

PLANNING APPROVAL STAFF REPORT**Date: November 6, 2014****NAME**

Tom Townsend

LOCATION401 Dauphin Street
(Southeast corner of Dauphin Street and South Franklin Street)**CITY COUNCIL
DISTRICT**

District 2

PRESENT ZONING

T 5.1, Mixed Use - Medium Intensity

AREA OF PROPERTY

4,963 ± sf / 0.1 ± Acres

CONTEMPLATED USE

Planning Approval to allow increased occupancy load for a proposed entertainment venue in the Downtown Development District.

**TIME SCHEDULE
FOR DEVELOPMENT**Repairs to begin December 2014
Construction to begin January 2015
Completion by December 2015**ENGINEERING
COMMENTS**

ADD THE FOLLOWING NOTES TO THE PUD SITE PLAN:

1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII).

**TRAFFIC ENGINEERING
COMMENTS**

Additional detail of the proposed "temporary barricade" will be needed. The plan indicates that the barricade will only be 2" wide, however, that may only be the width at the height of the barricade. The clear path width will need to account for the width of the base of the barricade. Also, according to the 2010 ADA Standards for Accessible Design, a 36" minimum clear width of walking surface is required. This should apply to both the sidewalk that will be open to the public, as well as the queue space for the venue.

**URBAN FORESTRY
COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

FIRE DEPARTMENT**COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

REMARKS

The applicant is requesting Planning Approval allow increased occupancy load for a proposed entertainment venue in the Downtown Development District. The Downtown Development District requires restaurants, bars, catering, entertainment, theater and similar uses with a proposed occupancy load over 100 people to obtain Planning Approval in T 5.1 districts.

The review required for Planning Approval examines the applicant's location and site plan with regard to transportation, parking and access, public utilities and facilities, traffic congestion and hazard, and to determine if the proposal is in harmony with the orderly and appropriate development of the district.

It is very important to note that the Planning Approval review is site plan specific; therefore *any* future changes to the site plan or to the scope of operations, as approved, by current or future applicants must be submitted for Planning Approval.

The site is located in a T 5.1, Mixed Use - Medium Intensity district. It has frontage on Dauphin Street, an "A" class street, and South Franklin Street, also an "A" class street. The primary frontage of the building is on Dauphin Street.

The property is also located within the Lower Dauphin Street Historic District, thus any exterior improvements will additionally require review by the Mobile Historic Development Commission.

The property is located outside of the two Entertainment Districts in downtown, thus it cannot benefit from any of the allowances provided by the regulations associated with the districts.

The applicant proposes to renovate an existing vacant building into an entertainment venue, and requests Planning Commission Approval for an occupancy load of 907 people. The existing building, which is historic, contains 9,400 ± SF across two floors and, according to the applicant, has been vacant for over 20 years.

The applicant states that they have not been able to find a prospective tenant for a building of this size that would have a use with an occupancy load of less than 100 people. The applicant had considered residential uses, but the lack of dedicated parking made that option unviable. A restaurant use was also considered, but the uncertain economics was not considered an acceptable investment risk. The applicant has a prospective tenant, however, who is interested in the site if approval for the requested 907 person occupancy load can be obtained from the Planning Commission.

The applicant states that the impact of the proposed use will be minimal on adjacent uses and properties. They base this on the fact that the proposed use will operate in the evenings, when

most other offices and retail establishments are closed, that other similar “assembly” uses are located far enough away to not add to congestion, that off-duty police will be used to keep customers and use of the building in compliance with city regulations and ordinances, and that improvements will be made to the building to address noise-related concerns that may be expressed by adjacent property owners.

Regarding the sound issue, the applicant states that they will utilize a “soundproofing” consultant to evaluate and modify as needed walls and windows so that they will be in compliance with city ordinances. Furthermore, the off-duty police officers will also assist during event hours to ensure that the venue operates within the parameters of applicable ordinances.

Site plans submitted with the application show that the proposed amplification source within the venue will be $156 \pm$ feet from bedroom windows for residential uses in the Mattress Factory, $244 \pm$ feet from the Cathedral Oaks Apartments, and $172 \pm$ feet from apartments under construction at 360 Dauphin Street.

Another set of plans within the submittal include window and wall details regarding sound proofing. Special panels are proposed for the windows that will prevent or reduce the amount of sound emanating through the windows. It also appears that wall coverings will be provided that provide a structural offset and air space in order to reduce the transmission of noise through the walls.

The applicant states, in a note on one of the submitted plans, that the times of probably sound amplification will be Monday – Thursday, 7 PM – 1 AM, and Friday – Saturday, 8 PM to 2 AM. The applicant also states via a note that an on-site sound meter will ensure compliance with the following city ordinance:

Sec. 39-96.1 - Noise in residential districts.

(c) Noise in residential districts restricted.

(1) Generally. It shall be unlawful for any person to use, operate, or permit to be used or operated, any device, radio, musical instrument, television, phonograph, drum, sound amplifying equipment or device which produces or reproduces sound, either stationary or mobile, in such a manner so as to create any continuous noise which exceeds 85 db(a) during the hours of 6:00 a.m. until 10:00 p.m. or which exceeds 50 db(a) from 10:00 p.m. until 6:00 a.m. at any property line within a residential district or upon any public street or right-of-way within, or bordering upon any residential district within the corporate limits of the city.

Costumer queuing is a concern regarding a venue of this size and nature. Plans submitted with the application show that queuing will occur on the East side of the building and along the South side of Dauphin Street, extending approximately 70 feet West in front of an existing furniture business that is closed in the evenings. All queuing will be within the public right-of-way on existing sidewalks.

On performance evenings, the venue will open its doors 90 minutes prior to the show time for any shows anticipated to have more than 450 people in attendance. After the end of the show, where there are more than 450 people in attendance, the management will ensure that the venue

is empty of customers within 30 minutes of the end of the show. For shows with less than 450 people, the venue will remain open to customers for up to two hours after the end of the show.

Immediately to the East of the building is the Cathedral –Basilica of the Immaculate Conception. The applicant proposes to park performer's buses and support vehicles on South Franklin Street, behind the church.

The site is located within a three block area along Dauphin Street that was excluded from the Entertainment District boundaries. Within this three block area are four townhomes, the Mattress Factory, several office and retail establishments, and a bar. A previous performance venue in this three block area, a cause of concern for adjacent residents and property owners, was closed several years ago.

The fact that the applicant has a large building and a tenant willing to utilize the building, but only with an approved occupant load of 907 people, does not in itself justify granting Planning Approval to the applicant. The Commission must consider if the proposal is "*in harmony with the orderly and appropriate development of the district.*" Similar venues with occupancy loads exceeding 100 people are allowed "by right" in T6 and SD-WH districts. Some T6 areas are located within the Entertainment District, but no SD-WH areas are located within the Entertainment District.

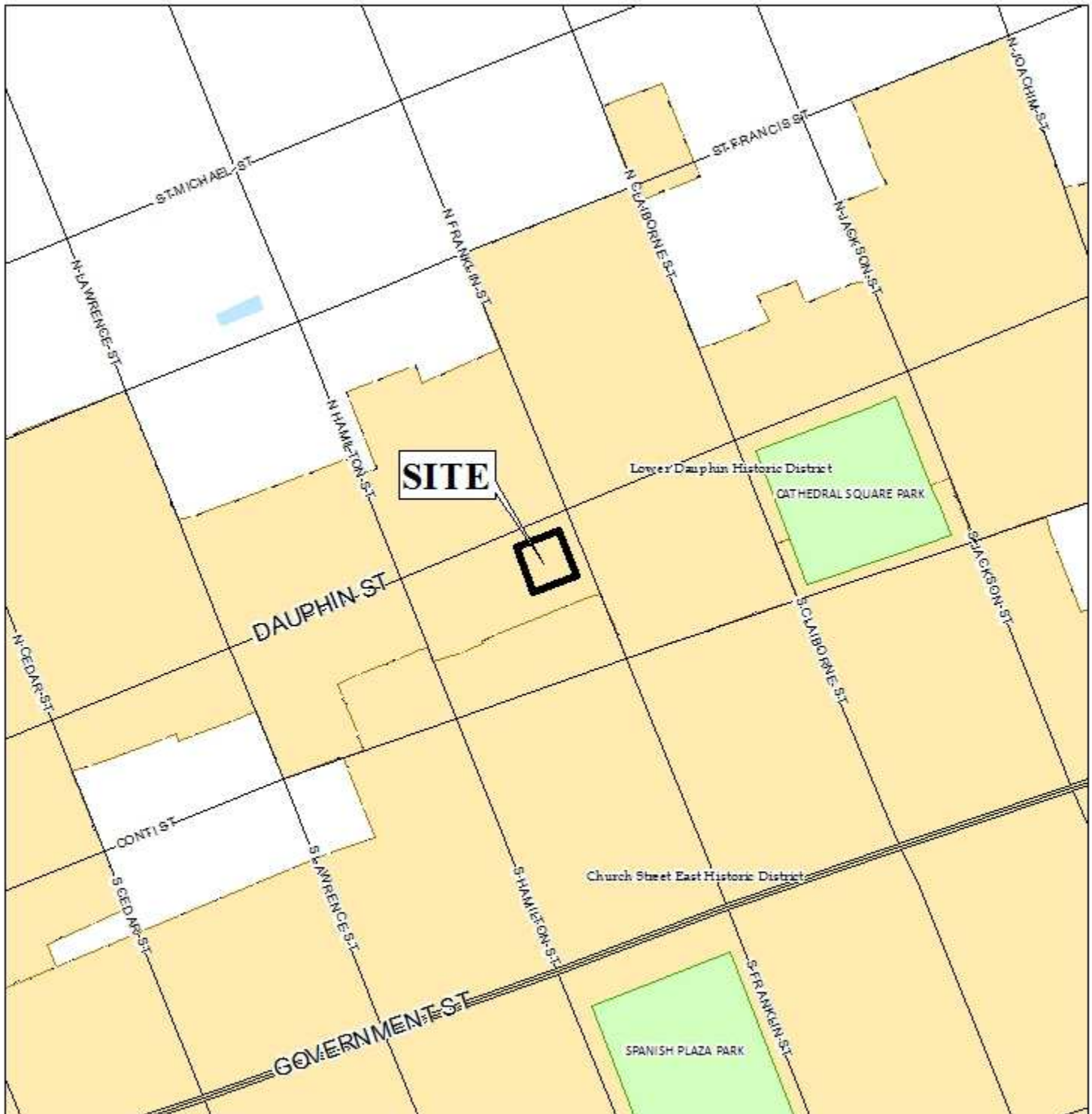
The nearest improved (paved) parking lots which allows public parking are at least 300 feet, or a block and a half away to the East. Otherwise, off street parking opportunities appear limited within the immediate vicinity. On street parking is available, but may not be sufficient to meet the parking demand associated with the venue. That being said, ArtWalk and other special events downtown also create parking demands that at times exceed the available on and off street parking.

RECOMMENDATION

Planning Approval: Based upon the preceding, this request is recommended Denial for the following reasons:

- 1) There are multiple residential uses within 300 feet that, despite sound attenuation measures, may still be impacted by noise;
- 2) The exclusion of this site and the associated three blocks from the Entertainment District indicates an apparent intent by the Mobile City Council to restrict the types of activities within the excluded area;
- 3) The proposed occupancy load of 907 people far exceeds any of the other uses within the immediate vicinity, thus would be out of character for the area; and
- 4) There are other, more appropriate districts within the Downtown Development District for the proposed use and the proposed occupancy load.

LOCATOR MAP



APPLICATION NUMBER 13 DATE November 6, 2014

APPLICANT Tom Townsend

REQUEST Planning Approval



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use units.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



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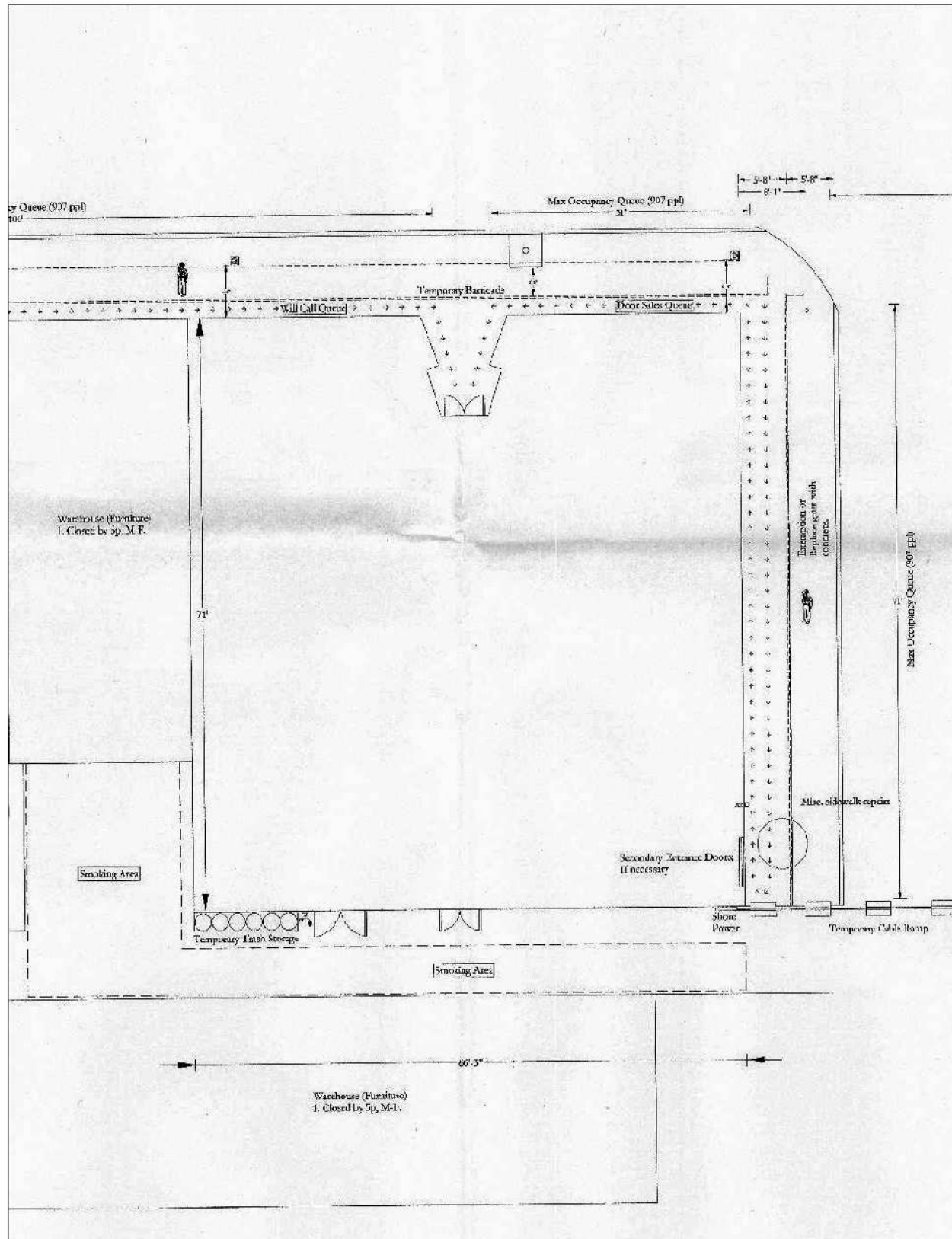
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DETAIL SITE PLAN



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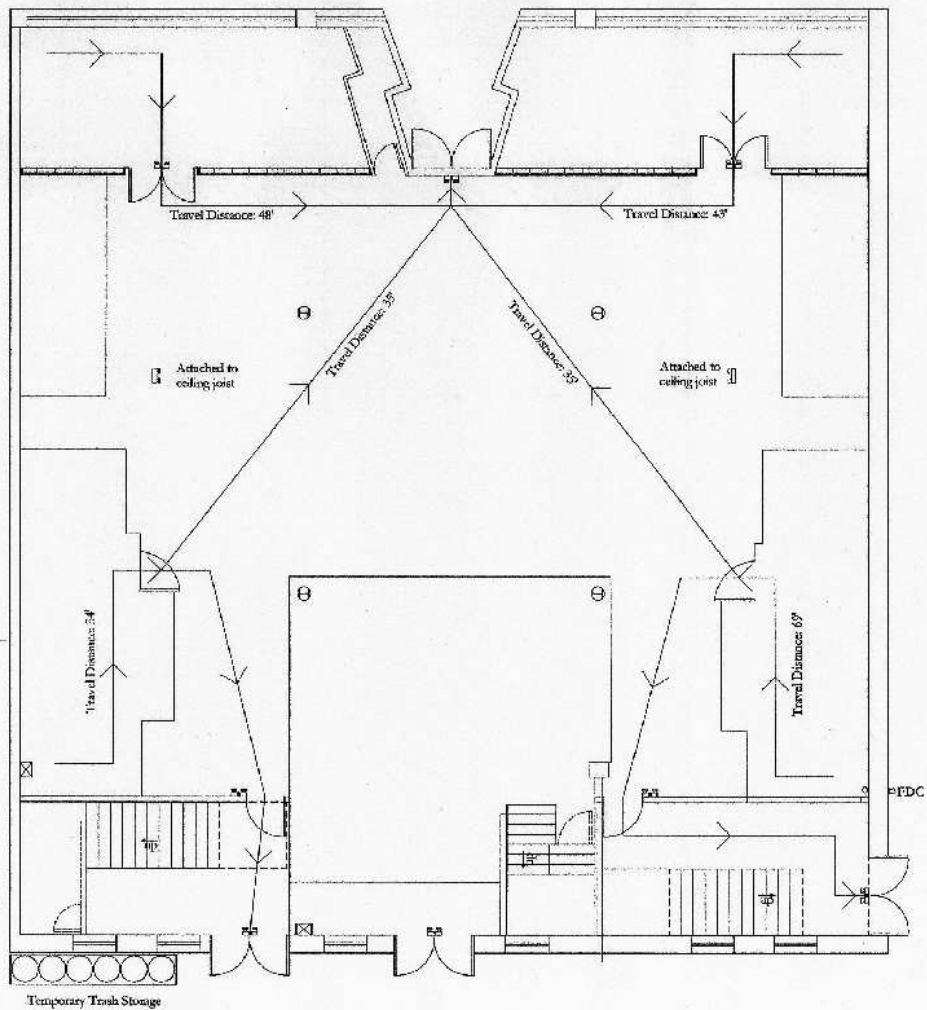
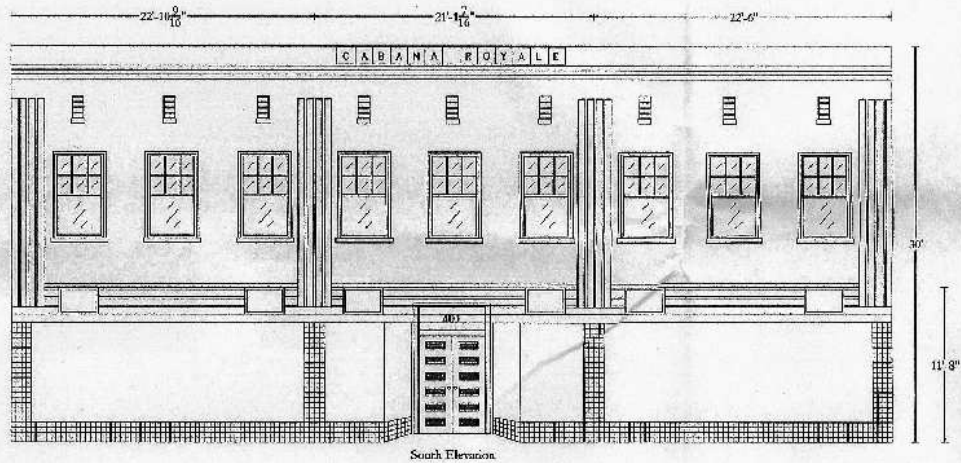
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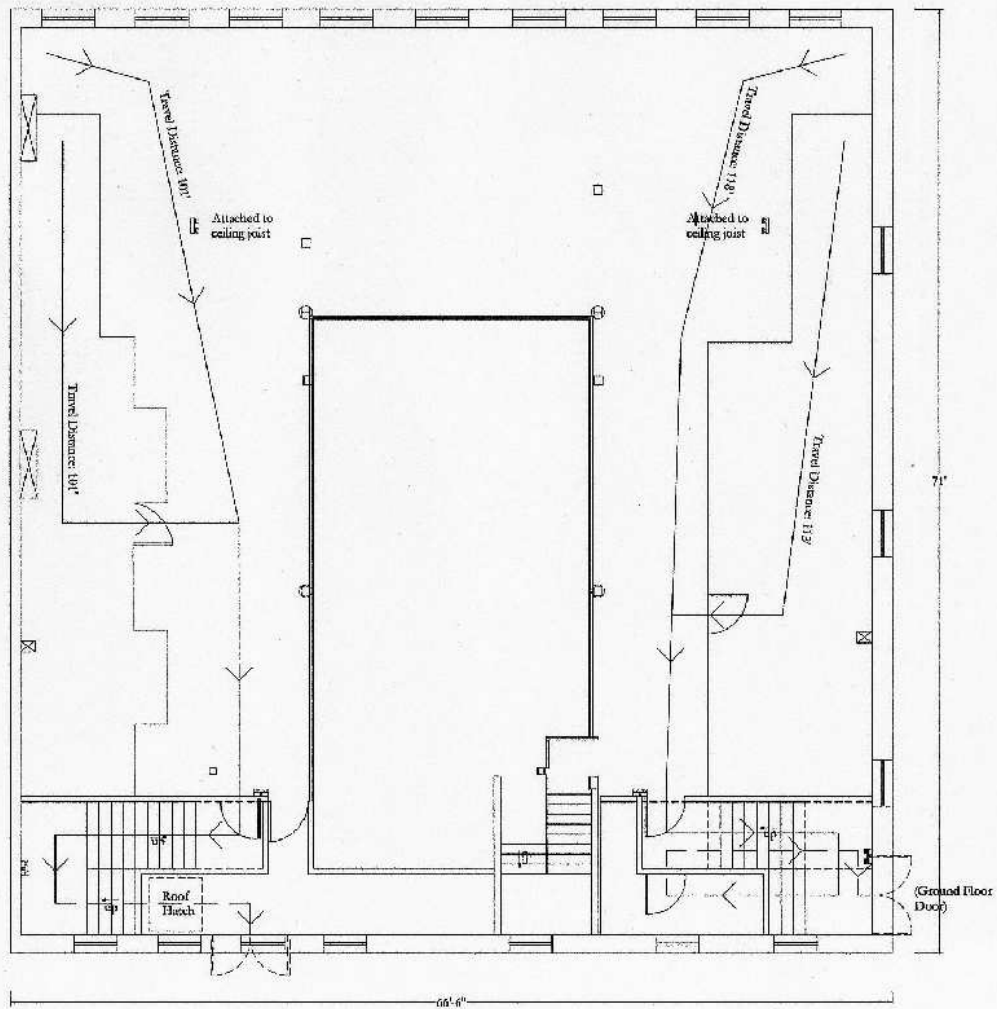
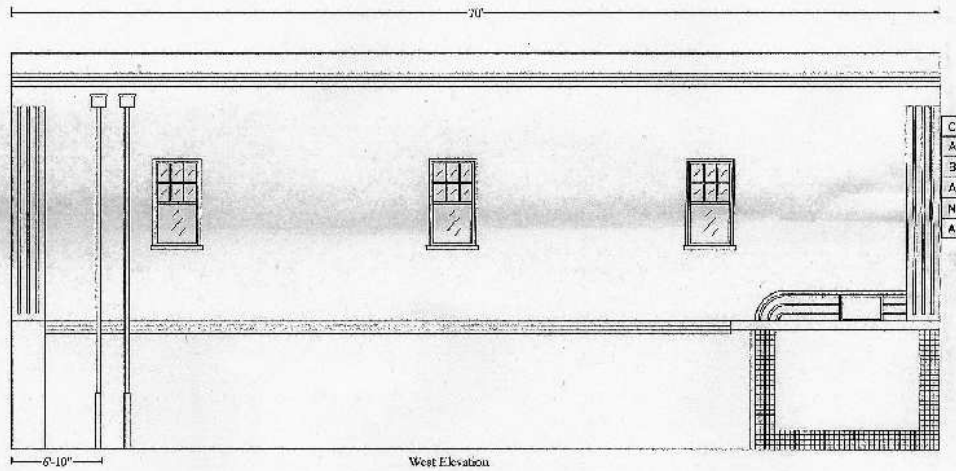
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