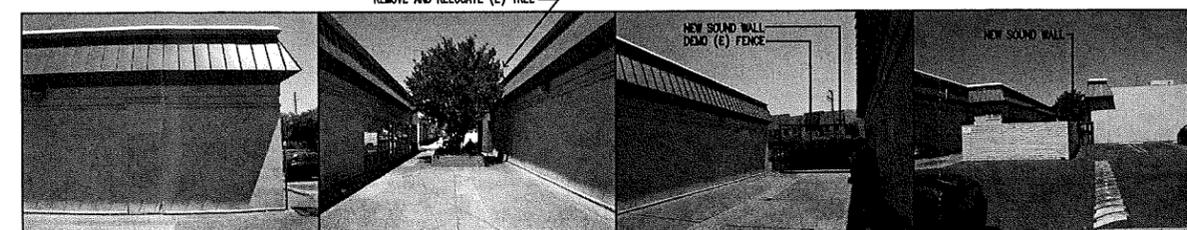
- EXISTING TREE AND PLANTER TO BE REMOVED AND RELOCATED
- EXISTING BUILDING
- NEW STOREFRONT WINDOWS CUT INTO EXISTING WALL (NEW WINDOWS TO MATCH EXISTING STOREFRONT FABRICATION)
- EXISTING LIGHTING, TO REMAIN.
- EXISTING CEMENT PLASTER WALL
- NEW STOREFRONT DOOR, TO MATCH EXISTING
- APPROXIMATE LINE OF PROPOSED PATIO WALL. SEE ELEVATIONS ABOVE
- EXISTING EXIT DOOR, TO REMAIN
- EXISTING WINDOWS TO REMAIN
- PROPOSED SOUND WALL, EXTEND TO BOTTOM OF MANSARD ROOF
- REMOVE (E) CHAIN LINK FENCE...



VIEW OF TENANT SPACE AND ADJACENT TENANTS LOOKING TOWARDS SAFEWAY. VIEW OF TENANT'S STOREFRONT THROUGH CORNER TOWER. VIEW OF PARKING AREA OUTSIDE OF TENANT'S SPACE LOOKING TOWARDS CAMDEN AVE. END OF TENANT'S BUILDING UP AGAINST SAFEWAY BLDG



BACK SIDE OF BREEZEWAY. SHOWING TRASH ENCLOSURE. BACK OF TENANT'S SUITE. SAFEWAY MARKET. (ANCHOR TENANT FOR CENTER) DOWN DRIVEWAY LOOKING AT TENANT SUITE



BREEZEWAY ELEVATION SHOWING EXISTING BACK DOOR. COURTYARD ELEVATION LOOKING TOWARDS ALMADEN EXPR. COURTYARD ELEVATION LOOKING TOWARDS BACK PARKING LOT. TRASH ENCLOSURE AT BACK OF BREEZEWAY

| revision history | description | date |
|------------------|--------------------|--------|
| ▲ | PLANNING REVISIONS | 9/8/10 |
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| drawing release status | client review | date |
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| ○ | plan check | |
| ○ | bidding | |
| ○ | construction | |

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|-----------|--------|
| date | 7/2/10 |
| proj num | 1022 |
| proj mgr | wr |
| proj arch | wr |

scale 1/4"=1'-0"

elevations

courtyard elevation

building elevation photos

5

sheet number
A3.1