

PLANNING COMMISSION STAFF REPORT



Planning and Zoning
Division
Department of Community
and Economic Development

JAVA JO's CONDITIONAL USE FOR THE ENLARGEMENT OF A NONCONFORMING USE

Case #PLNPCM2012-00150

877 South 1300 East

May 23, 2012

Applicant
Ryan Corbin, Owner

Staff
Ray Milliner
ray.milliner@slcgov.com
(801)535-7645

Current Zone
RMF-35 – Moderate Density
Residential

Master Plan Designation
East Bench, Medium Density
Residential

Council District
Council District 5 Jill
Remington Love

Lot Size
.35 acres

Current Use
Vacant, Commercial

**Applicable Land Use
Regulations**
21.54.080 – Conditional Use
21A.38.010 – Nonconforming
Use

Notification

- Notice mailed on May 9, 2012
- Posted on City & State Websites May 9, 2012

Attachments

- A. Site Plan
- B. Elevations
- C. Landscape Plan
- D. Public Comment

REQUEST

The applicant, Ryan Corbin is requesting Planning Commission approval for the enlargement of a nonconforming use in the RMF-35 zone. If approved, the applicant will replace a vacant commercial use with a drive through coffee shop.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed conditional use, conduct a public hearing and approve the request pursuant to the analysis, findings and conditions of approval in this staff report.

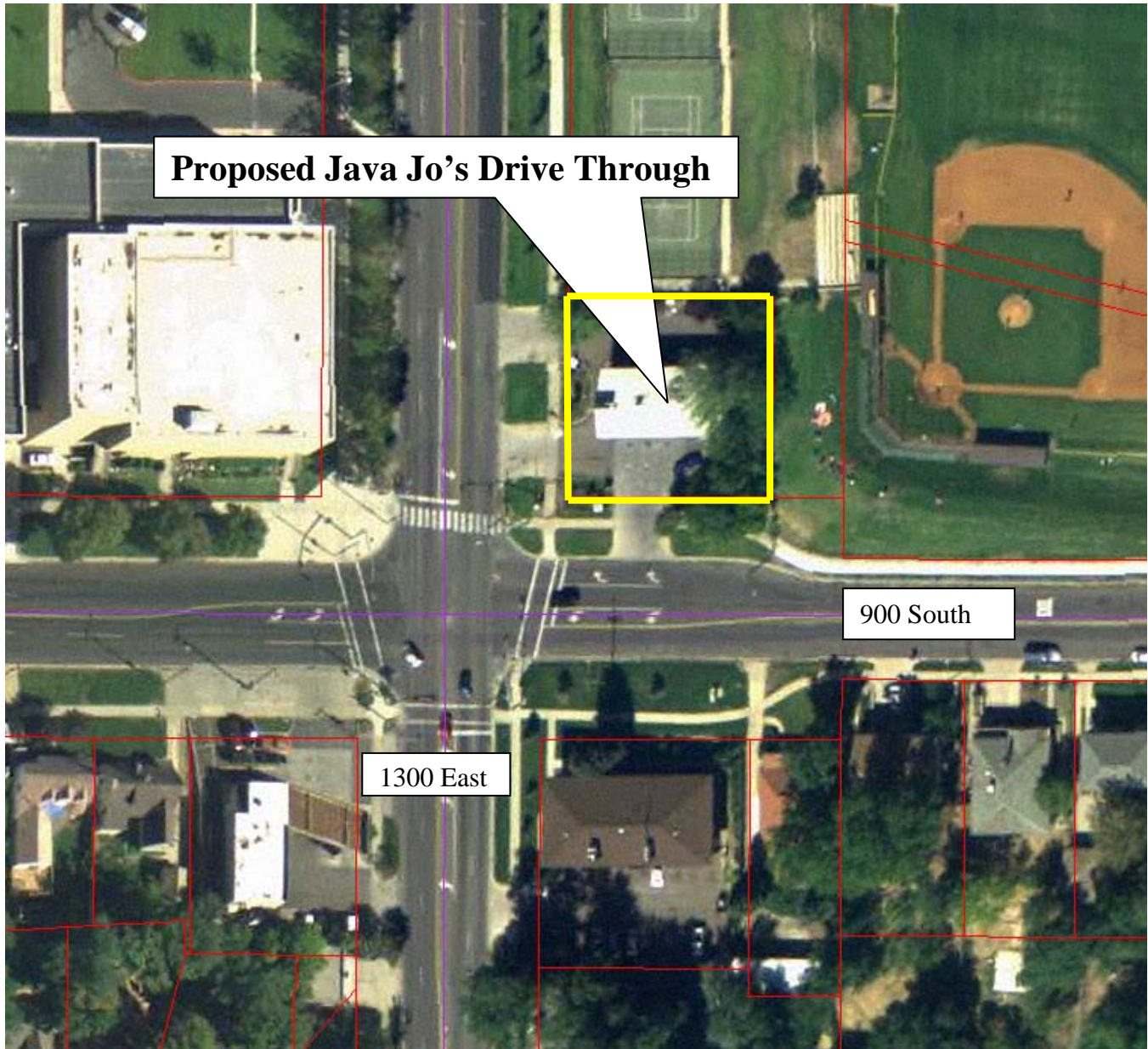
Approval: Based on the findings and analysis in this staff report, I move that the Planning Commission approve the conditional use petition with the following conditions of approval.

Conditions of Approval

1. Any modifications to this conditional use approval after the occupation of the building must be specifically requested and approved by the Planning Commission prior to execution.
2. All first floor glass shall be nonreflective.

Denial: Based on the findings and analysis in this staff report, I move that the Planning Commission deny the conditional use petition based on the following findings (Commissioner then states findings):

Vicinity Map



BACKGROUND

The applicant, Ryan Corbin is requesting a conditional use for the enlargement of a nonconforming use in a residential zone. The purpose of the request is to place a drive through coffee shop on an unoccupied commercial property. The building, is located at 877 South 1300 East. Previous uses included a frozen yogurt shop and a gas station.

The original gas station on site was built in 1918, prior to the enactment of Salt Lake City's Zoning ordinance. When the original Salt Lake City zoning map was adopted in 1927, the property was zoned

residential, making the gas station a legal nonconforming use. It inexplicably received a use variance from the Board of Adjustment on June 6, 1938 when the use changed hands from one owner to another. The gas station operated continuously until 2009, when the use was vacated in favor of a yogurt shop that continued until the fall of 2011.

The building is at the intersection of 900 South and 1300 East, with the primary entrance facing 1300 East. Vehicular access is from both 900 South (one street cut) and 1300 East (two street cuts). The lot is relatively large, .35 acres, with 3 parking spaces and a circular driveway. The main building is an 880 square foot utilitarian block structure in relatively good condition.

The proposed drive through coffee shop is not permitted under current Zoning Ordinance regulations. The building currently meets all applicable Zoning Ordinance requirements including parking, setback, height and landscape.

Project Description

If approved the applicant proposes to use the existing building at 877 South 1300 East as a drive through coffee shop, with the following improvements.

- A 300 square foot addition to the front of the building to accommodate the drive through.
- Creation of 3 permanent onsite parking spaces.
- Construction of a patio area with a trellis, and seating area.
- Significant landscaping on site.
- Striping of existing driveways and parking for the drive through use.

There are 3 existing curb cut entries to the property; the applicant is proposing that they remain. The primary entrance will be from the north 1300 East entry with the exit being onto 900 South or the southern 1300 East driveway.

REVIEW

Section 21A.38.020 of the Zoning Ordinance states that whenever expansion of a nonconforming use changes to a more intensive nonconforming use, such expansions shall only be approved as a conditional use subject to the requirements of chapter 21A.54, "Conditional Uses". It also states that the Planning Commission may grant a conditional use permit for the enlargement of a structure containing a nonconforming use, within any residential, mixed use, commercial or nonresidential zoning district, subject to certain standards.

Therefore, the Planning Commission is being asked to review this petition in two parts:

1. Change of a nonconforming use to a more intensive nonconforming use. This would be the change of use from a yogurt shop or gas station to a drive through coffee shop with a patio.
2. The enlargement of a structure containing a nonconforming use. This refers to the 300 foot addition and the patio trellis.

The Ordinance requires that the change of use to a more intensive nonconforming use be reviewed according to the Conditional Use standards in Chapter 54 of the Ordinance, while the enlargement of a structure are reviewed under standards in Chapter 38 of the Ordinance. Staff has prepared analysis of both parts with the respective criteria and standards for each below.

COMMENTS

Public Comments

This application was reviewed at a public open house on May 17, 2012.

Staff received one written comment from a citizen who is concerned that the drive through will generate more traffic on the already busy street.

City Department Comments

The proposal was reviewed by all applicable City departments and divisions. Outstanding issues will be addressed as part of the business license and administrative site plan review.

ANALYSIS

Change of use to a More Intensive Use Standards

Approval Standards: In cases where a more intensive nonconforming use is proposed on a site (in this case a drive through), a conditional use shall be approved unless the Planning Commission concludes that the following standards cannot be met:

Standard 1: The use complies with applicable provisions of this title;

Analysis: The site has been a commercial use since 1918, when the original gas station was built. In 1927, the property was zoned residential, making the use legal nonconforming. The applicant is requesting a Conditional use to change to a more intensive use, and to enlarge a building with a nonconforming use. If the Planning Commission approves this conditional use, then the use will comply with all applicable provisions of the Zoning Ordinance.

Finding: Staff finds that the use will meet all applicable provisions of this title upon approval of this Conditional Use.

Standard 2: The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

Analysis: The use is located along a busy arterial street, with tennis courts to the north and a baseball field to the east. East High and an auto related service store are located across the street with a multifamily residential use across the street to the south. In spite of its residential zoning designation, this property has been commercial for approximately

96 years. Because of the traditional use of the property and the lack of residential uses directly adjacent, it is unlikely that the coffee drive through will have a significant negative impact on the surrounding uses.

Finding: Staff finds that the proposed coffee drive through use will be compatible with the traditional use of the property, and will have little to no negative impact on the surrounding uses.

Standard 3: The use is consistent with applicable adopted City planning policies, documents, and master plans; and

Analysis: Recently the Planning Commission has reviewed a small neighborhood business petition wherein many of the nonconforming businesses in Salt Lake City will be rezoned to match their traditional use. The intent of the zone is to provide non-conforming businesses with an opportunity to be rezoned as a commercial zone. This will give them conforming status, and allow for greater compatibility of commercial uses which are already located within residential neighborhoods. This property has been targeted to be rezoned. Therefore, although the use is improperly zoned at the moment, the machinery is in place to make is compliant with all applicable policies and documents.

Finding: Staff finds that because the zoning of the property is targeted to change, and assuming the Planning Commission approves this conditional use, making the use and addition to the building legal nonconforming, the proposed use is compliant will all applicable City planning policies documents and master plans.

Standard 4: The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.

Analysis: See below.

Detrimental Effects Determination

In analyzing the anticipated detrimental effects of a proposed use, the Planning Commission, or in the case of administrative conditional uses, the Planning Director or designee, shall determine compliance with each of the following:

| Criteria | Finding | Rationale |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. This title specifically authorizes the use where it is located | Complies | The commercial use predates the Zoning Ordinance and is therefore legal nonconforming. This application is to expand legal nonconforming use. |
| 2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps | Complies | The use is zoned RMF-35, however it is slotted to be rezoned to an appropriate commercial use, which will bring it into compliance with all applicable planning documents. |

| | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. The use is well-suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area | Complies | Site has been commercial since 1918. There is a commercial use adjacent. Building will be approximately 1100 square feet in size. Adjacent buildings are all larger. |
| 4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered | Complies | Proposed architecture represents an improvement over what is currently on site. |
| 5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows | Complies | Access drives will not change from existing. |
| 6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic | Complies | Internal circulation has been designed to accommodate proposed use. It was reviewed and approved by the Transportation Division. |
| 7. The site is designed to enable access and circulation for pedestrian and bicycles | Complies | The site has a walk-up area and a patio separate from the drive through. |
| 8. Access to the site does not unreasonably impact the service level of any abutting or adjacent street | Complies | Access will remain as is. The Transportation division has reviewed the application and found no unreasonable impact. |
| 9. The location and design of off-street parking complies with applicable standards of this code | Complies | Three onsite parking stalls are required. Three have been provided. |
| 10. Utility capacity is sufficient to support the use at normal service levels | Complies | Use has access to all necessary utilities. |
| 11. The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts | Complies | Use is separated from adjacent residential uses by the street. The potential impacts of the use are similar to those of past commercial uses. |
| 12. The use meets City sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke | Complies | Use does not significantly impact sustainability plans nor does it encroach onto a stream or water way. |
| 13. The hours of operation and delivery of the use are compatible with surrounding uses | Complies | Hours of operation are from 5:30 am until 7:00pm. Impacts mitigated because of separation from residential uses. |
| 14. Signs and lighting are compatible with, and do not negatively impact surrounding uses | Complies | Signs and lighting will meet all applicable Zoning Ordinance Requirements |
| 15. The proposed use does not undermine preservation of historic resources and structures | Complies | No historic sites or features on property. |

Enlargement of a Nonconforming Use Standards

The Planning Commission may grant a conditional use permit for the enlargement of a structure containing a nonconforming use, within any residential, mixed use, commercial or nonresidential zoning district, subject to consideration of certain standards.

Standard 1: The condition and economic life of the building is such that near future demolition is not likely to occur.

Analysis: The building is located at the intersection of 900 South and 1300 East. To the north are the East High tennis Courts. To the East is the East High Baseball field. The use on the property has been commercial since 1918. The block building is in relatively good condition. As such, the owner of the property does not wish to demolish the building and build a residential structure, rather the property owner's preference is to continue the commercial use on the site.

Finding: Staff finds that because of the location and good condition of the existing building, the property owner has no plans to demolish the commercial structure to make way for a compliant residential structure.

Standard 2: The use provides reuse of buildings with architectural or historic value

Analysis: This standard is not applicable; the building on site is not historically contributory.

Finding: Staff finds that this standard is not applicable.

Standard 3: The use supports walk to work or live-work opportunities

Analysis: The business is located near a large residential neighborhood and provides a service to those who may be walking to work. Therefore, it is logical that employees of the business may be from this area. Although the primary use is proposed as a drive through, the applicant has included a significant patio component to the building that will promote walkability.

Finding: Staff finds that the location of the building near a large residential neighborhood, and the nature of the use, will provide walk to work and live-to work opportunities for nearby residents.

Standard 4: The use provides an appropriate scale of neighborhood or community level of services

Analysis: The proposed scale of the addition is relatively small (300 square feet), which will fit into the surrounding architectural vernacular without making a significant visual impact. As for the community level of service, the use is designed to provide coffee service to the surrounding neighborhood, and not as a large regional draw (the use is

designed to serve the neighborhood not to attract people from the far reaches of the valley).

Finding: Staff finds that the use is appropriately scaled for the neighborhood as it relates to the services provided.

Standard 5: The enlargement will not create any additional noncompliance with zoning standards except for building modifications for life safety concerns

Analysis: The enlargement as proposed meets all applicable Zoning Ordinance requirements, including height, setbacks, lot coverage and parking.

Finding: Staff finds that the proposal meets this standard.

Standard 6: The enlargement and reuse of the structure would not substantially change the character of the neighborhood.

Analysis: The property in question has been occupied as a commercial use for the past 96 years. The proposed use is similar in scale and impact to the traditional gas station use. The property is not adjacent to any residential buildings, or uses, and therefore the negative impacts thereof will be severely diminished.

Finding: Staff finds that the proposed reuse and enlargement of the structure will not substantially change the character of the neighborhood.

Standard 7: The use is not in conflict with any other current, local or state development standards (i.e., floodplain hazard protection, fault line hazards, ground water source protection, airport flight path protection, environmental performance standards, and hazardous waste prohibition).

Analysis: The use is not in conflict with any other local or state development standards.

Finding: Staff finds the proposed enlargement meets this standard.

Site and Design Review Standards:

Whenever an expansion or intensification of a nonconforming use is located within residentially zoned property or abuts residentially zoned property the following site and design review standards shall be reviewed as part of the conditional use approval process:

Standard 1: Building Orientation: The development shall orient to the street, not an interior courtyard or parking lot. The primary access shall be oriented to the pedestrian and have at least one operable building entrance that faces a public street. Residential uses shall meet the standards for subsections [.24.010H](#), "Side Entry Buildings", and [.24.010I](#), "Front Facade Controls", of this title;

Analysis: The primary orientation of the building faces 1300 East. The primary entrance to the building is on the south façade, facing 900 South.

Finding: Staff finds that the building is oriented toward the street with an entrance facing a public street.

Standard 2: *Facade:* For nonresidential uses, street oriented facades shall maintain detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction:

(A) *Minimum First Floor Glass:* The first floor elevation facing a street of all new building additions or buildings in which the property owner is modifying the size of windows on the front facade, shall not have less than forty percent (40%) glass surfaces. All first floor glass shall be nonreflective. Display windows that are three-dimensional and are at least two feet (2') deep are permitted and may be counted toward the forty percent (40%) glass requirement.

(B) *Maximum Length:* Architectural detailing shall emphasize the pedestrian level of the building. The maximum length of any blank wall uninterrupted by windows, doors, art or architectural detailing at the first floor level shall be fifteen feet (15');

Analysis: The proposal includes front façade with at least 40% glass. The front façade does not have a blank wall wider than 15 feet without a window, door or architectural detail.

Finding: Staff finds that the proposed building meets this standard.

Standard 3: *Parking Lots:* Parking lots shall be appropriately screened and landscaped to minimize their impact on the neighborhood. Lightproof fencing is required adjacent to residential properties. Parking lot lighting shall be shielded to eliminate excessive glare or light into adjacent neighborhoods. The poles for parking lot lighting are limited to sixteen feet (16') in height from finished grade;

Analysis: The applicant has provided a landscape plan (see attachment C). The plan features significant planting around the periphery of the site, with a wide range of plant types and sizes. The applicant is proposing to replace existing parking lot poles. These poles will be installed per Zoning Ordinance requirements.

Finding: Staff finds that the proposed conditional use meets this standard.

Standard 4: *Screening:* Dumpsters and loading docks shall be appropriately screened or located within the structure. All building equipment and service areas, including on grade and roof mechanical equipment and transformers that are readily visible from the public right of way, shall be screened from public view. These elements shall be sited to minimize their visibility and impact, or enclosed as to appear to be an integral part of the architectural design of the building; and

Analysis: The dumpster is proposed in the north east corner of the property. There is significant landscaping proposed behind and to the side of the area, as well as an

enclosure provided around the dumpster. The location of the dumpster is as far away from residential uses as is possible on the property.

Finding: Staff finds that the landscaping and the enclosure around the proposed dumpster combine to effectively screen the dumpster from view from the street as well as from adjacent properties.

Standard 5: Signs: Signs for nonresidential uses shall emphasize a pedestrian scale and shall meet the sign standards of subsection [46.090A4](#), "Sign Type, Size and Height Standards For The CN Districts", of this title. Exceptions to this requirement may be authorized by the planning commission as part of the conditional use site and design review procedure, if the planning commission finds that maintaining the nonconforming sign does not negatively impact the neighborhood character.

Analysis: The proposed signs for the site are located on the building and will replace an existing free standing sign. These signs will be reviewed for compliance with Chapter 46 of the Zoning Ordinance prior to the issue of any building permit.

Finding: Staff finds that the proposed signs will comply with the requirements of the Zoning Ordinance prior to the issue of a building permit.

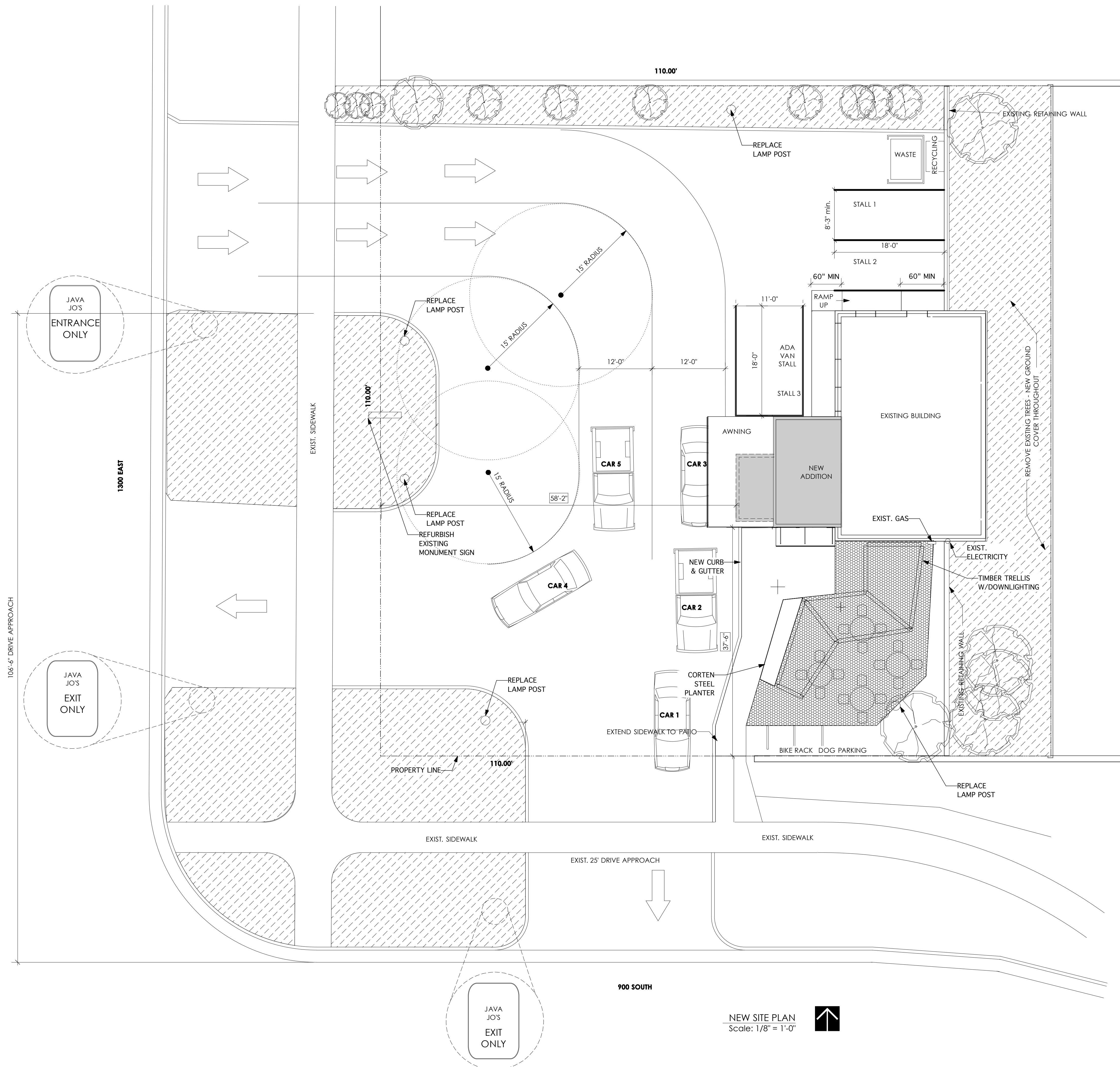
Standard 6: Limitations On Development: Any conditional use authorized for the reoccupation or enlargement of a structure with a more intensive use shall be limited to the following criteria:

- (1) No additional lot area may be added to the subject nonconforming property;
- (2) No enlargement of a nonconforming principal structure shall involve the razing of more than fifty percent (50%) of the existing building footprint; and
- (3) Any nonconforming property with an existing mix of residential and nonresidential uses with more than two (2) existing dwelling units shall provide for a mixed use development with no reduction in the number of dwelling units.

Analysis: None of the above limitations apply to the proposed enlargement.

Finding: The proposed enlargement of a nonconforming use meets this standard.

Attachment A
Site Plan



PLANT LIST

LANDSCAPED AREA WITH NEW XERISCAPING W/ NATIVE PLANTS & DRIP IRRIGATION SYSTEM. SEE LANDSCAPE PLAN FOR DETAILS.

PARKING AREA CALCULATION:
 REQUIRED 2 STALLS PER 1000 SQ. FT.
 TOTAL S.F. = 1198 SQ. FT.
 3 STALLS PROVIDED
 1 VAN ACCESSIBLE STALL PROVIDED

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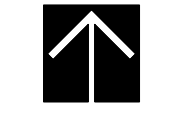
14 MAY 2012

REVISIONS

NEW SITE PLAN

SP1.1

NEW SITE PLAN
 Scale: 1/8" = 1'-0"



Attachment B
Elevations



THIN BRICK EXTERIOR SIDING



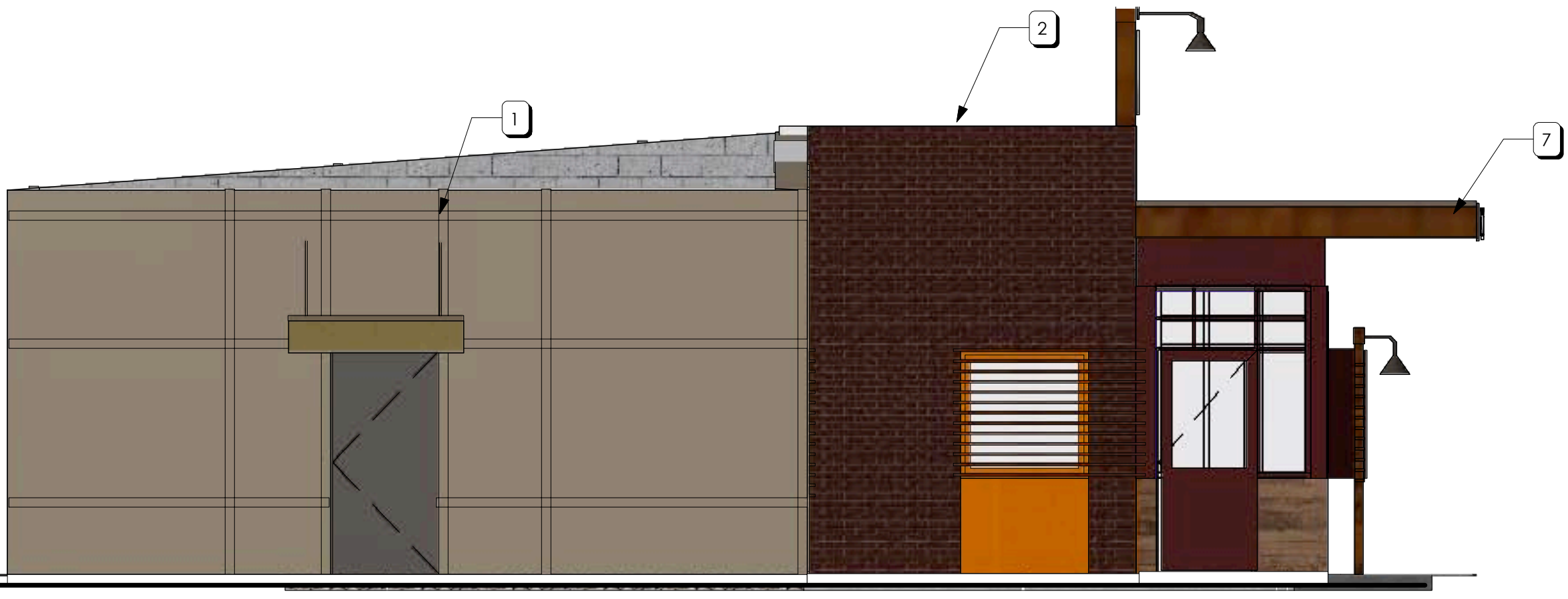
HARDIE PANEL EXTERIOR SIDING



BOARD-FORMED CONCRETE



1 SOUTH ELEVATION
Scale: 1/4" = 1'-0"



2 NORTH ELEVATION
Scale: 1/4" = 1'-0"



3 WEST ELEVATION
Scale: 1/4" = 1'-0"

- EXTERIOR ELEVATION KEYED NOTES**
1. VERTICAL HARDIE BOARD AND BATTEN @ 24" O.C. PAINT COLOR TBD
 2. THIN-BRICK VENEER
 3. BOARD FORMED CONCRETE W/ INTEGRAL COLOR TBD
 4. ROUGH SAWN TIMBERS, STAIN COLOR TBD
 5. SMOOTH HARDIE-PANEL, PAINTED COLOR TBD
 6. TREATED OR WEATHER RESISTANT WOOD LOUVERS, COLOR TO MATCH TIMBERS TBD
 7. AWNING
 8. WOOD TIMBER TRELLIS. SEE SITE PLAN

JAVA JO'S
877 SOUTH 1300 EAST
SALT LAKE CITY, UTAH

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DATE
14 MAY 2012

REVISIONS

EXTERIOR ELEVATIONS

A2.0

Attachment C
Landscape Plans



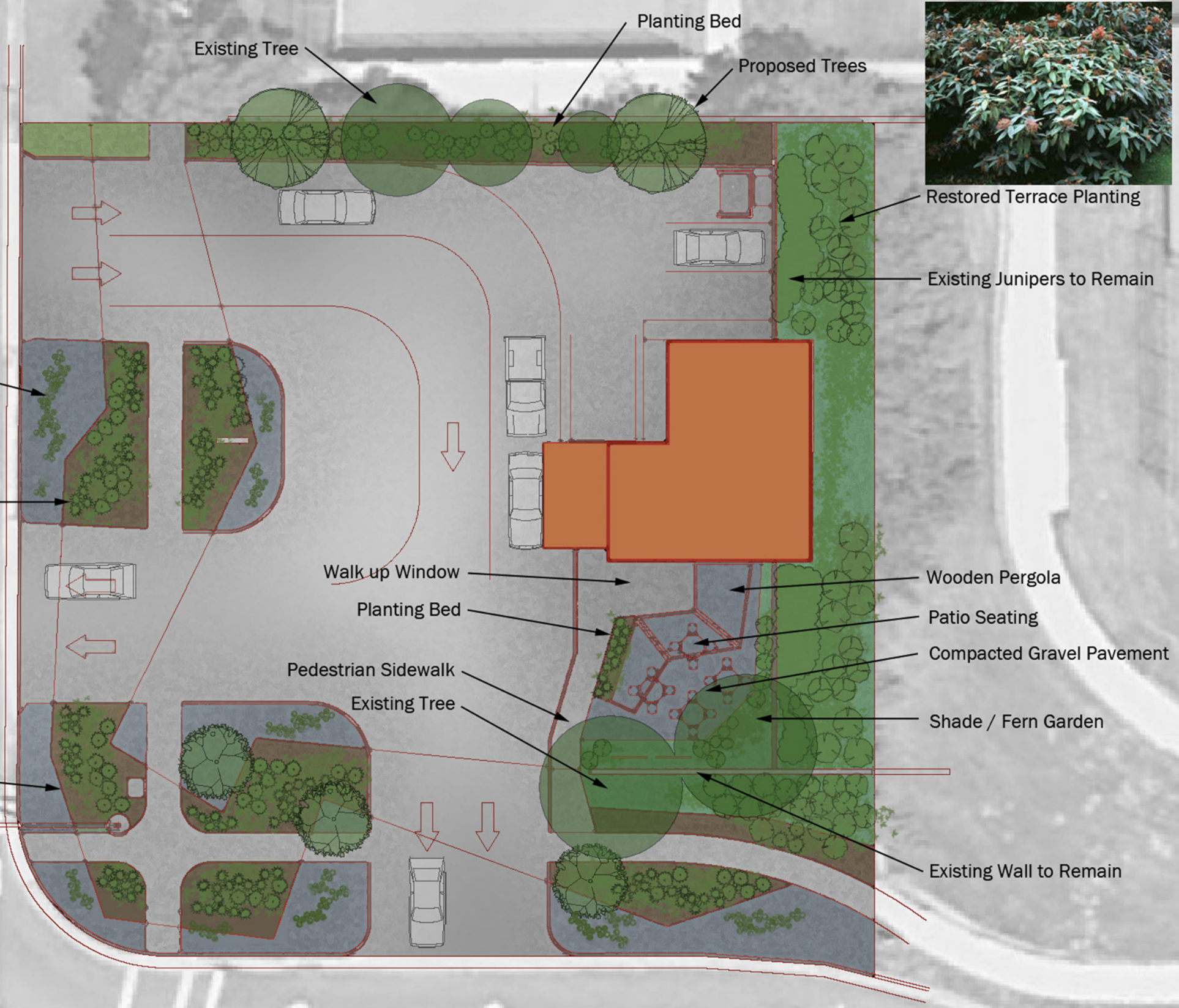
Broken Stone/Gravel Mulch



Planting Bed



Steel Edge



Restored Terrace Planting

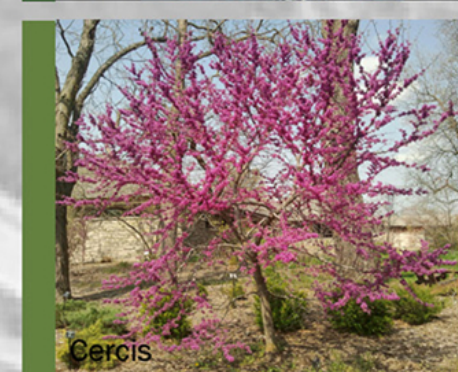
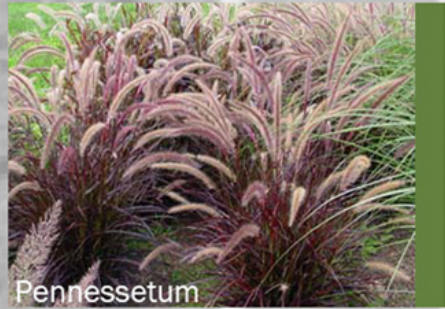
DATE : 0
SCALE : 0

PROJECT : JAVA JO'S.
DRAWING TITLE : LANDSCAPE CONCEPT DESIGN

Colony Design Collective | 1370 South West Temple, Salt Lake City, UT, 84110
| ph. 801.913.3014 | colonydesigncollective.com



JAJO
C1



DATE : 0

SCALE : 0

PROJECT : JAVA JO'S.

DRAWING TITLE : LANDSCAPE CONCEPT DESIGN

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JAJO
C2

Attachment D
Public Comment

I just wanted to express my opinion of this conditional use request. Since the lane reductions on 1300 east the traffic in the morning at 900 South and 1300 east is absolutely terrible. It is a parking lot every morning. This does not seem wise to put a drive through coffee shop which will get the most use at peak traffic congestion at this corner. Traffic is already backed up in both directions daily. Most of the residents in the neighborhood are hoping that the lanes will revert back to two in each direction. The last thing we need is a drive through located on this corner.

Thanks,
Bonnie Barker