

# APPEAL OF PERMIT APPLICATION

The San José City Council or Planning Commission may hear appeals to the issuance of a development permit, variance, or exception. Not all permit processes allow for an appeal. Please refer to Table 20-260 of Municipal Code [20.100.220](#) for a complete list of the types of permit that may be appealed and the related hearing body.

The decision made by the hearing body is final and shall be effective immediately.

This application form must be completed as instructed below to facilitate the appeal.

## WHO MAY APPEAL

The applicant, or any property owner or tenant of a property within 1,000 feet of the subject site, may file the appeal. The appellant must sign this application or if signed by the appellant's lawful power of attorney, you must submit written evidence to that person's authority.

**Exception for Tree Removal Permits** - For a Tree Removal Permit, only property owners or occupants of the subject site or of properties immediately adjacent or across the street from the subject site may appeal.

**Exception for Tentative Maps** - Any person may file.

## DEADLINE

File this completed application **on or no later than 10 calendar days** after a copy of the permit decision by the Planning Commission or Director of Planning has been mailed to the project applicant. Permit decisions are typically made on Wednesdays with the issued permit mailed two days later on a Friday. Therefore, the 10-day deadline is commonly the second Monday following the hearing (by 5:00 p.m.).

**Exception for Tentative Maps** - The appeal must be filed within 10 calendar days of the permit approval.

## FEES & PROCESS

The application filing fee must be paid by the deadline as previously explained. Find the current fee for a Permit Appeal on the Table of Applications at [www.sanjoseca.gov/PlanningApplications](http://www.sanjoseca.gov/PlanningApplications). For Tree Removal Permits, a Public Noticing fee will also be charged.

## HOW TO SUBMIT - 2 OPTIONS

- **In-Person (no appointment required):** Before the filing deadline stated above, come to the Planning Offices, third floor of City Hall (200 E. Santa Clara Street, San José) to submit the application. You may pay the appeal fee in-person or staff may email you an invoice which must be paid within 14 calendar days of the invoice date for the appeal to be valid.
- **Email:** Before the filing deadline stated above, email the completed application and any attachments to [PlanningTechs@sanjoseca.gov](mailto:PlanningTechs@sanjoseca.gov). If the appeal is timely and complete, staff will send you an invoice for the appeal fee, which must be paid within 14 calendar days of the invoice date for the appeal to be valid.

## WHAT TO SUBMIT

- ☐ This application form, completed and signed.
- ☐ Assessor's parcel map showing the subject site outlined.

City staff will set a public hearing date with the Planning Commission or City Council as appropriate. The appeal item will be placed on the agenda. Staff will also prepare a recommendation of action to the Planning Commission or City Council.

## FOR QUESTIONS

Speak with a City Planner at 408-535-3555; see phone service hours at [www.sanjoseca.gov/Planning](http://www.sanjoseca.gov/Planning).

Para información en español, comuníquese con un Planificador de la ciudad al **408-793-4100**.

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại **408-793-4174**.

*continued >*

Please download and save this computer-fillable form to your computer. Follow instructions for [Digital Forms](#).

**1. The undersigned respectfully requests an appeal to the permit issued for the property located at:**

PROPERTY ADDRESS: 1301 West San Carlos Street & 255-263 Race Street

PROPERTY OWNER NAME: The Zotta Family Trust

PROPERTY OWNER MAILING ADDRESS: 1155 Yosemite Avenue, San José, CA 95126

**2. REASON/S FOR APPEAL:** If more space is needed, attach a separate sheet.

Please see Attachment 1 attached hereto and incorporated herein.

**3. PERSON FILING APPEAL**

RELATIONSHIP TO SUBJECT SITE **CHECK ALL THAT APPLY:** ☒ Property Owner ☐ Adjacent Property Owner ☐ Tenant on Site  
☐ Property Owner/Tenant Within 1,000 feet ☐ Tentative Map Appeal (anyone may appeal)

PRINT NAME: The Zotta Family Trust by & through its counsel of record Joshua Safran, Esq., Attorney at Law

MAILING ADDRESS: One Almaden Boulevard, Suite 700, San Jose, California 95113

EMAIL: jsafran@strategylaw.com

PHONE: 510.384.7627



Digitally signed by Joshua Safran, Esq.  
Date: 2025.06.30 13:14:30 -07'00'

6/30/25

● **SIGNATURE** OF PERSON FILING THE APPEAL

DATE: [MM/DD/YYYY]

**For electronic submittal or virtual appointments, a [Digital ID Signature](#) is required.  
For in-person appointments, an original ink signature is required.**

**4. CONTACT PERSON** IF DIFFERENT FROM PERSON FILING APPEAL

PRINT NAME:

MAILING ADDRESS:

EMAIL:

PHONE:

**OFFICE USE ONLY**

FILE NUMBER:

INTAKE DATE:

BY:

PAID: \$

COMMENTS:

**Attachment 1**  
**for**  
**Appeal of Condition 6 of Site Development Permit (“Permit”) for**  
**File Nos. H24-046, AT24-013, & ER24-195**  
**Northwest corner of Race Street and West San Carlos Street (“Property”)<sup>1</sup>**  
**(1301 West San Carlos Street & 255-263 Race Street; APNs: 261-42-059, -060, and -064)**

The owner of the Property, The Zotta Family Trust (“Owner”), hereby administratively appeals the Permit based on the invalidity, impropriety, and unlawfulness of the imposition of Condition 6 on the Permit. For the reasons set forth below, the Owner requests that Condition 6 be vacated and rescinded in its entirety and that the remainder of the Permit be affirmed, allowing the subject project to proceed.

**I. Background**

The Property is currently occupied by a rundown commercial building (the “Existing Building”) of approximately 3,817 square feet which is some 70 years old. The Existing Building is currently occupied by tenants – a restaurant and a hair salon. The restaurant’s lease expired in 2024 and the tenancy is now month-to-month. The restaurant is paying \$2.27 per square foot, which is approximately ½ of market rate. The restaurant tenant is entitled to 6-month advance notice of termination of the month-to-month arrangement and will receive reimbursement for the last 3 months of rent upon termination. The Owner’s long-term needs and plans for the Property, including her need to demolish the Existing Building and redevelop the Property, have been repeatedly communicated to the existing tenants in writing for at least eight years.

The restaurant covers no overhead expenses such as property taxes, insurance, or maintenance and repair. All of these costs are borne solely by the Owner. This has required a significant investment of time and resources by the Owner to operate and maintain the Property for the restaurant’s benefit. The Owner is a trust managed solely by Mrs. Zotta, an octogenarian who no longer has the desire or ability to continue to expend her time, energy, and resources to continue to maintain and operate the Existing Building.

The Existing Building is physically obsolete. It has lost its value due to wear and tear and physical deterioration over time. The basic repairs and improvements required to cure these issues would be far too expensive relative to the building’s value and the resources available to the Owner. The Existing Building is also functionally obsolete. It’s outdated features and design have reduced the structure’s utility and market appeal. It has a poor floor plan layout, lacks modern amenities and, again, is too expensive to meaningfully update given the building’s existing value and the resources available to the Owner.

Hence, with or without issuance of the Permit, or indeed any permit for any project on the Property, the Existing Building necessarily will be permanently vacated. There is no scenario available to the Owner where the Existing Building can continue to be a rental property. Put simply, the

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<sup>1</sup> The Assessor’s parcel map showing the Property outlined is attached hereto and incorporated herein as Exhibit A.

continued presence of the Existing Building on the Property would render any future redevelopment plans infeasible and untenable.

On July 11, 2024, 4G Development (“Applicant”), with the Owner’s approval, applied to the City of San Jose for a Site Development Permit to allow for the redevelopment of the entire Property with a brand-new quick service restaurant of approximately 5,139 square feet, an outdoor patio, and associated improvements (the “Project”). The redevelopment of the Property contemplated by the Project necessarily entailed the demolition of the Existing Building to make way for a new building and associated amenities, along with required parking, and circulation.

On June 11, 2025, the Project came for a hearing before Hearing Officer Sylvia Do, Division Manager on behalf of Christopher Burton, Director, Planning, Building and Code Enforcement (“Hearing Officer”). Based on the detailed evidence, analysis, and studies presented by City staff, set forth in the staff report dated June 2, 2025, submitted by Tina Garg on behalf of the Director of Planning, Building, and Code Enforcement, including the substantial reports, analyses, and assessments attached (“Staff Report”), the Hearing Officer determined, and the Staff Report and Permit reflect that:

- A. The Project, as proposed, was consistent and conformed with the General Plan and West San Carlos Urban Village Plan. Neither plan has any required minimum commercial density for the Property. Staff specifically evaluated the Project against the various elements of these plans and found that it was consistent with the intent of each element.
- B. The Project, as proposed, conformed in all respects with the provisions of Title 20 of the San Jose Municipal Code, including the development standards of the UV Urban Village Zoning District. The applicable zoning requires no minimum density or FAR.
- C. The Project, as proposed, conformed to the key applicable design standards and other applicable City policies, including the specific findings set forth in Chapter 20.100 of Title 20 of the San Jose Municipal Code governing issuance of Site Development Permits.
- D. The Project, as proposed, met all of the criteria for a Class 32 Categorical Exemption (“CatEx”) from the California Environmental Quality Act (“CEQA”), for Infill Development projects. Specifically, the Hearing Officer found that the Project would be consistent with all criteria listed in CEQA Guidelines Section 15332 and would not trigger any of the disqualifying exceptions listed in CEQA Guidelines Section 15300.2.

Then, to the great surprise and confusion of the Applicant and Owner, the Hearing Officer suddenly announced the approval of the Permit for the Project subject to the “condition” that the Existing Building not be demolished and that the Project be redesigned to accommodate and incorporate the Existing Building (now set forth in the Permit as Condition 6). The Permit identifies that Condition 6 would require reconsideration of the number and location of the Project’s proposed driveways, parking spaces, trees, and lighting fixtures. The condition also undermines safe circulation for delivery trucks and emergency vehicles. Although it is unclear exactly what evidence in the record or findings were relied upon by the Hearing Officer to impose this Condition, it appears that the Hearing Officer stated that the Project proponents “failed” to

demonstrate that they had met the criteria for issuance of a Demolition Permit under Section 20.80.460 of the Municipal Code.

On June 1, 2025, the Owner duly and timely filed an Appeal of Environmental Determination Application, a true and correct copy of which is attached hereto and incorporated herein as Exhibit B. This appeal is designed to augment and supplement the bases for appeal already set forth in the Owner's Appeal of Environmental Determination.

## **II. Bases for Appeal of Condition 6**

The Owner appeals the imposition of Condition 6 in reliance upon on the following bases:

### **A. Condition 6 Is a Poison Pill that Sabotages the Project by Making it Legally and Practically Infeasible**

The Project, as presented by the Applicant and as processed and reviewed by Staff in the Staff Report, necessarily involved the removal of the approximately 70-year-old Existing Building to facilitate the development of a new building in its stead. *This* Project was found to be consistent with the applicable planning, zoning, code, and environmental standards.

The sudden and unnoticed imposition of Condition 6, requiring that the Existing Building be retained onsite *in addition to the new building*, expressly requires a fundamental redesign of the entire Project and renders it both practically and legally infeasible. The new building is physically and economically impossible to construct with another building onsite.

Further, Condition 6 appears to be an inappropriate attempt to interfere with the Owner's month-to-month lease of the Existing Building, by compelling the Owner to extend a highly unfavorable, very short-term lease into a long-term grant of rights to a tenant.

As detailed in the Permit itself, Condition 6 compels an impermissible: decrease in the number of vehicle parking spaces; and, establishment of two driveways on the Race Street frontage, where Section 2.2.2, Standard S2 of the Citywide Design Standards and Guidelines only allow one, making it infeasible for the Project to now comply with this standard. Jennifer Kirby, P.E. of Kimley-Horn and Associates, Inc. has diligently evaluated Condition 6 and has provided a Technical Analysis of Imposition of Site Development Permit Condition 6, and concluded that, in addition to these deviations from the City's standards, the condition will: restrict ingress and egress and render truck maneuverability throughout the site to be constrained and impractical; invalidates the existing traffic study; and reduces the pervious area such that aboveground stormwater treatment will no longer be feasible. A true and correct copy of this memorandum is attached hereto and incorporated herein as Exhibit C.

Further, the Existing Building is built of unreinforced wood and masonry of 1950s-era construction; forcing its retention may endanger public safety rather than advance it, conflicting with SJMC Ch. 17.10 (seismic safety) and undermining the Permit's own finding that the Project will "upgrade the appearance of the neighborhood."

While it is accurate the at the Project will increase the number of jobs for residents of all skill and education levels, the Permit's numerous references to "retaining" jobs at the Existing Building are

false. As explained in detail above, with or without issuance of this permit or any other, the Existing Building will not and cannot be maintained as a leasehold and will not have any tenants of any kind going forward. If Condition 6 is rescinded, the Existing Building will be replaced by the Project. If Condition 6 is forced upon the Owner, the Existing Building will simply become vacant.

Further, Condition 6 injects impermissible levels of vagueness and uncertainty into the Project. For example, Condition 6 leaves essential terms—acceptable circulation plans, tree replacements that will “supersede” prior conditions, and the scope of the future amendment—to later staff discretion, violating basic due-process principles. *See Shapell Indus. v. Governing Bd.* (1991) 1 Cal.App.4th 218.

### **B. Condition 6 Is Not Linked to a Legitimate Public Purpose**

In California, a city’s ability to lawfully impose conditions on development projects is limited by the “nexus” and “rough proportionality” requirements, established in *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*. These cases, along with California Government Code Section 66000 et seq., ensure that conditions imposed on development are directly related to the project’s impacts and are roughly equivalent to those impacts.

The “nexus” requirement establishes that there must be a clear connection (nexus) between the condition imposed and the specific impact of the development project. For example, a condition requiring a developer to dedicate land for a park must be linked to the increased need for recreational space created by the project. The “proportionality” requirement establishes that the impact of the condition on the developer must be roughly proportional to the impact of the development on the community. This means the condition cannot be excessive or overly burdensome in relation to the project’s effects.

Under CEQA, mitigation measures may only be implemented to reduce or avoid significant environmental impacts. Here, there is *no demonstrated basis* for imposition of Condition 6 on the Permit. The Hearing Officer did not make any findings that the Project would have any unmitigated impacts. Indeed, Condition 6 was not imposed in relation to any “impact” at all. Absent a legitimate and lawful public purpose connected to impacts of the Project, Condition 6 must be removed.

### **C. Condition 6 Is Unsupported by Proper Findings**

The Permit nowhere finds that removing the Existing Building would cause any adverse effect; nor does it supply substantial evidence to justify its mandatory retention. The absence of analytical linkage violates the fundamental requirement for findings in California as set forth in *Topanga Ass’n v. Cnty. of L.A.* (1974) 11 Cal.3d 506 (findings must bridge the analytic gap between raw evidence and ultimate decision). SJMC § 20.100.630 requires that conditions be supported by facts shown by evidence in the record. The record contains no evidence that demolition of the Existing Building would cause any material adverse impacts; indeed, the CEQA exemption analysis assumes its removal. Absent substantial evidence, Condition 6 is arbitrary and capricious. *See* Code Civ. Proc. § 1094.5; *Eureka Citizens for Responsible Gov’t v. City of Eureka* (2007) 147 Cal.App.4th 357.

#### **D. Condition 6 Improperly Renders the Permit Approval Legally Illusory**

The Hearing Officer approved the Permit. One of the conditions of that Permit approval is Condition 6. On its face, Condition 6 *requires* that the Applicant seek a “Site Development Permit Amendment” of the very Permit to which it is a condition of approval. It states: “A Site Development Permit Amendment shall be required for retaining the [Existing Building].” Such a condition defeats the very approval it purports to condition. Based on our review of California case law and planning documents, we can find no other instance in California history where an approval contains a condition invalidating that very approval absent an amendment and requiring that it be amended to be valid. This is an internal inconsistency that conjures up an image of a snake eating its own tail.

By compelling a major redesign and new discretionary review by way of an amendment, Condition 6 inappropriately nullifies the rights that ordinarily attach to a permit once effective. The Permit, in essence, provides the Applicant no rights other than to apply for a Permit amendment. This approach to permit issued is not contemplated by the San Jose Municipal Code and finds no support in California case law.

#### **E. Condition 6 Impermissibly Creates a New Project not Covered by the CatEx**

Under the CEQA Guidelines, the term “project” applies to the “whole of an action” that may result in a direct or reasonably foreseeable indirect impact. 14 Cal. Code Regs. §15378(a). Under CEQA and the Guidelines, California’s environmental review laws apply to activities that may cause “either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” Public Resources Code §21065; 14 Cal. Code Regs. §15378(a).

The broad reach of the term “project” means that, when examining an activity to determine whether it could affect the physical environment, *an agency must consider the entire activity that is the subject of its approval. See, e.g., Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283 (emphasis added).

Here, the Hearing Officer did not and, indeed, could not, have evaluated the entire activity subject to her ultimate approval including Condition 6 because the Project before her simply did not contemplate the improvement and operation of the Property with two commercial buildings.

The Project necessarily involved the replacement of the Existing Building with a new building, reconsidered parking, and a different circulation pattern. The extensive and detailed Staff Report, which evaluated everything from traffic to public utilities to air and water quality, etc., upon which the Hearing Officer relied necessarily only evaluated the replacement of the Existing Building with a new building. The Project presented to the Hearing Officer did not include two commercial buildings on the Property. The Staff Report did not contemplate or study two commercial buildings on the Property. Yet, Condition 6 requires the Owner to develop the Property with two commercial buildings, which could entail a doubling of impacts, and/or a set of impacts that were neither contemplated nor analyzed.

For this reason, Condition 6 is a poison pill that sabotages the Project contemplated by the Staff Report and invalidates the CatEx.

To avoid this precise problem, CEQA expressly requires that project descriptions submitted by applicants give an accurate, complete, and stable description of the entirety of the project proposed such that the environmental analysis may adequately evaluate the direct and indirect effects of the activity being approved. *See, e.g., McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1144. Here, the project description for the Project was unilaterally amended at the hearing without notice by the Hearing Officer over the objections of the Owner and Applicant after the environmental review was already completed for the Project proposed. This is simply not how CEQA works.

#### **F. Imposition of Condition 6 Frustrates Fundamental Due Process & Is Inconsistent with the City's Own Code**

At the subject hearing, the Hearing Officer specifically found on the record that the Project met all of the criteria for issuance of Site Development Permit and found that it was consistent with the applicable planning designations and zoning requirements. This should have entitled the Owner and Applicant to issuance of the Permit, subject to reasonable conditions of approval. Instead, the Hearing Officer went on to make findings that the Project proponents “failed” to demonstrate that they had met the criteria for issuance of a Demolition Permit under Section 20.80.460 of the Municipal Code and, apparently for this reason, imposed Condition 6 requiring that the Existing Building remain in addition to the new building.

The fundamental problem with this basis for functionally denying the Project by imposing a condition that renders it infeasible is that the findings specified on the record for approval of a Demolition Permit are not the findings necessarily required of an applicant for approval of a Site Development Permit. The Staff Report itself and draft Permit required that the Owner separately and independently apply, in the future, for such a permit. Indeed, the original Condition 6 of the draft Permit expressly stated: “A demolition permit may be issued for the existing structures only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.” Hence, under the terms of the draft Permit and the Code itself, by requiring that the Owner meet the burden required for a Demolition Permit before it even seeks one, the Hearing Officer has inappropriately put the proverbial cart squarely before the horse.

This changing of the rules of the game at the last minute, ignoring the published and noticed mandates of the Code, penalizing the Applicant and Owner for not presenting evidence they had no obligation to provide, and deviating from the Project contemplated in the Project application and evaluated in the Staff Report, all amounts to a fundamental violation of the Owner's due process rights.

Due process requires reasonable notice and a reasonable opportunity to be heard before a government decision affecting a protected interest is made. Changing the rules or criteria for evaluation *during* the hearing, without prior notice to the owner, deprives them of the ability to adequately prepare their case, gather necessary evidence, and present a meaningful defense based on the previously known rules. *See, e.g., Horn v. County of Ventura* (1979) 24 Cal.3d 605.



Under CEQA (see e.g. Public Resources Code §21004 and 14 Cal. Code Regs. §14040), mitigation measures that are beyond the powers conferred by law on lead agencies are legally infeasible. *Kenneth Mebane Ranches v. Superior Court* (1992) 10 Cal.App.4<sup>th</sup> 276, 291.

### **III. Conclusion**

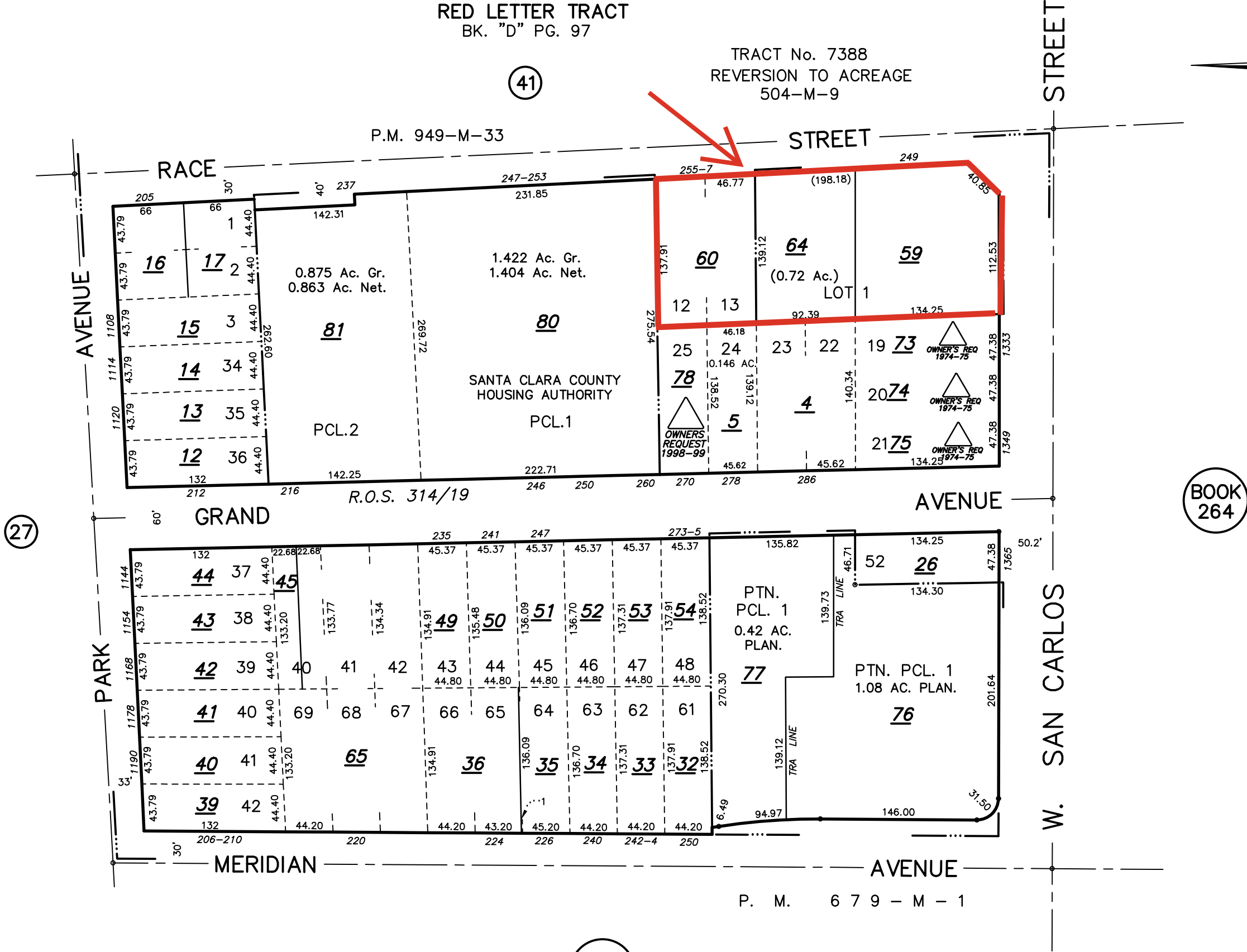
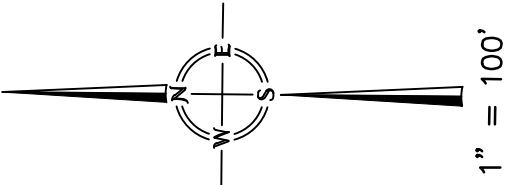
For all of the reasons set forth, above, the Owner requests that Condition 6 be vacated and rescinded in its entirety and that the remainder of the Permit be affirmed, allowing the Project to proceed.

**EXHIBIT**

**A**

RED LETTER TRACT  
BK. "D" PG. 97

TRACT No. 7388  
REVERSION TO ACREAGE  
504-M-9



**EXHIBIT**

**B**

# APPEAL OF ENVIRONMENTAL DETERMINATION APPLICATION

Per Municipal Code [21.07.040](#), the San José City Council will hear appeals to the environmental determination made by City staff at a project's public hearing. This application form must be completed as instructed below to facilitate the appeal.

## WHO MAY APPEAL

Any person may file.

## DEADLINE

File this completed application by **no later than 5:00 p.m. of the third business day** following the day of the public hearing that relied upon the Environmental Determination.

## FEES & PROCESS

View the current fee for an Environmental Determination Appeal on the Table of Applications at [www.sanjoseca.gov/PlanningApplications](http://www.sanjoseca.gov/PlanningApplications). The fees vary depending on whether you are a project applicant or non-applicant.

## HOW TO SUBMIT - 2 OPTIONS

- **In-Person (no appointment required):** Before the filing deadline stated above, come to the Planning Offices, third floor of City Hall (200 E. Santa Clara Street, San José) to submit the application. You may pay the appeal fee in-person or staff may email you an invoice which must be paid within 14 calendar days of the invoice date for the appeal to be valid.

- **Email:** Before the filing deadline stated above, email the completed application and any attachments to [PlanningTechs@sanjoseca.gov](mailto:PlanningTechs@sanjoseca.gov). If the appeal is timely and complete, staff will email you an invoice for the appeal fee, which must be paid within 14 calendar days of the invoice date for the appeal to be valid.

## WHAT TO SUBMIT

- ☐ This application form, completed and signed. You must state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.

Only appeals that are based on issues that were raised at the public hearing or in writing prior to the public hearing will be considered.

City staff will set a public hearing date before the City Council; the appeal item will be placed on the agenda. Staff will also prepare a recommendation of action to the City Council.

## FOR QUESTIONS

Speak with a City Planner at 408-535-3555; see phone service hours at [www.sanjoseca.gov/Planning](http://www.sanjoseca.gov/Planning).

Para información en español, comuníquese con un Planificador de la ciudad al 408-793-4100.

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại 408-793-4174.

*continued >*

Please download and save this computer-fillable form to your computer. Follow instructions for [Digital Forms](#).

The undersigned respectfully requests an appeal for the following environmental determination.

**1. REASON/S FOR APPEAL:** *If more space is needed, attach a separate sheet.*

Please see Attachment 1 attached hereto and incorporated herein.

**2. PERSON FILING APPEAL**

PRINT NAME: The Zotta Family Trust by & through Joshua Safran, Esq.

MAILING ADDRESS: One Almaden Boulevard, Suite 700, San Jose, California 95113

EMAIL: jsafran@strategylaw.com

PHONE: 510.384.7627

Joshua Safran, Esq.

 Digitally signed by Joshua Safran, Esq.  
Date: 2025.06.16 15:48:10 -07'00'

06/16/2025

● SIGNATURE OF PERSON FILING THE APPEAL

DATE: [MM/DD/YYYY]

For electronic submittal or virtual appointments, a **Digital ID Signature** is required.  
For in-person appointments, an original ink signature is required.

**3. CONTACT PERSON** IF DIFFERENT FROM PERSON FILING APPEAL

PRINT NAME:

MAILING ADDRESS:

EMAIL:

PHONE:

**Attachment 1**  
**for**  
**Appeal of Environmental Determination Application for**  
**California Environmental Quality Act (“CEQA”)**  
**Class 32 Categorical Exemption (“CatEx”) for**  
**Site Development Permit (“Permit”) for File Nos. H24-046, AT24-013, & ER24-195**  
**Northwest corner of Race Street and West San Carlos Street (“Property”)**  
**(1301 West San Carlos Street & 255-263 Race Street; APNs: 261-42-059, -060, and -064)**

**I. Background**

The Property is currently occupied by a rundown commercial building (the “Existing Building”) of approximately 3,817 square feet. The Existing Building is currently occupied by tenants – a restaurant and a hair salon – both on very short term month-to-month leases that require a significant investment of time and resources by the owner of the Property, The Zotta Family Trust (“Owner”), to operate and maintain. The Owner has no desire to continue to maintain and operate the Existing Building, and its continued presence onsite would make future redevelopment plans infeasible and untenable.

On July 11, 2024, 4G Development (“Applicant”), with the Owner’s approval, applied to the City of San Jose for a Site Development Permit to allow for the redevelopment of the entire Property with a brand new quick service restaurant of approximately 5,139 square feet, an outdoor patio, and associated improvements (the “Project”). The redevelopment of the Property contemplated by the Project necessarily entailed the demolition of the Existing Building to make way for the new, larger building and associated amenities.

On June 11, 2025, the Project came for a hearing before Hearing Officer Sylvia Do, Division Manager on behalf of Christopher Burton, Director, Planning, Building and Code Enforcement (“Hearing Officer”). Based on the detailed evidence, analysis, and studies presented by City staff, set forth in the staff report dated June 2, 2025, submitted by Tina Garg on behalf of the Director of Planning, Building, and Code Enforcement, including the substantial reports, analyses, and assessments attached (“Staff Report”), the Hearing Officer determined that the Project met all the criteria for the CatEx from CEQA, for Infill Development projects. Specifically, the Hearing Officer found that the Project would be consistent with all criteria listed in CEQA Guidelines Section 15332 and would not trigger any of the disqualifying exceptions listed in CEQA Guidelines Section 15300.2.

To the great surprise and confusion of the Applicant and Owner, the Hearing Officer then announced the approval of the Permit for the Project subject to the “condition” that the Existing Building not be demolished and that the Project be redesigned to accommodate and incorporate the Existing Building (the “Condition”). Although it is unclear exactly what evidence in the record or findings were relied upon by the Hearing Officer to impose this Condition, it appears that the Hearing Officer stated that the Project proponents “failed” to demonstrate that they had met the criteria for issuance of a Demolition Permit under Section 20.80.460 of the Municipal Code.

## **II. Bases for Appeal of Environmental Determination**

The Owner hereby appeals imposition of the Condition because it invalidates the CatEx and causes the Hearing Officer-revised Project to violate CEQA (and other laws including the City's own Code) for the following reasons:

### **A. The Condition Impermissibly Creates a New Project not Covered by the CatEx**

Under the CEQA Guidelines, the term "project" applies to the "whole of an action" that may result in a direct or reasonably foreseeable indirect impact. 14 Cal. Code Regs. §15378(a). Under CEQA and the Guidelines, California's environmental review laws apply to activities that may cause "either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Public Resources Code §21065; 14 Cal. Code Regs. §15378(a).

The broad reach of the term "project" means that, when examining an activity to determine whether it could affect the physical environment, *an agency must consider the entire activity that is the subject of its approval. See, e.g., Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283 (emphasis added).

Here, the Hearing Officer did not and, indeed, could not, have evaluated the entire activity subject to her ultimate approval including the Condition because the Project before her simply did not contemplate the improvement and operation of the Property with two commercial buildings.

The Project necessarily involved the replacement of the Existing Building with a new building. The extensive and detailed Staff Report, which evaluated everything from traffic to public utilities to air and water quality, etc., upon which the Hearing Officer relied necessarily only evaluated the replacement of the Existing Building with a new building. The Project presented to the Hearing Officer did not include two commercial buildings on the Property. The Staff Report did not contemplate or study two commercial buildings on the Property. Yet, the Condition requires the Owner to develop the Property with two commercial buildings, which would entail a doubling of impacts, a set of impacts that were neither contemplated nor analyzed.

For this reason, the Condition is a poison pill that sabotages the Project contemplated by the Staff Report and invalidates the CatEx.

To avoid this precise problem, CEQA expressly requires that project descriptions submitted by applicants give an accurate and wholistic description of the entirety of the project proposed such that the environmental analysis may adequately evaluate the direct and indirect effects of the activity being approved. *See, e.g., McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1144. Here, the project description for the Project was unilaterally amended at the hearing without notice by the Hearing Officer over the objections of the Owner and Applicant after the environmental review was already completed for the Project proposed. This is simply not how CEQA works.



## **B. The Condition Is Not Linked to a Legitimate Public Purpose**

In California, a city's ability to impose conditions on development projects is limited by the "nexus" and "rough proportionality" requirements, established in *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*. These cases, along with California Government Code Section 66000 et seq., ensure that conditions imposed on development are directly related to the project's impacts and are roughly equivalent to those impacts.

The "nexus" requirement establishes that there must be a clear connection (nexus) between the condition imposed and the specific impact of the development project. For example, a condition requiring a developer to dedicate land for a park must be linked to the increased need for recreational space created by the project. The "proportionality" requirement establishes that the impact of the condition on the developer must be roughly proportional to the impact of the development on the community. This means the condition cannot be excessive or overly burdensome in relation to the project's effects.

Under CEQA, mitigation measures may only be implemented to reduce or avoid significant environmental impacts. Here, there is no demonstrated basis for imposition of the Condition on the Project. The Hearing Officer did not make any finding that the Project would have any unmitigated impacts. Indeed, the Condition was not imposed in relation to any "impact" at all. Absent a legitimate and lawful public purpose connected to impacts of the Project, the Condition must be removed.

## **C. The Condition Is Inconsistent with the City's Code and Frustrates Fundamental Due Process**

At the subject hearing, the Hearing Officer specifically found on the record that the Project met all of the criteria for issuance of Site Development Permit and found that it was consistent with the applicable planning designations and zoning requirements. This should have entitled the Owner and Applicant to issuance of the Permit, subject to reasonable conditions of approval. Instead, the Hearing Officer went on to make findings that the Project proponents "failed" to demonstrate that they had met the criteria for issuance of a Demolition Permit under Section 20.80.460 of the Municipal Code and, apparently for this reason, imposed the Condition requiring that the Existing Building remain in addition to the new building.

The fundamental problem with this basis for functionally denying the Project by imposing a condition that renders it infeasible is that the findings needed for approval of a Demolition Permit are not the findings required of an applicant for approval of a Site Development Permit. The Permit itself requires that the Owner separately and independently apply, in the future, for such a permit. Indeed, Condition 6 of the Permit expressly states: "A demolition permit may be issued for the existing structures only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction." Hence, under the terms of the Permit and the Code itself, by requiring that the Owner meet the burden required for a Demolition Permit before it even seeks one, the Hearing Officer has inappropriately put the proverbial cart squarely before the horse.

This changing of the rules of the game at the last minute, ignoring the published and noticed mandates of the Code, penalizing the Applicant and Owner for not presenting evidence they had no obligation to provide, and deviating from the Project contemplated in the Project application and evaluated in the Staff Report, all amounts to a fundamental violation of the Owner's due process rights.

Due process requires reasonable notice and a reasonable opportunity to be heard before a government decision affecting a protected interest is made. Changing the rules or criteria for evaluation *during* the hearing, without prior notice to the owner, deprives them of the ability to adequately prepare their case, gather necessary evidence, and present a meaningful defense based on the previously known rules. *See, e.g., Horn v. County of Ventura* (1979) 24 Cal.3d 605.

Under CEQA (see e.g. Public Resources Code §21004 and 14 Cal. Code Regs. §14040), mitigation measures that are beyond the powers conferred by law on lead agencies are legally infeasible. *Kenneth Mebane Ranches v. Superior Court* (1992) 10 Cal.App.4<sup>th</sup> 276, 291.

**EXHIBIT**

**C**



## MEMORANDUM

To: Joshua Safran, Esq.  
Strategy Law, LLP.  
1 Almaden Boulevard, Suite 700  
San Jose, CA 95113

From: Jennifer Kirby, P.E.  
Kimley-Horn and Associates, Inc.  
4637 Chabot Drive, Suite 300  
Pleasanton, CA 94588

Date: 06/18/2025

Subject: Technical Analysis of Imposition of Site Development Permit Condition 6,  
CFA #5845 Race St & San Carlos St (Planning Application #H24-046)

---

### EXECUTIVE SUMMARY

<u>City Requirement</u>	<u>Infeasibility</u>
Existing multitenant building (261 Race Street) to remain. Retain one driveway along Race St.	<b><u>Driveway:</u></b> Existing driveway to remain; does not reduce the number of driveways along Race St. (minimum of two required).
	<b><u>Circulation:</u></b> CFA ingress and egress restricted to one driveway. Driveway to be full access for all turning movements. Truck maneuverability throughout the site is constrained and impractical for optimal restaurant operations.
	<b><u>Traffic Study:</u></b> Findings are irrelevant to the newly imposed condition of retaining the existing building and the resultant site plan changes.
	<b><u>Stormwater and Pervious Area:</u></b> Pervious area will be reduced to an area less than that of the existing condition. Aboveground stormwater treatment options will not be feasible.

---

### MEMORANDUM

The purpose of this memorandum is to evaluate the infeasibility of one of the Conditions of Approval for the Chick-fil-A project located at 1301 West San Carlos Street, San Jose, CA 95126. The Condition of Approval of interest requires the existing multitenant building located at 261 Race Street, San Jose, CA 95126, to remain, thus resulting in a two-building project, rather than the single building proposed.

A review by Kimley-Horn reveals issues from a civil site design perspective that include, but are not limited to the following:

1. Retaining the existing multitenant building ***limits the extents of offsite improvements*** on Race Street (a widened, detached sidewalk, curb and gutter, additional landscape, etc.). ***The existing driveway on the northern parcel will remain*** to maintain access to the multitenant building.

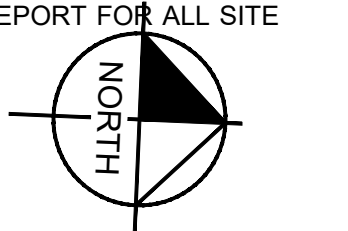
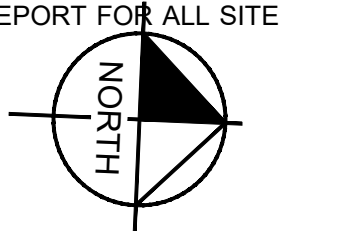
Assuming CFA retains one of its proposed driveways, there will still be **a minimum of two driveways** along Race Street between CFA and the northern parcel – one that serves CFA, one that serves the three tenants in the existing building. It is assumed that there will be **no cross access** between the two parcels, and **ingress and egress to each parcel will be channelized** through their own driveway.

2. Assuming the City holds CFA to one driveway, **all access to the site will circulate through the proposed driveway** (located closer to West San Carlos St.) as shown. At a minimum, the driveway can **no longer be right-in/right-out only and would need to accept left-turn movements** into the site from northbound Race St., both for passenger vehicle and truck circulation. **A singular driveway, regardless of its location, along Race St. implies one point of entry and exit** for all truck traffic and limits truck maneuverability in and out of said driveway. With a compressed site, **truck circulation through the proposed parking field is further constrained by insufficient turn radii**. At a minimum, site circulation for passenger vehicles needs to be maintained. A two-parcel project would drastically reduce the parking count and create a site circulation pattern that may affect onsite operations and offsite flow.

The full ramifications of a proposed site plan with one driveway will need to be reanalyzed for trips, queueing, and traffic impacts as **the current findings of the traffic study only support a site plan with two driveways for exclusive use by CFA. The striping improvements to lengthen the southbound left-turn pocket** in Race St. as requested by the City would also **need to be modified or disregarded**.

3. The natural drainage patterns of the property flow north, toward the multi-tenant building. As such, the project's stormwater treatment facilities are currently located along the northern property line and within the parcel of the existing multitenant building. **The stormwater treatment facilities will be relocated south of the parcel to remain and would remain underground**, likely under what would be a drive aisle, due to lack of available above-ground pervious area. Given the location of the building, which is placed per City setback maximums, **stormwater treatment cannot be placed elsewhere onsite** without further impeding site features like site circulation and parking count. It is assumed that these two parcels would need to be hydraulically separate and that **no cross drainage** would be permitted.
4. Approximately 40% of the project's pervious areas is located within the northern parcel that is comprised of exclusively impervious pavement in the existing condition. Additional revisions to the project site in an attempt to provide feasible site circulation would likely **further reduce the proposed pervious area to less than that of the existing condition**.





## DEMOLITION NOTES

- |    |   |
|----|---|
| 1  | DEMOLISH AND REMOVE EXISTING BUILDING.  |
| 2  | DEMOLISH AND REMOVE EXISTING ASPHALT PAVEMENT.  |
| 3  | DEMOLISH AND REMOVE EXISTING STANDARD DUTY CONCRETE SIDEWALK.   |
| 4  | DEMOLISH AND REMOVE EXISTING RAISED PAVEMENT.   |
| 5  | DEMOLISH AND REMOVE EXISTING CONCRETE PAD   |
| 6  | DEMOLISH AND REMOVE EXISTING WALL.  |
| 7  | DEMOLISH AND REMOVE EXISTING DRIVEWAY.  |
| 8  | DEMOLISH AND REMOVE EXISTING LOT LIGHT.   |
| 9  | DEMOLISH AND REMOVE EXISTING UNDERGROUND UTILITY STRUCTURE  |
| 10 | DEMOLISH AND REMOVE EXISTING CURB/CURB AND GUTTER.  |
| 11 | DEMOLISH AND REMOVE EXISTING VALLEY GUTTER.   |
| 12 | DEMOLISH AND REMOVE EXISTING FENCE.   |
| 13 | DEMOLISH AND REMOVE EXISTING TRUNCATED DOMES.   |
| 14 | DEMOLISH AND REMOVE EXISTING TREE.  |
| 15 | GRUB AND REMOVE EXISTING LANDSCAPE AND DEMOLISH AND REMOVE ALL IRRIGATION LINES, DRIPS, VALVES, AND ASSOCIATED EQUIPMENT AS NEEDED. |
| 16 | DEMOLISH AND REMOVE EXISTING BACKFLOW PREVENTER.  |
| 17 | DEMOLISH AND REMOVE EXISTING WATER METER.   |
| 18 | DEMOLISH AND REMOVE EXISTING UTILITY VAULT/BOX.   |

1. PROTECT IN PLACE EXISTING UTILITY BOX/VAULT.
2. PROTECT IN PLACE EXISTING STREET LIGHT AND BOX.
3. PROTECT IN PLACE EXISTING STORM DRAIN LINE
4. PROTECT IN PLACE EXISTING STORM DRAIN INLET.
5. PROTECT IN PLACE EXISTING SEWER LINE.
6. PROTECT IN PLACE EXISTING WATER METER.
7. PROTECT IN PLACE EXISTING CURB/CURB AND GUTTER.
8. PROTECT IN PLACE EXISTING FIRE HYDRANT.
9. PROTECT IN PLACE EXISTING WATER LINE.
10. PROTECT AND RELOCATE EXISTING "NO PARKING - HERE TO CORNER" SIGN

EXISTING UTILITIES AS SHOWN ON THESE PLANS AS THEY ARE BELIEVED TO EXIST BASED ON AVAILABLE RECORDS BY OTHERS. THE OWNER AND ENGINEER DO NOT WARRANT THE ACCURACY, COMPLETENESS, OR RELIABILITY OF ANY INFORMATION PROVIDED BY ANY OTHER PARTY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE EXISTENCE, LOCATION, DEPTH, AND DIMENSION OF ALL UTILITIES PRIOR TO CONSTRUCTION. THIS SHALL INCLUDE CALLING UNDERGROUND SERVICE ALERT, POT-HOLING, AND SURVEYING. ANY UTILITIES NOT SHOWN ON THESE PLANS OR ANY UTILITIES NOT IDENTIFIED BY THE CONTRACTOR SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. ANY UTILITIES FOUND AT CROSSINGS, AREAS OF EXCAVATION, AND WHERE CONSTRUCTION MAY BE AFFECTED BY THE LOCATION OR DEPTH OF THE UTILITY, DISCREPANCIES OR CHANGES SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING THE ENGINEER PRIOR TO PROCEEDING WITH CONSTRUCTION.

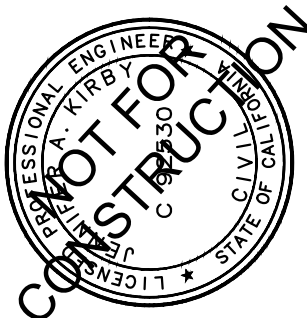
## DEMOLITION NOTES

1. CONTRACTOR SHALL BE RESPONSIBLE FOR CONFORMING TO ALL APPLICABLE LOCAL, STATE, AND/OR FEDERAL CODES AND REGULATIONS FOR DEMOLITION, SAFETY OF ADJACENT STRUCTURES, DUST CONTROL, RUNOFF CONTROL AND DISPOSAL OF DEBRIS.
2. ALL MATERIALS REMOVED FROM THE SITE SHALL BE PROPERLY DISPOSED OF BY THE CONTRACTOR IN A LEGAL MANNER AS PART OF THIS CONTRACT.
3. CONTRACTOR SHALL VERIFY THAT ALL IMPROVEMENTS BEING REMOVED ARE FULLY CONTAINED WITHIN THE LIMITS OF DEMOLITION, AND THAT THEY DO NOT SERVE ANY FUNCTION FOR IMPROVEMENTS BEYOND THE LIMITS OF DEMOLITION. IF AN OBJECT IS IN QUESTION, THE CONTRACTOR SHALL CONTACT THE OWNER PRIOR TO REMOVAL OF SAID ITEMS. IF DEMOLITION OR CONSTRUCTION ON SITE WILL INTERFERE WITH THE ADJACENT PROPERTY OWNER'S TRAFFIC FLOW, THE CONTRACTOR SHALL COORDINATE WITH ADJACENT PROPERTY OWNER, TO MINIMIZE THE IMPACT ON TRAFFIC FLOW. TEMPORARY TRAFFIC CONTROL MEASURES TO BE USED BY THE CONTRACTOR SHALL TRANSFORM APPROVED TRAFFIC BARRICADES, BARRELS, AND/OR CONES, TEMPORARY SIGNAGE AND FLAGMEN MAY BE ALSO NECESSARY.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS REQUIRED FOR DEMOLITION AND PAYING ALL SPECIFIED FEES. ANY OTHER PERMITS REQUIRED SHALL BE OBTAINED FROM THE CITY FOR DEMOLITION IN THE PUBLIC RIGHT-OF-WAY.
5. EROSION CONTROL SHALL BE ESTABLISHED PRIOR TO ANY WORK ON SITE INCLUDING DEMOLITION.
6. CONTRACTOR TO INSTALL CHAIN LINK FENCE WITH MESH SCREEN AT THE PERIMETER TO PROTECT PUBLIC FROM ENTERING CONSTRUCTION AREA.
7. CONTRACTOR SHALL ADJUST THE GRADE OF ANY EXISTING UTILITIES TO REMAIN.
8. CONTRACTOR SHALL PROVIDE FULL DEPTH SAW CUTS AT EDGES OF EXISTING PAVEMENT AND SIDEWALK REMOVAL LOCATIONS. ALL CONCRETE PAVEMENT SHALL BE REPAIRED TO MATCH EXISTING SURFACE.
9. REFER TO THE PROJECT GEO TECHNICAL INVESTIGATION REPORT FOR ALL SITE AND SUBSURFACE PREPARATION.



**Kimley»Horn**

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					KHA PROJECT 097672167
					DATE 04/11/2025
					SCALE AS SHOWN
					DESIGNED BY CKC
					DRAWN BY AK
No.			REVISIONS	DATE	CHECKED BY JAK

**CHICK-FIL-A**  
1301 W. SAN CARLOS STREET  
SAN JOSE, CA 95126

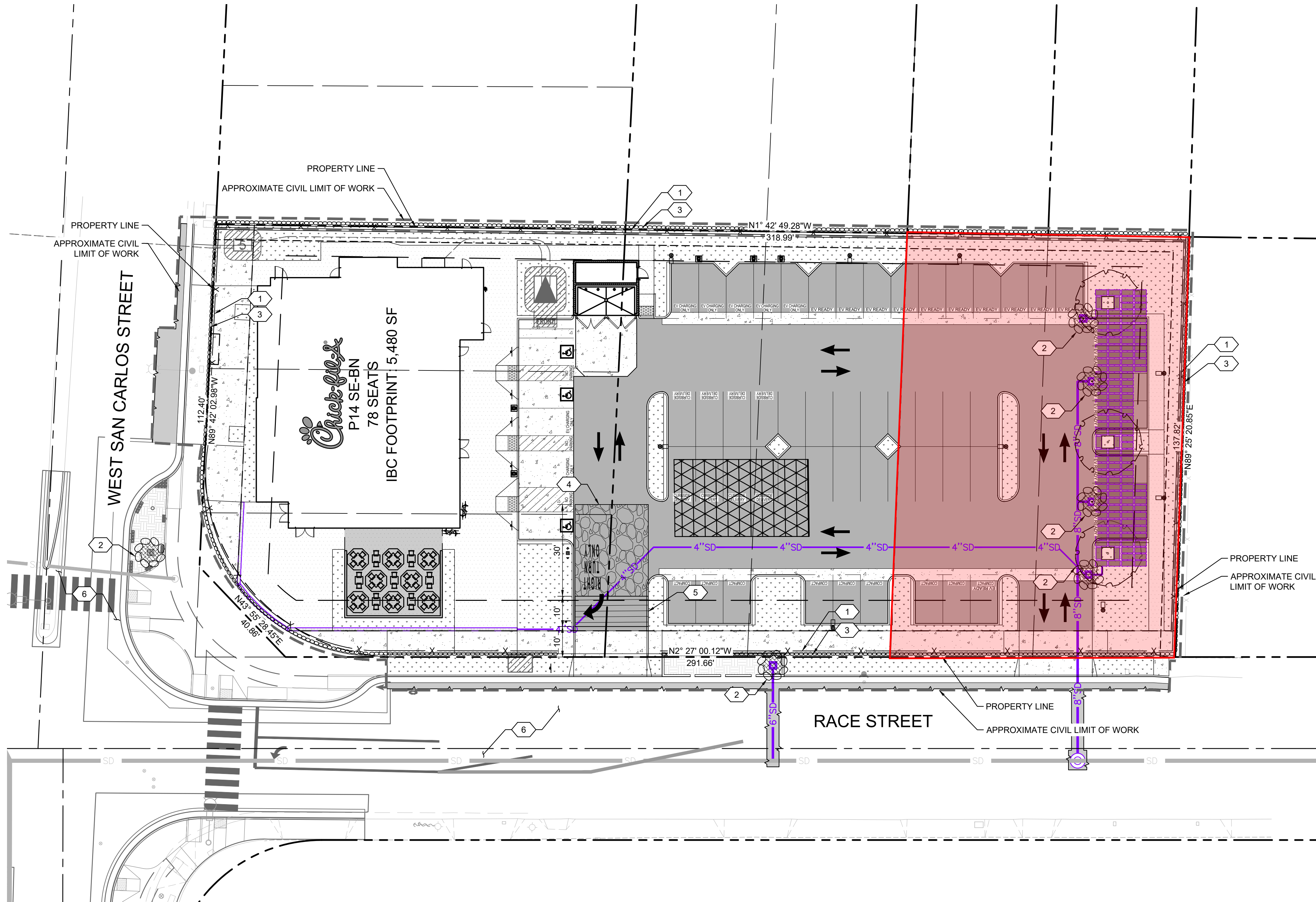
# PRELIMINARY DEMOLITION PLAN

SHEET NUMBER  
C2.0



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### LEGEND

- PROPERTY LINE
- APPROXIMATE CIVIL LIMIT OF WORK LINE
- EASEMENT OR SETBACK LINE
- CENTERLINE
- PROPOSED STORM DRAIN PIPE
- STORM DRAIN INLET, MANHOLE, AND CLEAN OUT
- CHAIN LINK FENCE WITH GREEN SCREEN
- GRAVEL BAG
- DIRECTION OF EXISTING FLOW
- INLET SEDIMENT BARRIER
- CONSTRUCTION ENTRANCE
- MATERIAL STORAGE AND DELIVERY, SANITARY AREA, TRASH STORAGE, HAZARDOUS MATERIAL, CONCRETE MANAGEMENT, VEHICLE MAINTENANCE EQUIPMENT STORAGE AREA, AND STOCKPILE MANAGEMENT AREA. CONTRACTOR TO RESIZE AND RELOCATE AS NECESSARY WITH QSP APPROVAL.

### EROSION CONTROL NOTES

- CHAIN LINK FENCE WITH GREEN SCREEN. CONTRACTOR TO MAINTAIN DURING ALL GRADING & MOBILIZATION ACTIVITIES.
- SE-10, STORM DRAIN CURB INLET PROTECTION. REFER TO DETAIL 2, SHEET C3.1.
- SC-5, GRAVEL BAG. SEE DETAIL 1, SHEET C3.1. CONTRACTOR TO MAINTAIN DURING ALL GRADING AND MOBILIZATION ACTIVITIES.
- TC-1, STABILIZED CONSTRUCTION ENTRANCE/EXIT. REFER TO DETAIL 3, SHEET C3.1.
- TC-3, ENTRANCE/OUTLET TIRE WASH. REFER TO DETAIL 4, SHEET C3.1.
- SE-7, STREET SWEEPING AND VACUUMING.

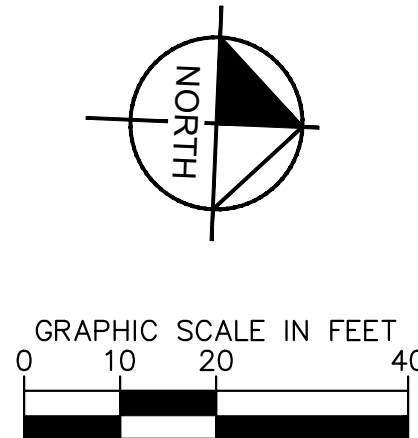
### EROSION CONTROL NOTES

- ALL REFERENCES TO CASQA BMPs ON THIS PLAN REFER TO BEST MANAGEMENT PRACTICES AS OUTLINED IN THE CALIFORNIA STORMWATER QUALITY ASSOCIATION (CASQA) BMP HANDBOOK, LATEST EDITION.
- ADDITIONAL BMP MEASURES BEYOND WHAT ARE SHOWN ON THIS PLAN MAY APPLY DURING THE CONSTRUCTION OF THE PROJECT INCLUDING BUT NOT LIMITED TO:
  - EC-1, SCHEDULING
  - EC-2, PRESERVATION OF EXISTING VEGETATION
  - EC-3, HYDRAULIC MULCH
  - WE-1, WIND EROSION CONTROL
  - NS-1, WATER CONSERVATION PRACTICES
  - NS-3, PAVING AND GRINDING OPERATIONS
  - NS-7, POTABLE WATER/IRRIGATION
  - NS-12, CONCRETE CURING
  - NS-13, CONCRETE FINISHING
  - SE-7, STREET SWEEPING AND VACUUMING
- ALL BMPs ON THIS PLAN ARE SHOWN SCHEMATICALLY. FINAL LOCATIONS SHALL BE DETERMINED IN THE FIELD BY THE CONTRACTOR AS CONDITIONS DICTATE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR INSPECTING, RELOCATING, AND MAINTAINING ALL BMPs AND MEASURES AS STATED ON THIS SITE MAP IN FULLY FUNCTIONAL CONDITION UNTIL NO LONGER REQUIRED FOR A COMPLETED PHASE OF WORK OR AFTER FINAL STABILIZATION OF THE SITE.
- INLET PROTECTION SHALL BE INSTALLED AT ALL INLETS THAT MAY BE SUSCEPTIBLE TO CONSTRUCTION INFLUENCE.

THE CONTRACTOR SHALL MAINTAIN A TEMPORARY CHAIN LINK FENCE WITH GREEN SCREEN AT PROJECT LIMITS DURING ALL CONSTRUCTION & MOBILIZATION ACTIVITIES.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR TRAFFIC CONTROL AND PEDESTRIAN CONTROL AT PROJECT LIMITS AND WHILE PERFORMING WORK IN THE PUBLIC RIGHT-OF-WAY.

CONTRACTOR TO USE BEST MANAGEMENT PRACTICES TO ENSURE COMPLIANCE WITH NPDES AND WATER MANAGEMENT DISTRICT REGULATIONS FOR STORMWATER DISCHARGE FROM CONSTRUCTION ACTIVITIES AND DEWATERING OPERATIONS.



Chick-fil-A  
5200 Buffington Road  
Atlanta, Georgia  
30349-2998

Kimley-Horn

CHAD R. HORN  
PROFESSIONAL ENGINEER  
STATE OF CALIFORNIA  
LICENSE NO. 60320  
EXPIRATION DATE 12/31/2025

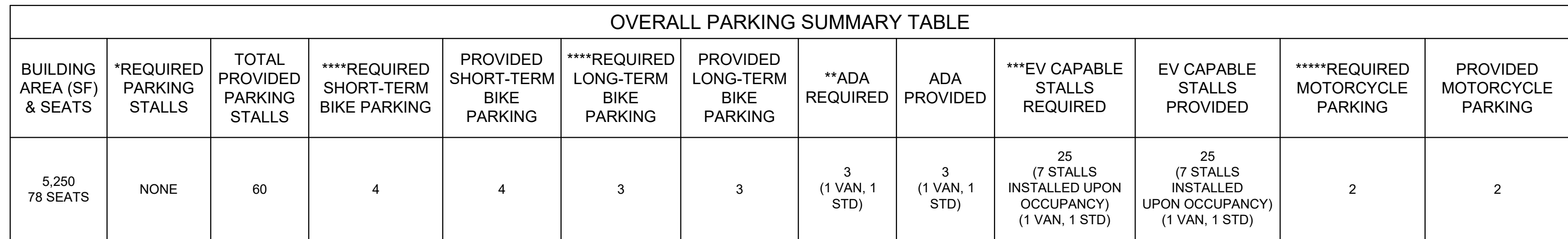
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097672167	04/11/2025										

**CHICK-FIL-A**  
1301 W. SAN CARLOS STREET  
SAN JOSE, CA 95126

PRELIMINARY  
EROSION CONTROL  
PLAN

SHEET NUMBER  
**C3.0**





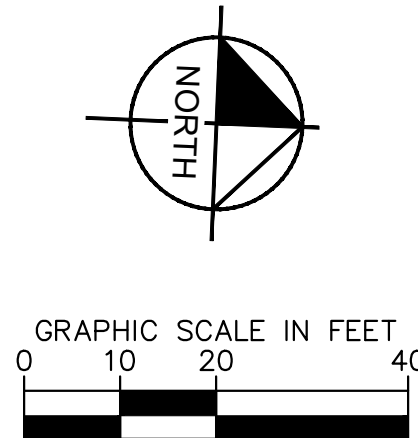
\*\*\*\*\*REQUIRED NUMBER OF MOTORCYCLE PARKING STALLS SHALL BE 2.5% OF THE TOTAL NUMBER OF PROVIDED PARKING STALLS IF MORE THAN TEN (10) STALLS ARE PROVIDED PER TITLE 20, CHAPTER 20.90, PART 1 SECTION 20.90.350.A OF THE CITY OF SAN JOSE MUNICIPAL CODE.

A graphic scale in feet is shown below the map, with markings at 0, 10, 20, and 40 feet. Above the scale is a north arrow pointing upwards, with the word "NORTH" written vertically inside the circle.

(AFFECTS PARCEL TWO)

H24-046



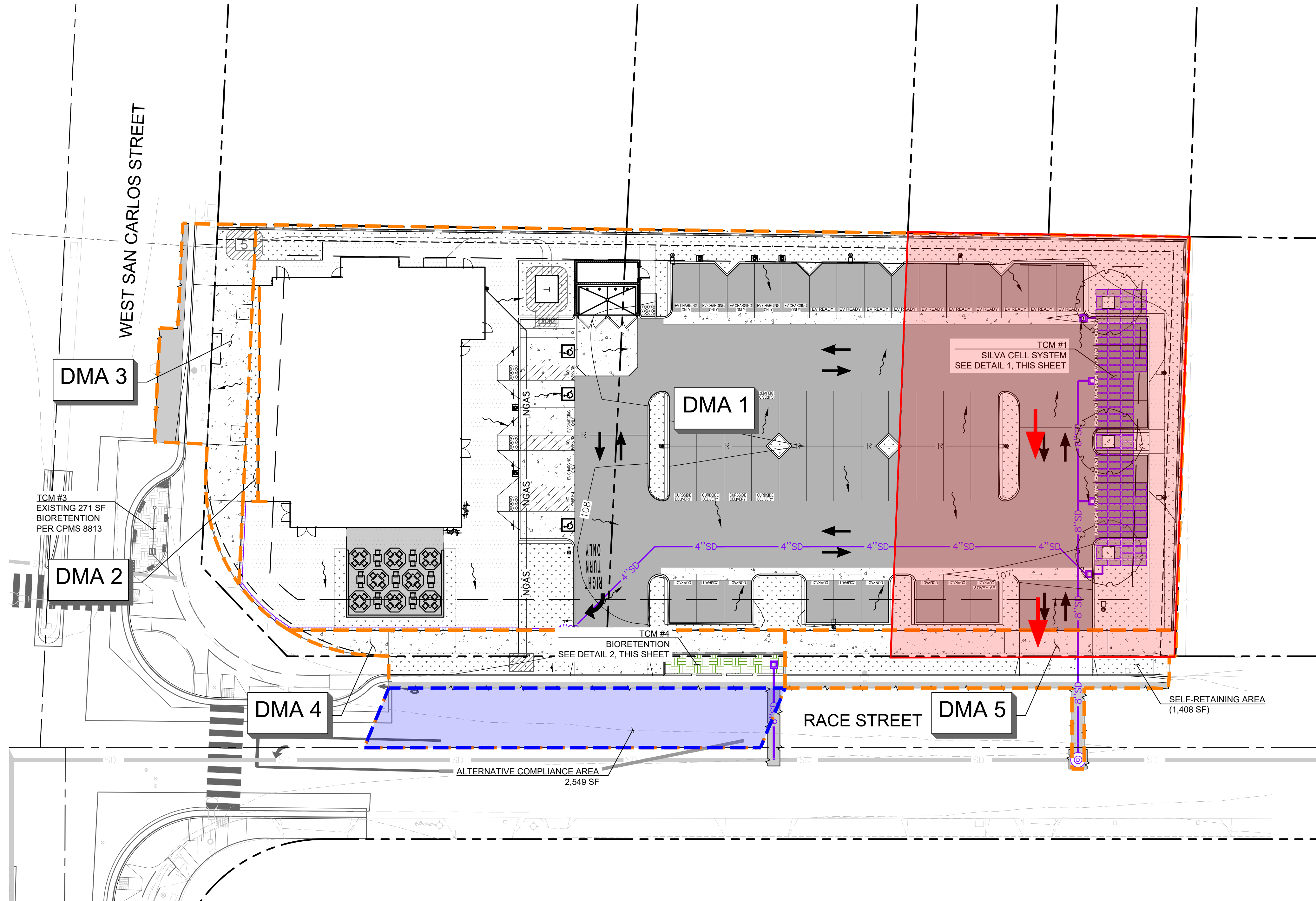


EXISTING UTILITIES BOXES/VAULTS SHALL BE ADJUSTED TO GRADE. EXISTING COMMUNICATION CONDUITS (FIBER OPTIC AND COPPER) ALONG THE PROJECT FRONTAGE SHALL BE LOCATED AND PROTECTED.





K:\BAY-LDEV\Chick-Fil-A\097672167 - CFA #5445 - Race Street & San Carlos (San Jose)\CAD\Exhibits\Entitlements\C7.0 PRELIMINARY STORMWATER CONTROL PLAN.dwg  
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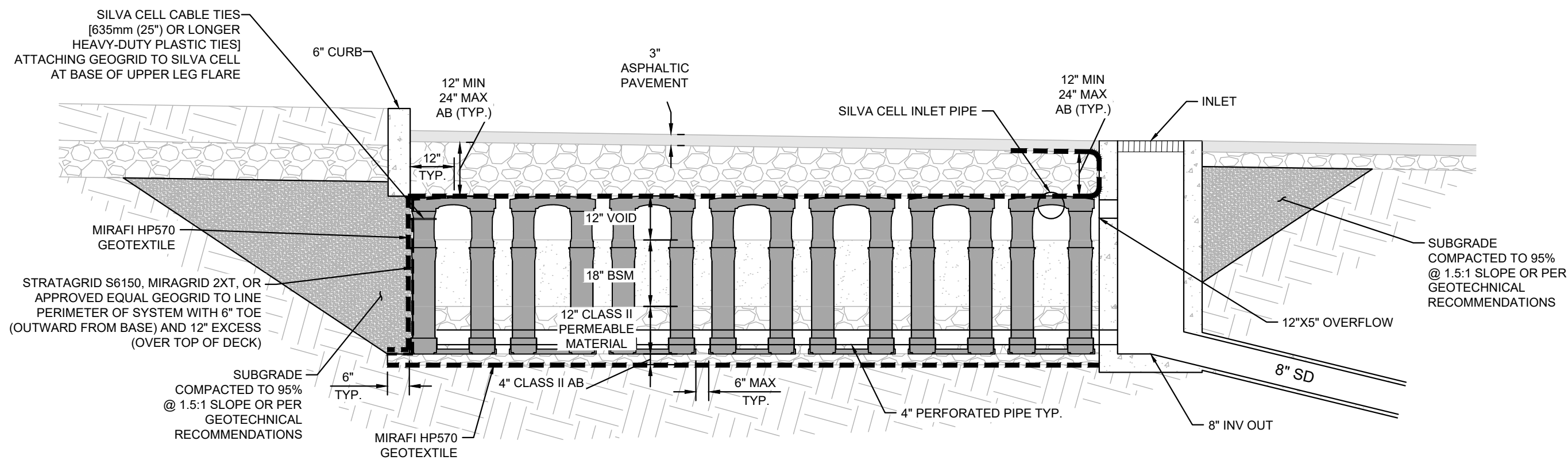


### LEGEND

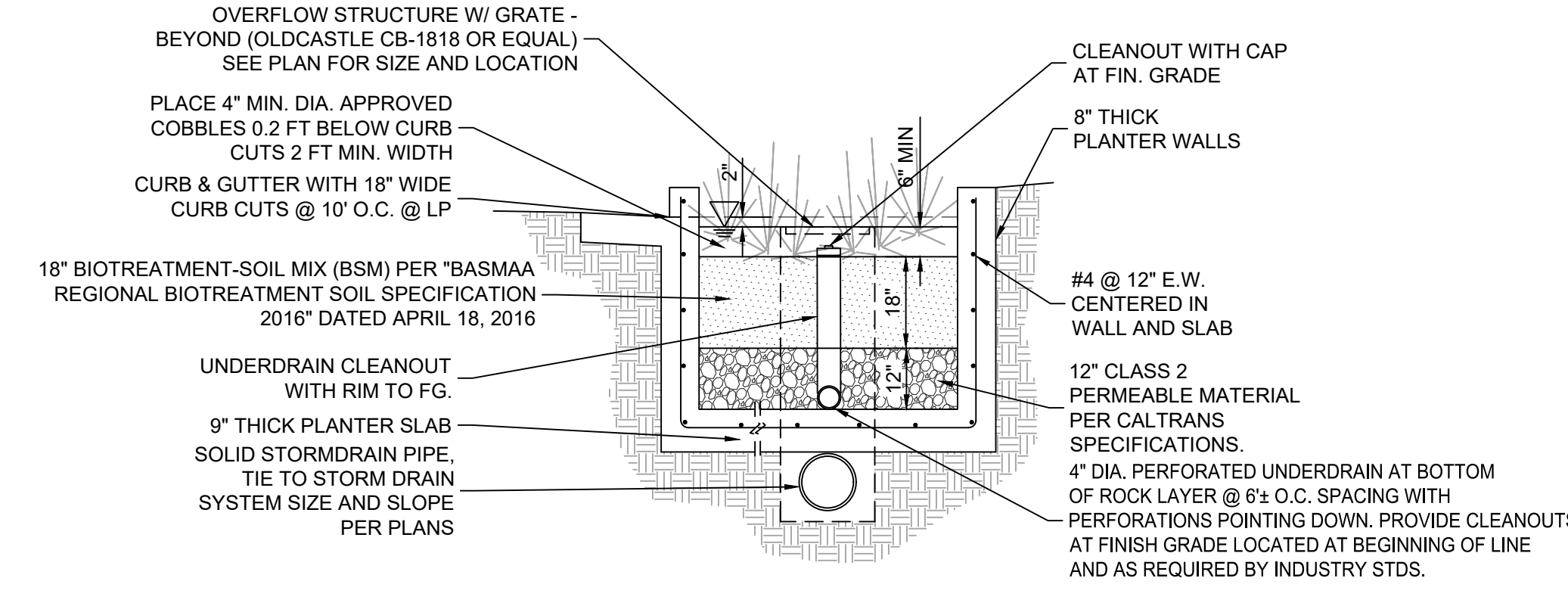
- PROPERTY LINE
- CENTER LINE
- EASEMENT LINE
- DMA BOUNDARY
- ALTERNATIVE COMPLIANCE AREA BOUNDARY
- SURFACE FLOW DIRECTION
- OVERLAND RELEASE PATH
- LANDSCAPE AREA
- BIORETENTION AREA

Proposed Silva Cell Sizing							
DMA	Total Area (SF)	Pervious Area (SF)	Impervious Area (SF)	Effective Impervious Area (SF)	Required Treatment Area [4% Rule] (SF)	*Required Silva Cells	**Trees Required
1	39,963	5,913	34,050	34,641	1,386	139	3

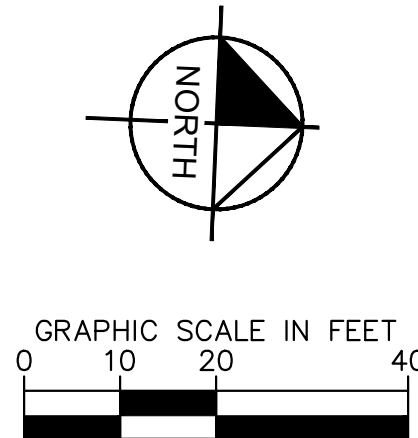
\* Required Silva cells calculated at a rate of 1 Silva Cell per 10 SF of bioretention required.  
\*\* Required trees calculated at a rate of 1 tree per 50 Silva Cells provided.



SILVA CELL SYSTEM  
NOT TO SCALE

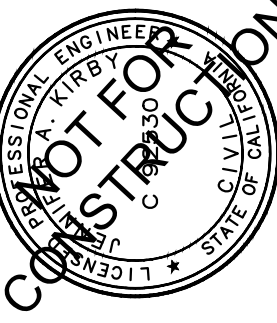


BOXED BIORETENTION SYSTEM  
NOT TO SCALE



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097672167	04/11/2025	AS SHOWN	CKC	AK	JAK

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SAN JOSE, CA 95126

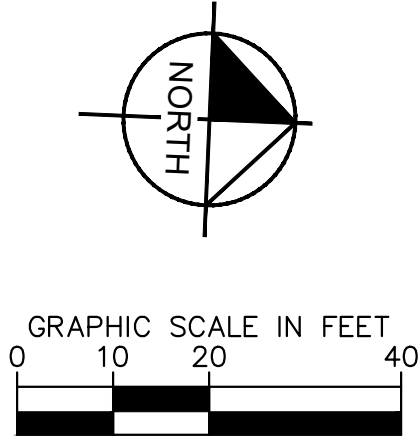
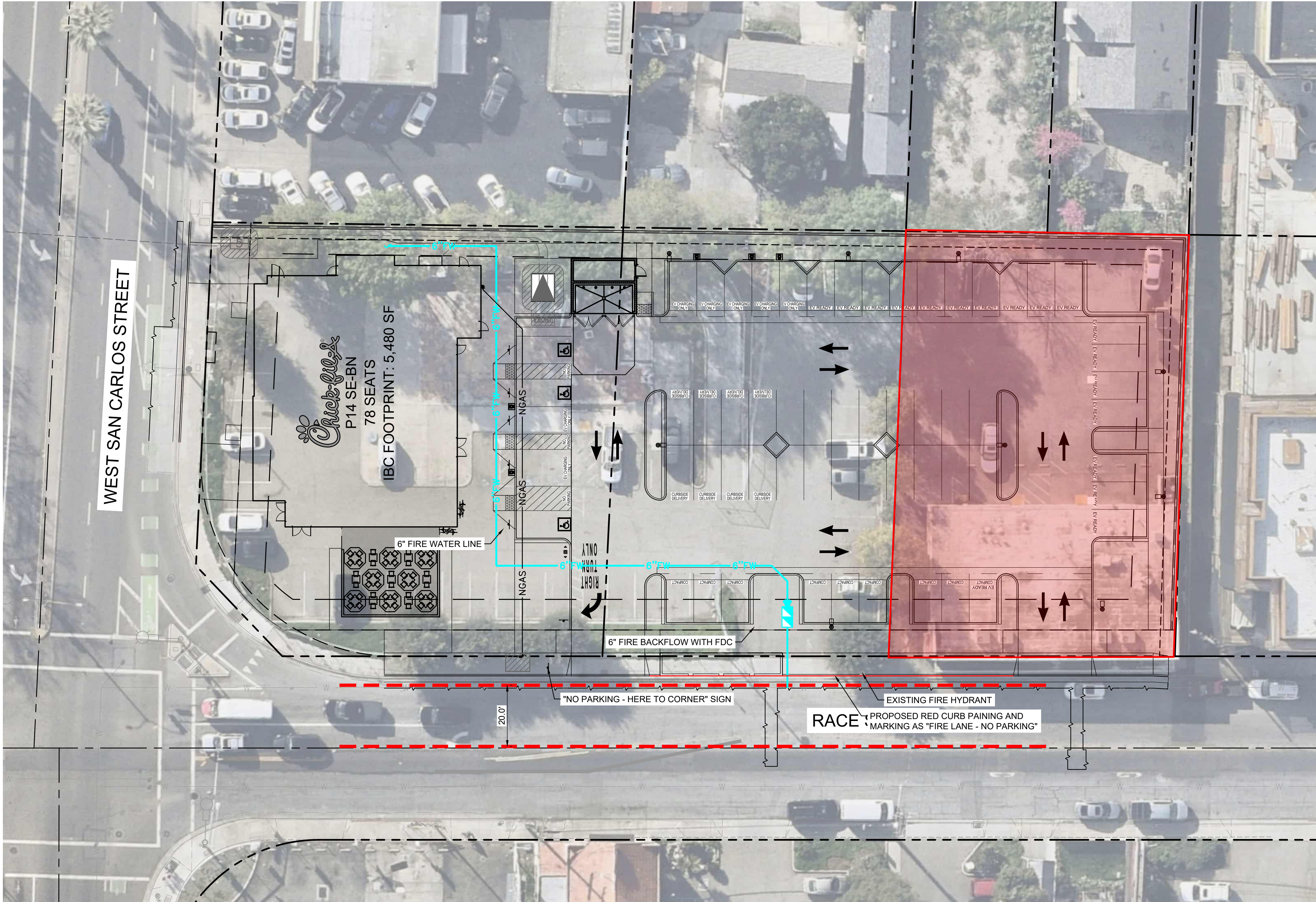
STORMWATER  
CONTROL PLAN

SHEET NUMBER  
C7.0



K:\BAY-LDEV\Chick-Fil-A\097672167 - CFA #3545 - Race Street & San Carlos (San Jose)\CAD\Exhibits\Entitlements\C8.0 PRELIMINARY TRUCK TURNING PLAN.dwg

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LEGEND


- PROPERTY LINE
- CENTER LINE
- EASEMENT OR SETBACK LINE
- APPROXIMATE CIVIL LIMIT OF WORK LINE
- FIRE LANE LINE
- FIRE TRUCK DIRECTIONAL ARROW (FOR REFERENCE ONLY)
- PROPOSED ASPHALT CONCRETE
- PROPOSED CONCRETE SIDEWALK
- PROPOSED HEAVY DUTY CONCRETE
- PROPOSED LANDSCAPE AREA

EXISTING UTILITY NOTE

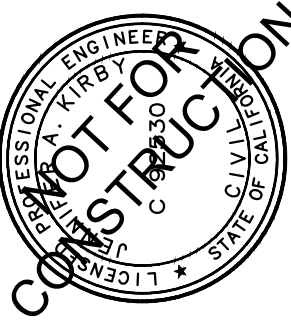
EXISTING UTILITIES ARE SHOWN ON THESE PLANS AS THEY ARE BELIEVED TO EXIST BASED ON AVAILABLE RECORDS BY OTHERS. THE OWNER AND ENGINEER DO NOT ACCEPT RESPONSIBILITY FOR THEIR ACCURACY OR COMPLETENESS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE EXISTENCE, LOCATION, DEPTH, AND DIMENSION OF ALL UTILITIES PRIOR TO CONSTRUCTION. THIS SHALL INCLUDE CALLING UNDERGROUND SERVICE ALERT, POTHOLES, AND SURVEYING THE HORIZONTAL AND VERTICAL LOCATIONS OF UTILITIES AT ALL PROPOSED UTILITY CROSSINGS, AREAS OF EXCAVATION, AND WHERE CONSTRUCTION MAY BE AFFECTED BY THE LOCATION OR DEPTH OF THE UTILITY. DISCREPANCIES OR POTENTIAL CONFLICTS WITH PROPOSED IMPROVEMENTS MUST BE REPORTED TO AND RESOLVED BY THE ENGINEER PRIOR TO PROCEEDING WITH CONSTRUCTION.



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30349-2998



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CHAD A. TRAYLOR  
LICENSED PROFESSIONAL ENGINEER  
CIVIL  
STATE OF CALIFORNIA  
LICENSE NO. 35030

KHA PROJECT	097672167	DATE	04/11/2025	SCALE	AS SHOWN	DESIGNED BY	CKC	DRAWN BY	AK	CHECKED BY	JAK
No.		REVISIONS		DATE		BY					

CHICK-FIL-A

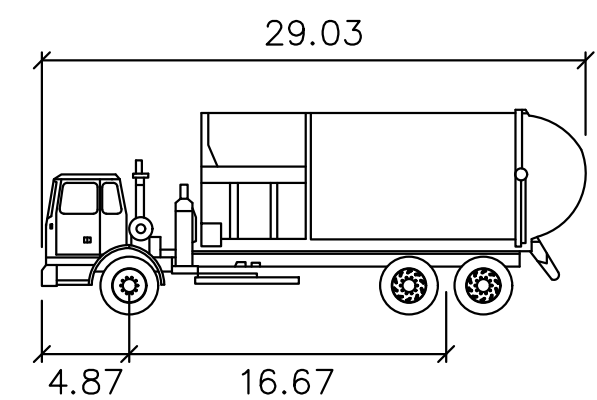
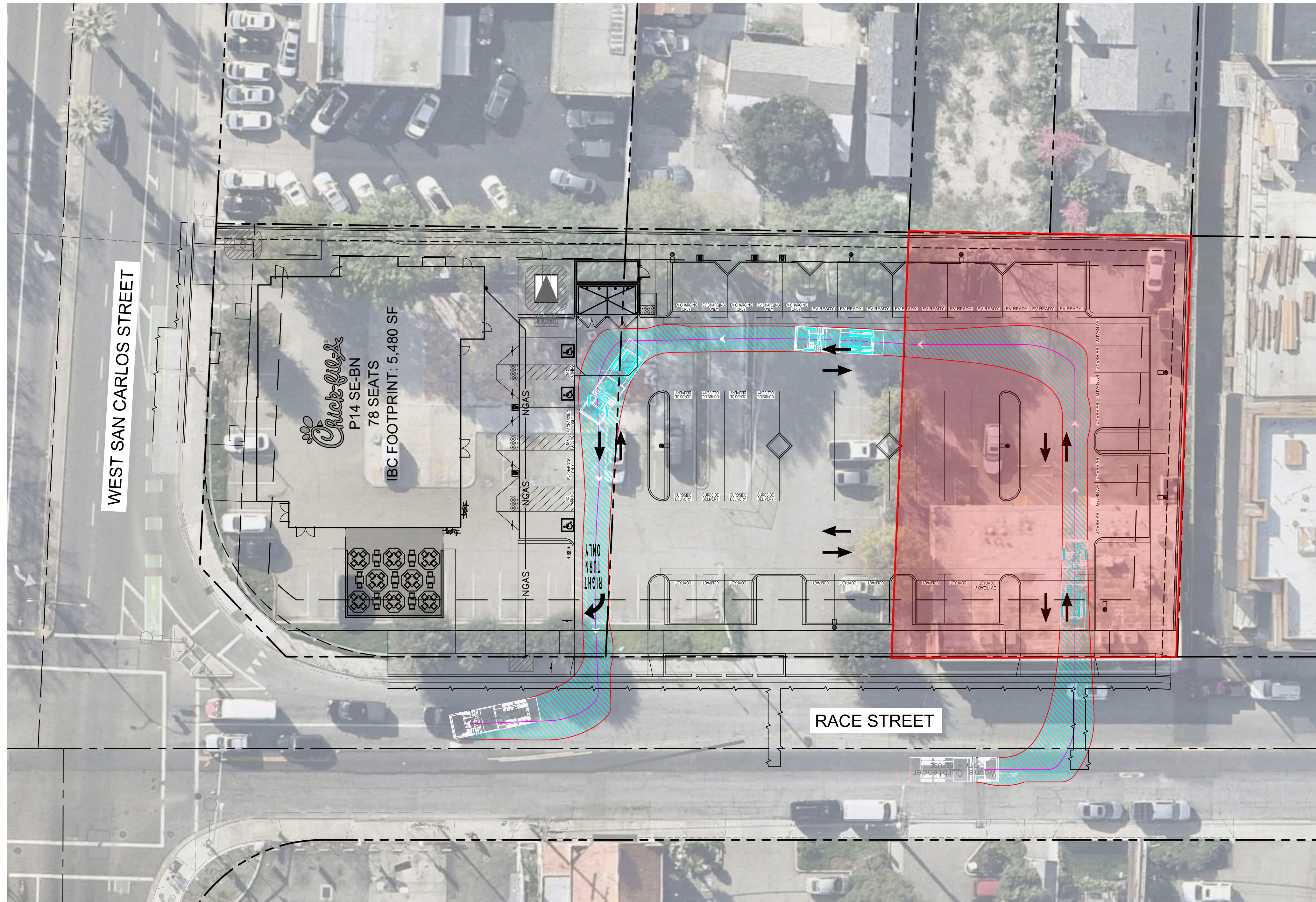
1301 W. SAN CARLOS STREET  
SAN JOSE, CA 95126

PRELIMINARY FIRE  
ACCESS & STAGING  
PLAN

SHEET NUMBER  
C8.0

H24-046

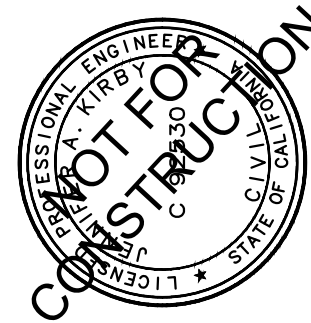
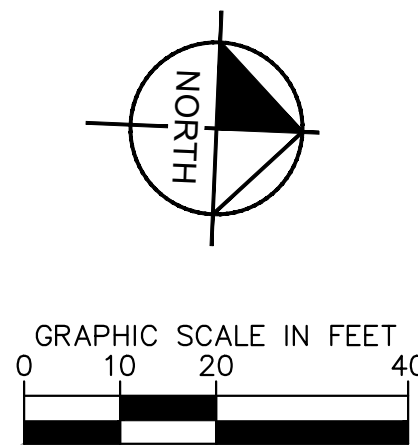




Wayne Curbtender

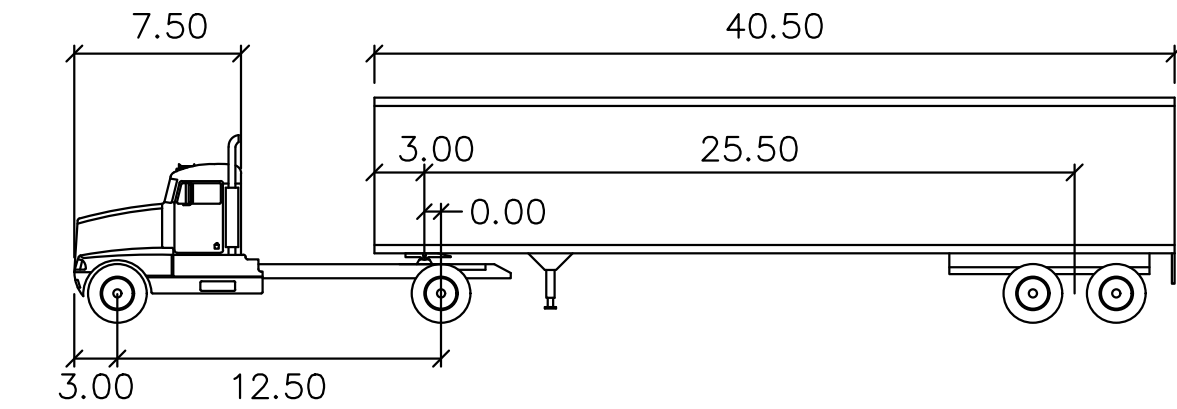
Width : 8.00  
Track : 8.00  
Lock to Lock Time : 6.0  
Steering Angle : 45.0

## TRUCK PROFILE





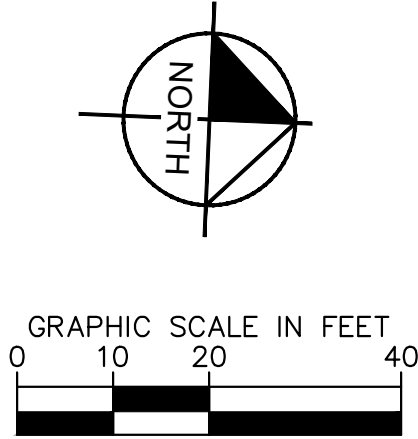
K:\BAY-LDEV\Chick-Fil-A\097672167 - CFA #5545 - Race Street & San Carlos (San Jose)\CAD Exhibits\Entitlements\CB.O. PRELIMINARY TRUCK TURNING PLAN.dwg  
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CFA Delivery


	feet		
Tractor Width	: 8.00	Lock to Lock Time	: 6.0
Trailer Width	: 8.00	Steering Angle	: 20.3
Tractor Track	: 8.00	Articulating Angle	: 70.0
Trailer Track	: 8.00		

TRUCK PROFILE

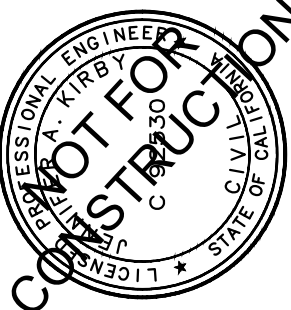




Chick-fil-A  
5200 Buffington Road  
Atlanta, Georgia  
30349-2998



Kimley-Horn  
4637 CHABOT DRIVE, SUITE 300, PLEASANTON, CA 94588  
PHONE: 925-398-4840 FAX: 925-398-4849  
WWW.KIMLEY-HORN.COM



CHAD A. JOHNSON  
PROFESSIONAL ENGINEER  
LICENSE NO. 50360  
STATE OF CALIFORNIA

KHA PROJECT	097672167						
DATE	04/11/2025						
SCALE	AS SHOWN						
DESIGNED BY	CKC						
DRAWN BY	AK						
CHECKED BY	JAK						

**CHICK-FIL-A**  
1301 W. SAN CARLOS STREET  
SAN JOSE, CA 95126

PRELIMINARY  
DELIVERY TRUCK  
TURN PLAN

SHEET NUMBER  
C8.2

H24-046