

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP10-045

Submitted: July 29, 2010

PROJECT DESCRIPTION:

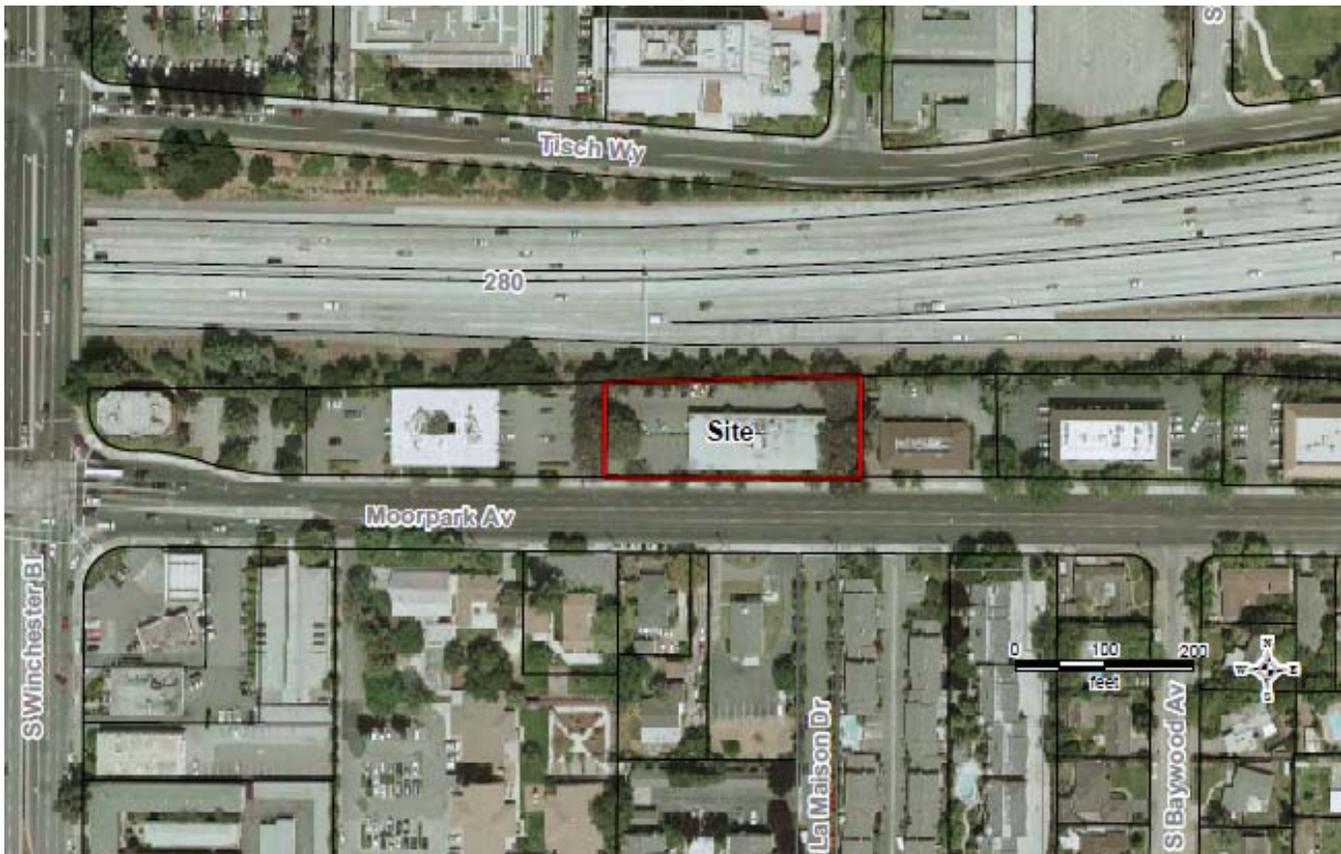
A Conditional Use Permit to allow for the conversion of approximately 13,000 square feet of existing office space to religious assembly use on a 0.729 gross acre site.

LOCATION:

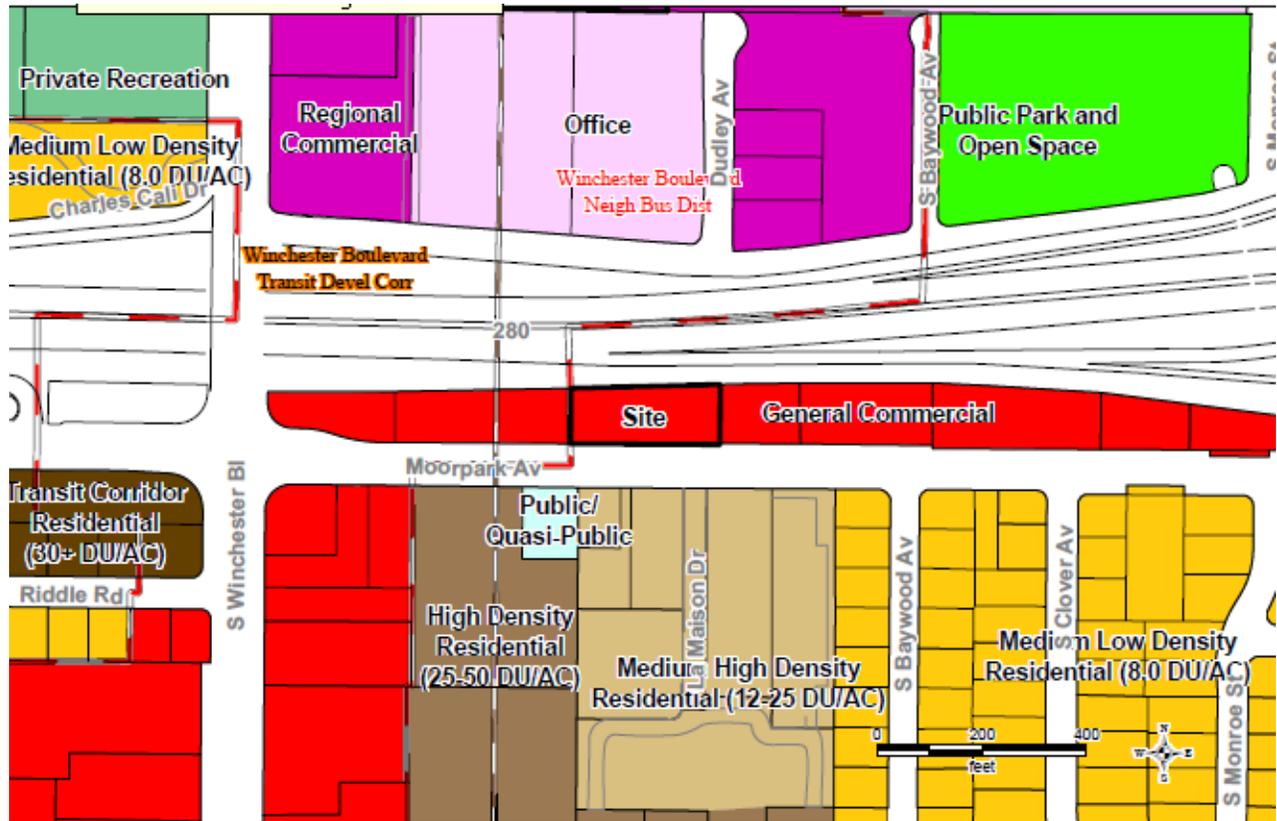
North side of Moorpark Avenue, approximately 740 feet easterly of S. Winchester Blvd.

Zoning	CO Commercial Office
General Plan	General Commercial
Council District	6
Annexation Date	Moreland No. 1 (11/26/1954)
SNI	NA
Historic Resource	NA
Redevelopment Area	NA
Specific Plan	NA

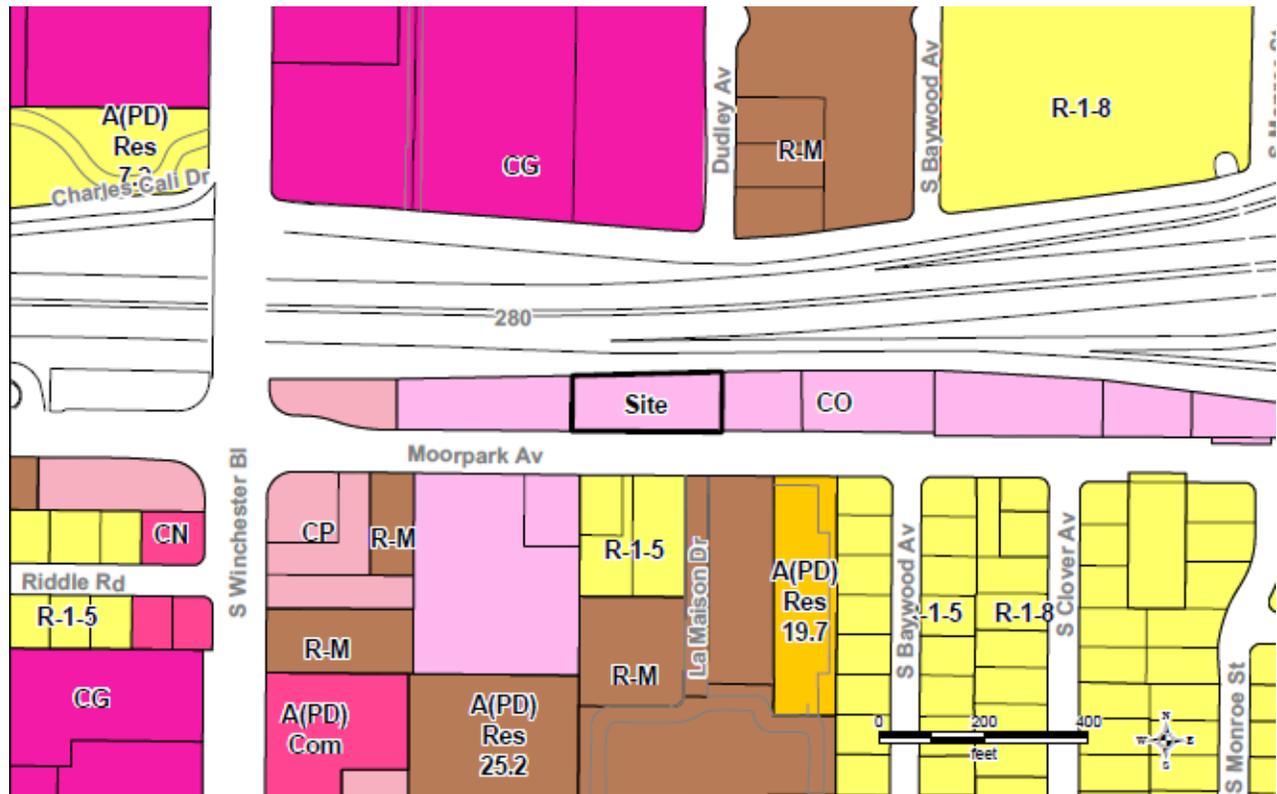
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends approval of the proposed Conditional Use Permit for the following reasons:

1. The proposed project is consistent with the San Jose 2020 General Plan as follows:
 - a. The proposed project supports the Balanced Community goal of offering a greater diversity of social and cultural opportunities in the area.
 - b. The proposed project does not conflict with the Office designation on the Land Use/Transportation Diagram.
2. The proposed low intensity assembly use is compatible with the surrounding land uses.
3. The proposed project is consistent with the development standards of the CO Commercial Office Zoning District
4. The proposed project conforms to the requirements of California Environmental Quality Act (CEQA).

BACKGROUND

On July 27, 2010, James Rowen, on behalf of the property owner Gary Gillmore, filed a Conditional Use Permit application to convert approximately 12,880 square feet of office space to a religious assembly use. The site is developed with a building constructed in 1969. The property is bordered on the north by Interstate 280, to the east and west by office uses and to the south across Moorpark by a small church, single-family residence and a daycare.

The project proposes to utilize the entire (both floors) existing two-story office building. The ground floor will house the main assembly hall and the social hall. The second floor will have activity rooms, a multi-purpose room, conference room, and floor area and offices for the administration of the use. There is no proposal to alter the building exterior or landscaping.



ANALYSIS

The proposed project was analyzed with respect to: 1) conformance with the San Jose 2020 General Plan, 2) conformance to the Zoning Ordinance, and 3) land use compatibility.

General Plan Conformance

As stated above, the existing office building is located in an area where there are a mix of uses along the major arterial of Moorpark Avenue between Bascom Avenue and S. Winchester Boulevard. The conversion of the existing office square footage to use for an assembly use contributes to the Balanced Community goal of developing “a balanced and complete community in terms of land use distribution and densities, housing types, and styles, economic development and job opportunities and opportunities for social and cultural expression.” Supporting assembly uses advances opportunities for social and cultural expression throughout the community. The location of an assembly use of this size does not conflict with the direction of the Office land use designation which encourages lower intensity uses that are compatible

with the surrounding area. Again, the mix of uses along Moorpark complement each other with respect to times and days of use and intensity.

Zoning Ordinance Conformance

The parking requirement per the Zoning Code for a religious assembly use is one (1) per four (4) fixed seats used together or separately for worship. The proposed project has an assembly area with 125 seats which would require a total of 32 parking spaces. The subject site has 37 existing parking spaces. There are other assembly areas, including a large social hall on the first floor and a variety of other smaller activity or meeting rooms on the second floor. The above noted parking requirement also applies to these smaller assembly rooms. Due to the limited number of parking spaces on the site, the simultaneous use of the assembly areas needs to be limited. A permit condition related to the limitation on simultaneous use of the assembly areas is included in the resolution. This condition, along with a maximum occupancy of 148 persons, should ensure that there are sufficient parking spaces to cover the required parking.

Land Use Compatibility

The subject site is located adjacent to Interstate 280 on the north side of Moorpark Avenue between Bascom Avenue and S. Winchester Boulevard. The uses along this side of Moorpark Ave. nearest the site are office uses. The uses across on the south side of Moorpark Ave. are more mixed. There is small church directly across the street with a mix of single-family and multi-family to the east, and daycare, office and commercial uses to the west. The addition of a religious assembly use would contribute positively to the mix of uses and the alternating times that the uses would occur.

Environmental

Under the provisions of Section 15332(b) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is found 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 proposed conversion of office space to assembly use is located within city limits on a project site of no more than five acres and is substantially surrounded by urban uses. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

CONCLUSION

The findings required to approve a Conditional Use Permit for the proposed use include, but are not limited to, the use will not 1) adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; and 2) the proposed site is adequate in size and shape to accommodate all that is necessary in order to integrate the use with the uses in the surrounding area; and 3) that the site is adequately served by roadways or transit and is served by public or private utilities as required.

As discussed above, the area surrounding the proposed use contains a mix of uses and is located along a major arterial. The proposed use will not bring in any more traffic than if the existing office building was fully occupied, and the times in which the use will be occurring may be at alternate time that the other uses in the area are active. The location on Moorpark Avenue provides for the opportunity to bring people to the site along a major arterial and not necessitate travel through any residential areas as well as offering the opportunity to take transit and have a short walk to the building. This site is within a fully developed area and is served by public utilities sufficient to support the use.

As such, staff supports the conversion of the existing office space to an assembly use given its conformance with the general plan, the surrounding land uses, the zoning code, and the ability to make the required findings per Title 20.

PUBLIC OUTREACH/INTEREST

The property owners and occupants within a 500-foot radius were sent public hearing notices for the Planning Commission and City Council hearings. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

Project Manager: Jeannie Hamilton

Approved by:

 **Date:** 9/29/10

Owner/Applicant:	Attachments:
Gary Gillmore 1201 Franklin Mall Santa Clara, CA 95050 Henry Wong West Valley Christian Alliance Church 400 Llewellyn Avenue Campbell, CA 95008	Plan Set Resolution Noticing Verification Map

RESOLUTION NO.

Resolution of the Planning Commission of the City of San José granting, subject to conditions, a Conditional Use Permit to allow the conversion of an existing office building to a religious assembly use on a 0.729 gross acre site located at 3003 Moorpark Avenue.

FILE NO. CP10-045

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

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on July 29, 2010, an application (File No. CP10-045) was filed for a Conditional Use Permit for the purpose of allowing conversion of an existing office building to a religious assembly use on a 0.729 gross acre site, on that certain real property (hereinafter referred to as "subject property"), situate in the CO Commercial Office Zoning District, located at 3003 Moorpark Avenue, in the City of San Jose, 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 20.100 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 development plan for the subject property entitled, "Conditional Use Permit Application, Conversion of Office Use to Religious Assembly," dated July 19, 2010, revised September 7, 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 project site is located at 3003 Moorpark Avenue.
2. The site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The subject property is zoned CO Commercial Office.
4. The Zoning Ordinance requires a Conditional Use Permit for a church/religious assembly use in the CO Commercial Office Zoning District.
5. The site includes an existing two-story office building, approximately 13,000 square feet and a parking lot with 37 parking spaces.
6. The proposed religious assembly use would occupy the entire building.
7. The use is proposed to occur totally within the existing building
8. There are no changes proposed to the exterior of the building.
9. The proposed use has a parking requirement set forth by Title 20 based on the number of seats and/or size of assembly areas. Church/assembly uses must provide either: one parking space per four fixed seats, or one parking space per six linear feet of seating, or one parking space per 30 square feet of area designed for assembly, used together or separately for worship.
10. The amount of area proposed for worship includes 125 seats, which results in 32 required parking spaces.
11. The project as conditioned would not permit the simultaneous use of the worship hall and other social hall, activity, multi-purpose, or conference rooms for worship, therefore the existing parking lot has an adequate number of parking spaces to accommodate the proposed use.
12. The use of all meeting room and assembly areas shall be limited to a total occupancy of 148 persons to ensure that the use provides an appropriate amount of parking. The occupancy may be increased, within the limits of the Fire Code occupancy requirements, provided that a subsequent Special Use Permit is approved for an off-site alternating parking arrangement.
13. As conditioned, the project developer/facility operator will be required to obtain and fully comply with all applicable City Permits prior to occupancy.
14. Under the provisions of Section 15332 (b) of the State Guidelines for Implementation of the California Environmental Quality Act, this project is found 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, in that the proposed conversion of office space to assembly use is located within city limits on a project site of no more than five acres and is substantially surrounded by urban uses.

This Planning Commission concludes and finds, based upon an analysis of the above facts 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 prescribed in this title, or as is 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 facilities as are required.

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 are 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

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant 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 in accordance with the provisions of Title 20 of the San Jose Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.

3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Conformance with Plans.** Construction and development shall conform to approved Conditional Use Permit plans entitled, " Conditional Use Permit Application, Conversion of Office Use to Religious Assembly," dated July 19, 2010, revised September 7, 2010, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
6. **Simultaneous Use of Areas.** The simultaneous use of the main assembly area and other assembly areas/rooms (social hall, activity, meeting and conference rooms) is not permitted with this permit, except as provided in conjunction with Condition #7.
7. **Occupancy On-site.** The occupancy on-site is limited to 148 persons. Subject to approval of a subsequent Special Use Permit to allow off-site parking in conformance with Section 20.90.200 of the Zoning Ordinance, an additional number of seats or simultaneous use of assembly areas/rooms may be considered. Significant changes to the operation of the facility as a church/religious assembly use from those described in the project plans or this permit shall be subject to a Conditional Use Permit Amendment to the satisfaction of the Director of Planning.
8. **Outdoor Activities.** No outdoor activities areas are approved with this Permit. All activities shall be conducted indoors.
9. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

10. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted. Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
12. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP10-045, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
14. **Sign Approval.** No new signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
15. **Lighting.** No new lighting is approved at this time. Any proposed lighting shall be subject to approval by the Director of Planning.
16. **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 3, Chapter 20.44, 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 violation; 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.

APPROVED and issued this 13th day of October 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

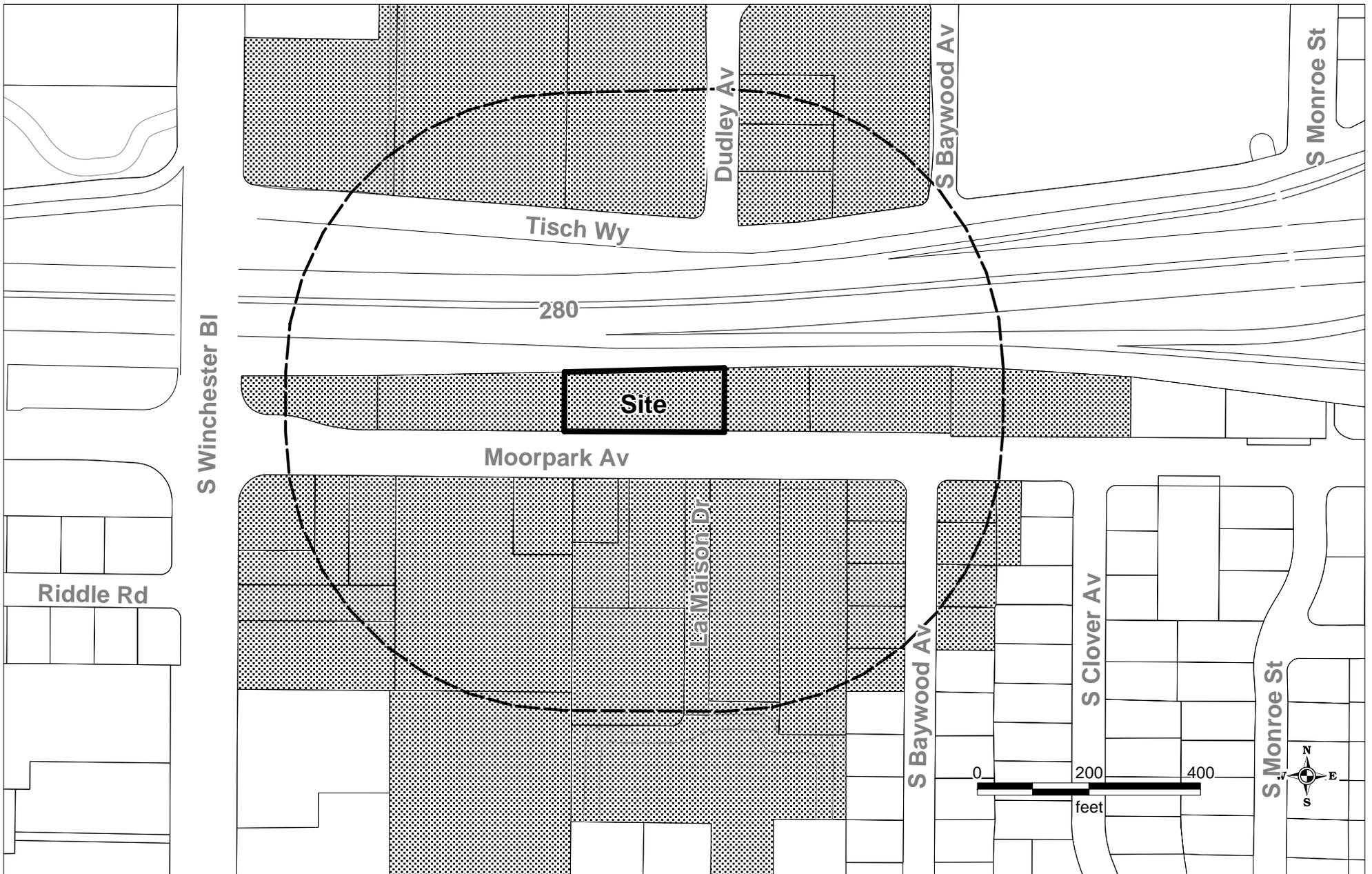
ATTEST:

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.



File No: CP10-045
 District: 6

Actual Noticing

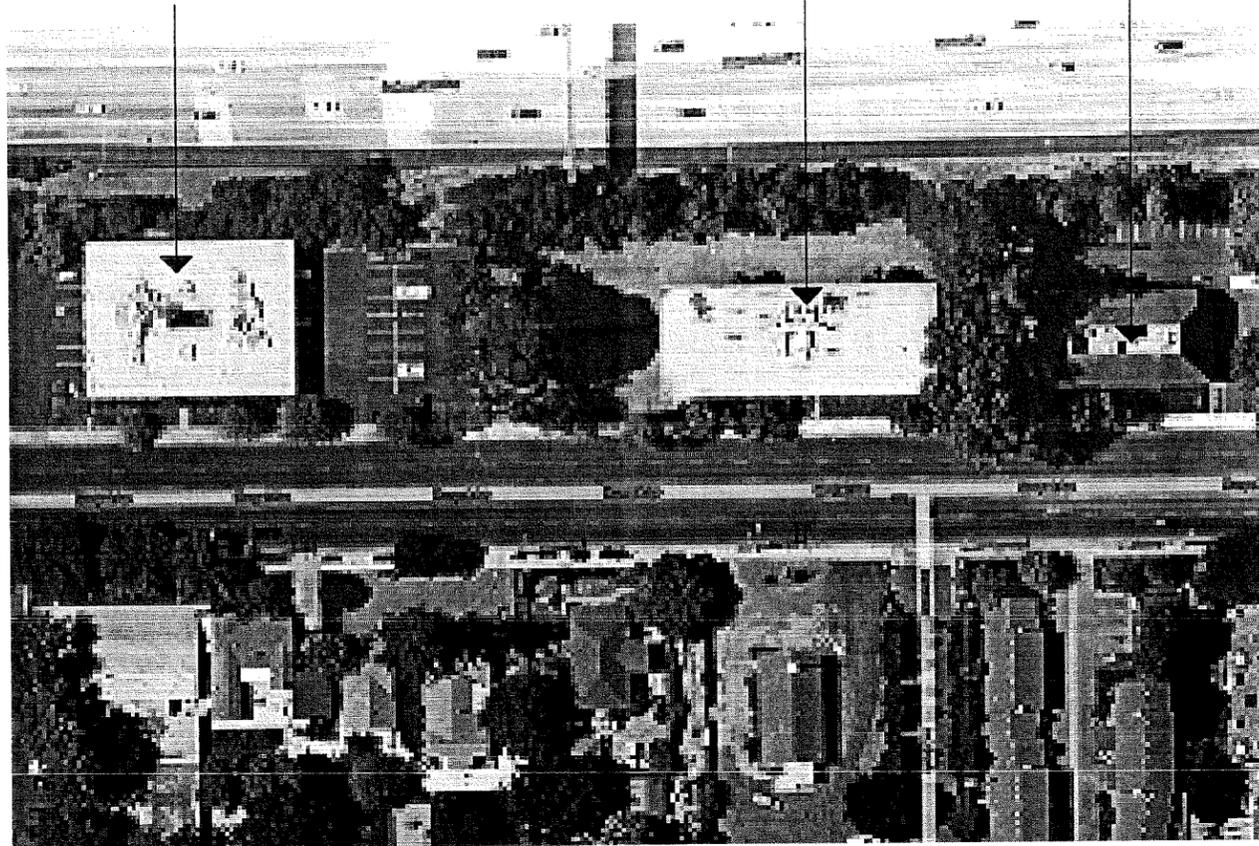


Prepared by the Department of Planning,
 Building, and Code Enforcement
 9/29/2010

3033 MOORPARK

3003 MOORPARK

2995 MOORPARK



SITE AERIAL PHOTO



BUILDING FRONT VIEW

**3003 MOORPARK AVENUE
SAN JOSE, CA**

CONDITIONAL USE PERMIT APPLICATION
CONVERSION OF USE

EXISTING USE: COMMERCIAL OFFICE
PROPOSED USE: RELIGIOUS ASSEMBLY

DERRICK T. WU
ARCHITECT

6856 SARONI DRIVE
OAKLAND, CA 94611
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dwu@dwuarch.com

PROJECT DATA

JURISDICTION
OWNER

CITY OF SAN JOSE
GARY GILLMOR
1201 FRANKLIN STREET., SANTA CLARA, CA 95050
WEST VALLEY CHRISTIAN ALLIANCE CHURCH
400 LLEWELLYN AVE., CAMPBELL, CA 95008
279-47-005

APPLICANT

APN
LOT AREA
BUILDING AREA

0.75 ACRE (~32,670 SF)
GROUND FLOOR: 6,440 SF
SECOND FLOOR: 6,440 SF
TOTAL: 12,880 SF

NO. OF STORIES
TYPE OF CONSTRUCTION
EXISTING OCCUPANCY GROUP
PROPOSED OCCUPANCY GROUP
EXISTING PARKING

2
V-B
B
A-3
ACCESSIBLE PARKING FOR DISABLED: 2
STANDARD PARKING: 35

1 DOP(8-27-10) 9-7-10
REVISIONS

**3003
MOORPARK
AVENUE
SAN JOSE, CA**

**CONDITION
USE PERMIT
APPLICATION**
CONVERSION OF
OFFICE USE TO
RELIGIOUS ASSEMBLY

SHEET TITLE

TITLE SHEET

PROJECT NO. W2K1011

DATE: JULY 19, 2010

DRAWING INDEX

- 1 TITLE SHEET
- 2 SITE PLAN
- 2.1 PARTIAL SITE PLAN WITH PARTIAL ADJACENT SITE
- 3 FLOOR PLANS
- 4 BUILDING ELEVATIONS
- 4.1 SITE PHOTOS

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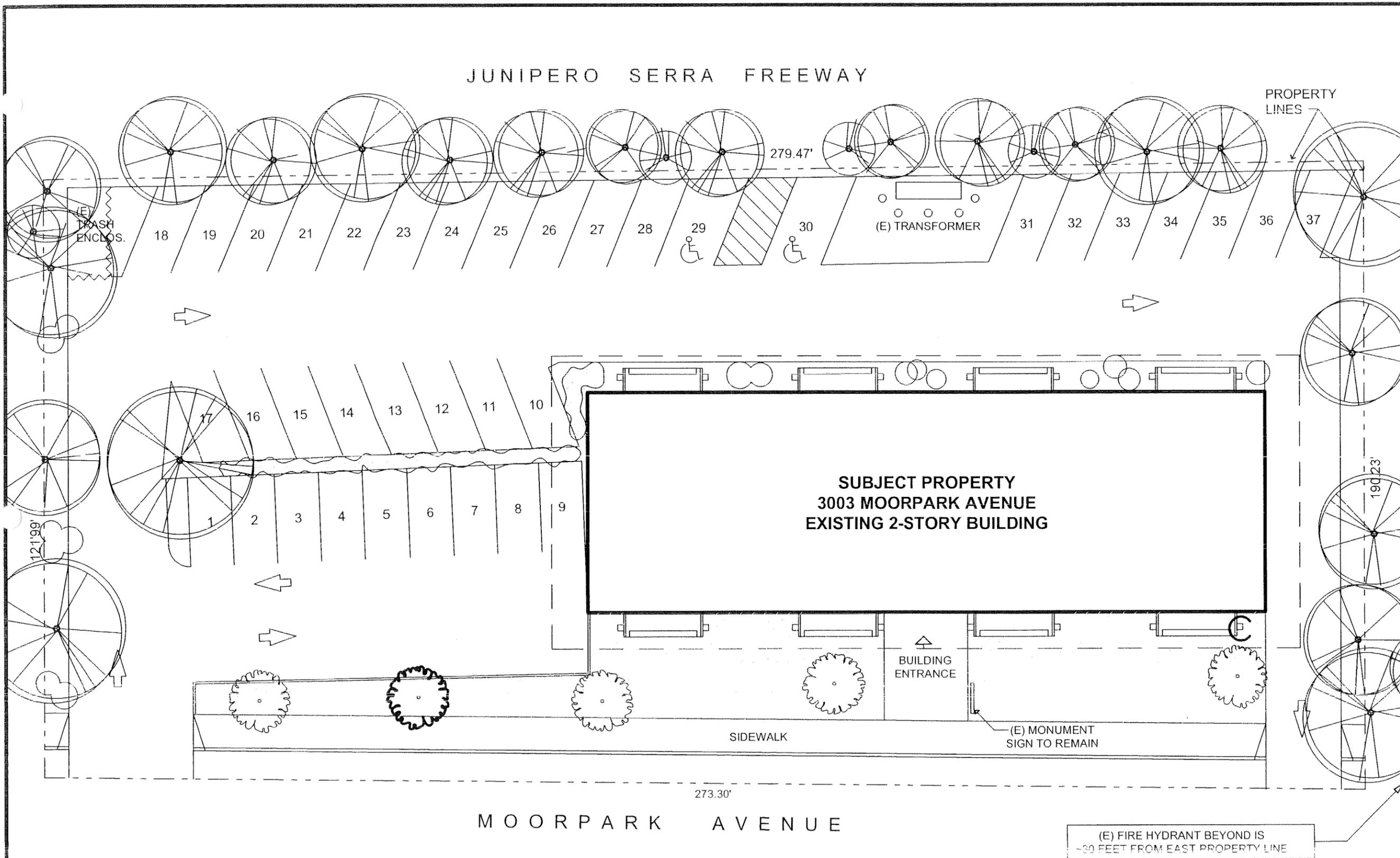
SHEET TITLE

SITE PLAN

PROJECT NO. W2K1011

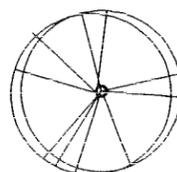
DATE: JULY 19, 2010

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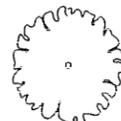


SITE PLAN
1" = 20'-0"

LANDSCAPE LEGEND



(E) PERIMETER
TALL TREES



(E) BUILDING
FRONTAGE
SMALL TREE



(E) SHRUBS



(E) LAWN
AREA



(E) HEDGES

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ARCHITECT

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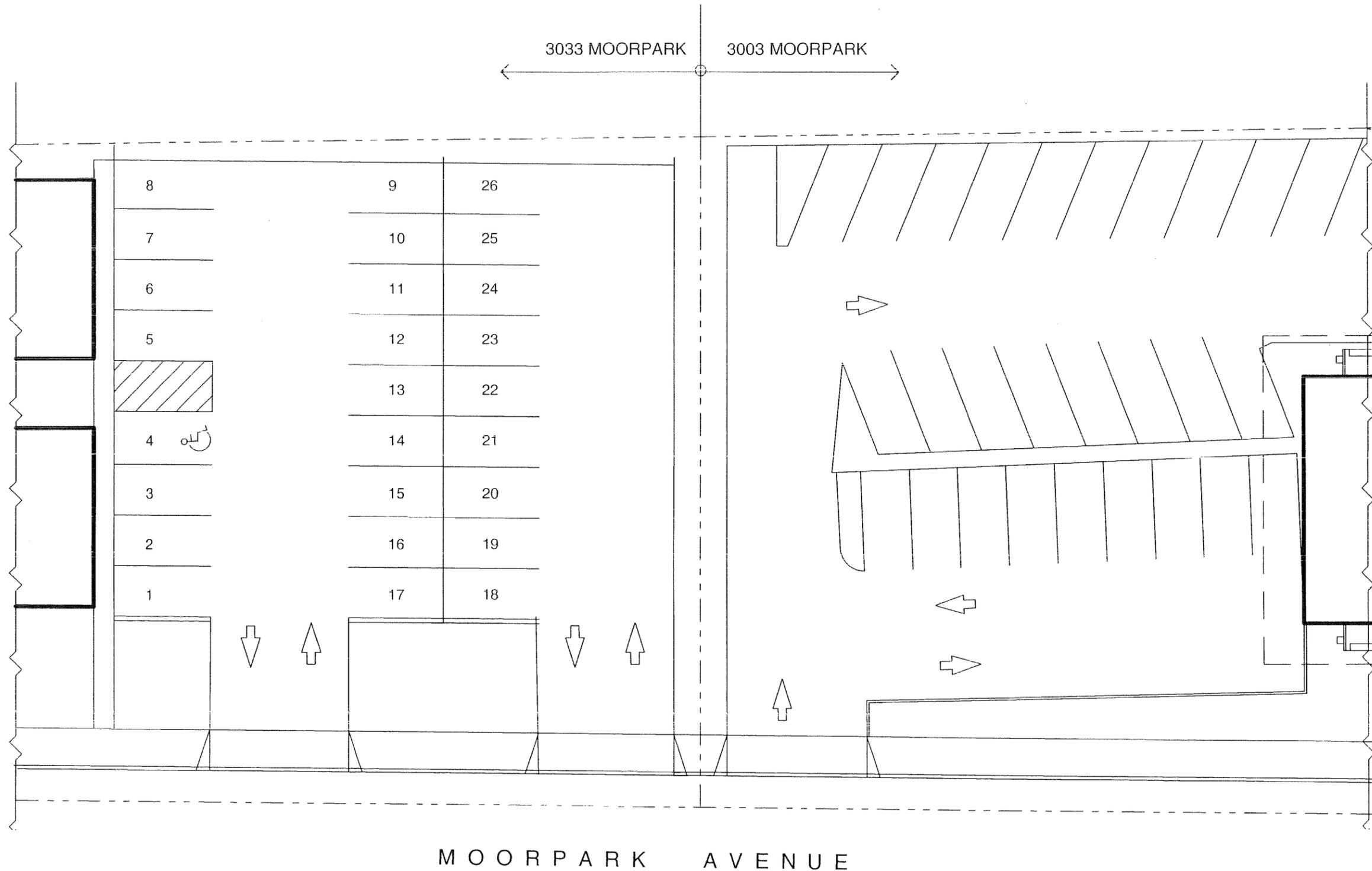
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SHEET TITLE
PARTIAL
SITE PLAN W/
PARTIAL
ADJACENT
SITE

PROJECT NO. W2K1011

DATE: JULY 19, 2010

2.1

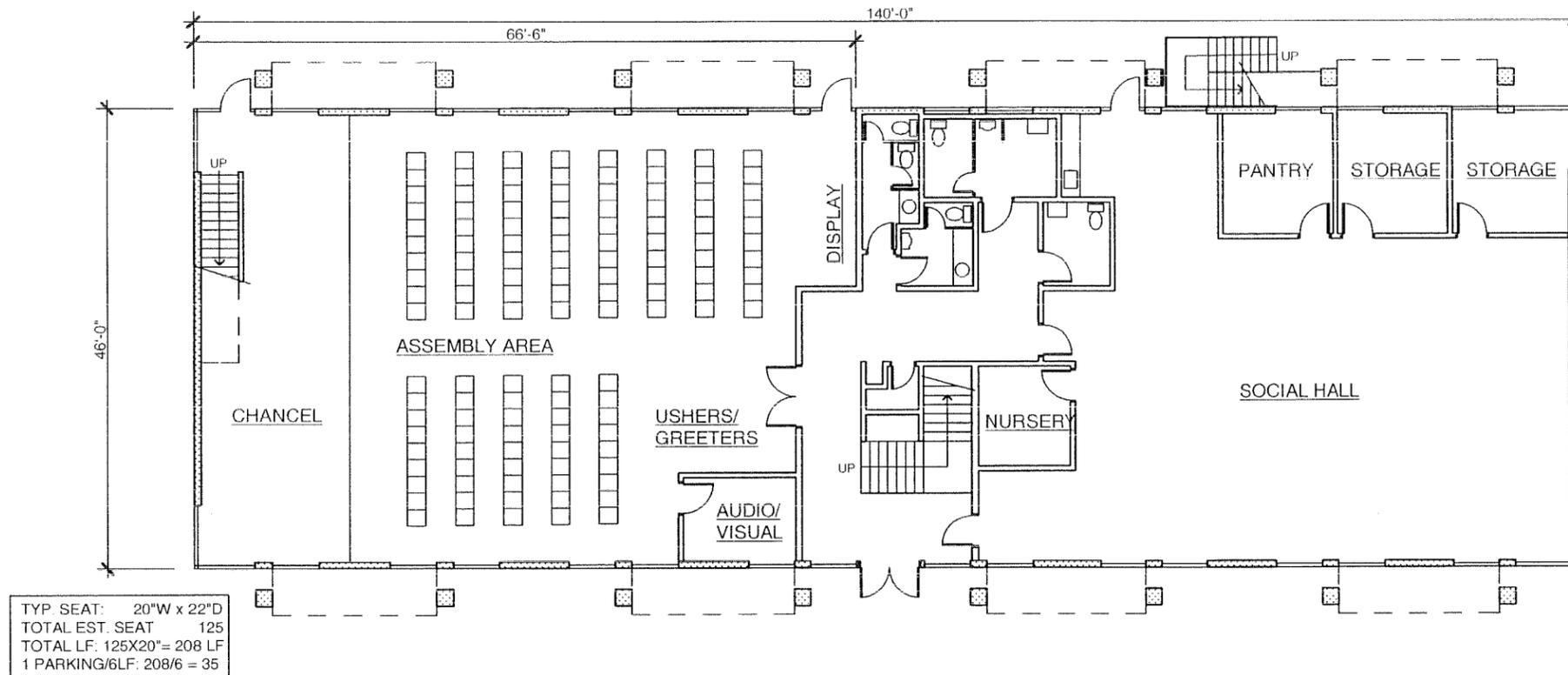


PARTIAL SITE PLAN W/ PARTIAL ADJACENT SITE

1" = 20'-0"

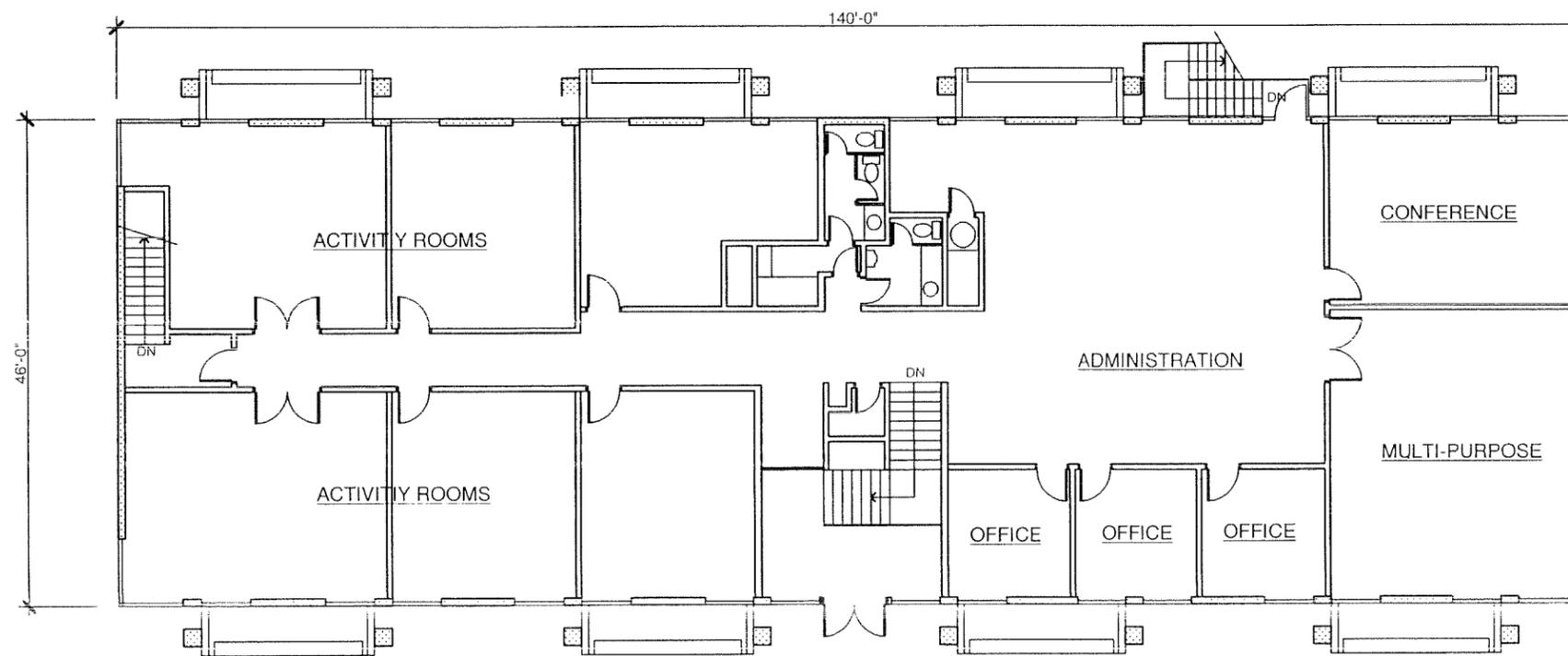
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GROUND FLOOR FLOOR PLAN

1/16" = 1'-0"



SECOND FLOOR FLOOR PLAN

1/16" = 1'-0"

1 DOP(8-27-10) 9-7-10
REVISIONS

3003
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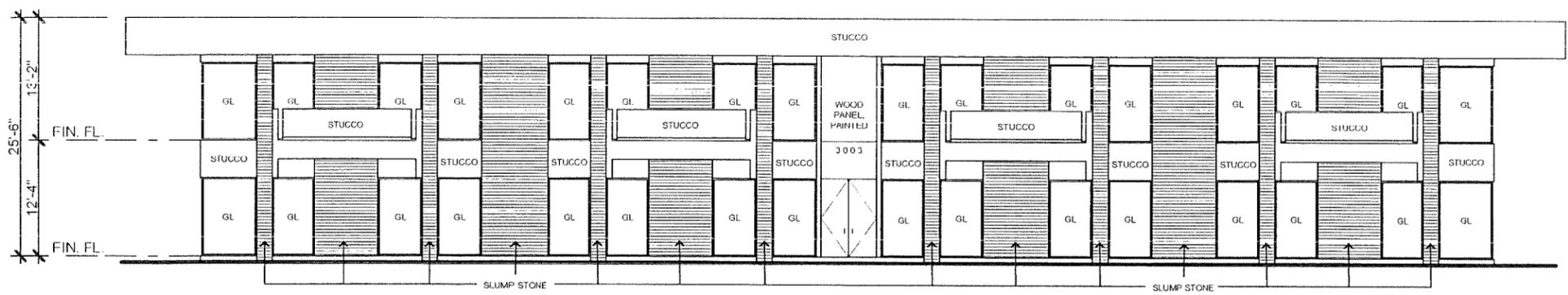
FLOOR
PLANS

PROJECT NO. W2K1011

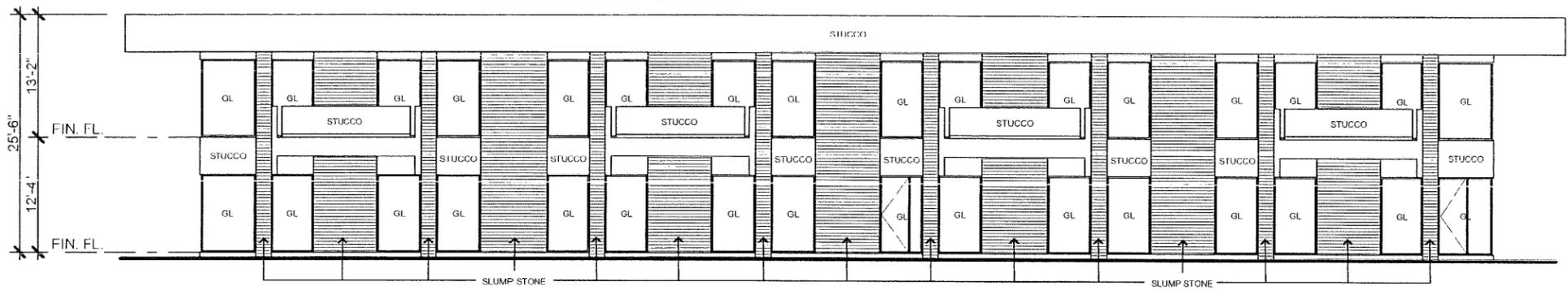
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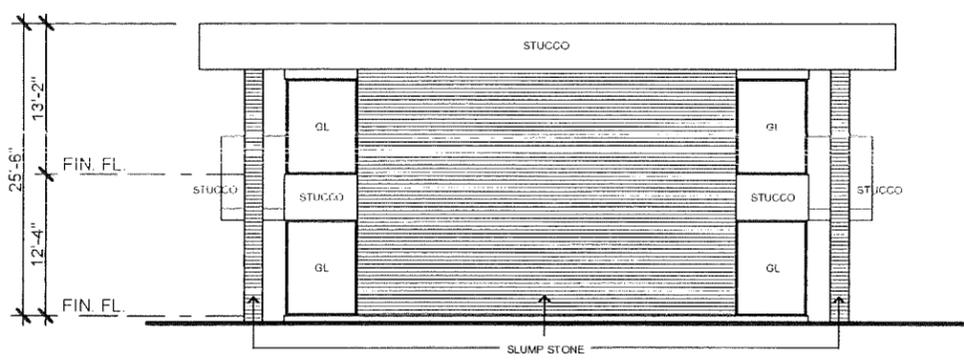
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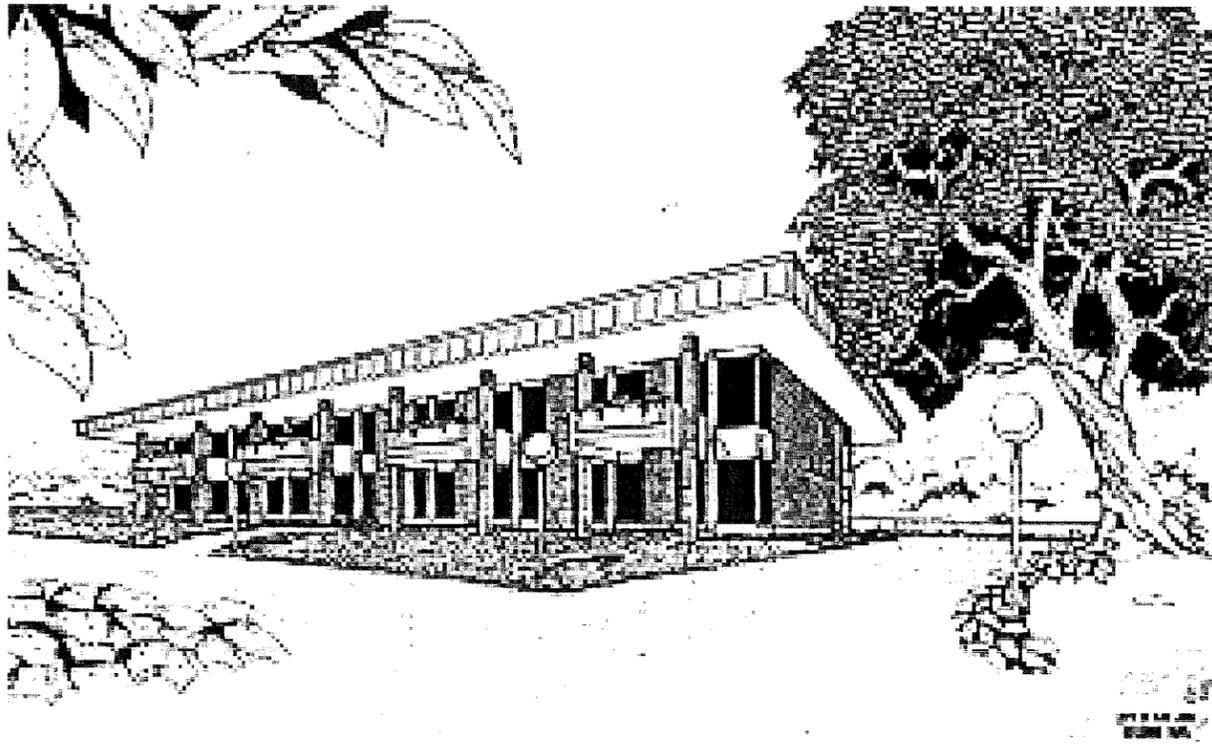
FRONT ELEVATION
1/16" = 1'-0"



REAR ELEVATION
1/16" = 1'-0"



TYPICAL SIDE ELEVATION
1/16" = 1'-0"



1 DOP(8-27-10) 9-7-10
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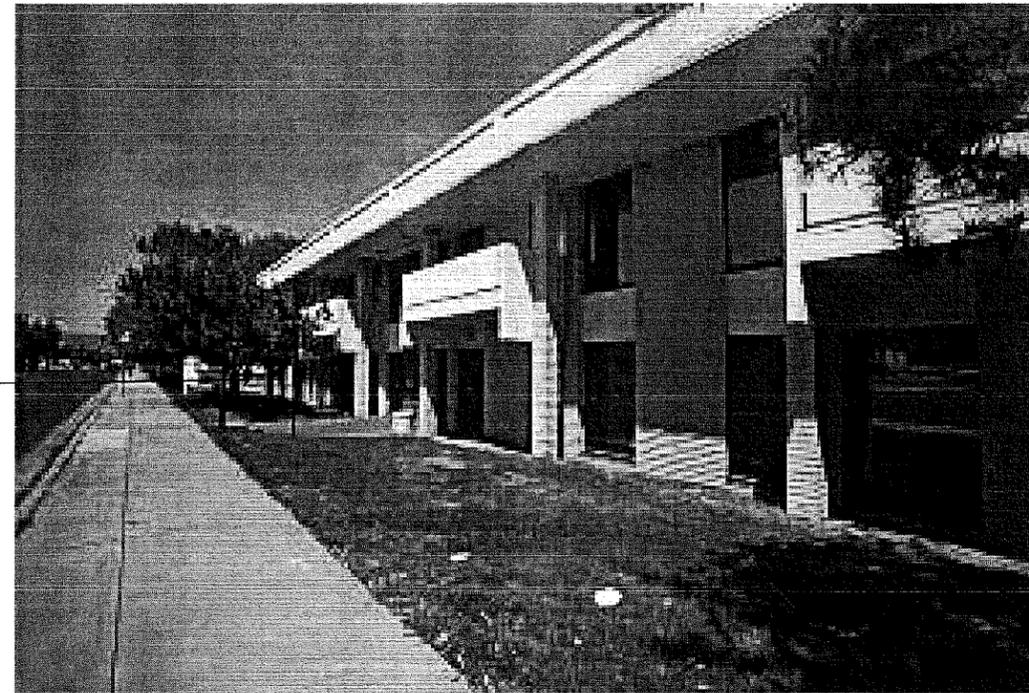
SHEET TITLE
**BUILDING
ELEVATIONS**

PROJECT NO. W2K1011
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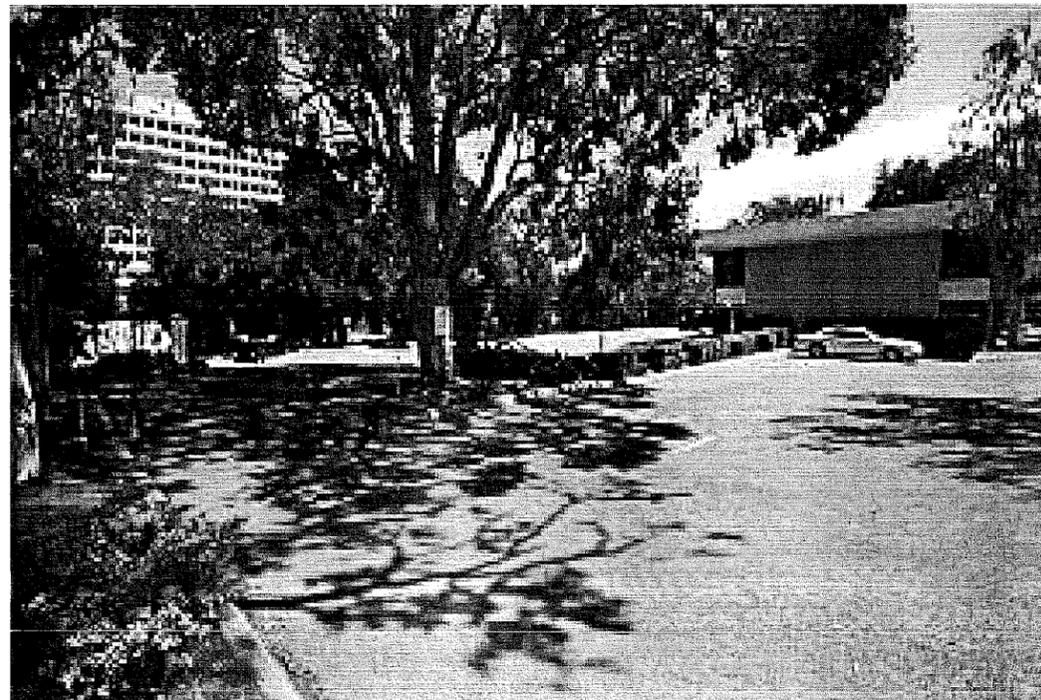


VIEW FROM WEST PARKING AREA

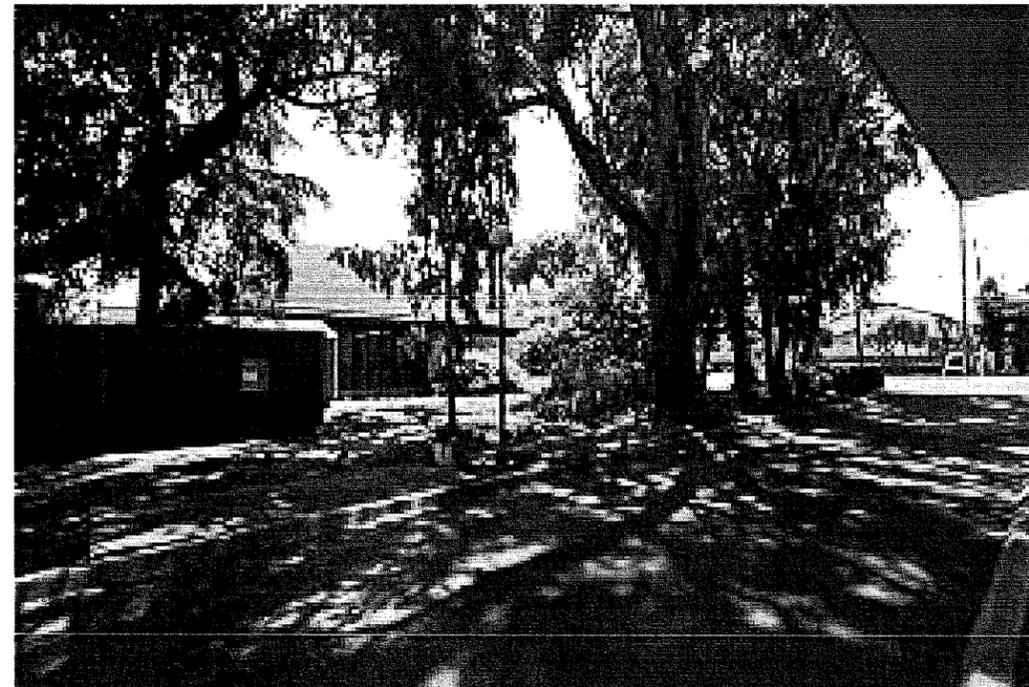
EXISTING MONUMENT SIGN TO REMAIN



VIEW OF BUILDING FROM FROM EAST SIDE OF PROPERTY



VIEW WEST PARKING AREA FROM VEHICLE ENTRANCE



VIEW OF EAST EXIT DRIVEWAY FROM REAR OF PROPERTY

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SHEET TITLE

SITE PHOTOS

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4.1