



REPORT TO PLANNING COMMISSION City of Sacramento

3

915 I Street, Sacramento, CA 95814-2671

PUBLIC HEARING
October 13, 2011

To: Members of the Planning Commission

Subject: Thai Basil Setback Variance (P11-027)

A request to reduce the required building street side setback in order to construct a second floor smoking porch with an area of approximately 309 square feet in the General Commercial zone within the Midtown Commercial Overlay (C-2-MC) zone and the Central City Design Review District.

- A. Environmental Determination:** Categorical Exemption pursuant to CEQA Guidelines Section 15303;
- B. Variance** to reduce the required street side setback from five (5') feet to zero (0') feet.

Location/Council District:

2431 J Street

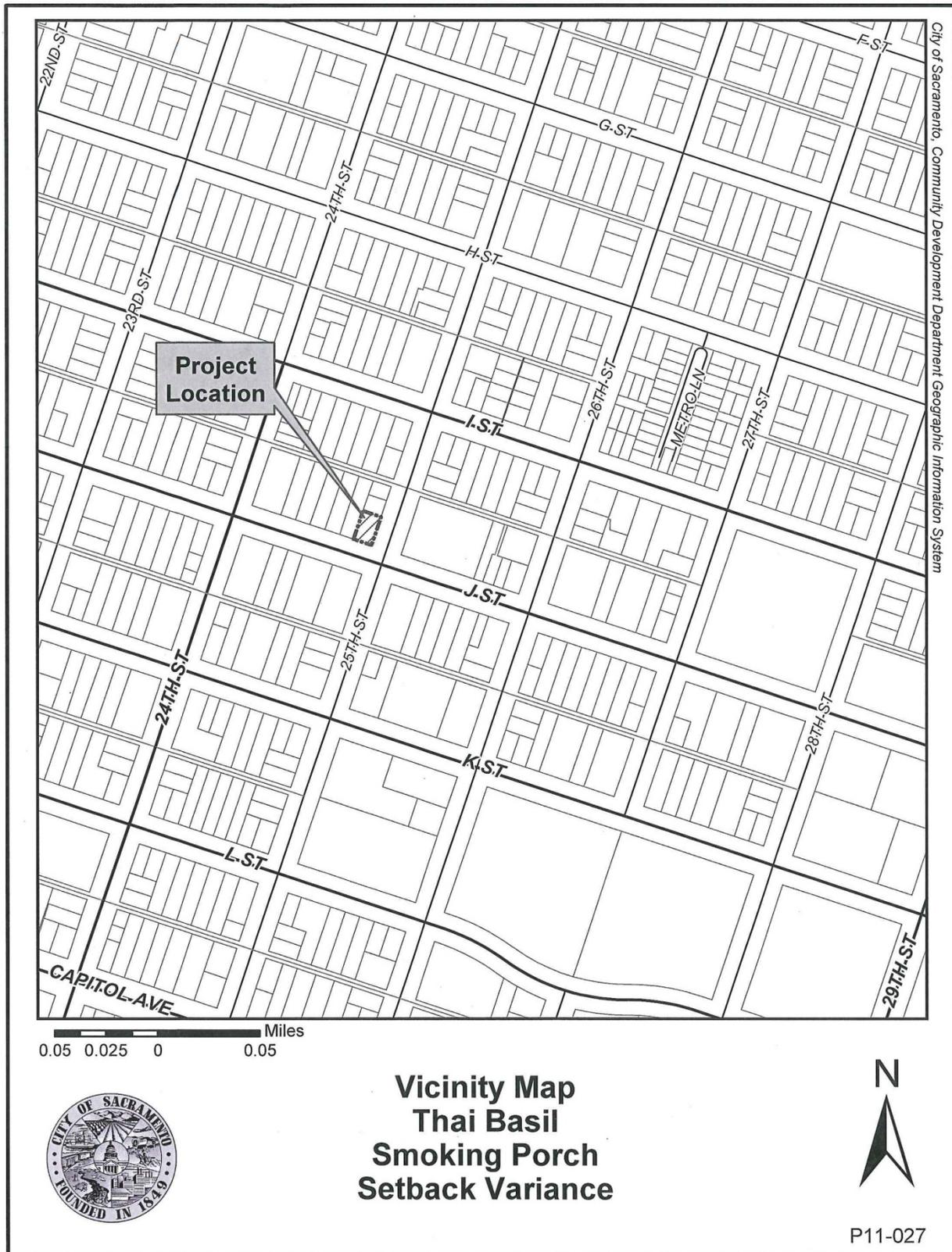
Assessor's Parcel Number: 007-0032-016

Council District 4

Recommendation: Staff recommends the Commission approve the request based on the findings and subject to the conditions listed in Attachment 1. The Commission has final approval authority over items A and B above and its decision may be appealed to the City Council. At the time of writing this report, there were no outstanding issues and the item is considered to be non-controversial.

Contact: Kimberly Kaufmann-Brisby, Associate Planner, 916-808-5590; Stacia Cosgrove, Senior Planner, 916-808-7110

Applicant/Owner: Suleka Sun-Lindley, Bahn Thai Incorporated, 2431 J Street, Sacramento, CA 95816, 916-442-7690



Summary: The applicant is requesting a setback variance to reduce the required 5-foot street side building setback to zero feet in order to construct a new smoking porch on the second story of an existing restaurant above an existing outdoor café. The restaurant has an area of approximately 4,059 square feet. No seats are proposed to be located in the additional 309 square foot porch area so the provision of additional parking spaces is not required.

The project is consistent with all applicable policies and staff supports the request. Staff notified all property owners within a 500 foot radius of the project site regarding this public hearing and has received no opposition from the surrounding neighborhood or neighborhood groups. **The project is not considered to be controversial.**

Table 1: Project Information
General Plan designation: Urban Corridor Low
Existing zoning: General Commercial, Midtown Commercial overlay (C-2-MC)
Existing use of site: Restaurant
Property area: 3,240 square feet

Background Information: On November 9, 1993, the Zoning Administrator approved a 14 seat outdoor café for an existing restaurant located on the project site (Z93-061). On June 12, 2002 a special permit minor modification to revise the outdoor café was approved (Z02-064). A special permit to allow the provision of five required parking spaces offsite was approved on November 23, 2004 (Z04-233). The additional parking spaces were required to accommodate restaurant expansion and the addition of 25 seats to the existing 57 seat restaurant. Staff level Design Review for the restaurant expansion was approved on April 19, 2005 (DR05-069). The current proposal would add a 309 square foot smoking open-air porch to the restaurant's second floor, above the existing outdoor café on the building's 25th Street frontage, to afford the restaurant's patrons the ability to spend more time on restaurant property and smoke without interrupting their dining experience. Staff level Design Review was completed as part of the project review and the report with conditions is included as Attachment 2 of this report.

Public/Neighborhood Outreach and Comments: Early Project Notification was sent to the Boulevard Park Neighborhood Association, the Marshall School New Era Park Neighborhood Association, and the Midtown Neighborhood Association. Staff received no responses to the Early Project Notification. Prior to this public hearing a public notice was sent notifying all property owners within a 500 foot radius of the project site regarding this public hearing and staff posted the site with a public notice. To date, no comments regarding the project have been received by staff.

Environmental Considerations: The Community Development Department, Environmental Planning Services Division has reviewed this project and has determined that this is exempt from the provisions of the California Environmental Quality Act

(CEQA) Section Number 15303(e) of the CEQA Guidelines. Exemption 15303(e) comprises the construction of accessory structures including patios.

Policy Considerations:

The 2030 General Plan land use designation for the project site is Urban Corridor Low. The site is zoned General Commercial and is within the Midtown Commercial Overlay zone and is also within the Central City Design Review District (C-2-MC). The restaurant use is allowed by right in the C-2-MC zone and the smoking porch addition requires staff level design review approval as well as a variance to reduce the required street side setback to less than five feet.

The project is consistent with the Urban Corridor Low Density land use designation in that the restaurant use is a component of a complete and well-structured neighborhood as defined in the 2030 General Plan (pg. 2-16). Also, the Urban Corridor Low Density designation includes multi-story structures and more intense uses at major intersections, lower intensity uses adjacent to neighborhoods, and access to transit service throughout. The designation allows for a mix of horizontal and vertical mixed-use development and single-use commercial and residential development that includes compatible public and quasi-public, and special uses, which would include the restaurant use. The restaurant use with smoking porch is also consistent with the Midtown Commercial Overlay zone which encourages active pedestrian uses along the J Street Corridor from 20th to 28th streets and also allows restaurant uses by right.

2030 General Plan:

The 2030 General Plan designates the subject parcel as Urban Corridor Low Density. The proposal is consistent with the following General Plan policies:

- **Neighborhoods as a Basic Unit.** Recognizing that Sacramento's neighborhoods are the basic living environments that make-up the city's urban fabric, the City shall strive through its planning and urban design to preserve and enhance their distinctiveness, identity, and livability from the downtown core to well integrated new growth areas (LU2.1.1).
- **Complete and Well-Structured Neighborhoods.** The City shall promote the design of complete and well-structured neighborhoods whose physical layout and land use mix promote walking to services, biking, and transit use; foster community pride; enhance neighborhood identity; ensure public safety; are family-friendly and address the needs of all ages and abilities (LU 2.1.3).

The addition of the smoking porch would contribute to the complete and well-structured neighborhood and would preserve the distinct identity and livability of Midtown. The restaurant has served the midtown community for many years and it is anticipated the smoking porch addition will enable the restaurants' customers to remain at the restaurant to enjoy the midtown ambience longer if not compelled to move to street level in order to comply with the City's smoking ordinance. Also, the smokers will be off the street thereby enhancing the street experience for non-smokers. By adding the porch

to the restaurant the overall quality of life and sustainability of the neighborhood is enhanced by supporting the ongoing use of an established restaurant in a manner that is closely aligned to that of its original use. The reduction of the required street side setback will not affect the neighborhood livability because the porch is on the second level and will not reduce the walkable pedestrian area or impede canopy growth.

Smart Growth Planning Principles:

“Smart Growth” is a term coined by the United States Environmental Protection Agency (USEPA) as an umbrella term for the many initiatives intended to address some of the negative consequences of urban sprawl. Smart Growth generally occurs when development patterns are sustainable and balanced in terms of economic objective, social goals, and use of environmental/natural resources. The following Smart Growth principle applies to the proposed project:

- Promote distinctive, attractive communities with a strong sense of place, including the rehabilitation and use of historic buildings.

The proposed project has been designed to incorporate the Smart Growth principle noted above.

Land Use:

Variance

The smoking porch would be added to the second story of the existing three-story building, above the existing outdoor café on the building's 25th Street frontage. The restaurant and lounges currently occupy the first and second stories with storage and restaurant offices occupying the third floor area. The outdoor café seating is located within a decoratively fenced open air enclosure that is protected from the elements by a decorative awning on the first level. While the outdoor café and the proposed smoking porch do not extend into the public right-of-way, the existing awning and blade signs do above the first and second stories, respectively. The awning and the signage are permitted to encroach into the public right-of-way with the issuance of a Revocable Encroachment Permit which the applicant indicated was issued by the Department of Transportation several years ago.

The applicant proposes to reduce the street side building setback from 5-feet to zero feet in order to construct the smoking porch above the existing outdoor café. As it is currently constructed, the outdoor café has no solid walls and is not considered to be part of the building thus the setback requirement has been maintained. The addition of the smoking porch, which will include solid building elements such as a floor and walls, is considered to be an extension of the building and as such must comply with the street side setback requirement of five (5) feet per Section 17.60.020, footnote 16.a.iv. of the Zoning Code. In order for the smoking porch to be constructed within the street side setback area, as proposed, a variance is needed per Section 17.216.010 of the Zoning Code.

Table 2			
Height and Area Standards			
Standard	Allowed/Required	Existing/Proposed	Deviation
Height	45'	10'	no
Front yard setback	0'	0'	no
Interior side yard setback	0'	0'	no
Street Side setback	5'	7'-4"/0'	yes
Rear setback	5'	22'	no
Lot coverage	na	na	na
Floor Area Ratio (FAR)	0.3-3.0	1.36	no

As noted above, the project deviates from the General Commercial (C-2) street side setback development standard.

Section 17.216.030 of the Zoning Code, states the planning commission may grant a variance provided the following findings are made:

A. A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

In this case, the applicant proposes to reduce the street side setback to zero in order to maintain the underlying outdoor café's zero setback street wall. With a lot area of approximately 3,200 square feet, the proposal to maximize the building envelope within the property boundaries and minimizing public right-of-way incursions, with the granting of the variance is appropriate and would be appropriate for any property owner facing similar circumstances.

B. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance.

No use variance is requested; the restaurant use and any associated porch is permitted in the General Commercial zone.

C. A variance must not be injurious to public welfare, nor to property in the vicinity of the applicant.

The applicant proposes to employ high-quality construction materials that will complement the surrounding properties. The pedestrian sidewalk area would not be impacted because there is no building encroachment into the public right-of-way and the corner visibility triangle also would not be impacted with the addition of the smoking porch on the second floor. .

D. A variance must be in harmony with the general purpose and intent of this title. It must not adversely affect the general plan of the specific plans of the city, or the open space zoning regulations.

The proposed addition is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the proposed project and adjacent properties is not impaired. Expansion of the restaurant to include the porch area is consistent with General Plan policies and with the intent of the Midtown Corridor overlay.

Because of the existing restaurant and sidewalk café footprint, and the limited lot area, a unique hardship does exist and because there is a lack of harm to public safety, staff supports the variance request.

Building design and signage:

The overarching building design will remain the same as currently exists save the second floor semi-enclosed smoking porch addition. A decorative screening element is proposed to connect the first and second level outdoor café and proposed smoking porch areas as an extension of the J Street façade. The smoking porch has been designed to echo the restaurant's unique design elements in both materials and architectural treatments. Because the project site is located in the Central City Design Review area, the porch addition was subject to staff level design review. Said review was approved on September 14, 2011, and is included as Attachment 2 of this report.

The applicant proposes to replace the existing attached J Street sign, currently somewhat obscured from view by the first and second floor awnings, with a new 10.5 square foot (4.5' x 2.33') attached sign. The sign would be located on the new J Street screening wall midway between the first and second floors. The sign would comprise a stained wood panel base with a color plexi-glass panel overlay of the new Thai Basil logo. The sign would be indirectly lit with a goose-neck spot light mounted above the sign, providing added dimension to the old-fashioned sign style. The sign detail is included as Exhibit B-6 of this report. The Planning Commission is not being asked to take action on the sign; review of the sign is being done at this time to help streamline the sign permit process for the applicant. The applicant is required to submit for a sign permit, where the sign design, size, and location will receive a final review.

Access, Circulation, and Parking

The site has good access to local, arterial, and regional roadways. The current proposal to add a 309 square foot smoking porch does not include any additional seats so the provision of additional parking is not required.

On the J Street frontage the applicant proposes to decrease the public right-of-way sidewalk currently loosely enclosed by decorative fencing. The applicant proposes to replace the existing fencing with a new four and one-half foot tall decorative metal fence enclosure that would wrap around the corner to 25th Street and attach to the existing three foot tall decorative metal fencing that currently encloses the outdoor café area. However, Design Review staff have determined the fencing should match the existing 25th Street fencing and have conditioned the project to match the existing fencing along 25th Street in both height and design. The fencing condition is included in the Design Review staff report (Attachment 2) as condition 6.

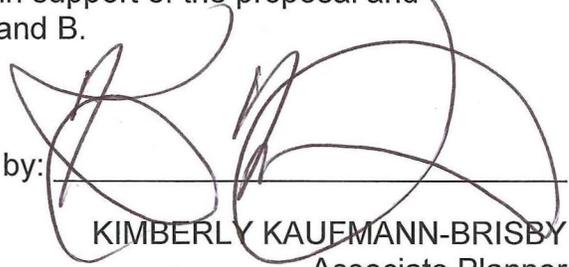
Along the J Street frontage the new fenced area would extend approximately six feet from and parallel to the building and would provide a waiting area for customers as well as for take-out pickup. By reducing the fenced enclosure area and bringing it closer to the building a better defined wait area is created and the sidewalk outside the fenced area is cleared for freer pedestrian movement along J Street.

All enclosed space located within the public right-of-way must obtain an encroachment permit from the City's Department of Transportation. The applicant has indicated all encroachments currently are permitted through the Department of Transportation encroachment permitting process and the project is conditioned to provide proof of same or acquire the necessary encroachment permit approval.

Conclusion:

Because the variance request is consistent with the 2030 General Plan, is a positive contribution to a complete and well-structured neighborhood, and contributes to the distinct identity and livability of Midtown, staff is in support of the proposal and recommends the Commission approve items A and B.

Respectfully submitted by:



KIMBERLY KAUFMANN-BRISBY
Associate Planner

Approved by:



STACIA COSGROVE
Senior Planner

Recommendation Approved:



GREGORY BITTER, AICP
Principal Planner

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Attachment 1
City Planning Commission Record of Decision
Recommended Findings of Fact
Thai Basil Setback Variance (P11-027)

Findings of Fact

A. Environmental Determination: Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received during the project hearing, the Planning Commission finds that the Project is exempt from review under **Section 15303 New Construction** of the California Environmental Quality Act because the project involves the construction of a new small accessory structure.

B. The **Variance** to reduce the required street side setback from five (5') feet to zero (0') feet is approved subject to the following Findings of Fact:

1. The variance is not a special privilege extended to one individual property owner in that the applicant proposes to reduce the street side setback to zero in order to maintain the underlying sidewalk café's zero setback street-wall. With a total lot area of approximately 3,200 square feet, the proposal to maximize the building envelope within the property boundaries and minimizing public right-of-way incursions would be appropriate for any property owner facing similar circumstances.
2. The variance is not a use variance. The restaurant use and any associated porch is permitted in the General Commercial zone.

C. A variance is not injurious to the public welfare, nor to property in the vicinity of the applicant in that the applicant proposes to employ high-quality construction materials that will complement the surrounding properties. The pedestrian sidewalk area would not be impacted because there is no building encroachment into the public right-of-way and the corner visibility triangle also would not be impacted with the addition of the smoking porch on the second floor.

D. A variance is in harmony with the general purpose and intent of this title and does not adversely affect the general plan of the specific plans of the city, or the open space zoning regulations in that the proposed addition is otherwise consistent with the purpose and intent of the zoning regulations in that the safety and proper functioning of the proposed project and adjacent properties is not impaired. Expansion of the restaurant to include the porch area is consistent with General Plan policies and with the intent of the Midtown Corridor overlay.

Conditions of Approval

- B. Variance:** The **Variance** to reduce the required street side setback from five (5') feet to zero (0') feet is approved subject to the following conditions of approval:

Planning:

- B1. The project shall substantially conform to the approved plans as shown on the attached exhibits (Exhibits B-1 through B-5) and as conditioned to be revised. Any modification to the project shall be subject to review and approval by planning staff (and may require additional entitlements).
- B2. No chairs, benches, stools, or any other furniture on which an able-bodied person can sit or lay are allowed on the smoking porch.
- B3. The applicant shall comply with all Design Review conditions of approval, as noted in Attachment 2.
- B4. Obtain all necessary building and sign permits prior to construction.
- B5. The applicant shall provide copies of the Affidavit of Zoning, including all project conditions of approval on a plan sheet(s) when submitting to the building division for plan check review.

Department of Transportation-Development Engineering

- B6. The applicant shall apply for and obtain approval for a revocable encroachment permit to allow the existing and proposed signs and awnings to protrude into the right of way to the satisfaction of the Department of Transportation, if not already in place.

Building Division

- B7. All work to comply with the 2010 California Building, Electrical, Mechanical, Plumbing, Fire and Energy Code.
- B8. Due to the increase in occupant load using a load factor of 5 square feet, an additional exit will be required from the second floor.
- B9. Accessibility improvements will be required as per California Building Code, section 1134B.
- B10. The minimum number of required plumbing fixtures for men and women must be met as per California Plumbing Code, Table 4-1.

Advisory review Comments:

The above comments are Code requirements and cannot be waived.

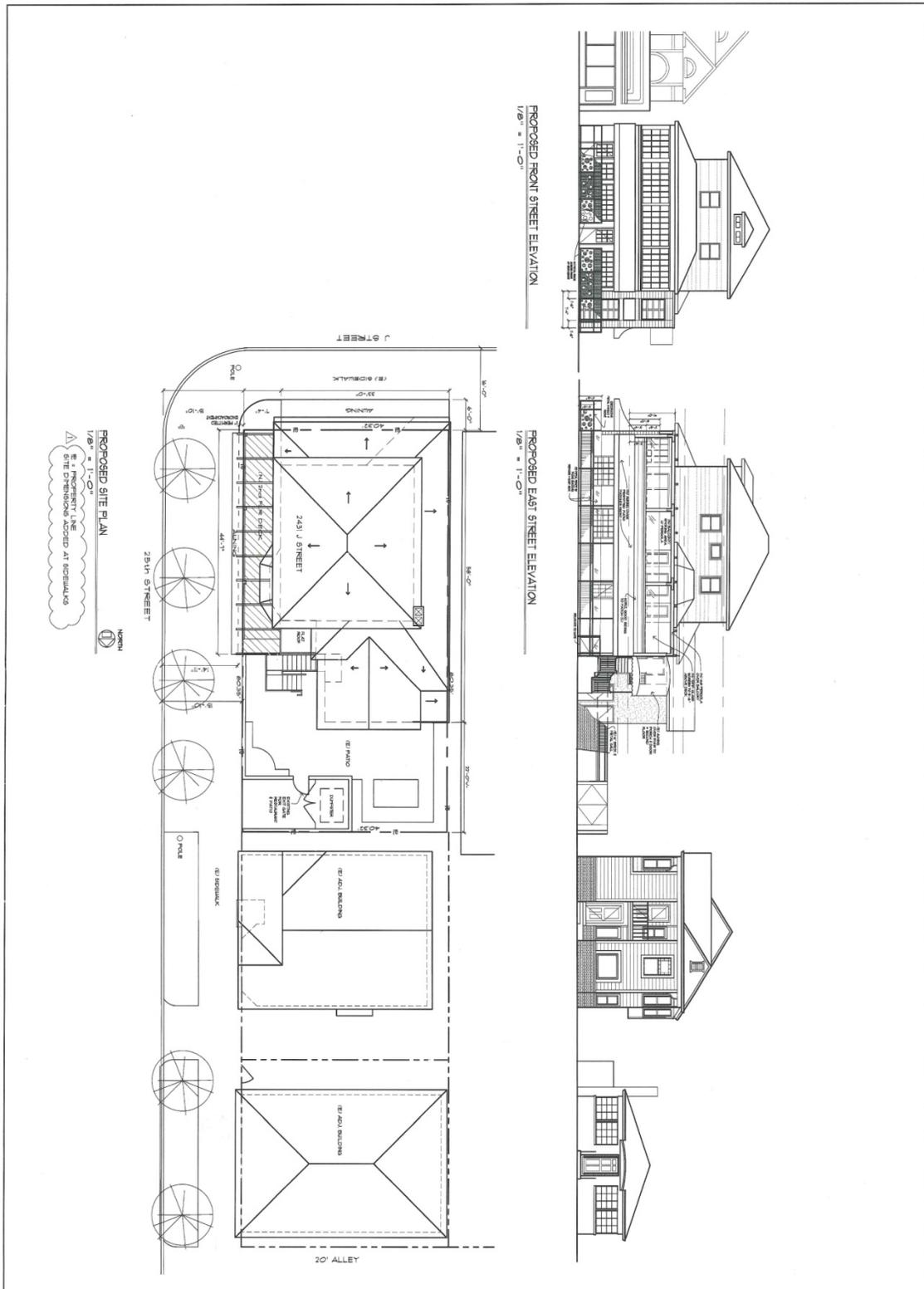
Fire Department Advisory:

1. Provide a water flow test. (Make arrangements at the Permit Center walk-in counter: 300 Richards Blvd, Sacramento, CA 95814). CFC 508.4

Sacramento Area Sewer District (SASD) Advisories:

2. The subject property is outside the boundaries of the SASD but within the Urban Service Boundary and SRCSD shown on the Sacramento County General Plan. SRCSD will provide ultimate conveyance and treatment of the sewer generated from this site, but the Sacramento City Utilities Department's approval will be required for local sewage service.
3. Improvements to the property may require payment of SRCSD sewer impact fees. Impact fees shall be paid prior to issuance of Building Permits. Applicant should contact the Fee Quote Desk at 876-6100 for sewer impact fee information.

Exhibit B-1 Proposed Site Plan and Elevations



<p>DATE: 7/29/11 DRAWN: AD NOTED CHECKED: CEC SHEET: 20 OF: 20 1/4" = 1'-0"</p>	DESIGN: TIM SULLIVAN ENGINEERING, INC. Cathy Chapman 445 Sunset Lane Merritt Island, FL 32952 phone/fax 321-453-6444	2420 K Street, Suite 250 Sacramento, CA 95816 phone: 916.492.2450 fax: 916.492.2460	<p>THAI BASIL RESTAURANT 2nd FLOOR BALCONY 2431 J STREET, SACRAMENTO</p>	REVISIONS: 1. BY: [] DATE: []
	PROJECT: THAI BASIL RESTAURANT 2ND FLOOR BALCONY			
	CLIENT: TIM SULLIVAN ENGINEERING, INC.			
	ADDRESS: 2431 J STREET, SACRAMENTO, CA 95816			
	SCALE: 1/4" = 1'-0"			

Exhibit B-2 Existing and Proposed First Floor Plans

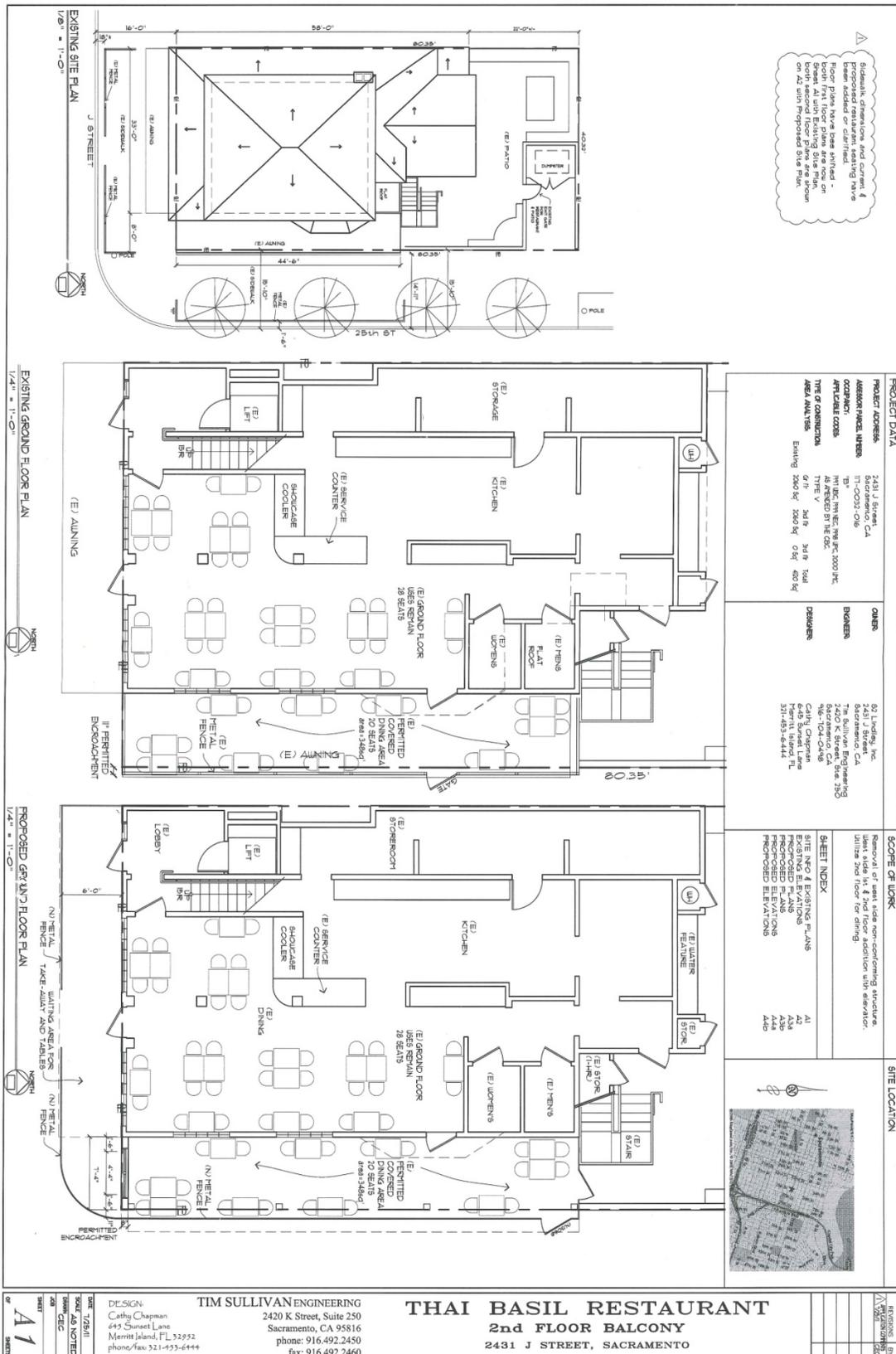


Exhibit B-3 Existing and Proposed Second Floor Plans

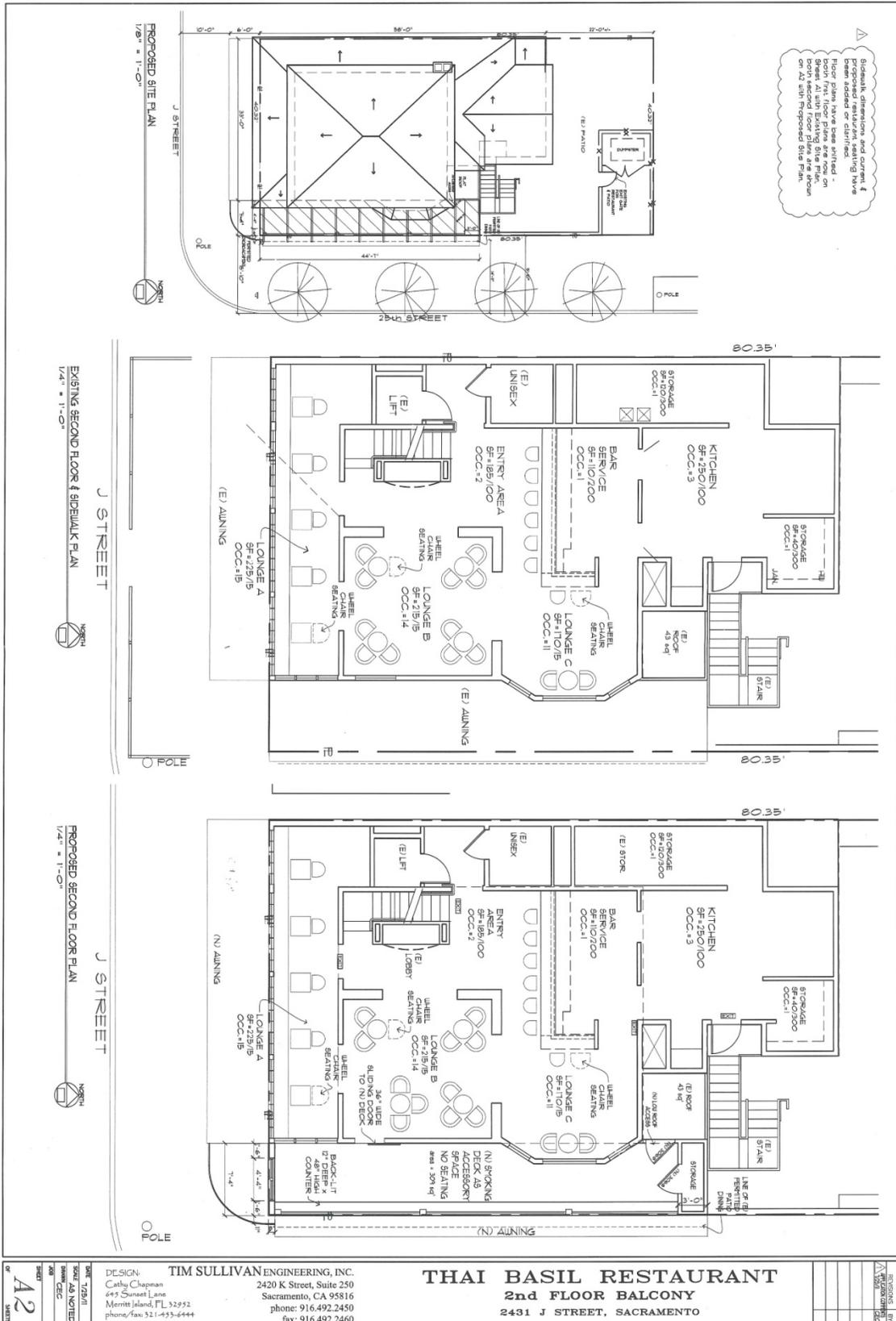


Exhibit B-5 Perspective Rendering

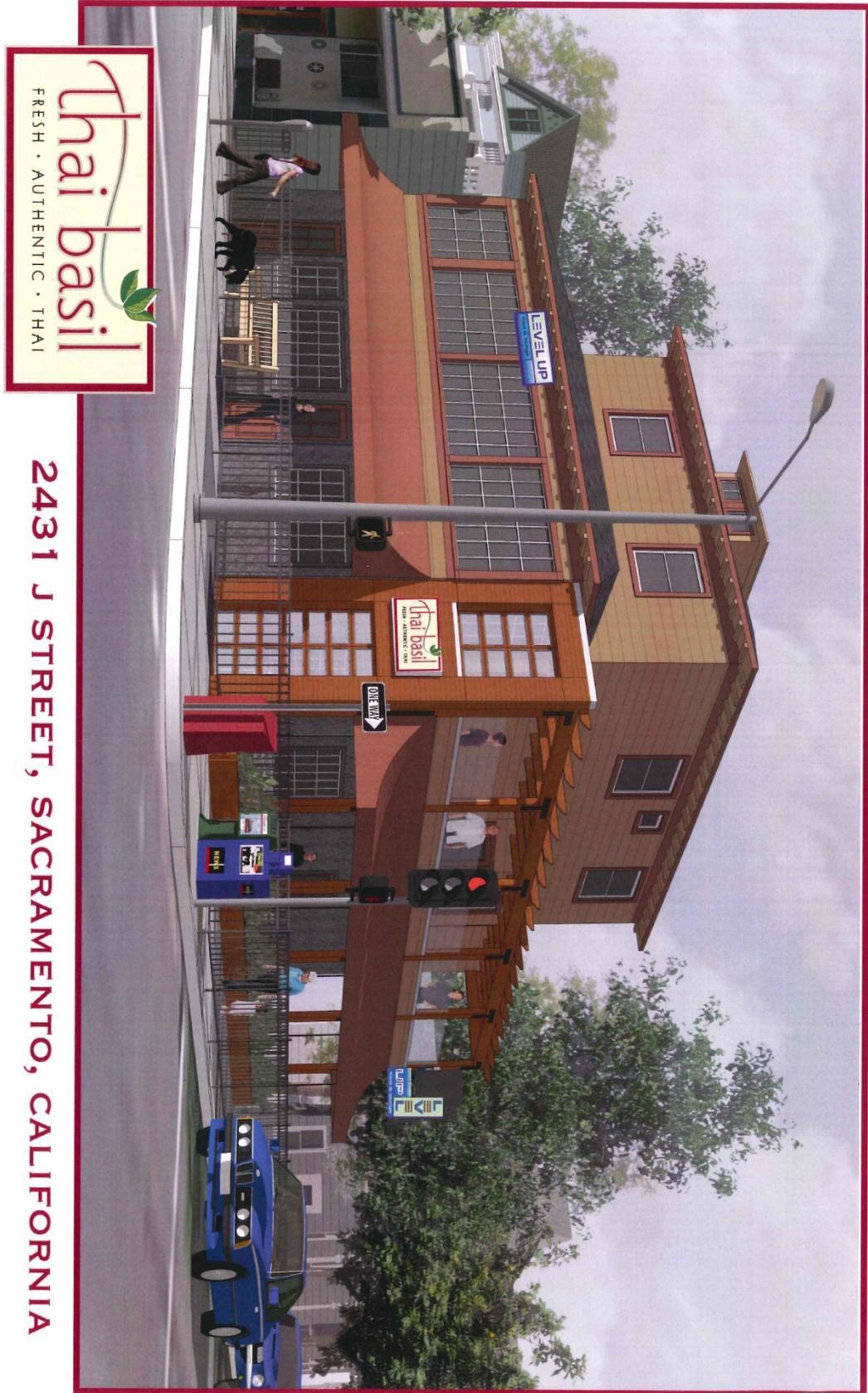
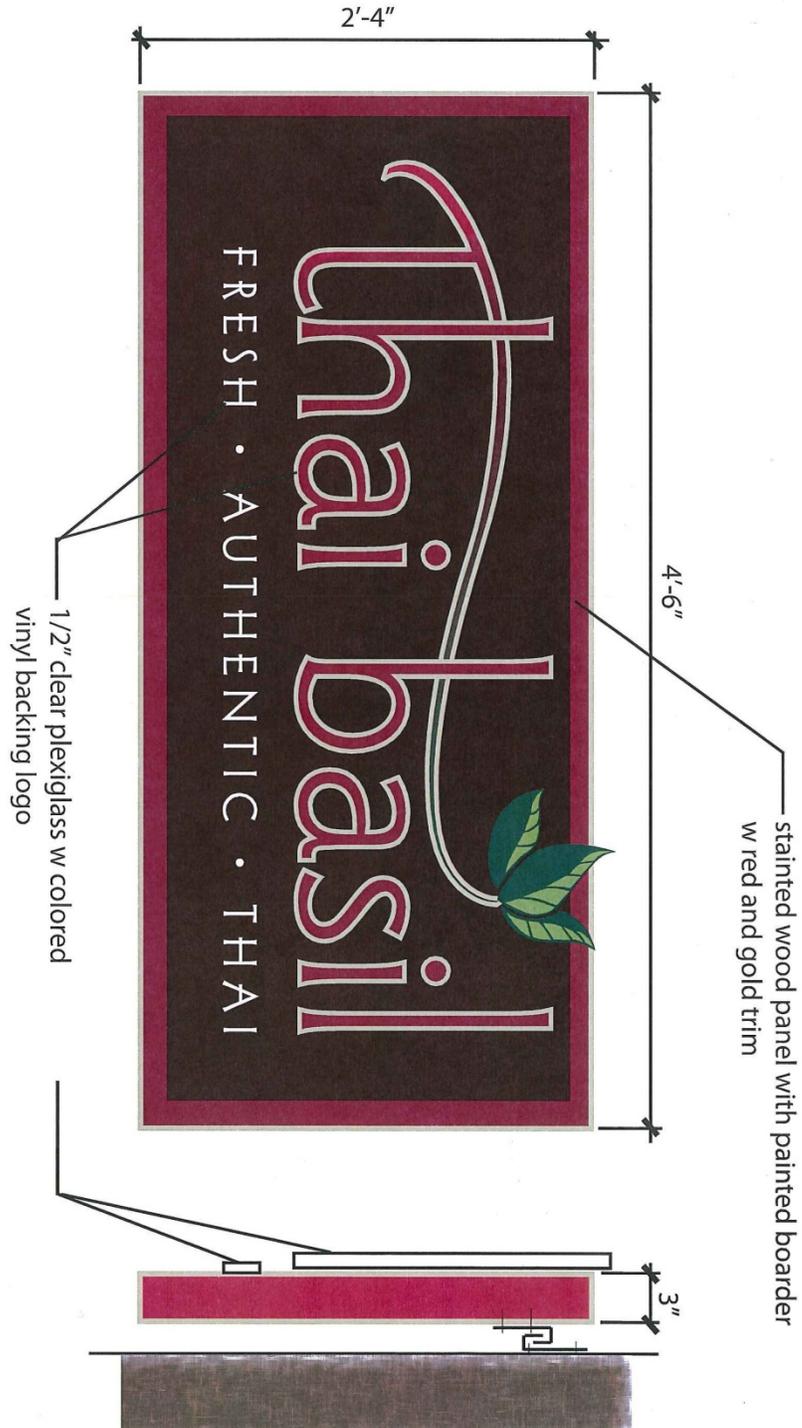


Exhibit B-6 Thai Basil Sign Detail



Attachment 2 – Design Review Staff Report



CITY OF SACRAMENTO CALIFORNIA

COMMUNITY DEVELOPMENT
DEPARTMENT

PHONE 916-808-5006

300 RICHARDS BLVD. Room 300
SACRAMENTO, CA 95811

FAX 916-808-1901

STAFF LEVEL PROJECT DESIGN REVIEW

DR Number: P11-027

Address: 2431 J Street

Description: Thai Basil Smoking Porch addition

APN: 007-0032-016

Applicant: Suleka Sun-Lindley

Date Filed: May 12, 2011

Date Approved: September 14th, 2011

Staff Contact: Kimberly Kaufmann-Brisby,
916-808-5590

STAFF ACTION AND CONDITIONS OF APPROVAL:

Staff has reviewed project, and approves it with the following conditions of approval:

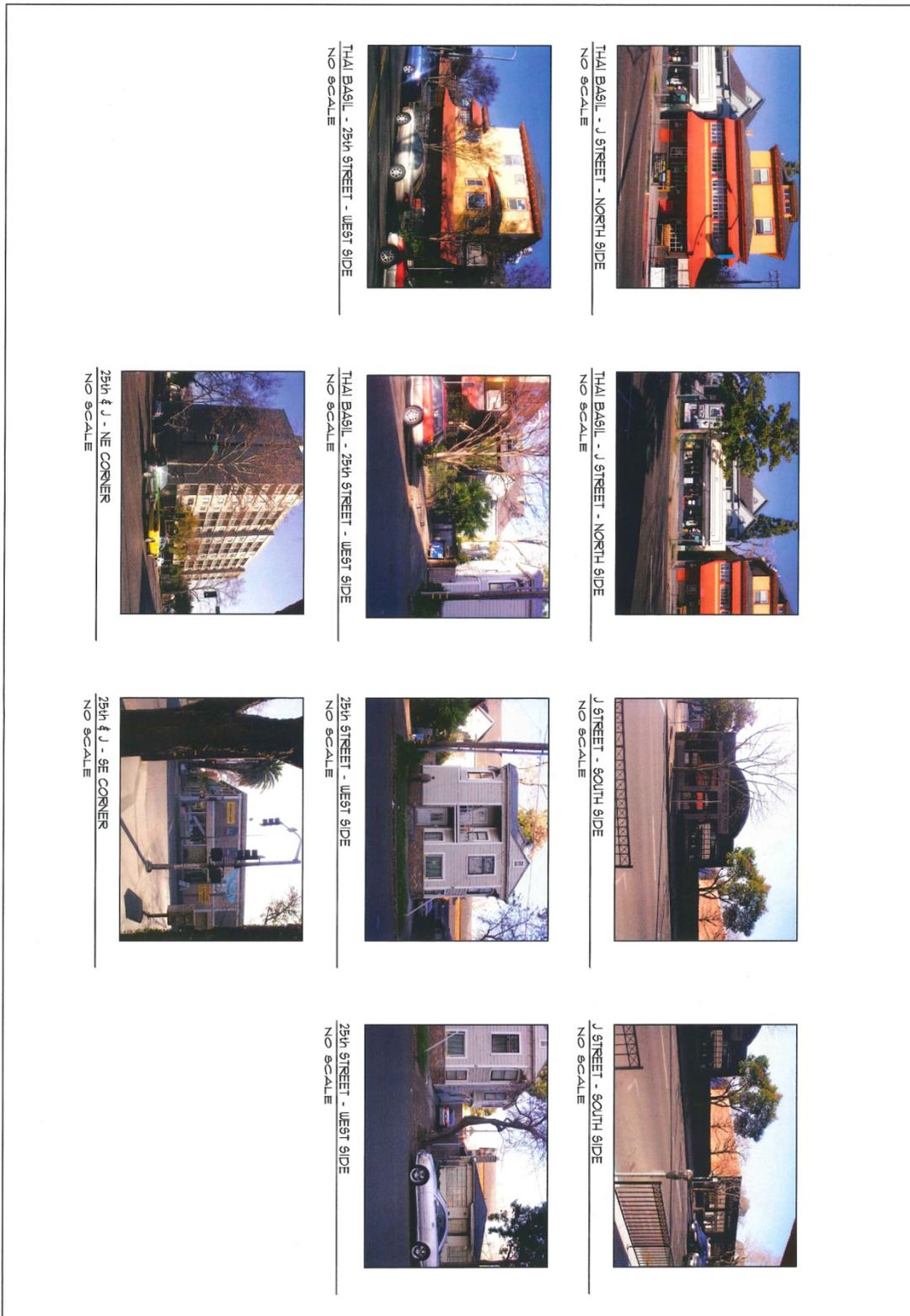
1. The applicant/developer shall acquire the appropriate encroachment permits from the Department of Transportation for any and all encroachments into City Right-of-way prior to the issuance of any building permit.
2. The smoking porch horizontal lap siding shall match existing siding per Sheet A3.
3. No portion of the smoking porch structure may extend beyond the property line including the screening wall along the J Street frontage.
4. The smoking porch pergola elements (colonnades, girders, cross rafters) shall be constructed of solid wood per the approved plans.
5. The two story screen wall shall be constructed per the approved plans with hardwood siding and recessed opaque glazing in a double row of lites with four rows of lites on the second level and seven rows of lites on the first level. The recessed lite frames shall match the screen hardwood siding.
6. The proposed decorative fencing along J Street shall be revised to match the existing metal fencing enclosing the sidewalk café seating along the 25th Street frontage in height (3') and design except the proposed vine element may be added to the fence along both or one of the street frontage fences. A transparent fencing element is allowed to extend above the 3-foot fence height to a maximum height of 54 inches. The enclosure area along J Street shall not extend farther than 6 feet from and parallel to the existing Thai Basil building. The final fence design shall be submitted to Design Review staff for review and approval prior to the issuance of any building permit for the smoking deck.

7. Details of the proposed awnings along both the J and 25th Street frontages including materials and color shall be provided to staff for review and approval prior to the issuance of any building permit for the awning installation. All awning materials and colors shall match one another.
8. Any new signage shall be submitted to design review staff for review and approval prior to issuance of any sign permit. Flat can signs are not allowed.
9. All final plan notes and drawings as submitted by the applicant are deemed conditions of approval. Any changes to the final set of plans stamped and signed by Design Review staff shall be subject to review and approval prior to building permit plan check submittal. Applicant shall comply with all current building code requirements.
10. Any major revisions to the final approved design are subject to review and approval by Design Review staff.
11. No building permit shall be issued until the expiration of the 10-day appeal period. If an appeal is filed, no permit shall be issued until final approval is received.
12. The conditions of approval and the completed zoning affidavit shall be inserted into the plan check set when submitting to the building division for building permit plan check review.
13. This approval shall be deemed automatically revoked unless required permits have been issued and construction begun within three years of this September 14, 2011, approval. Prior to the expiration, an extension of the time may be granted upon written request to Design Review by the applicant or owner.



Kimberly Kaufmann-Brisby
Associate Planner

Attachment 3 – Neighborhood Context Photos



A0.1 SHEET	DESIGN Cathy Chapman 642 Sunset Lane Meritt Island, FL 32952 phone/fax 321-453-6444	TIM SULLIVAN ENGINEERING 2420 K Street, Suite 250 Sacramento, CA 95816 phone: 916.492.2450	THAI BASIL RESTAURANT 2nd FLOOR BALCONY 2431 J STREET, SACRAMENTO	REVISIONS	BY
	DATE: 3/2/11 SCALE: AS SHOWN DRAWN: CAC CHECK: CAC				

Attachment 4 – Land Use and Zoning Map

