

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: 5/27/08

Approved

Date

5/29/08

COUNCIL DISTRICT: 6 & 4
SNI AREA: Delmas Park

SUBJECT: PDC08-002. PLANNED DEVELOPMENT REZONING FROM HI HEAVY INDUSTRIAL ZONING DISTRICT TO HI(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW RELOCATION OF A BILLBOARD FROM 1000 BASCOM AVENUE TO AN EXISTING TRUCKING OPERATION SITE LOCATED AT 1605 INDUSTRIAL AVENUE; & A BILLBOARD HEIGHT ALTERATION AGREEMENT TO REMOVE TWO BILLBOARDS, LOCATED AT 1750 JUNCTION AVENUE AND THE SOUTHWEST CORNER OF PARK AVENUE AND SONOMA STREET RESPECTIVELY, TO ALLOW THE NEW BILLBOARD FACE AT 1605 INDUSTRIAL AVENUE TO EXTEND TO A MAXIMUM HEIGHT OF 50 FEET.

RECOMMENDATION

Approve a Planned Development Rezoning from HI Heavy Industrial to HI(PD) Planned Development to allow the relocation of a billboard face from 1000 Bascom Avenue to 1605 Industrial Avenue. Approve a Billboard Height Alteration Agreement where the City of San Jose enters into a contractual arrangement with Clear Channel Outdoor to allow for an alteration of the height of the new billboard face at 1605 Junction Avenue from the allowed maximum of 36 feet to a maximum of 50 feet in height in exchange for the removal of a legal nonconforming billboard at 1750 Junction Avenue and the removal of a legal nonconforming billboard at the southwest corner of Park Avenue and Sonoma Street.

OUTCOME

Should the Council approve the subject Planned Development Rezoning and enter into a contract for a Billboard Height Alteration Agreement, the applicant would be able to apply for a Planned Development Permit to require the removal of two billboards within the City and the construction of a new billboard at 1605 Industrial Avenue that would extend to a maximum of 50 feet in height.

BACKGROUND

On January 28, 2008 the applicant, Clear Channel Outdoor, filed the subject Planned Development Rezoning to allow the relocation of a billboard face, located at 1000 Bascom Avenue, to an existing trucking yard, located at 1605 Industrial Avenue. Part 5 of Title 23 of the San Jose Municipal Code allows a legal-nonconforming billboard to be removed and relocated to an alternate site through a Planned Development Rezoning. The property at 1000 Bascom Avenue is owned by the City of San Jose, and a new community center is currently under construction at the site. In January, 2008 Clear Channel Outdoor, recognizing the City's need to begin construction on the community center, removed the billboard at their own expense and filed the subject rezoning application to relocate the signage area to the Industrial Avenue site. A billboard with one northern-facing sign face exists at 1605 Junction Avenue, and would be replaced by a new, dual faced billboard of a similar size if the City Council were to approve the subject Planned Development Rezoning. No changes to the existing underlying land use of the property at 1605 Junction Avenue are proposed.

Clear Channel Outdoor is also requesting that the City of San Jose enter into a Billboard Height Alteration Agreement to allow the new billboard face at 1605 Industrial Avenue to extend to a maximum of 50 feet in height. This agreement is necessary to facilitate the project, as the Sign Ordinance allows relocated billboards to be constructed at a maximum height of 36 feet, where the existing billboard at this location is approximately 50 feet in height. To allow the new face to match the height of the existing billboard face, a Height Alteration Agreement is necessary. Section 23.04.495 of the San Jose Municipal Code sets for parameters where the City, a billboard owner, and a property owner may enter into a contractual arrangement to allow for an alteration in height of a billboard in exchange for the removal of other legal nonconforming billboards in the City. In exchange for allowing the new billboard face to be constructed at a maximum height of 50 feet, the applicant has proposed to remove two existing billboards, one located on private property at 1750 Junction Avenue, and one located in the public right-of-way at the southwest corner of Park Avenue and Sonoma Street.

ANALYSIS

General Plan Conformance

The San Jose 2020 General Plan Urban Design Policy #9 states: "In order to maintain and protect the integrity, character and aesthetic environment of the streetscape in industrial, commercial, and residential neighborhoods, new billboards should be permitted only under Planned Development zoning and only where they do not create visual clutter and blight. The relocation of existing billboards from impacted areas to locations where they would have a less visually blighting effect should be encouraged." The proposed project conforms to this Policy in that three billboards have been or would be removed from impacted and inappropriate sites, and replaced with one new sign face on an existing billboard that would be upgraded and modernized at a more appropriate location.

The subject Planned Development Zoning and the Billboard Height Alteration Agreement would result in the removal of a billboard from the southwest corner of Park Avenue and Sonoma Street and the removal of a billboard from 1750 Junction Court. All portions of the billboard structure and lighting would be removed from the sites. The site at Park Avenue and Sonoma Street is located in a residential neighborhood, adjacent to the Lake House Historic District, which makes it an ideal

candidate for the removal of a billboard. The site at 1750 Junction Avenue is adjacent to I-880, and it is within 100 feet of two other billboards, so the removal of this billboard will contribute to the reduction of visual clutter from this site. The proposal would also allow the signage area from the billboard removed at 1000 S. Bascom Avenue to be replaced at the Industrial Avenue site. The site at 1000 S. Bascom Avenue where the billboard was located is surrounded predominately by commercial uses, and the billboard was removed based on the need of the City to begin construction on a Community Center.

The project would result in the replacement of an existing billboard at 1605 Industrial Avenue, which currently has a single northern-oriented sign face, with a new dual-faced billboard. The signs would be positioned so that one billboard face is visible to southbound traffic on Interstate 880, where the other face would be visible to northbound traffic. Because the existing billboard has only one, northern oriented face, the current view of the structure from northbound traffic on I-880 is of the structural support of the sign. This project would result in the view of the structural support being replaced with the view of a sign, which has a negligible aesthetic impact and would not create additional visual clutter and blight from the existing condition. Further, the site where the billboard would be relocated is occupied by a heavy industrial trucking yard, and is surrounded completely by other heavy industrial uses, making it an ideal candidate site to receive a relocated billboard.

Conformance with Outdoor Lighting Policy

This conforms to the intent of the City Council Outdoor Lighting Policy, which is intended “to promote energy efficient outdoor lighting on private development... that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.” The construction of the new billboard at 1605 Industrial Avenue would result in the installation of two new lighting fixtures on this new sign. The proposed lighting fixtures are low intensity, would not focus light skyward, but rather on the billboard face, and would be turned off before 12:00 a.m. to minimize effects on the Lick Observatory, in conformance with the Policy.

Conformance to Billboard Relocation Standards

The purpose of billboard relocation approvals is to enable the removal of billboards from impacted and unsuitable sites by allowing the signage area to be replaced on billboards meeting modern standards at alternative, more appropriate locations. Section 23.04.450 of the Sign Ordinance sets forth the development standards for relocated billboards to ensure compliance with this purpose. Below is a table describing the development standards set forth in this Section and the project proposal:

	Sign Ordinance Standard	Proposal	Conformance
Height	36 feet from grade	50 feet from grade	Yes*
Width	50 feet maximum	48 feet	Yes
Signage Area	700 square feet maximum	672 square feet	Yes
Street Frontage	A billboard must be placed only on a parcel which has frontage on one public street	The site has frontage on Industrial Avenue	Yes

Location from Highways or Freeways	No billboard shall be located less than 660 feet from State Routes 85, 87, 280, and 237 or the US 101 bypass southerly of Ford Road	The site is not located near any of these right-of-ways	Yes
	No billboard shall be placed within 500 feet from another billboard on the same side of any interstate highway	The nearest billboard on Interstate 880 is located approximately 660 feet from the subject billboard.	Yes
Illumination	Billboard light sources shall not have appendages which protrude more than 8 feet from the billboard face	Exact location of lighting to be determined at Planned Development (PD) Permit stage	Yes
Setbacks from abutting streets	25 feet, or greater than the setbacks of existing structures on the site and adjacent sites	Approximately 750 feet from Industrial Avenue, behind existing structures on the site and adjacent sites	Yes

*See Height Alteration Agreement Discussion

Conformance to Height Alteration Agreement Standards

The City, a billboard owner, and a property owner may enter into a contract to allow the modification of height of a legal nonconforming billboard in exchange for the removal of other legal nonconforming billboards in the City when the contract meets the minimum criteria set forth in Section 23.04.495A of the Sign Ordinance. Clear Channel Outdoor is also requesting that the City of San Jose enter into such a contract to allow the new billboard face at 1605 Industrial Avenue to extend to a maximum of 50 feet in height. This agreement is necessary to facilitate the project, as the Sign Ordinance allows relocated billboards to be constructed at a maximum height of 36 feet, where the existing billboard at this location is approximately 50 feet in height. The Height Alteration Agreement would allow the new billboard face to match the height of the existing one on the site. Below are the criteria that must be met in order for the City to enter into the contract, with a brief explanation of how this proposal meets those criteria.

1. *The contract does not permit nor allow for the erection, defined in Section 23.02.160, of any new billboard nor increase the number of billboard panels located in the City.*

The Billboard Height Alteration Agreement would not permit the construction of a new billboard. This action would be allowed through the Planned Development Zoning and Planned Development Permit process.

2. *Fulfillment of the contractual obligations shall result in a net reduction of the number of billboards located in the City that are not otherwise already scheduled for removal by the real property owner or billboard owner or through final order of condemnation other order of a court of competent jurisdiction.*

Clear Channel Outdoor has proposed to remove two billboard faces from within the City in exchange for the height alteration; one located at 1750 Junction Avenue, and one located at the southwest

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corner of Park Avenue and Sonoma Streets. These billboards are not otherwise scheduled for removal.

- 3. The contract provides for the removal of any and all billboards to be removed under the contract prior to or concurrently with effecting any change in the height of the existing legal nonconforming billboard.*

The billboards at the Park Avenue and Junction Avenue sites would be removed prior to any modification of the billboard at 1605 Industrial Avenue.

- 4. The contract does not allow the height of any billboard, or any of its appendages, to exceed fifty (50) feet, measured from the natural grade of the site; and*

The billboard at 1605 Industrial Avenue would be a maximum of 50 feet in height.

- 5. The contract contains language satisfactory to the City Attorney under which the billboard owner and/or real property owner agree to release and indemnify the City from any and all potential liability and damages resulting from work performed and services rendered under the contract and language satisfactory to the Risk Manager under which the billboard owner and/or real property owner agree to acquire and maintain appropriate insurance policies related to the work to be performed and services provided under the contract.*

The City Attorney and Risk Manager have reviewed the proposed contract and deemed it satisfactory.

Conclusion

The subject Planned Development Rezoning and Billboard Height Alteration Agreement to allow the relocation of a billboard face from 1000 Bascom Avenue to 1605 Industrial Avenue and to allow for an alteration of the height of the new billboard face at 1605 Junction Avenue from the approved maximum of 36 feet to a maximum of 50 feet in height in exchange for the removal of two legal nonconforming billboards in the City conforms to the General Plan, applicable City policies, and the provisions of the Sign Ordinance, Title 23 of the San Jose Municipal Code. The project would reduce overall visual clutter in the City, and would facilitate the modernization of an existing, legal billboard.

EVALUATION AND FOLLOW-UP

The applicant will be required to secure a Planned Development Permit from the Director of Planning, Building, and Code Enforcement in order to implement the subject rezoning.

POLICY ALTERNATIVES

Not Applicable

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PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines, and the billboard relocation and height alteration provisions of Title 23.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

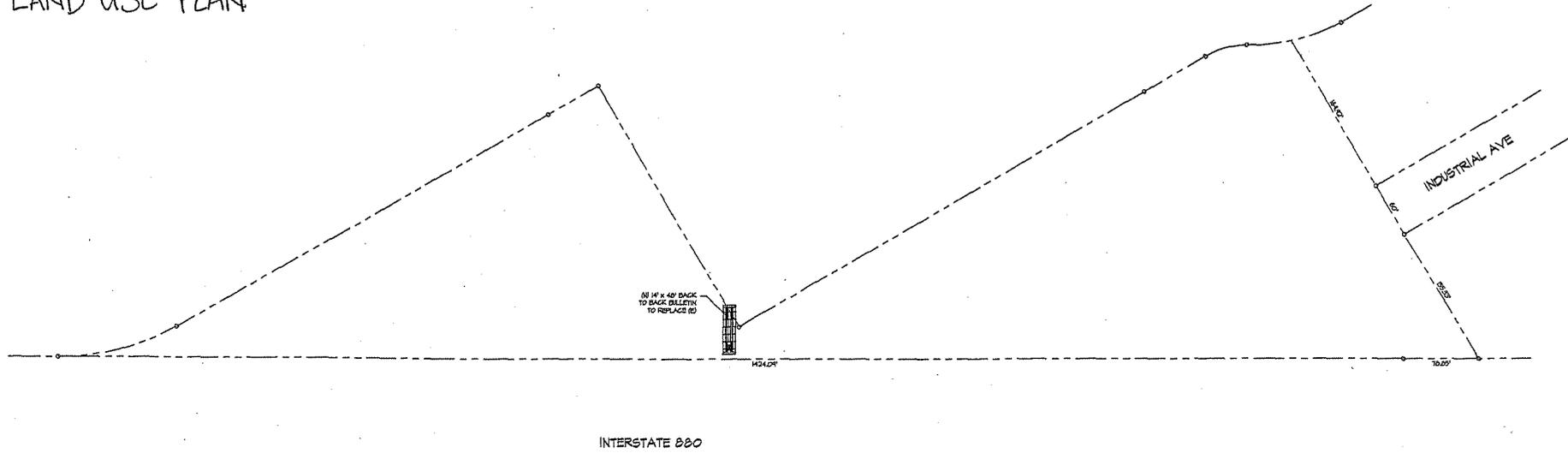
CEQA: Mitigated Negative Declaration

For


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Jeannie Hamilton at 408-535-7800.

LAND USE PLAN

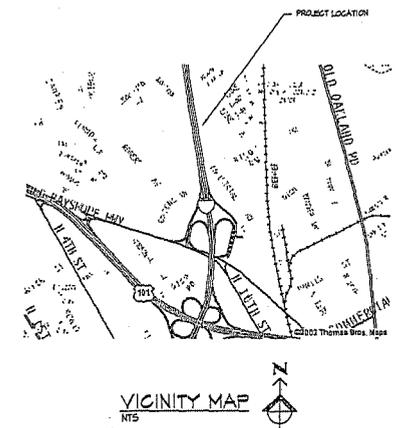


SITE PLAN
1"=50'

LEGEND
ED EXISTING
ND NEW

Land Use Plan Notes

- Permitted Uses:** Those uses of the HI Heavy Industrial Zoning District, as amended.
- Special and Conditional Uses:** Special and Conditional uses of the HI Heaving Industrial Zoning District shall be considered through a Planned Development Permit
- Development Standards:** Per Part 3 of Chapter 20.50, as amended.
- Performance Standards:** Per Part 4 of Chapter 20.50, as amended.
- Billboard Relocation Standards:** The relocated billboard face shall meet the provisions of Part 5 of Title 23. The relocated billboard face shall be permitted to extend to a maximum of 50 feet in height subject to the approval of a Billboard Height Alteration Agreement.
- Water Pollution Control Plant Note:** Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.



					THOMAS P. CHRISTIAN Structural Engineer	BULLETIN REPLACEMENT 1605 INDUSTRIAL AVE, SAN JOSE CLEAR CHANNEL OUTDOOR	GENERAL DEVELOPMENT PLAN EXHIBIT C	Drawn By: EC Date: 2/12/04 Approved By: Project No: T02044	Revision: Sheet No: 1 of 1
▲					267 Fourth Street / Oakland, California 94607 / 510-452-2488				
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No.	Revision	Date	By	App'd					

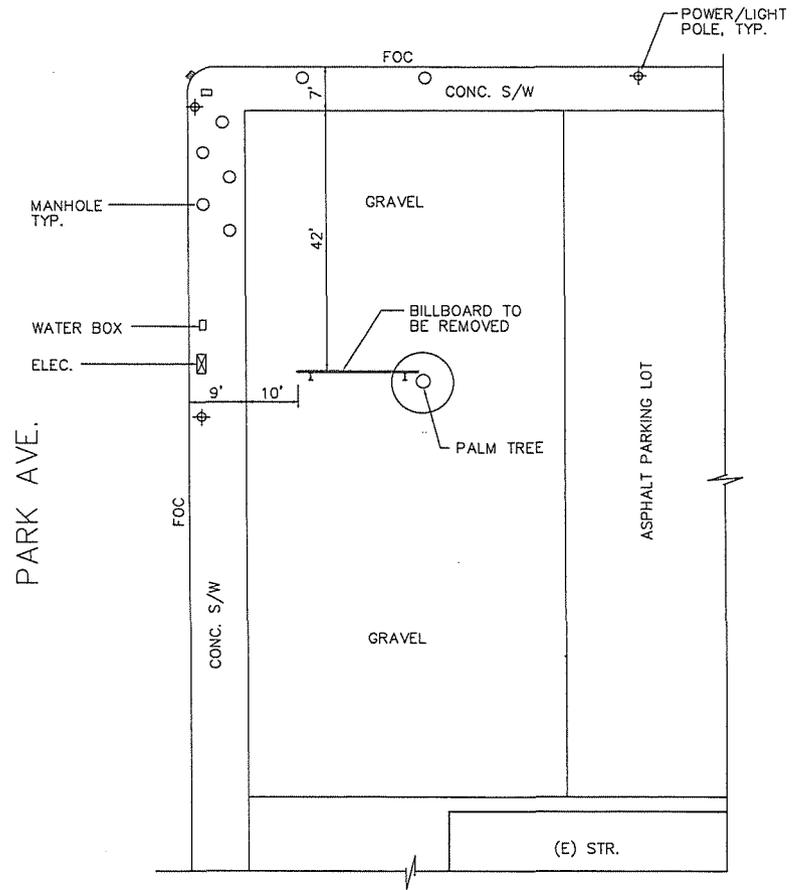
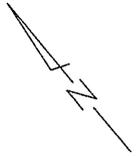
**Billboard to be removed
Bascom Avenue**



PARK AVE. @ SONOMA ST. BILLBOARD TO BE REMOVED

REMOVE BILLBOARD

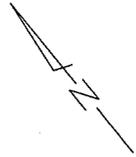
SONOMA ST.



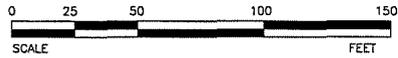
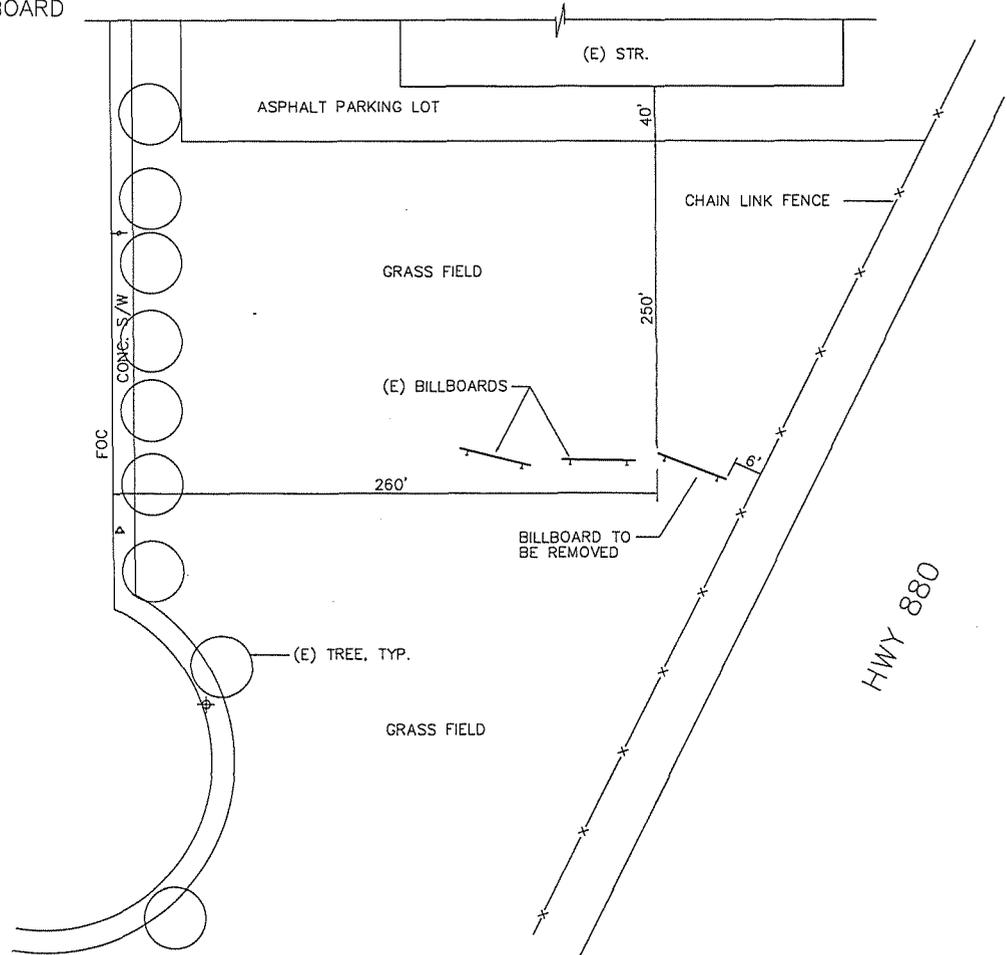
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					SCALE:	1"=20'		
							SHEET NO:	1 OF 1
							DWG. FILE NAME:	PARK.DWG

JUNCTION CT. @ JUNCTION AVE. BILLBOARD TO BE REMOVED

REMOVE BILLBOARD



JUNCTION CT.



NO.	REVISIONS:	BY:	DATE:	AP'D.	DESIGNED BY:			
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