

Agenda
Zoning Board of Appeals
Council Chambers
Wednesday, March 27, 2013 - 7:00 P.M.

I. Call to Order

II. Roll Call

John Bailey, Chair	P	A
Rod Johnson	P	A
Tom Roach	P	A
Mike Shecket	P	A
Godfrey A. Udoji	P	A
 Anthony Bedogne (alternate)	 P	 A

III. Approval of Minutes

- August 22, 2012

IV. Purpose of Meeting

V. Old Business

VI. New Business

- Dimensional Variance Request: 1425 Washtenaw

VII. Adjournment

**ZONING BOARD OF APPEALS
MEETING MINUTES
August 22, 2012
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:06 p.m.

II. ROLL CALL

Present: J. Bailey, M. Shecket, G. Udoji, R. Johnson, T. Roach, A. Bedogne

Staff: T. Gillotti, City Planner II
B. Wessler, City Planner I
N. Schuette, Executive Secretary

Chairman Bailey welcomed new board member, Tom Roach, as well as Anthony Bedogne who has been nominated but not yet appointed.

III. APPROVAL OF MINUTES – June 27, 2012

Commissioner Johnson moved to approve the minutes of June 27, 2012 as read (Support: M. Shecket) and the motion carried unanimously.

VI. PURPOSE OF MEETING

Commissioner Bailey stated that the purpose of the meeting is to conduct a training session.

VII. OLD BUSINESS

None

VIII. NEW BUSINESS

1. Training

Ms. Gillotti stated that this is a good opportunity to hold a training session since we have three new members. It is also helpful to current board members as a refresher of the zoning laws. She introduced Amy Neary, Senior Principal Planner for McKenna Associates, who was in attendance to provide a training session. Training materials were distributed, which included zoning maps and a copy of the Zoning Ordinance.

Ms. Neary gave a short background on her experience as well as some information on McKenna Associates noting that the company had 30 years of service to 200+ communities in Michigan as well as Indiana and Ohio. She reviewed the agenda, which consisted of Basics of Zoning Overview, Roles and Responsibilities, Powers, Membership & Voting, Conformities and then time at the end for questions and answers.

The statutory powers of the Zoning Board of Appeals come from the Michigan Zoning Enabling Act PA 110 of 2006 amended by PA 12 of 2008 (MZEA) identifying membership requirements. The other item that provides guidance for the Zoning Board of Appeals is Michigan Planning Enabling Act PA 33 of 2008. Zoning as a public policy protects property values and natural resources, prevents nuisances, and promotes compatibility and infrastructure and appropriate development. It helps develop the economy, prevents over-use of land and implements vision for the future.

The Master Plan is the basis for zoning and is a policy document, not required to be approved by council.

The zoning functional responsibilities includes three functions provided for by the MZEA – Legislative (City Council) which adopts laws, Administrative – which consists of Planning and Building officials and the Planning Commission and lastly, members of the ZBA. Ms. Neary detailed the roles and responsibilities of each function.

The presentation included ordinance interpretation, appeal of decision, variances, hardship tests, membership and voting, and conflicts of interest. She reviewed the application process, site visits, context of decisions and findings of fact and motion, which should be specific to the case giving illustrations of fact guidelines.

Non-conforming buildings were covered in detail, providing various case studies and solutions.

At the end of the presentation, Ms. Neary responded to questions by members.

IX. ADJOURNMENT

Since there was no further business, Commissioner Shecket moved to adjourn the meeting (Support: T. Roach) and the motion carried unanimously. The meeting adjourned at 9:16 p.m.



City of Ypsilanti

Planning and Development Department

21 March 2013

**Staff Review of Variance Application
Proposed Restaurant (Ahmo's)
1425 Washtenaw**

Applicant:	Mohamad Issa 1425 Washtenaw Ypsilanti, MI 48197
Project:	Proposed Restaurant (Ahmo's)
Application Date:	20 Feb 2013
Location:	Southeast corner of Washtenaw and Owendale, off Washtenaw between Cornell and Mansfield
Zoning:	B1, Neighborhood business; EO, Entryway Overlay; RCO, residential-commercial overlay
Action Requested:	Approval of a dimensional variance to permit an outdoor café within 50' of a residential zoning district
Staff Recommendation:	Denial

The parcel is approximately 0.34 acres in size, fronting on Washtenaw Avenue. There is an existing ~2,780 square foot building and ~11-space parking lot. The property is zoned **B1 – Neighborhood Business**, and is within both the **EO – Entryway Overlay**, and **RCO – Residential-Commercial Overlay** districts.

Most recently, this site has been Pinter's Flowerland, a florist; prior to that, it was an auto parts store. A conditional use permit was granted for minor automotive repair (a Quick Lube facility) in 1989; however, this permit expired, as the applicant withdrew from the project shortly thereafter. No other variances or use permits appear on file.

The applicant is proposing to renovate the existing building into a carry-out and sit-down restaurant without a drive-through, add landscaping to the currently impervious front yard, add parking to the east side yard and rear yard, and add an outdoor seating area to the west side yard. The outdoor café is proposed to be located on the west side of the building, approximately 30' from the neighboring R1 – Single-Family Residential zoning district to the south.

Figure 1: Subject Site Location

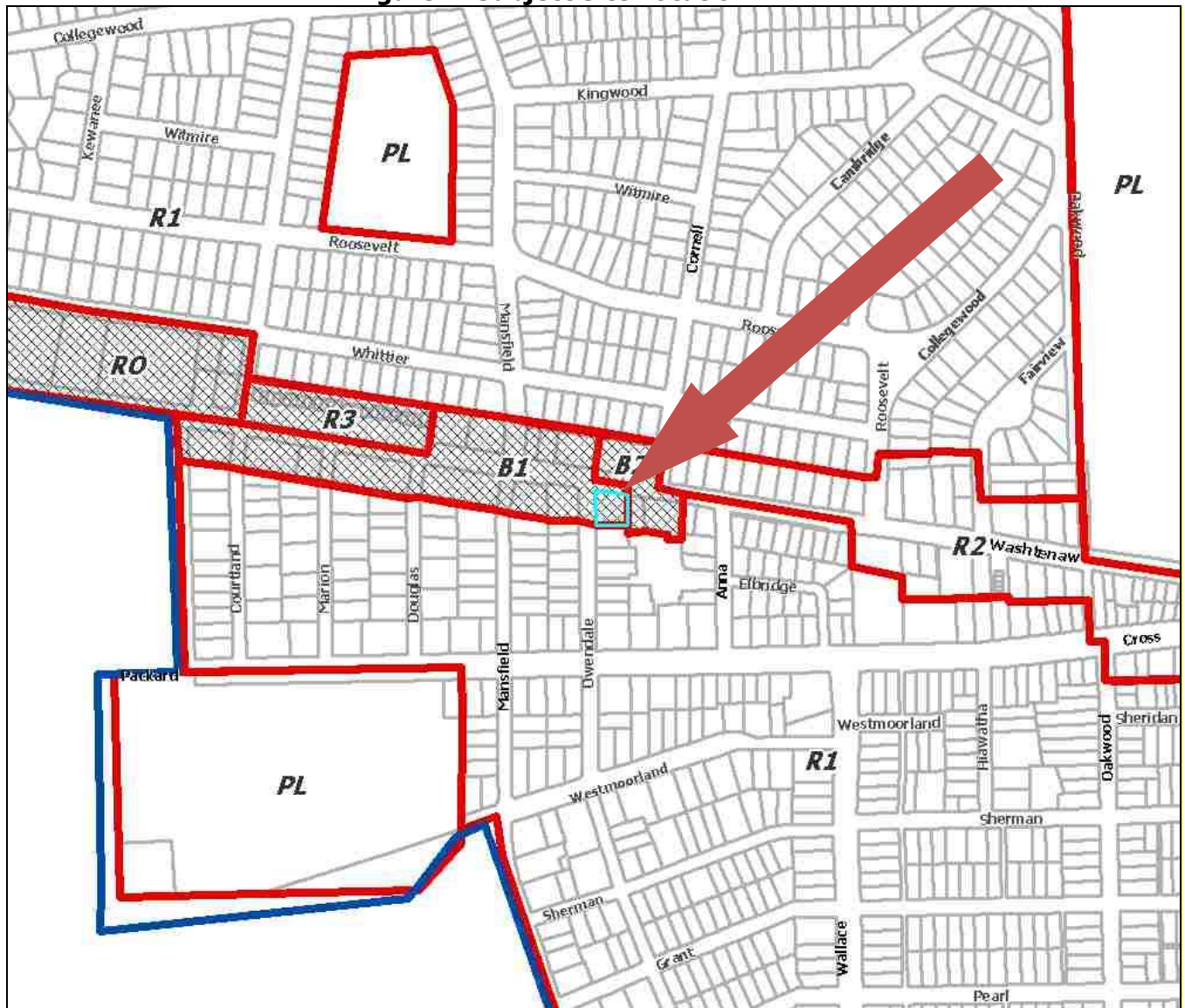


Figure 2: Site Close-up



Figure 3: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	Strip commercial, gas station	B1, EO/RCO & B2, EO/RCO
EAST	Strip commercial (dry-cleaning, Dom's)	B2, EO/RCO
SOUTH	Single-family residential	R1
WEST	Gas station / auto repair	B1, EO/RCO

ORDINANCE

§122-799

Sec. 122-799. Outdoor cafes, restaurants and beer gardens.

Outdoor cafes, restaurants and beer gardens shall be permitted subject to the conditions hereinafter imposed:

- (1) All outdoor seating areas at grade level must be accessory to business which provides indoor seating. All storage, preparation and cooking of food and all vending machines shall be within an enclosed building.
- (2) The outdoor seating area shall be separated from all parking areas by means of a minimum three-foot high obscuring greenbelt, wall or other architectural feature.
- (3) The outdoor seating area shall not be located within 50 feet of any properties zoned R1, R2, R3, or R4.**
- (4) All outdoor seating areas shall be kept clean and void of litter at all times.

Figure 4:
Location of Outdoor Café under 122-799 would be on the north side of the building.
Red line on map below is *approximately* 50' from neighboring R1 district.
Area circled is proposed location of outdoor café.



STANDARDS

§122-94(b)

Standards for Variances. A variance from the literal enforcement of this Ordinance may be granted by the Zoning Board of Appeals only if all of the following standards are met.

- (1) Literal enforcement of this Ordinance will pose practical difficulties to the applicant because of special conditions or circumstances which are very unique to the specific property such as: exceptional shallowness or shape of the property, exceptional topographic conditions, extraordinary situation of a building or structure, use or development of an adjacent property, or practical difficulties relating to the construction or structural changes on the site. Mere inconvenience or a desire to attain higher financial return shall not itself be deemed sufficient to warrant a variance.*

The layout of the property is such that when taken in combination with parking, landscaping/screening, stormwater control, and other requirements necessary for a restaurant use, there are indeed practical difficulties when locating an outdoor café.

- (2) Such a variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of this chapter. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same district.*

At this time, there are no other parcels zoned B1 that have an outdoor café, thus do not have an outdoor café within 50' of an R1 district.

- (3) The alleged hardships or practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property.*

The original design of the site was done under slightly different zoning regulations, and prior to current ownership.

- (4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The separation standard exists to ensure that potential negative impacts, such as sound, do not negatively impact residential neighbors. A screening fence already exists between this property and the one to the south; if the applicant adds a sound barrier, such as potted arborvitae on the patio as has been done elsewhere in the City, this may offset that impact. Other impacts, such as cooking smells or litter from the outdoor café area, are controlled for by provisions (1) and (4) in §122-799.

(5) The allowance of the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Ordinance, the individual hardships that will be suffered by a failure of the Board to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.

The intent of the B1 zoning district, per §122-351, is to "provide for the convenience shopping of persons living in nearby neighborhood residential areas and for general uses and activities of a retail and personal service character." Both the EO and the RCO state that they intend to minimize land use conflicts through buffering. These support the concept of a setback for an outdoor café.

No individual hardships appear as though they will be suffered as a result of denial of this variance.

Property rights of others appear as though they would be unaffected by granting of a variance at this time, provided alternate adequate sound buffering could be provided by the applicant.

(6) A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings or structure.

With careful rearrangement of the site, it could be possible to locate an outdoor café closer to Washtenaw Avenue. However, the ability or inability to locate an accessory use outdoor café on the site does not impact the ability to locate the primary use restaurant.

STAFF RECOMMENDATION

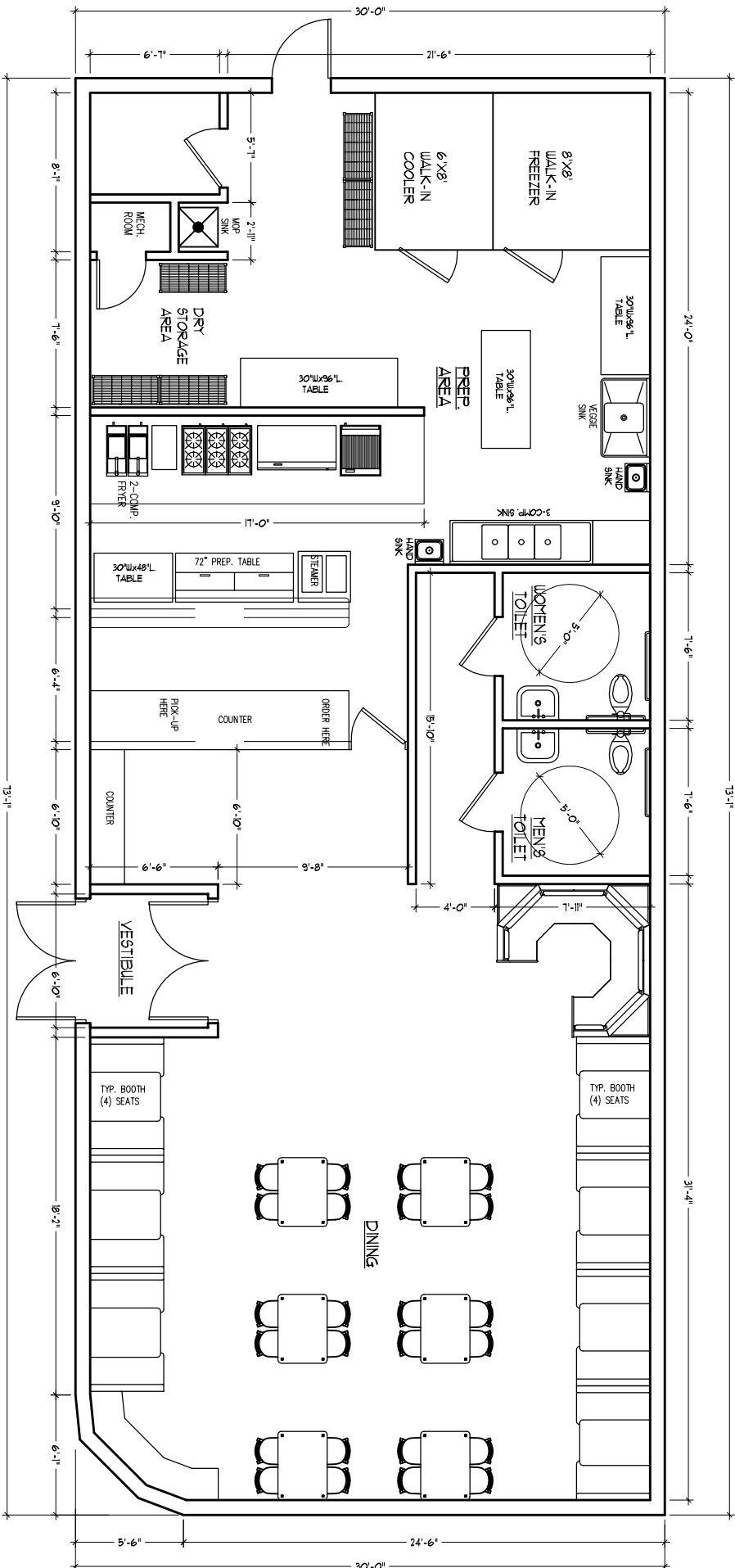
Staff recommends the Zoning Board of Appeals **deny** the variance request to permit an outdoor café within 50' of a residential district, as submitted on 20 February 2013, with the following findings:

1. Such a variance is not necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance.
2. The allowance of the variance will not result in substantial justice being done, given the conditions spelled out in 122-94(b)(5).
3. Denial of this variance does not preclude the applicant's ability to place an outdoor café on the site.

Bonnie Wessler
Planner I, Community Development Division

c.c. File
 Applicant
 Site designer

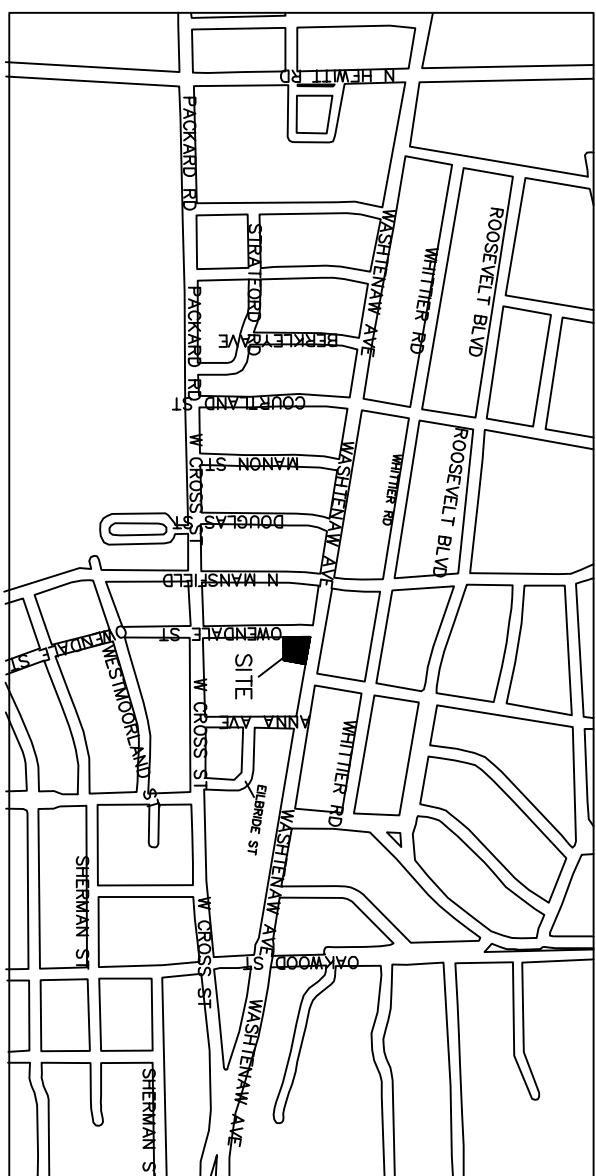
PROPOSED PLANT LIST	QUANTITY	SIZE	BOTANICAL NAME	COMMON NAME	SYMBLE
	2	36" IN TALL	EUNYMIUS ALATUS	DWARF WINGED EUNYMIUS	
	17	36" IN TALL	EUNYMIUS FORTUNEI	SUNSPOT EUNYMIUS	
SHRUBS & BUSHES	19	TOTAL SHRUBS			
	3	8-10 FEET TALL	Thuja occidentalis	Emerald Green Thuja	
EVERGREEN TREES	4	8-10 FEET TALL	Juniperus scopulorum	Juniper "Skyrocket"	
	7	TOTAL EVERGREEN TREES			
	2	2 1/2"-3" CALIPER	ACER GINNALA	FLAME AMUR MAPLE	
DECIDUOUS TREES	2	2 1/2"-3" CALIPER	CORNUS FLORIDA	FLOWERING DOGWOOD	
	4	TOTAL DECIDUOUS TREES			
	30	2 GALLON	HEMEROCALLIS 'STELLA D'ORO'	STELLA DE DRO DAYLILY	
	28	2 GALLON	SALVIA X SUPERA	SALVIA	
PERENNIALS	8	2 GALLON	HOSTA MONIANA 'AUROEDMARGINATA'	HOSTA MONIANA	
	66	TOTAL PERENNIALS			
** REMOVE ALL EXISTING TREES AND SHRUBS					



THE PARKING LOT WIDTH HAS BEEN ENLARGED TO OVERCOME THE DEFICIENCY IN ISLE WIDTH

ALL DELIVERY AND PICKUPS WILL BE CONDUCTED DURING NON OPERATING HOURS

A COMPLETE LANDSCAPE PLAN WILL BE SUBMITTED UPON PRELIMINARY APPROVAL



PROJECT:
PROPOSED RESTAURANT

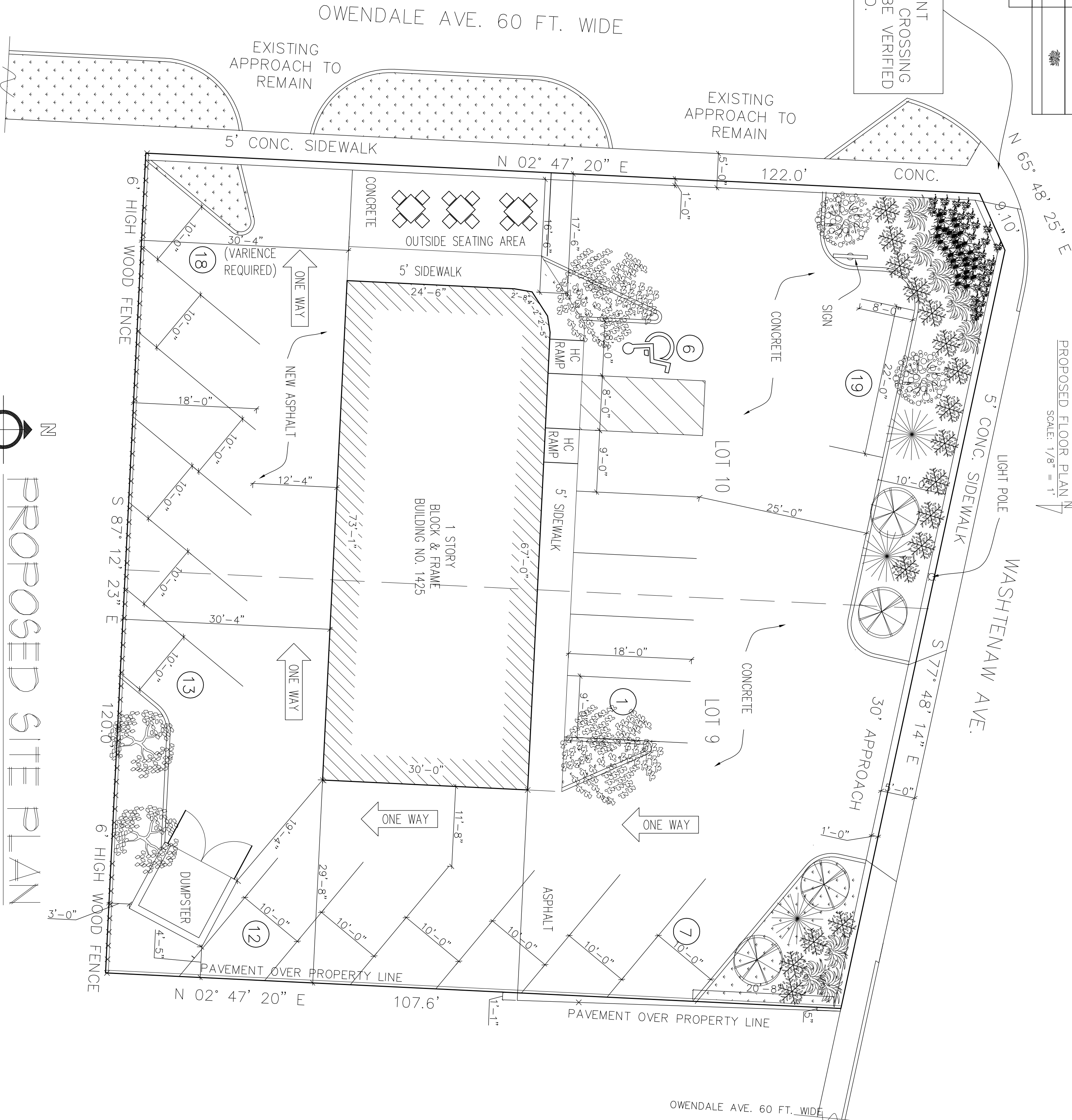
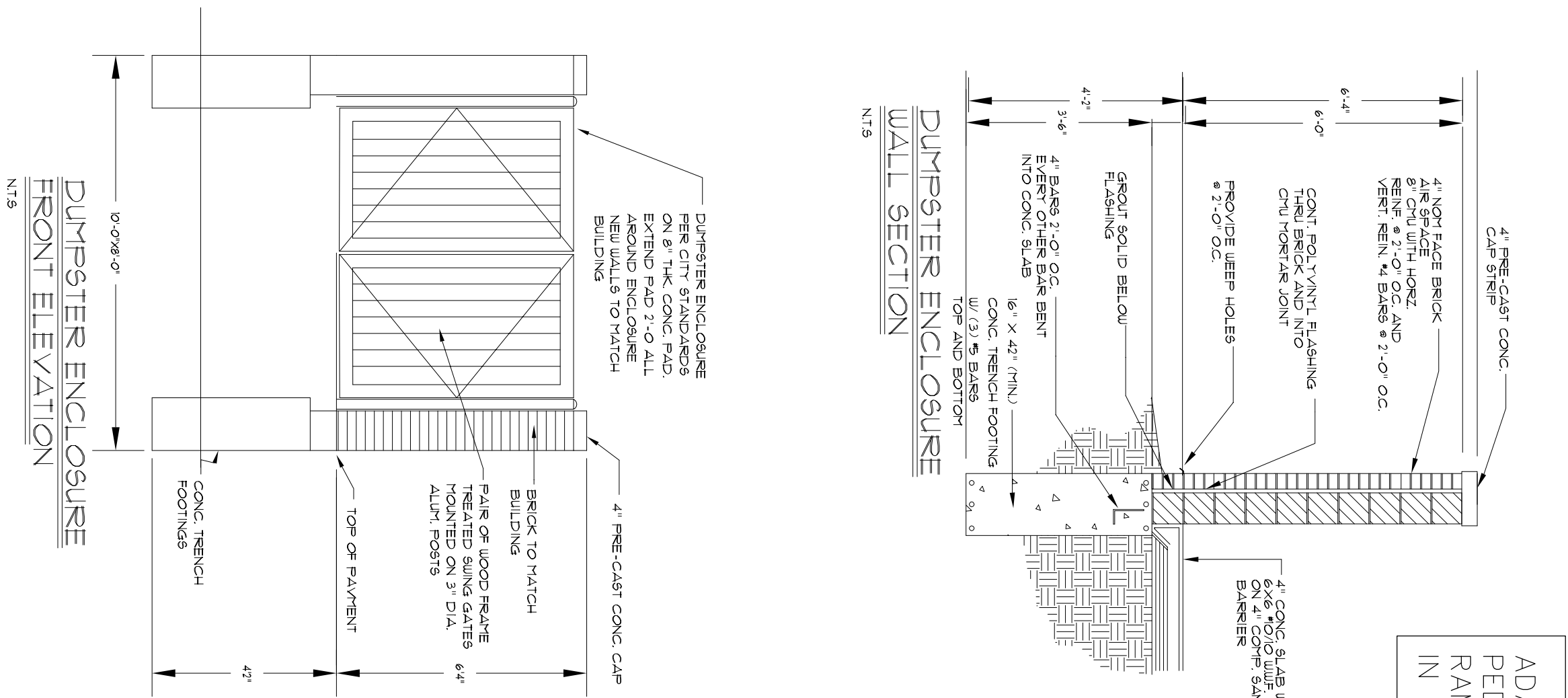
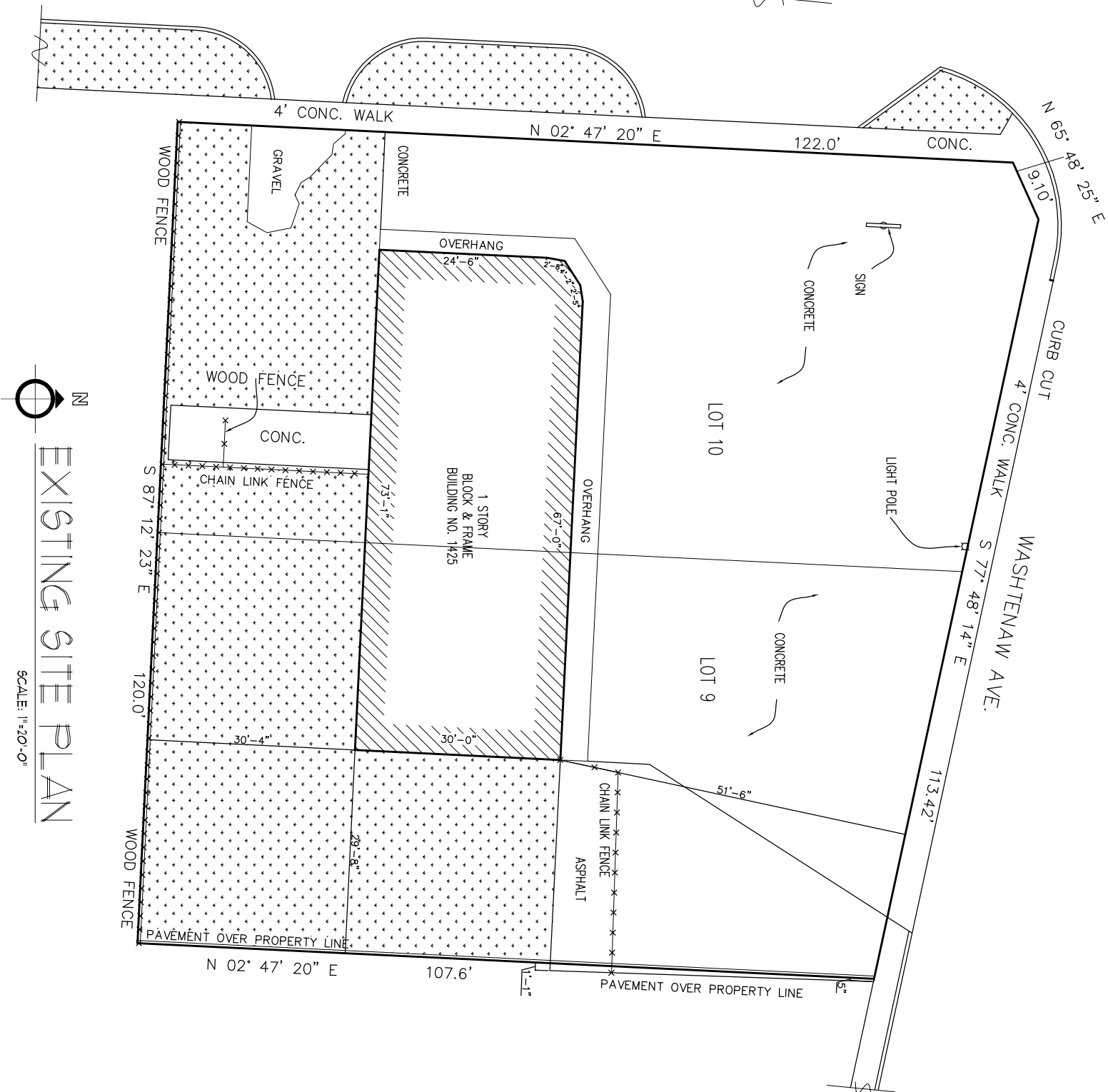
LOCATION:
1429 WASHTENAW AVE
YPSILANTI, MI 48091

A & M CONSULTANTS

13746 MICHIGAN AVE.
DEARBORN, MI 48126
PH: (313) 582-0022
FAX: (313) 582-0028

DRAWN BY:
S.E.

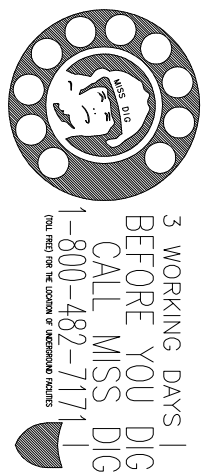
APPROVED BY:
ANAN AL-SAATI



SITE DATA	
ZONING	B1 (NEIGHBORHOOD BUSINESS)
SITE AREA	14,082 S.F. (0.323 ACRES)
EXISTING BUILDING AREA	2,185 S.F.
PARKING REQUIRED	RESTAURANT, FAST FOOD: 1 FOR EACH 50 SQUARE FEET OF CUSTOMER WAITING AND EATING AREAS, PLUS 1 FOR EACH EMPLOYEE IN THE LARGEST EMPLOYMENT SHIFT 800/50 + 3 = 19
PARKING PROVIDED	19 OFF STREET PARKING SPACES PROVIDED INCLUDING ONE (1) VAN ACCESSIBLE

LEGAL DESCRIPTION

LOTS 9 AND 10, EXCEPT THE SOUTHERLY 30 FEET THEREOF, R. L. QUEN SUBDIVISION OF PART OF SOUTHWEST 1/4 OF SECTION 5, T.3 S., R.1 E., CITY OF YPSILANTI, WASHTENAW COUNTY, MICHIGAN ACCORDING TO THE PLAT THEREOF, AS COUNTY RECORDS; ALSO EXCEPTING THAT PART OF THE MICHIGAN STATE HIGHWAY COMMISSION IN LIBER 1461, PAGE 906, WASHTENAW RECORDS.

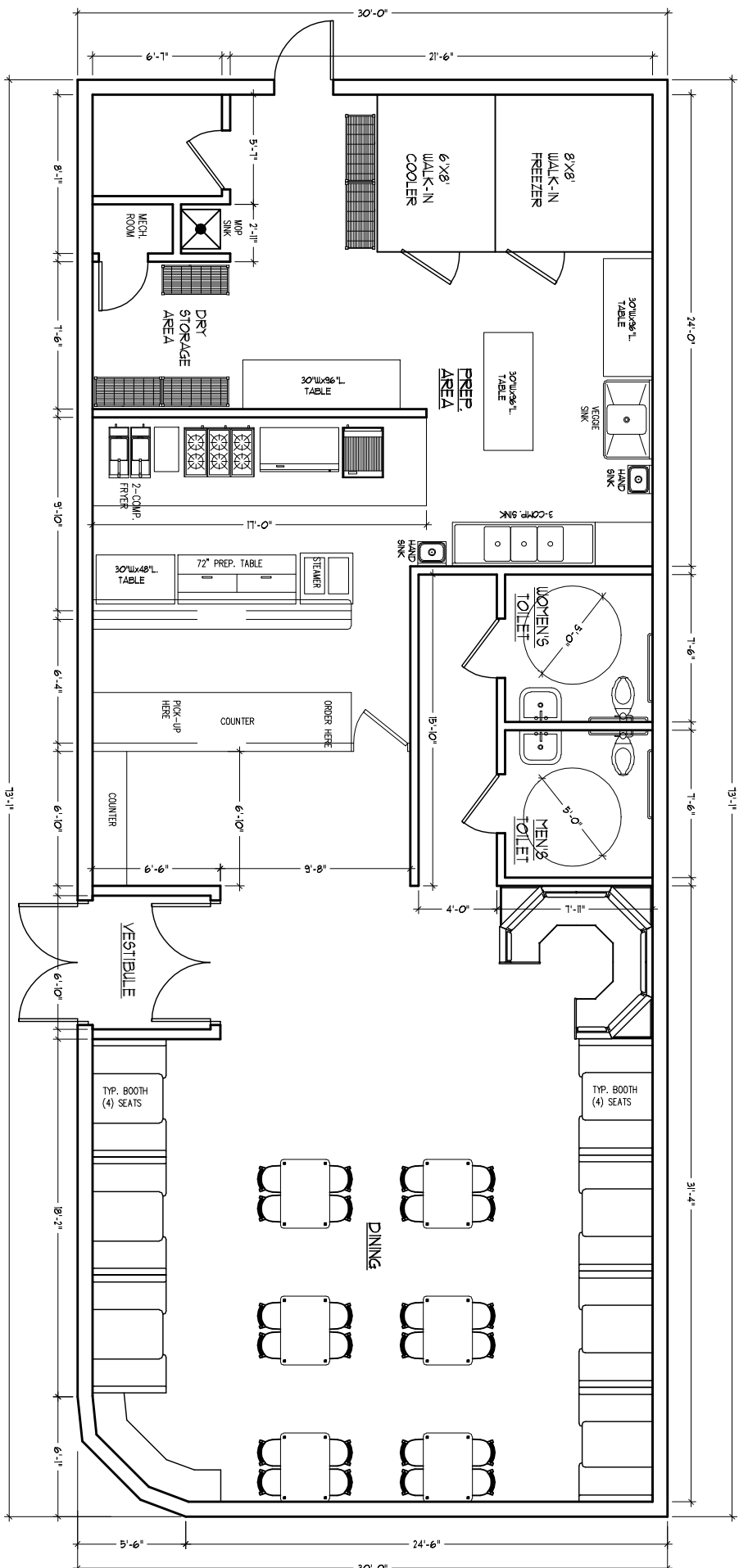


PROJECT NO.	
DATE	01/31/2013
SCALE	NOTED
SHEET TITLE	EXISTING SITE PLAN PROPOSED SITE PLAN
SEAL	SP-1

SUBMITTALS

REVISIONS:
2/18/2013

PROPOSED PLANT LIST	QUANTITY	SIZE	BOTANICAL NAME	COMMON NAME	SYMBL
SHRUBS & BUSHES	2	36 IN TALL	EUNYMIUS ALATUS COMPACTA	DAWF WINGED EUNYMIUS	
	17	36 IN TALL	EUNYMIUS FORTUNEI	SUNSPOT EUNYMIUS	
	19	TOTAL SHRUBS			
EVERGREEN TREES	3	8-10 FEET TALL	Thuja occidentalis	Emerald Green Thuja	
	3	8-10 FEET TALL	Juniperus scopulorum	Juniper "Skyrocket"	
	6	TOTAL EVERGREEN TREES			
DECIDUOUS TREES	2	24"-3" CALIPER	ACER GINNALA	FLAME AMUR MAPLE	
	2	24"-3" CALIPER	CORNUS FLORIDA	FLOWERING DOGWOOD	
	4	TOTAL DECIDUOUS TREES			
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	28	2 GALLON	SALVIA X SUPERBA	SALVIA	
	8	2 GALLON	HOSTA MONTANA MAUREDMARGARIA	HOSTA MONTANA	
TOTAL PERENNIALS					
** REMOVE ALL EXISTING TREES AND SHRUBS					

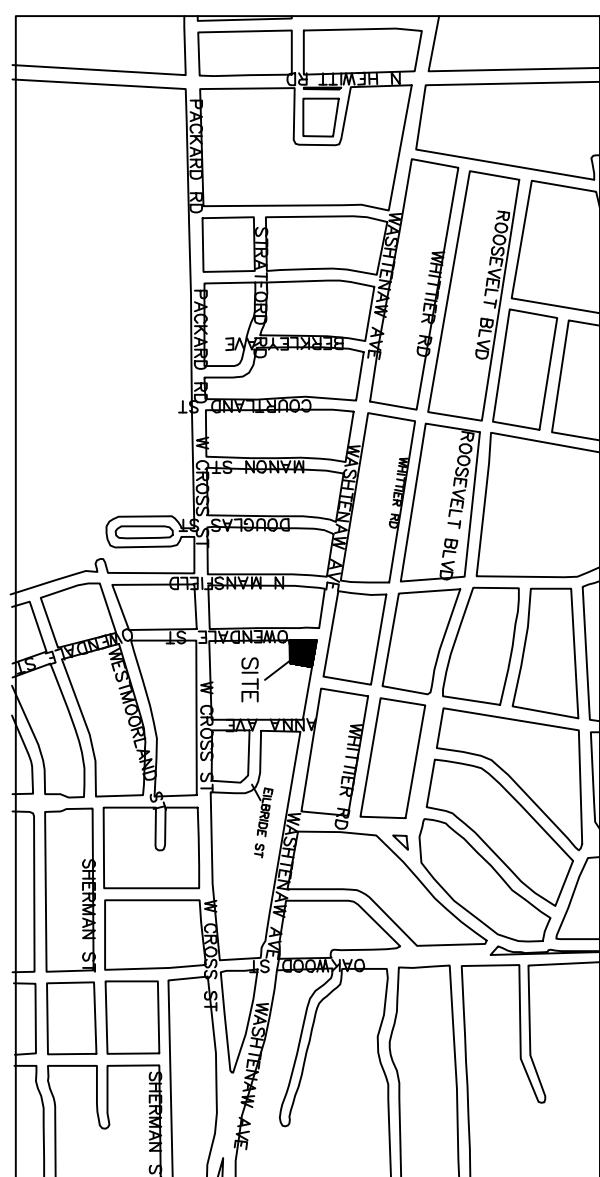


PROPOSED FLOOR PLAN
SCALE: 1/8" = 1'

THE PARKING LOT WIDTH HAS BEEN ENLARGED TO OVERCOME THE DEFICIENCY IN ISLE WIDTH

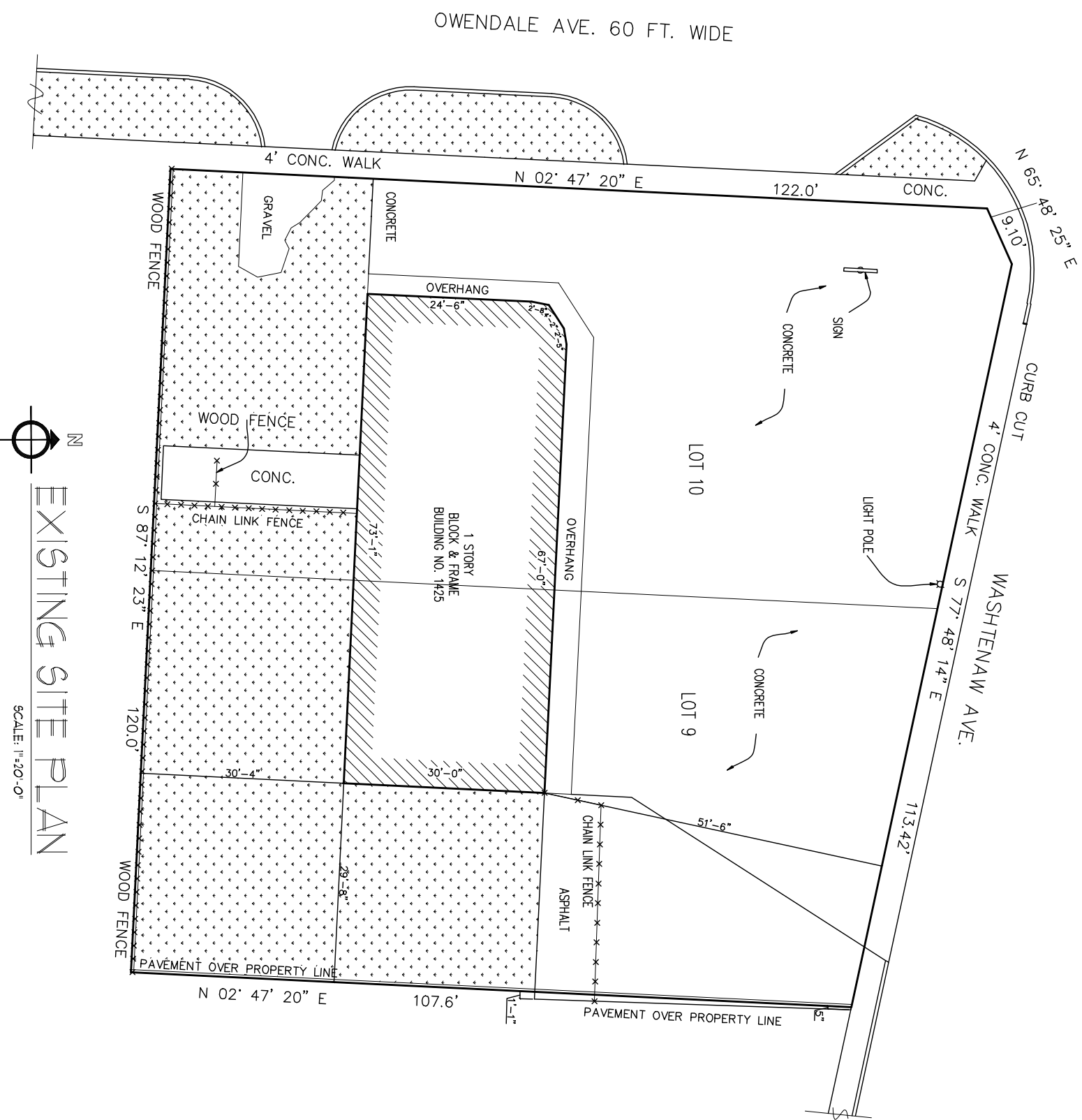
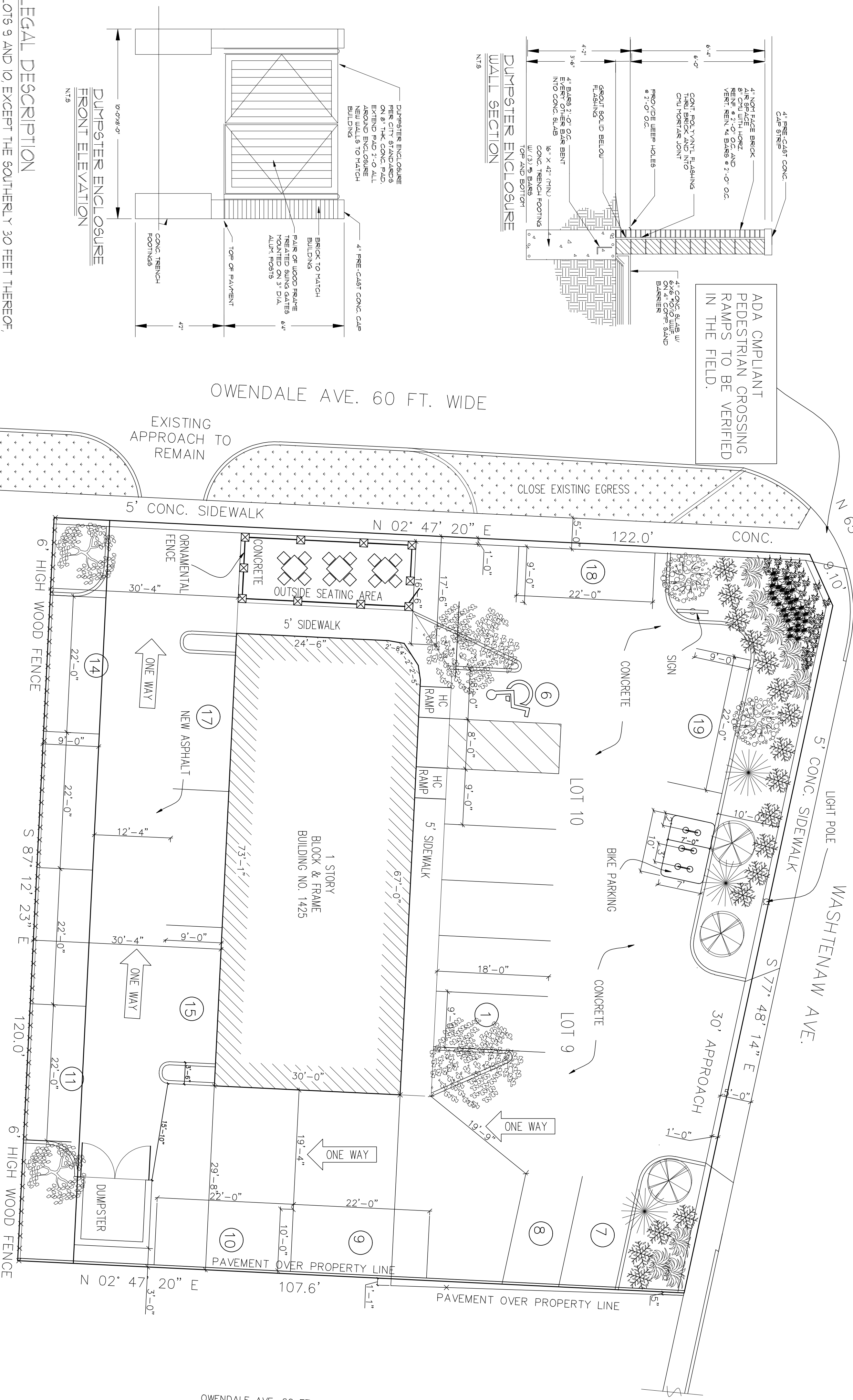
ALL DELIVERY AND PICKUPS WILL BE CONDUCTED DURING NON OPERATING HOURS

A COMPLETE LANDSCAPE PLAN WILL BE SUBMITTED UPON PRELIMINARY APPROVAL



LOCATION MAP
SCALE: NONE

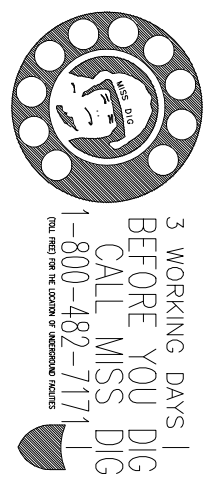
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PARKING PROVIDED	19 OFF STREET PARKING SPACES PROVIDED INCLUDING ONE (1) VAN ACCESSIBLE



SUBMITTALS	
REVISIONS:	2/18/2013 3/15/2013
PROJECT NO.	
DATE	01/31/2013
SCALE	NOTED
SHEET TITLE	EXISTING SITE PLAN PROPOSED SITE PLAN
SEAL	

13746 MICHIGAN AVE. DEARBORN, MI-48126 PH:(313) 582-0022 FAX:(313) 582-0028	DRAWN BY: S.E.
APPROVED BY: ADNAN AL-SAATHI	

PROJECT: PROPOSED RESTAURANT	LOCATION: 1425 WASHTEANAW AVE TIFSLANT, MI 4897
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3 WORKING DAYS
BEFORE YOU DIG
CALL MISS. DIG
1-800-482-1177

SP-1

SEAL

**CITY OF YPSILANTI
ZONING BOARD OF APPEALS
ONE SOUTH HURON STREET
YPSILANTI, MICHIGAN 48197**

2013 CALENDAR OF MEETINGS

The regular monthly meetings of the City of Ypsilanti Zoning Board of Appeals will be held on the fourth Wednesday of each month, unless a holiday falls on that date. Unless otherwise indicated, meetings will start at 7:00 p.m. in the Council Chamber.

Dates for 2013 meetings are as follows:

**January 23, 2013
February 27, 2013
March 27, 2013
April 24, 2013
May 22, 2013
June 26, 2013
July 24, 2013
August 28, 2013
September 25, 2013
October 23, 2013
November 21, 2013 (Thursday if
needed)
December 19, 2013 (Thursday if
needed)**

The City of Ypsilanti encourages persons with disabilities to participate and will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed material being considered at the meeting to individuals with disabilities at the meeting upon 2 days notice to the City of Ypsilanti. Individuals with disabilities requiring auxiliary aids or services, should contact the City by calling (734) 483-9646 or (1-800-649-4777 (TDD RELAY)

Anyone interested in attending a meeting should contact the Planning & Development Department at 734-483-9646 to confirm the meeting will take place as scheduled.

For further information on the Zoning Board of Appeals, contact the Office of Planning and Development at the above address and phone number.