P.C. Agenda: 02-08-12
Item No. 3.a.

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP11-046 **Submitted:** June 20, 2011

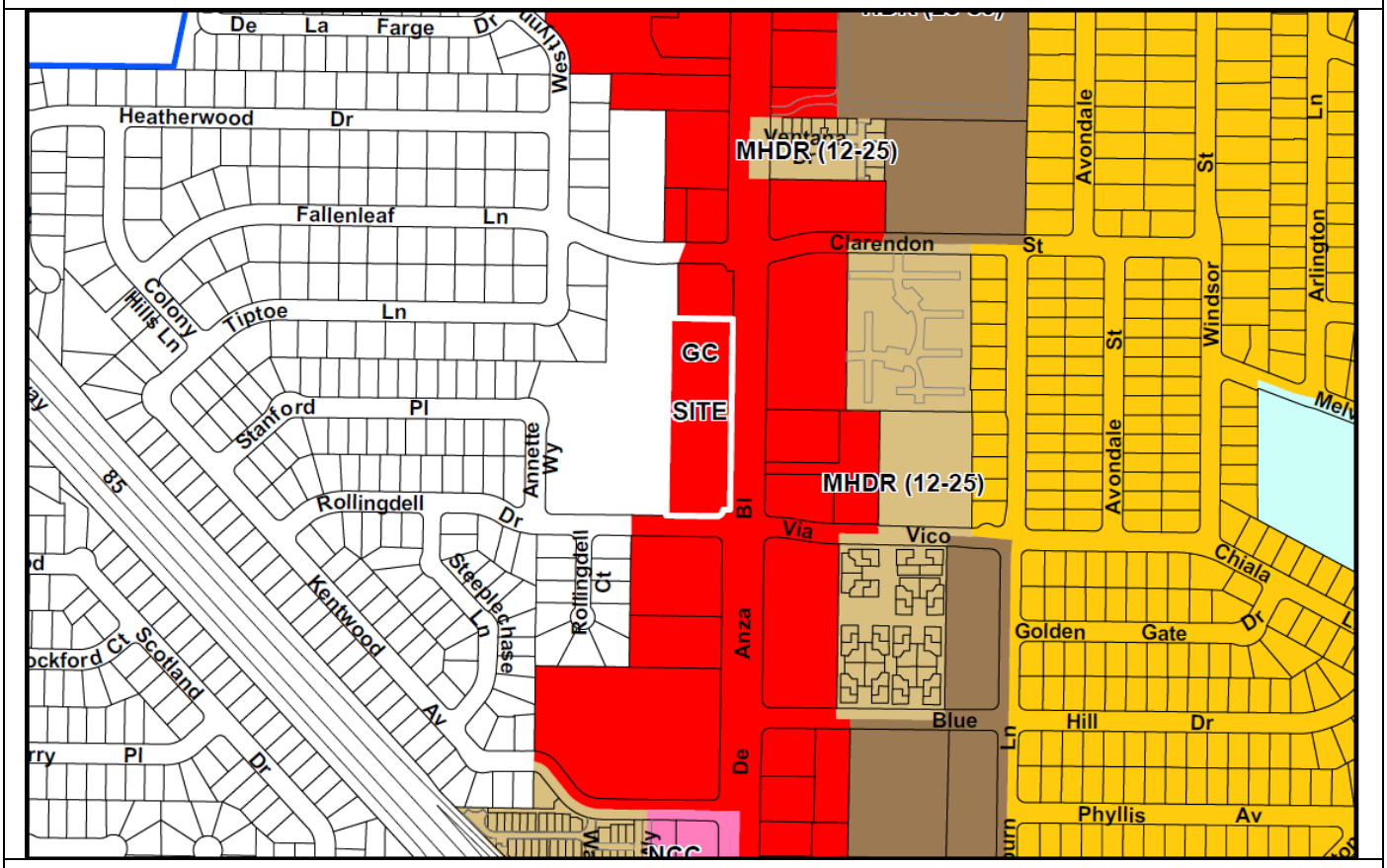
PROJECT DESCRIPTION:
Conditional Use Permit to allow 1) a child daycare center in an existing 1,274-square-foot tenant space and a new 710-square-foot associated outdoor play area; and 2) an alternating on-site parking arrangement for common parking facilities in an existing shopping center on an approximately 2.42-gross acre site in the CP Commercial Pedestrian Zoning District.

Zoning	CP Commercial Pedestrian
San José 2020 General Plan	General Commercial
San José 2040 General Plan	Neighborhood/Community Commercial
Council District	1
Annexation Date	March 5, 1956
SNI	No
Historic Resource	No
Redevelopment Area	No

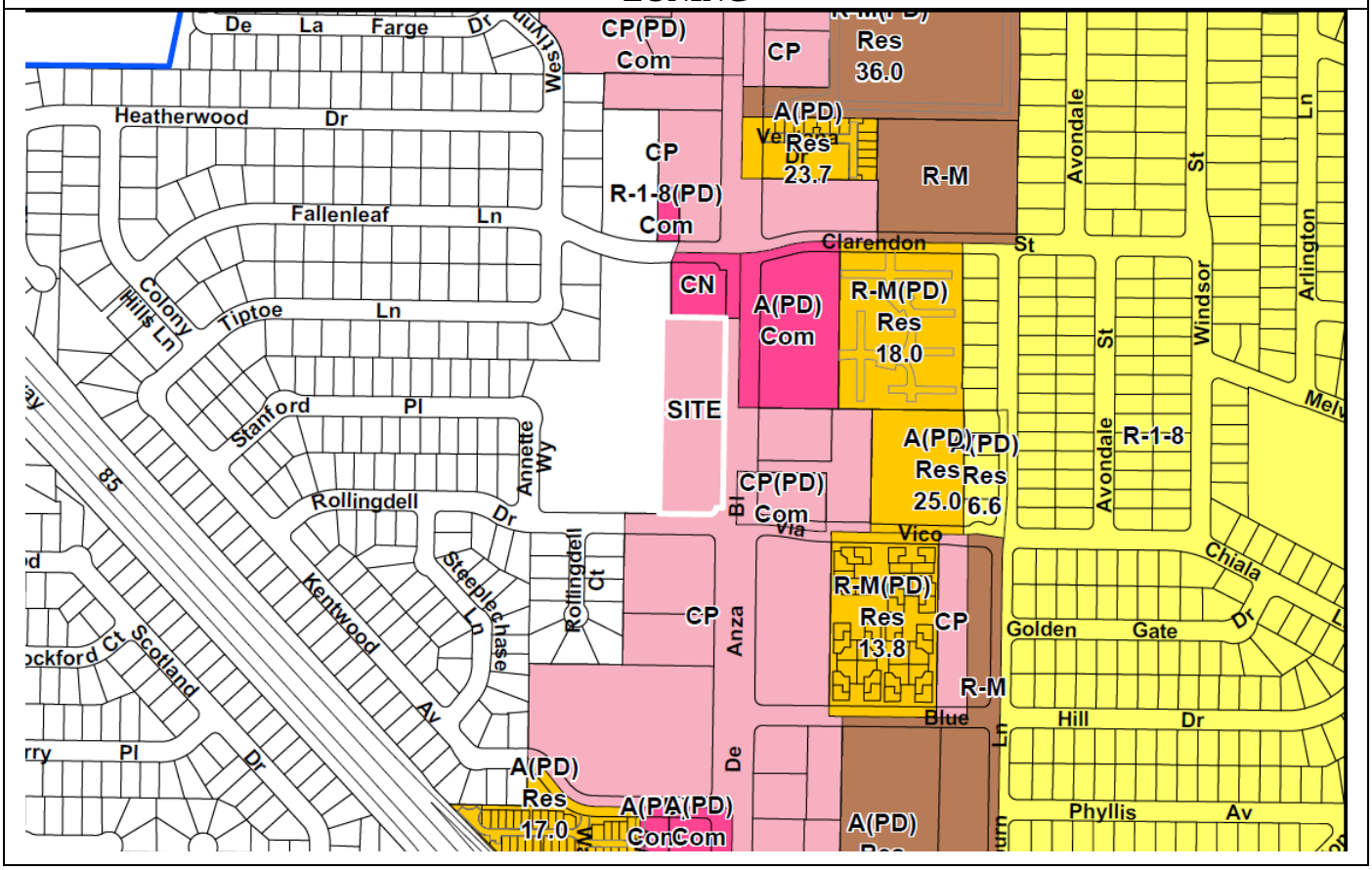
LOCATION: Northwest corner of South De Anza Boulevard and Rollingdell Drive (1073 South De Anza Boulevard).

Aerial Map N ↑

2020 GENERAL PLAN



ZONING



RECOMMENDATION

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

1. The proposed development was submitted when the San José 2020 General Plan was in effect and is consistent with the goals and policies of the San José 2020 General Plan, specifically:

    a. The project will comply with the Land Use/Transportation Diagram land use designation of General Commercial.

    b. The proposed project supports the intent of San José 2020 General Plan Neighborhood Identity Policy 5 that states, "To increase neighborhood childcare options, the city encourages the location of child care facilities in neighborhood schools, churches and other suitable facilities".

2. The proposed project is consistent with the Envision San José 2040 General Plan goals and policies, specifically:

    a. The project will comply with the Land Use/Transportation Diagram land use designation of Neighborhood/Community Commercial.

    b. The proposed project supports the intent of Envision San José 2040 General Plan goals for strengthening neighborhood amenities and services within walking distance of residences.

3. The proposed project is consistent with City Council Policy 6-14: Guidelines for Child Care.
4. The proposed project will conform to the regulations set forth in the Zoning Ordinance (Title 20).
5. The proposed use will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, impair the utility or value of a property of other persons located within the vicinity of the site, or be detrimental to public health, safety, or general welfare.

BACKGROUND AND DESCRIPTION

On June 20, 2011 the applicant, Juo-Chih Yao, on behalf of Building Blocks Pre-School, applied for a Conditional Use Permit to allow a child daycare center use in an existing 1,274-square-foot tenant space at an existing neighborhood-strip retail shopping center on a 2.42-gross-acre site. The proposal includes a 710-square-foot fenced playground associated with the daycare use. This project also includes an alternating on-site parking arrangement for common parking facilities for the entire center. Child daycare center uses require a Conditional Use Permit in the CP Commercial Pedestrian Zoning District. Alternating on-site parking arrangements can be considered with a Special Use Permit, but can also be addressed as part of a related Conditional Use Permit. This Conditional Use Permit also functions as a Site Development Permit for the related site improvements.

The proposed daycare center, with a capacity of 24 children and 3 employees, is on the same site with an after-school education center operated by a different entity (Happy Child Education Center) that has agreed to allow the proposed playground associated with the daycare center to be located in front of the after-school education center as shown on the plan set. Therefore, the proposed daycare center classrooms and the associated proposed playground would be located in separate, non-contiguous areas within the same retail center. It should be noted that the Happy Child Education Center also has a separate tutoring facility in the same shopping center at the south end of the existing building. The existing education center and tutoring center uses are classified as "private instruction" uses and are allowed by right and not subject to the Conditional Use Permit process. The applicant has request that the regular hours of operation for the proposed daycare center be from at least 7:00 a.m. to 6:30 p.m., Monday through Friday. No new building area or expansion of the parking lot is proposed.

During the review process, staff determined that due to the combination of other uses within the shopping center, not including the proposed daycare center, that there was a shortage of on-site parking spaces per the Zoning Ordinance requirements. For this reason the project description was later modified to include a proposal for an alternating parking arrangement. Surrounding land uses include multi-family residential units (in Cupertino) to the west. Other adjacent uses include neighborhood-serving commercial uses to the north, south, and east across De Anza Boulevard within the San José City limits.

Background

The subject property is currently developed with a 26,400-square-foot neighborhood-strip shopping center and includes ten (10) tenant spaces including such uses as retail, restaurants, personal services, and the education and tutoring centers as previously noted. One of the existing restaurants, Britannia Arms, includes a drinking establishment with late-night uses approved in 1994 with a Conditional Use Permit, File No. CP94-054. A minor remodel was also approved in 1994 under Site Development Permit, File H94-007.

The site has a parking lot located in the front of the shopping center building, which contains a total of 127 spaces. Primary access to the site is accessed by driveways off of South De Anza Boulevard with a minor access off of Rollingdell Drive.

ANALYSIS

The proposed project was analyzed with respect to conformance with the following: 1) San José 2020 General Plan, 2) the Zoning Ordinance, including considerations for an alternative on-site parking arrangement, 3) City Council Policy 6-14, Guidelines for Childcare, and 4) CEQA.

General Plan Conformance

The proposed daycare center use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of General Commercial. This land use designation allows a wide variety of neighborhood-serving retail and service establishments. The proposed use of the subject site as a child daycare center also supports the intent of the General Plan in that, General Plan Neighborhood Identity Policy 5 states, “to increase neighborhood child care options, the city encourages the location of child care facilities in neighborhood schools, churches and other suitable facilities.” The proposed child daycare center is located within an established neighborhood commercial center and is easily accessible via a major arterial street.

The proposed child daycare center use is also consistent with the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial. This designation supports a broad range of commercial activity, including commercial uses that serve communities in neighboring areas, such as neighborhood-serving retail and services and office development. Neighborhood/Community Commercial uses typically provide services and amenities for the surrounding community and should be designed to promote a strong physical connection with that community with an urban form that supports walking, transit use, and public interaction.

Zoning Ordinance

The key elements in the Zoning Ordinance as it relates to daycare facilities on commercial property are the adequacy of parking and setbacks. The building is pre-existing and the outdoor play area would be built within the existing shopping center courtyard footprint. There would be about 15 feet of clear walkway area in front of the outdoor play area to facilitate good pedestrian access across the front of the retail center. At the time the subject building was constructed, it conformed to the development standards of the C-1 Commercial Zoning District, which had a minimum 25-foot building setback requirement but

no maximum building setback requirement. The current CP Commercial Pedestrian Zoning District has a maximum front setback of 10 feet for buildings, and the C-1 Commercial Zoning District was replaced by the CP Commercial Pedestrian Zoning District in 2001. Therefore, the existing development is legal non-conforming in regard to Zoning setback requirements.

The existing parking area that was previously constructed meets the development standards of the Zoning Ordinance for retail uses. The proposed daycare use results in a lower parking demand than an otherwise allowed-by-right retail use., which is lower than the 6 parking spaces that would be required for a retail use.

Alternating Parking Arrangement

The Zoning Ordinance requires daycare centers to provide one parking space per 6 children, up to 5 spaces and thereafter 1 space per 10 children. This ratio results in 4 parking spaces required for the proposed 24 children at the center. The overall parking requirement for the subject site, based on the current mix of several restaurants, retail and personal instruction uses, results in a total of 205 parking spaces which exceeds 127 parking spaces provided on-site. See table below. Given the mix of uses and the varying demand based on time of day, the applicant has requested approval of an alternative on-site parking arrangement with specific hours of operation for each tenant included. Staff has reviewed the proposed alternating use parking arrangement and has concluded that given the typical peak demand of the various uses, coupled with the schedule of hours for the uses, that the 127 parking spaces on site will accommodate the parking needs of the shopping center. To reduce the possibility of overlap of peak times of the various uses, staff has included a condition in the draft resolution setting forth the appropriate hours of operation at the shopping center.

Business	Use	85% of Gross Square Footage	No. of Seats or Students	Parking Ratio Req.	Required Spaces	Hours of Operation
Yu-Xiang Zhai Restaurant	Restaurant	NA	40.0	1 per 2.5 seats	16	11:30 a.m.-2:00 p.m. and 5:30 p.m.-8:30 p.m. Mon-Sun
Pho Hoa	Restaurant	NA	49.0	1 per 2.5 seats	20	10:00 a.m.-11:00 p.m. Mon-Sun
Top Café	Restaurant	NA	84.0	1 per 2.5 seats	34	11:00 a.m.-12:00 a.m. Mon-sun
Britannia Arms	Restaurant	NA	95.0	1 per 2.5 seats	38	11:00 a.m.-2:00 a.m. Mon-Sun
Subtotal					*108*	
Building Blocks Preschool	Preschool	NA	24.0	first 5 spaces and then 1 per 10	4	6:00 a.m.-6:00 p.m. Mon-Fri
Happy Childhood Education Center	After School Personal Instruction/Enrichment	1778.2	60.0	1 per 3 students and 1 per staff	23	12:00 p.m.-6:00 p.m. Mon-Fri
Happy Childhood Education Center	After School Personal Enrichment	2511.8	84.0	1 per 3 students and 1 per staff	31	2:30 p.m.-6:00 p.m. Mon-Fri
Subtotal					*58*	

Business	Use	85% of Gross Square Footage	No. of Seats or Students	Parking Ratio Req.	Required Spaces	Hours of Operation
Xu's Acupunc-ture	Medical	858.5	NA	1 per 250 s.f.	4	9:00 a.m.-6:00 p.m. Mon-Sun
Galaxy Lighting (Lamp furniture)	Furniture Retail	4029.0	NA	1 per 250 s.f.	17	9:00 a.m.-6:00 p.m. (Tues. through Fri.); 9:00 a.m. -5:00 p.m. Sat Closed Sunday
Galaxy Lighting	Furniture Retail Associated Storage	3400.0	NA	1 per 250 s.f.	14	Same as above
Greenhouse Window and Door	Retail	807.5	NA	1 per 200 s.f.	4	9:00 a.m.-5:00 p.m. (Mon. through Fri.); 11:00 a.m. -5:00 p.m. Sat. Closed Sunday
Subtotal					*39*	
TOTAL REQUIRED					**205**	
Total provided					**127**	

Child Care City Council Policy

The primary policy applicable for the review and analysis of this project is City Council Policy 6-14: Guidelines for Child Care. These guidelines, adopted in 1982, were written to ensure that child care centers conform to City requirements, State licensing regulations, and that they are compatible with surrounding neighborhoods. The criteria in the policy are intended as reference points so that there is a common understanding of the minimum design and operational expectations of preschools and child care centers in San José. Planning staff has reviewed this proposal for consistency with the relevant sections of this policy.

Facility Location

New Child Care Centers are encouraged in non-residential areas to provide care for children near employment centers, provided that the surrounding business or industrial activities would not adversely impact the Center.

The daycare use is located within a neighborhood (strip-shopping) center surrounded by commercial uses on three sides with a parking lot towards the front and multi-family attached residential uses adjacent to the rear property line of the subject site. The center is also located along a major arterial road, South De Anza Boulevard, which provides easy access to employment centers.

New Child Care Centers near non-residential areas should be reviewed for proximity to hazardous materials and should not be located near facilities that may affect the health and safety of the children.

The proposed child care center is not within close proximity to any uses, such as industrial uses with storage of hazardous materials that would adversely affect the children at the center.

Traffic and Circulation

Access to new child care centers to pick-up and drop-off children should not negatively impact off-site traffic flow by causing on-street stacking or stopping.

Per State law, infants and toddlers need to be signed in and out by the designated guardian of the child inside the facility. Thus, unlike in a school with older children, parents in a daycare center may not drop-off or pick-up the child alongside a curb. Children will not be in the parking area unsupervised. In addition, since there is no designated "start time" or "end time" like a school, the children are picked-up and dropped-off at varying times, which reduces the number of vehicles coming to and leaving the site at any given point of time.

All of the required parking and drive-aisles for the proposed use are located on-site, which will prevent any off-site traffic or parking impacts. From the above analysis, staff concludes that the child daycare center will not negatively affect off-site traffic flow.

Parking and Drop-off

On-site circulation should be designed to preclude vehicles from backing onto streets designated as Major Collectors and Arterials on the City's adopted San José 2020 General Plan Land Use/Transportation Diagram.

The existing site design includes maneuvering areas for cars on the subject property. This on-site circulation prevents any vehicles from needing to back onto streets.

All new Child Care Centers are required to provide parking in accordance with the parking and loading provisions codified under Chapter 20.90 of the San José Municipal Code.

Title 20 of the San José Municipal Code requires that all uses on a site provide the minimum amount of parking as stated in Table 20-190. A total of 127 parking spaces are provided on the entire site. The child care center proposes a maximum enrollment of 24 children, which would require 4 parking spaces (1 space per 6 children, up to 5 spaces and then 1 space for each 10 children after that). With the current mix of uses at the center, and the proposed Alternating Use Parking Arrangement on-site, there is sufficient parking to support the child care center.

Child Care Centers should provide adequate short-term parking to accommodate child drop-off areas, which are not located in the public right-of-way.

As noted above, this site has ample parking spaces in close proximity to the proposed use to accommodate the efficient drop-off and pick-up of children. There are 127 parking spaces located in the shopping center parking lot, and drop-off and pick-up of children will occur during non-peak times of the retail and restaurant uses on the subject site.

Site Design

New Child Care Centers should be on sites that are able to adequately accommodate the physical requirements of on-site circulation, parking, play areas and setbacks.

The project site has adequate physical characteristics to accommodate parking and good vehicular circulation. The project will be required to conform to all State regulations. Staff has included a condition in this permit to require relocation of the bicycle rack on the subject site. The new play area will occupy a front courtyard area and provides good, wide pedestrian access in front of the shopping center and to adjacent tenant spaces.

New Child Care Centers should install a minimum 6-foot high fence around the active outdoor play areas for child security.

The new play area would be surrounded by a minimum 6-foot tall decorative fence to fully contain the play area.

Land Use Compatibility

The site is surrounded by commercial uses on the north, east, and south, and multi-family attached residences to the west. The proposed daycare facility is limited to 24 children. The outdoor play area is anticipated for use for only a few hours during the middle of the day. The policy states that play areas should be located away from adjacent residences as much as possible. As proposed, the play area would maintain a good separation of about 70 feet from the nearest residential unit. There is a fence at the property line, and the shopping-center building frontage faces away from the residential development. With the play area located in front of the tenant space, the play area would be buffered from residential uses by the shopping center building.

California Environmental Quality Act (CEQA)

Under the provisions of Section 15301(e)(2) 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. This category allows additions to commercial uses of less than 10,000 square feet where all public services are available and the site is not located in an area that is environmentally sensitive.

Conclusion

As presented in this staff report, the proposal will facilitate the creation of a daycare business and will provide a convenient and needed service to families residing or working in this area of the City. No new construction is proposed other than the creation of an outdoor play area that is of an appropriate size and well integrated in the courtyard in a manner that will not negatively affect pedestrian circulation within the retail center. The project has been designed to meet the City's zoning and land use policy standards and will be compatible with the surrounding area. The alternative on-site parking arrangement, as discussed, is appropriate since the combination of uses within the shopping center lends itself well to sharing of existing parking spaces.

PUBLIC OUTREACH/INTEREST

In conformance with Council Policy 6-30: Public Outreach Policy, a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. This staff report is also posted on the City's website. Staff has been available to discuss the proposal with interested members of the public. As of the date of the writing of this staff report no members of the public have commented on the proposal. The proposal was referred to the City of Cupertino Planning Department, and they responded in writing to staff stating that they had no comments on the proposal.

Project Manager: Jenny Nusbaum **Approved by:** Jean Hamilton **Date:** 1/27/12

Owner/Applicant:	Attachments:
Juo-Chih Yao 6580 Danridge Drive San José, CA 95129	Resolution Reduced plan set

RESOLUTION NO. _____

Resolution of the Planning Commission of the City of San José granting, subject to conditions, a Conditional Use Permit to allow a child daycare center in an existing 1,274-square-foot tenant space and a new associated 710-square-foot outdoor play area in a shopping center and an alternating on-site parking arrangement for common parking facilities on an approximately 2.42-gross-acre site in the CP Commercial Pedestrian Zoning District on the northwest corner of South De Anza Boulevard and Rollingdell Drive (1073 South De Anza Boulevard).

FILE NO. CP11-046

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 June 20, 2011, an application (File No. CP11-046) was filed for a Conditional Use Permit to allow a child daycare center in an existing 1,274-square-foot tenant space and a new associated 710-square-foot outdoor play area in a shopping center on an approximately 2.42-gross-acre site, and an alternating on-site parking arrangement for common parking facilities on that certain real property (hereinafter referred to as "subject property"), situate in the CP Commercial Pedestrian Zoning District, located on the northwest corner of South De Anza Boulevard and Rollingdell Drive (1073 South De Anza Boulevard), 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 20.100 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, “CP11-046 Building Blocks Preschool with Playground, 1073 S. De Anza Blvd., San José, CA 95129,” last revised on August 4, 2011. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available

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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 subject proposal was submitted by the applicant to the City of San José Planning Division when the San José 2020 General Plan was in effect.
2. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The site is currently zoned CP Commercial Pedestrian.
4. A daycare center is a conditional use in this CP Commercial Pedestrian Zoning District.
5. The proposed daycare center would occupy an existing 1,274-square-foot tenant space within an existing neighborhood strip retail shopping center on a 2.42-gross-acre site.
6. The 2.42-gross-acre site is currently developed with a 26,400-square-foot neighborhood-strip shopping center, and was remodeled in 1994 under a Site Development Permit (File No. H94-007).
7. The proposal also includes a 710-square-foot fenced playground.
8. No expansion of the building or parking lot is proposed.
9. The proposed daycare use will have a capacity of 24 children and 3 employees.
10. The child daycare use classrooms and playground are proposed in two separate, non-contiguous areas within the same retail center.
11. As shown on the plan set, the outdoor playground for the child daycare use is proposed in front of an after-school education center on the same site.
12. The education center uses are classified as “private instruction” uses and are allowed by right and not subject to the Conditional Use Permit process.
13. The operator of the education center uses has agreed in writing to allow the playground for the child daycare center to be developed in front of the tenant space that contains the education center.
14. The applicant has request that regular hours of operation for the daycare center be from at least 7:00 a.m. to 6:30 p.m., Monday through Friday.
15. The Zoning Ordinance requires daycare centers to provide 1 parking space per 6 children for the first 30 children and thereafter 1 space per 10 children, resulting in a requirement of 4 parking spaces for the proposed use for 24 children. The shopping center was developed with an allocation of at least 6 parking spaces for the subject tenant space.

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16. Per Section 20.90.200 of the San José Municipal Code, a Special Use Permit is required for on alternating on-site parking arrangements.
17. Alternating on-site parking arrangements can also be addressed as part of a related Conditional Use Permit.
18. The site provides a total of 127 spaces in common parking facilities on the subject site.
19. The site currently has several restaurants and personal enrichment uses that have a greater parking requirement than retail uses per the Zoning Ordinance.
20. The addition of the proposed child day care use would result in a parking requirement of 205 spaces for the concurrent use of all tenants on the subject site.
21. Peak parking demand for restaurant uses occurs at different times than for child day care, personal instruction and retail uses on the subject site.
22. Currently, there are four restaurants uses and none serve breakfast or are open before 10:00 a.m.
23. Currently, there are no retail or medical office uses in operation between 6:00 p.m. and 9:00 a.m. when the restaurants experience their peak use.
24. During the times that retail, medical office, personal instruction, and child day care uses are closed or in off-peak hours of operation, the restaurant uses on the subject site experience peak hours of operation (i.e., after 6:00 p.m. and on weekends).
25. During the times that retail, medical office, personal instruction, and child day care uses are in peak hours of operation (i.e., 7:00 a.m. to 6:00 p.m. Mondays through Fridays), the restaurant uses on the subject site are in off-peak hours of operation.
26. Surrounding land uses include multi-family attached residential units to the west in Cupertino.
27. Neighborhood-serving commercial uses are located to the north, south, and east across De Anza Boulevard within the San José City limits.
28. Under the provisions of Section 15301(e)(2) 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.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
    a. No new buildings are proposed.
    b. The proposed fenced play area is internalized and not substantially visible from off-site.
    c. The architectural elements of the proposed and/or existing structure(s) are integrated into a harmonious whole.
    d. Sufficient open space separates all structure(s) and uses.

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e. Sufficient maneuvering room will be provided on site to allow smooth circulation and minimize interference with other uses.

f. Parking spaces are conveniently located in relation to the uses they support.

2. The orientation, location and elevation of the proposed building(s) and structure(s) and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:

   a. The fence materials of the proposed are compatible with the materials of existing adjacent or nearby structures.

   b. The proposed fenced area will not unreasonably interfere with the light and air available to adjacent sites.

   c. The privacy of adjacent sites will be protected by adequate screening of, or orientation of activities away from, privacy sensitive areas adjacent to the site.

3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:

   a. Under the provisions of Section 15301(e)(2) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is 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.

   b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

4. Traffic access, pedestrian access and parking are adequate in that:

   a. The proposed number, size, and access of parking spaces comply with the requirements of the Zoning Ordinance.

5. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior hearing, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood in that:

   a. Landscape already exists on the site, and any vegetation that will be removed as part of this project will be replaced in another area of the subject site.

   b. The project already includes an automatic irrigation system, walls and fences, features to conceal loading and service activities, exterior heating, ventilating, plumbing, utility and trash facilities.

6. The number of off-street parking spaces provided in the alternating on-site parking arrangement on the subject site adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.90 of Title 20 (the Zoning Ordinance);

7. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use; and

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8. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.
9. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram, and this application is considered to be consistent with that designation.

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 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 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.

APPROVED SUBJECT TO THE FOLLOWING 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 issuance hereof by said Director, if within such two-year time period, the use or the construction of play area improvements has not commenced, pursuant to and in accordance

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with the provision of this Conditional Use Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment 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. **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 child daycare center in an existing 1,274-square-foot tenant space and a new associated 710-square-foot outdoor play area

   b. Alternating use of common parking facilities in conformance with the restrictions identified in this permit.

5. **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.

6. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, "CP11-046 Building Blocks Preschool with Playground, 1073 S. De Anza Blvd., San José, CA 95129," last revised on August 4, 2011. Said plans and file shall be made available 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).

7. **Relocation Bicycle Rack.** Any bicycle rack removed for the development of the play area shall be relocated to another area in front of tenant space(s) to result in no net loss of short-term bicycle parking spaces or displacement of landscaping and/or parking spaces.

8. **Other Permits Required.** This facility shall secure any and all required licenses and permits from the County and State.

9. **Revocation.** This Conditional Use Permit is subject to revocation for violation of any of its provisions or conditions.

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10. **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.
11. **Conformance with Other Permits.** Unless specifically modified with this permit, the applicant shall comply with all conditions noted in the previously issued site development permits and conditional use permits which relates to the overall shopping center including the subject tenant space.
12. **Lighting.** No new exterior lighting is approved at this time. All proposed lighting shall be subject to approval by the Director of Planning.
13. **Alternating Parking Arrangement - Hours of Operation.** This daycare facility, all personal enrichment uses, medical office uses, and retail uses on the subject site shall be limited to operation between the hours of 6:00am and 6:00pm Monday through Sunday, unless a Conditional Use Permit Amendment is otherwise approved by the City for other hours of operation. Restaurant uses may not be open before 10:00 a.m. unless the childcare, tutoring and education facilitate cease use before 10:00 a.m.
14. **Parking Requirement.** The property owner is responsible for ensuring that the mix and scale of uses on the subject site, in conjunction with the above hours of operation, conform to the parking requirements at all times.
15. **Number of Students/Operation of Facility.** The daycare portion of the facility shall be limited to a maximum of 24 children.
16. **Signage.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
17. **Nuisance**. This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
18. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
19. **Anti Litter**. The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
20. **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.
21. **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.
22. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets/drive aisles within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

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23. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Interior work that does not result in any audible noise from outside the structure is permitted on Saturday between the hours of 8:00 a.m. and 7:00 p.m.

24. **Outside Storage.** No outside sales or storage is permitted.

25. **Noise.** The sound level generated on this site shall not exceed 55 dba DNL at the rear (west) property line which is adjacent to a property used for residential purposes.

26. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

    a. *Minor Improvement Permit*: The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

    b. *Grading, Drainage and Geology*: If the project proposes grading, new storm drainage system (i.e. underground pipes, areas drains and inlet) and retaining walls, the following will be required.

        1) A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.

        2) All on-site storm drainage conveyance facilities and earth retaining structures shall be reviewed and approved under Public Works Grading and Drainage Permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations adhering to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval.

    c. *Sewage Fees*: In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

    d. *Street Improvements:*

        1) Applicant shall be responsible to remove and replace any curb, gutter, and sidewalk damaged during construction of the proposed project.

        2) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.

        3) Re-construct handicap ramps (2) at opposite returns across Rollingdell Drive. The new ramps shall meet City and ADA standards.

DRAFT

e. *Electrical*: Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

27. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official:

    a. Construction Plans. This permit file number, CP11-046, shall be printed on all construction plans submitted to the Building Division.

28. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.

    a. *Fire Alarm.* Fire alarm system may be required (If occupant load is 50 or more).

    b. *Fire Hydrant.* All fire department connections shall be located within 100 feet from a standard public fire hydrant.

29. **Landscaping.** All existing 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 provided 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.

Approved this 8th day of February 2012, 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.

DRAFT

BUILDING BLOCKS PRESCHOOL WITH PLAYGROUND

1073 S. DE ANZA BLVD. SAN JOSE, CA 95129

PROJECT TEAM

PROPERTY OWNER:

ANN YAO
6580 DANRIDGE DR.
SAN JOSE, CA 95129
TEL: (408)996-2477

ARCHITECT:

JOHN HA, AIA
1288, KIFER ROAD # 207
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TEL: (408) 245-0991
FAX: (408) 245-0319

DRAWING INDEX

A-0 TITLE SHEET

A-1 EXISTING SITE PLAN

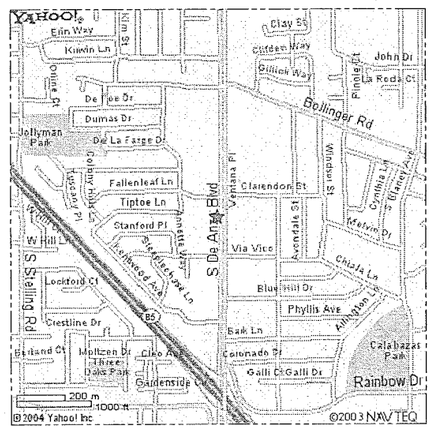
A-2 PROPOSED PLAYGROUND FLOOR PLAN , PLAYGROUND FENCE DETAIL & EXISTING BUILDING ELEVATION WITH PROPOSED FENCE

A-3 (E) FLOOR PLAN & CEILING PLAN **(OCCUPANCY CHANGE ONLY)**

TABULATION

ASSESSOR'S PARCEL NUMBER:	359-33-013	
ZONE DISTRICT:	CP	
SITE AREA:	2.42	ACREAGE
BUILDING SET BACK		
FRONT YARD (E)	EXISTING	
SIDE YARD (E)	EXISTING	
REAR YARDS (E)	EXISTING	
PERVIOUS SURFACE LANDSCAPE AREA:	EXISTING	SQ. FT.
IMPERVIOUS SURFACE BUILDING AREA:	EXISTING	SQ. FT.
SIDEWALKS, PATIO, PATH AREA:	EXISTING -710 SQ.FT.	SQ. FT.
PARKING & DRIVEWAY AREA:	EXISTING	SQ. FT.
PROPOSED PLAYGROUND AREA:	710	SQ. FT.
PARKING SPACE:	EXISTING	STALLS
(E) TENANT SPACE AREA:	EXISTING(1,274 SQ.FT)	SQ. FT.
PROPOSED TENANT SPACE AREA:	EXISTING(1,274 SQ.FT)	SQ. FT.
TYPE OF CONSTRUCTION:	V-B	
(E) OCCUPANCY	B	
PROPOSED OCCUPANCY	E	
USE ZONE	CP	
C.F.C	2010	
C.B.C	2010	
C.M.C	2010	
C.P.C	2010	
C.E.C.	2010	
TITLE 24	2010	
FIRE SPRINKLER SYSTEM	YES, STANDARD	
NUMBER OF STORIES	1	

VICINITY MAP



PROJECT DESCRIPTION

THIS PROJECT IS TO CONVERT EXISTING EDUCATION CENTER(ENRICHMENT PROGRAM UNDER B OCCUPANCY) TO PRESCHOOL USE(E OCCUPANCY), AND PROPOSE A 710 S.F. PLAYGROUND ON EXISTING SIDEWALK.

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BUILDING BLOCKS PRESCHOOL WITH PLAYGROUND
1073 S. DE ANZA BLVD.
SAN JOSE, CA 95129

REVISIONS:

1 CUP COMMENTS 08-04-11

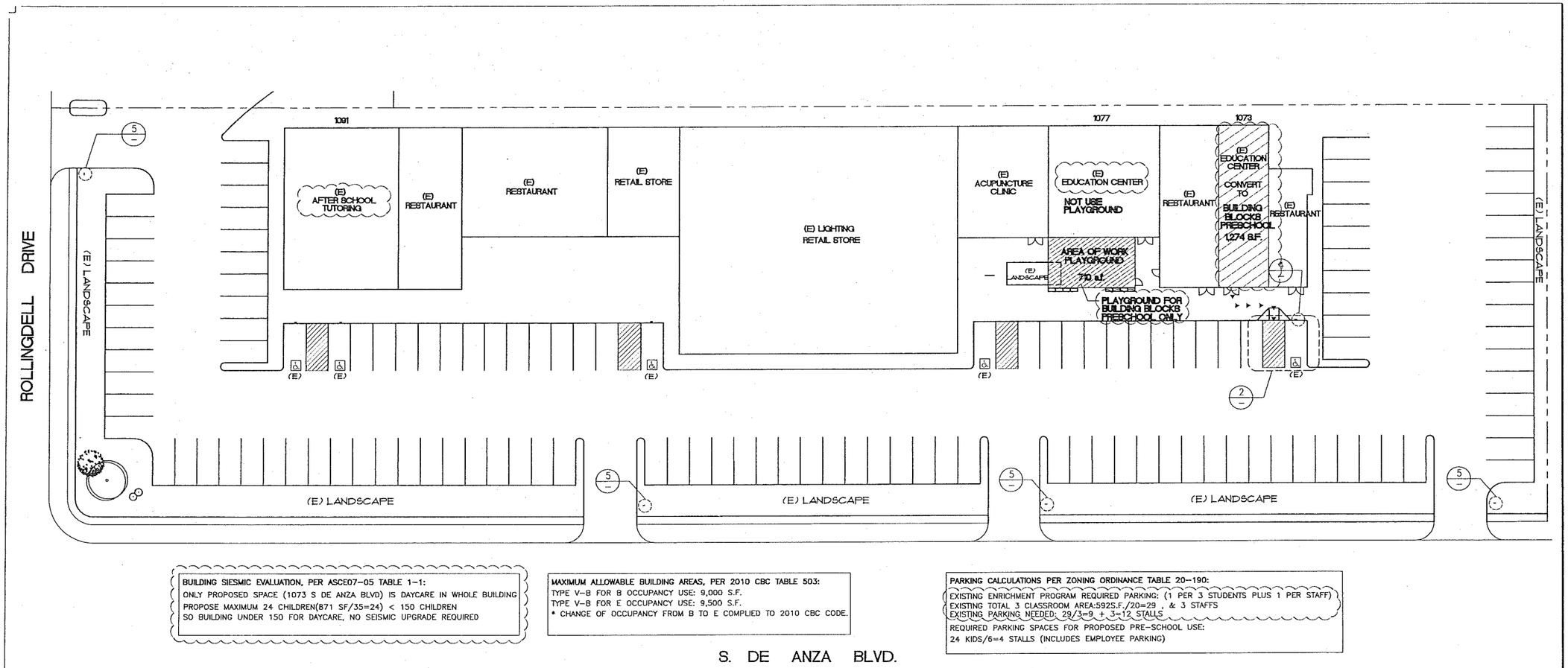
SHEET TITLE:
TITLE SHEET

DATE JUNE 15, 2011	PROJECT NO. 11-1304
SCALE AS SHOWN	DRAWN JH/JW

SHEET

A-0

OF SHEETS



BUILDING SIESMIC EVALUATION, PER ASCE07-05 TABLE 1-1:
ONLY PROPOSED SPACE (1073 S DE ANZA BLVD) IS DAYCARE IN WHOLE BUILDING
PROPOSE MAXIMUM 24 CHILDREN(871 SF/35=24) < 150 CHILDREN
SO BUILDING UNDER 150 FOR DAYCARE, NO SEISMIC UPGRADE REQUIRED

MAXIMUM ALLOWABLE BUILDING AREAS, PER 2010 CBC TABLE 503:
TYPE V-B FOR B OCCUPANCY USE: 9,000 S.F.
TYPE V-B FOR E OCCUPANCY USE: 9,500 S.F.
* CHANGE OF OCCUPANCY FROM B TO E COMPLIED TO 2010 CBC CODE.

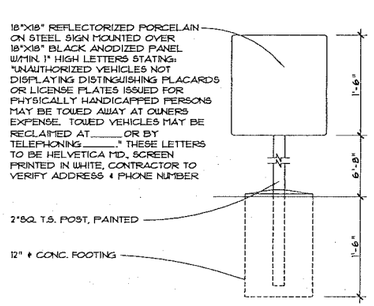
PARKING CALCULATIONS PER ZONING ORDINANCE TABLE 20-190:
EXISTING ENRICHMENT PROGRAM REQUIRED PARKING: (1 PER 3 STUDENTS PLUS 1 PER STAFF)
EXISTING TOTAL 3 CLASSROOM AREA:592S.F./20=29 , & 3 STAFFS
EXISTING PARKING NEEDED: 29/3=9 + 3=12 STALLS
REQUIRED PARKING SPACES FOR PROPOSED PRE-SCHOOL USE:
24 KIDS/6=4 STALLS (INCLUDES EMPLOYEE PARKING)

S. DE ANZA BLVD.

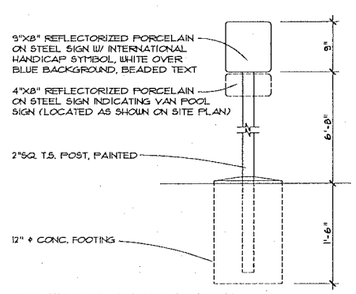
◂◂◂◂◂◂ PATH OF HC TRAVEL

SITE PLAN

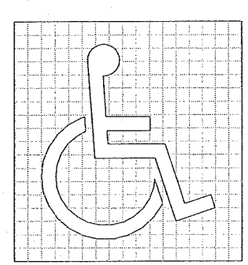
20' | 1



(E) TOW-AWAY SIGN | 1" | 5

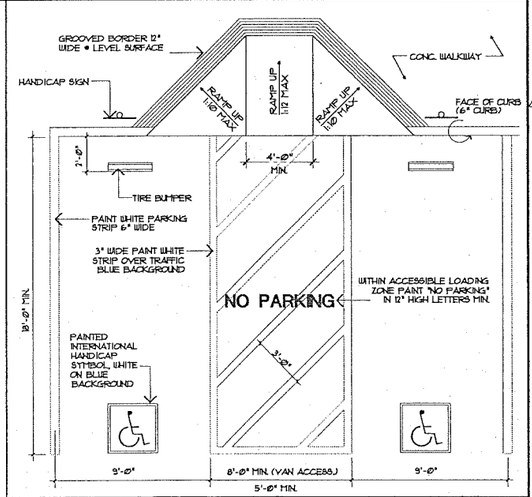


(E) HANDICAP PARKING SIGN | 1" | 4



PAINT SYMBOL WITH 2-COATS
H.D. TRAFFIC PAINTED

(E) HANDICAP SIGN | NTS | 3



(E) HANDICAP PARKING STALL | 1/4" | 2

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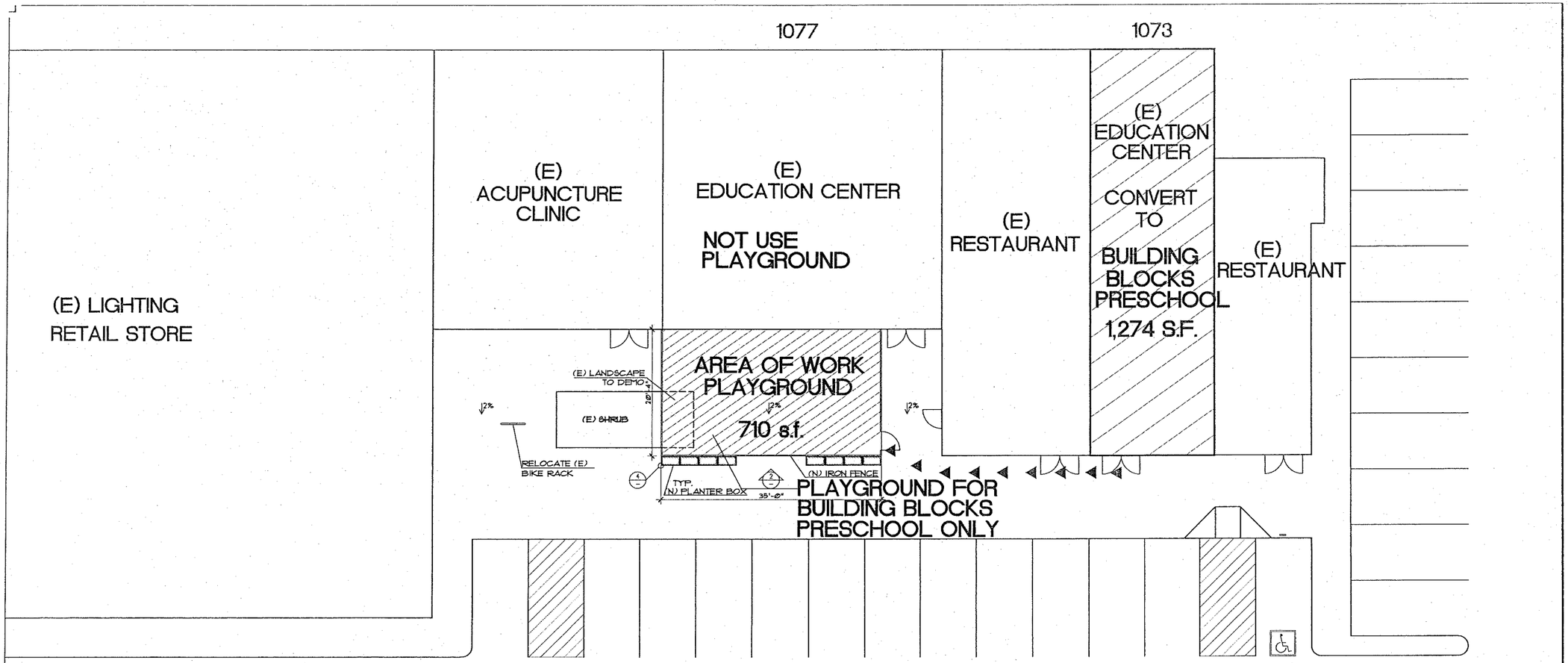
BUILDING BLOCKS PRESCHOOL WITH PLAYGROUND

1073 S. DE ANZA BLVD.
SAN JOSE, CA 95129

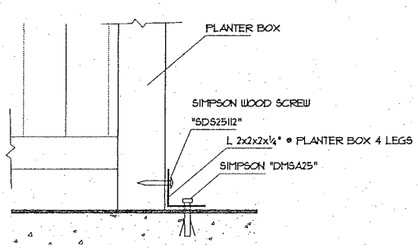
REVISIONS:
1 CUP COMMENTS 08-04-11

SHEET TITLE:
SITE PLAN

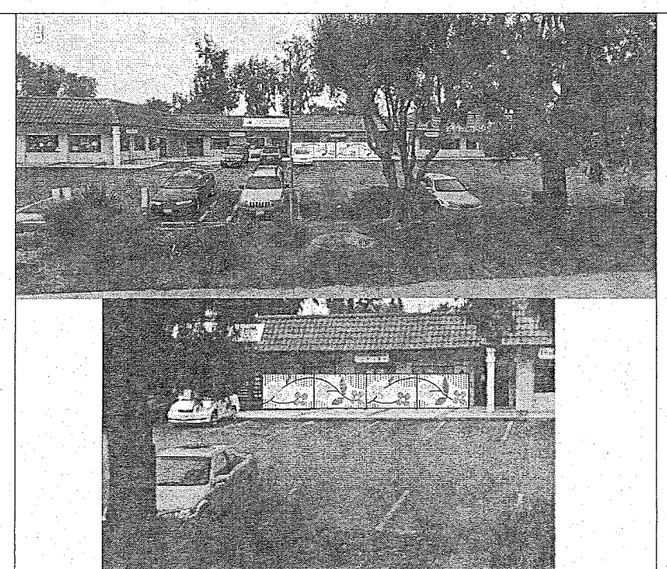
DATE: JUNE 15, 2011
PROJECT NO. 11-1324
SCALE AS SHOWN
DRAWN JH/JW
SHEET
A-1
OF SHEETS



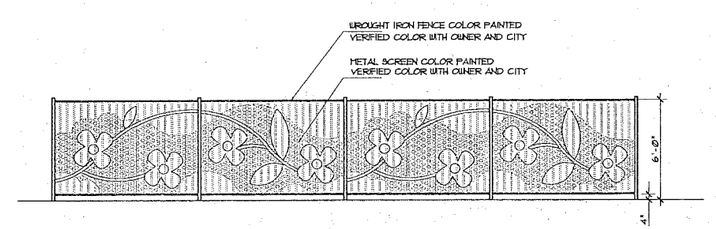
PLAYGROUND FLOOR PLAN | 1/8" | 1



PLANTER BOX ANCHOR DETAIL | NTS | 4



(E) BUILDING ELEVATION WITH PROPOSED FENCE | 3



IRON FENCE DETAIL | 1/4" | 2

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BUILDING BLOCKS PRESCHOOL WITH PLAYGROUND

1073 S. DE ANZA BLVD.
SAN JOSE, CA 95129

REVISIONS:

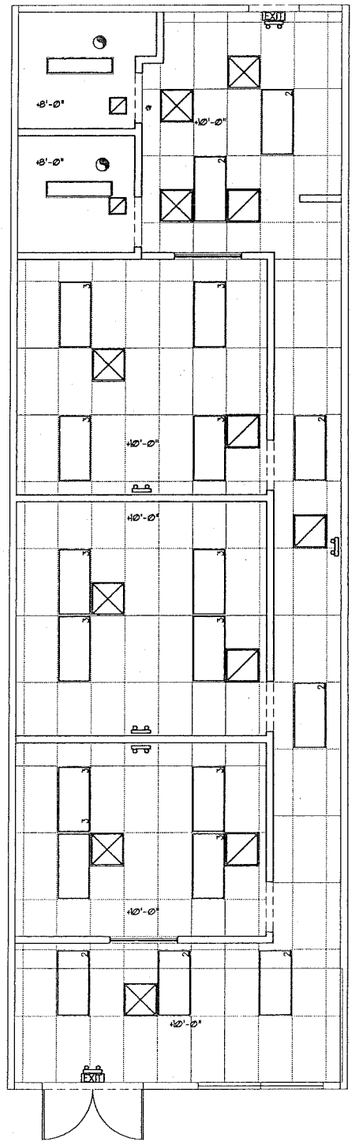
SHEET TITLE:
PLAYGROUND FLOOR PLAN & DETAIL

DATE: JUNE 15, 2011
PROJECT NO.: 11-1304
SCALE: AS SHOWN
DRAWN: JH/JW

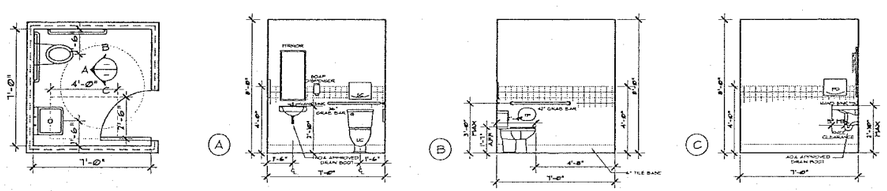
SHEET
A-2
OF SHEETS

ELECTRICAL LEGEND

- (E) 2X2 T-BAR CEILING
- (E) 2X4 T-BAR CEILING
- (E) GYP BD. CEILING
- LIGHT SWITCH
- 3 WAY LIGHT SWITCH
- FAN
- JUNCTION BOX
- SUPPLY AIR REGISTER
- RETURN AIR REGISTER
- SUPPLY AIR REGISTER
- EMERGENCY LIGHT
- EXIT LIGHT
- MOTION SENSOR
- (N) NEW
- (E) EXISTING
- 2X4 FLUORESCENT LT TYP. 3 LTS (FLUOR.-1)
- 2X4 FLUORESCENT LT TYP. 2 LT. (FLUOR.-2)
- 1X4 FLUORESCENT LT TYP. 2 LT. (FLUOR.-3)
- HALOGEN LIGHT (HALOG-1)
- COMPACT FLUORESCENT LIGHT
- INCANDESCENT LIGHT



(E) REFLECTED CEILING PLAN | 1/4" | 2



(E) ADA TOILET DETAILS | 1/4" | 4

LEGEND

- EXISTING WALLS TO REMAIN, REPAIR AS REQUIRED
- (E) 3-5/8" X 25 GA. METAL STUDS @ 24" O.C AND 2" ABOVE CEILING W/ 5/8" TYPE "X" GYP. BD. BOTH SIDES (U.O.N) OR SEE FINISH SCHEDULE FOR MORE DETAIL
- (E) 3-5/8" X 25 GA. METAL STUDS @ 24" O.C AND 2" ABOVE CEILING W/ 3" SOUND BATT INSULATION W/ 5/8" TYPE "X" GYP. BD. BOTH SIDES (U.O.N) OR SEE FINISH SCHEDULE FOR MORE DETAIL
- EXISTING WINDOW
- DUPLEX 110VAC OUTLET (FLOOR MOUNT)
- TV CABLE JACK
- DUPLEX 110VAC OUTLET (CEILING MOUNT)
- DUPLEX 110VAC OUTLET
- 220V ELECTRICAL RECEPTICLE
- TELEPHONE JACK
- DATA CABLE JACK

FINISH SCHEDULE

FLOOR
10. NO FINISH
11. CARPET
12. SHEET VINYL

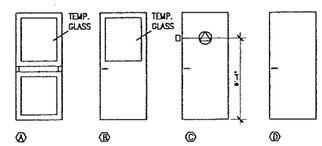
BASE
21. 4" HIGH COVED RUBBER TOPSET BASE
22. 6" COVED TILE BASE

WALL
31. GYPSUM BOARD TAPE, SMOOTH FINISH, AND PAINT FLAT LATEX
32. GYPSUM BOARD TAPE, SMOOTH FINISH, AND PAINT SEMI-GLOSS ENAMEL
33. GYPSUM BOARD TAPE, 4'-0" HIGH TITLE, AND PAINT SEMI GLOSS ENAMEL ABOVE TITLE

CEILING
41. 4'-0"X2'-0" SUSPENDED ACOUSTIC CEILING TILE
42. 5/8" TYPE "X" GYPSUM BOARD, TAPE, TEXTURED FINISH AND PAINT (SEMI-GLOSS ENAMEL)

DOOR SCHEDULE

- (A) 3'-0"X7'-0"X1-3/4" SOLID CORE DOOR WITH TEMPERED GLASS WINDOW
- (B) 3'-0"X7'-0"X1-3/4" SOLID CORE DOOR WITH GRID TEMPERED GLASS WINDOW
- (C) 3'-0"X7'-0"X1-3/4" SOLID CORE DOOR, PAINTED W/ H.C. SIGN & S.S. KICK PLATE
- (D) 3'-0"X7'-0" HOLLOW METAL DOOR, PAINTED



* CONTRACTOR TO VERIFY ALL CABINET DIMENSION AT SITE AND VERIFY DESIGN, STYLE, AND COLOR W/ OWNER PRIOR TO FABRICATION AND INSTALLATION

HARDWARE SCHEDULE

GROUP 1 (PER DOOR)

1-1/2 PAIR BUTTS	BB179 X 4-1/2 X4-1/2 X 10B	STA
1 PASSAGE (LEVER TYPE)	A10S	SCH
1 DOOR STOP	W9 X 10B	BBW
J-MOLD @ CARPET		

GROUP 2 (PER DOOR)

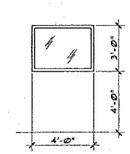
1-1/2 PAIR BUTTS	BB179 X 4-1/2 X4-1/2 X 10B	STA
1 PRIVATE (LEVER TYPE)	L-SERIES	SCH
1 DOOR STOP	W9 X 10B	BBW

GROUP 3 (PER DOOR)

1-1/2 PAIR BUTTS	BB179 X 4-1/2 X4-1/2 X 10B	STA
1 LOCKSET	L-SERIES	SCH
1 CLOSER	4030 SERIES SMOOTHEE	LCN

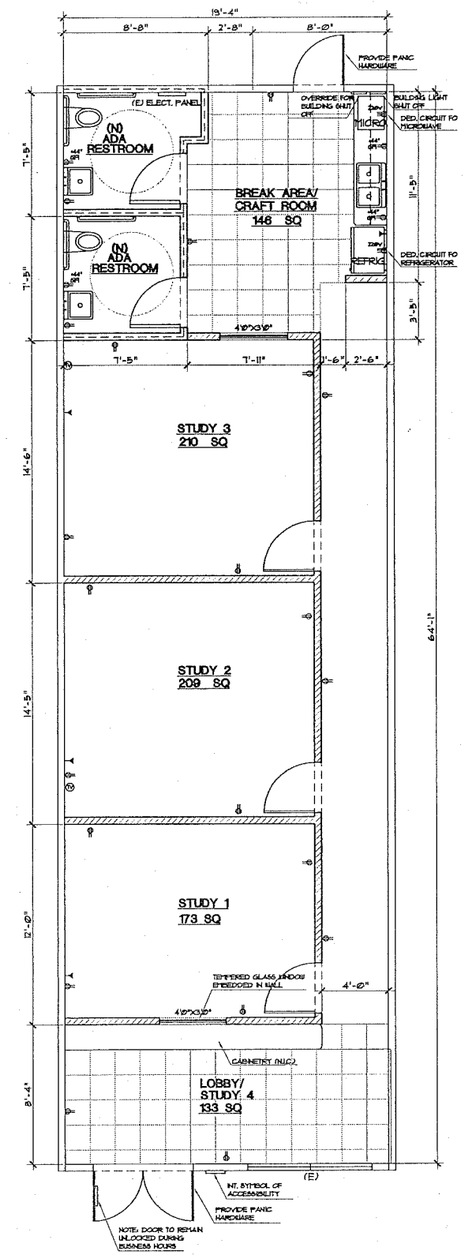
GROUP 4 (PER DOOR)

1-1/2 PAIR BUTTS	BB179 X 4-1/2 X4-1/2 X 10B	STA



(1) 4'-0"X3'-0" WINDOW

* REFER TO FLOOR PLAN FOR EXACT WINDOW LOCATION
* ALL FINISHES & COLORS TO MATCH EXISTING CHILDHOOD CENTER AT ANOTHER LOCATION IN THE SAME MALL. CONTRACTOR TO VERIFY PRIOR TO BID & INSTALLATION.



(E) FLOOR PLAN | 1/4" | 1

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BUILDING BLOCKS PRESCHOOL WITH PLAYGROUND

1073 S. DE ANZA BLVD.
SAN JOSE, CA 95129

REVISIONS:

SHEET TITLE:
PROPOSED FLOOR PLAN
REFLECTED CEILING PLAN

DATE JUNE 15, 2011	PROJECT NO. 11-1304
SCALE AS SHOWN	DRAWN JH/JW

SHEET
A-3
OF SHEETS