

# Board of Supervisors

January 28, 2025

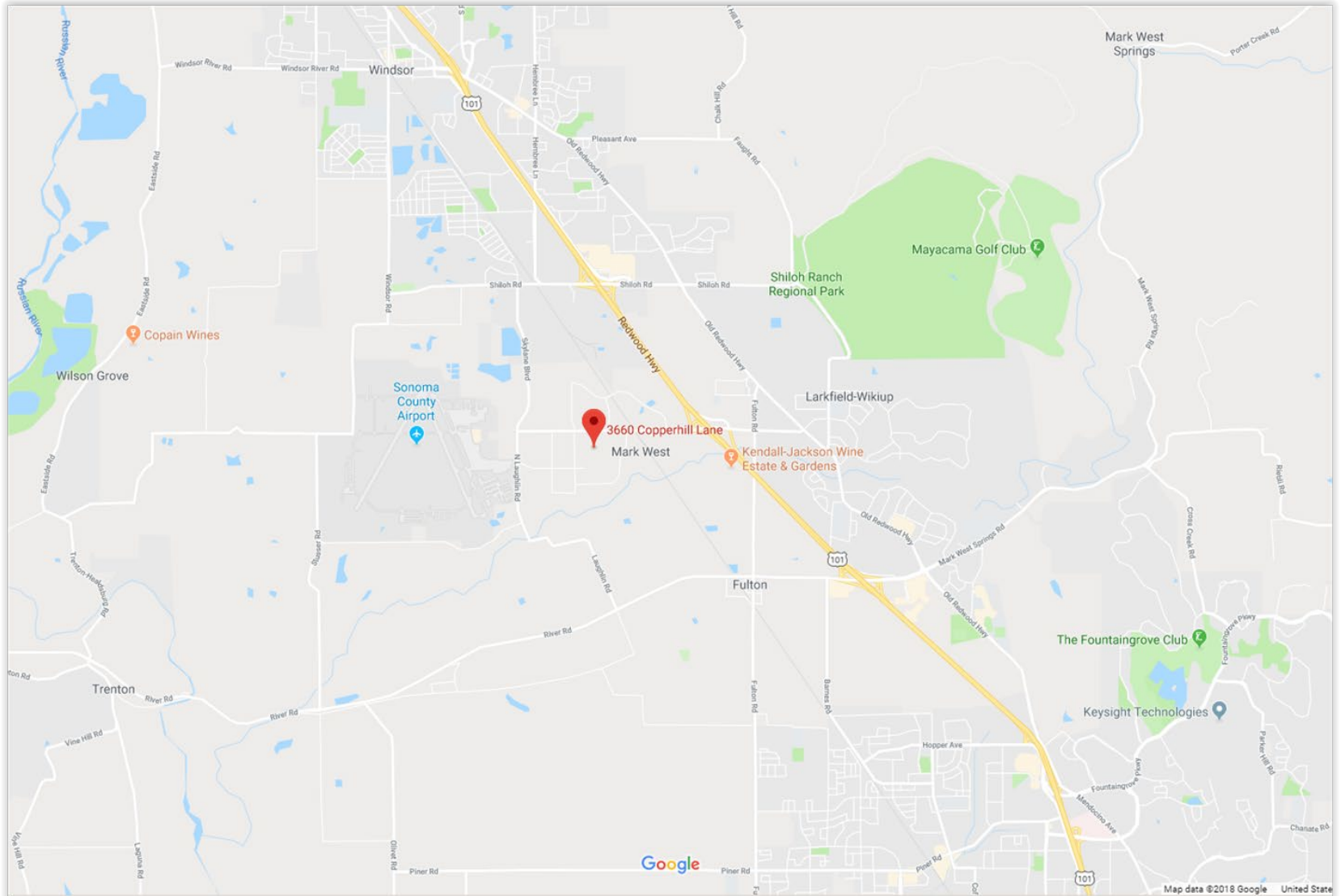
## Appeal of UPE07-0112 Revocation

**Concrete Manufacturing Plant**  
**3660 Copperhill Lane, Santa Rosa**

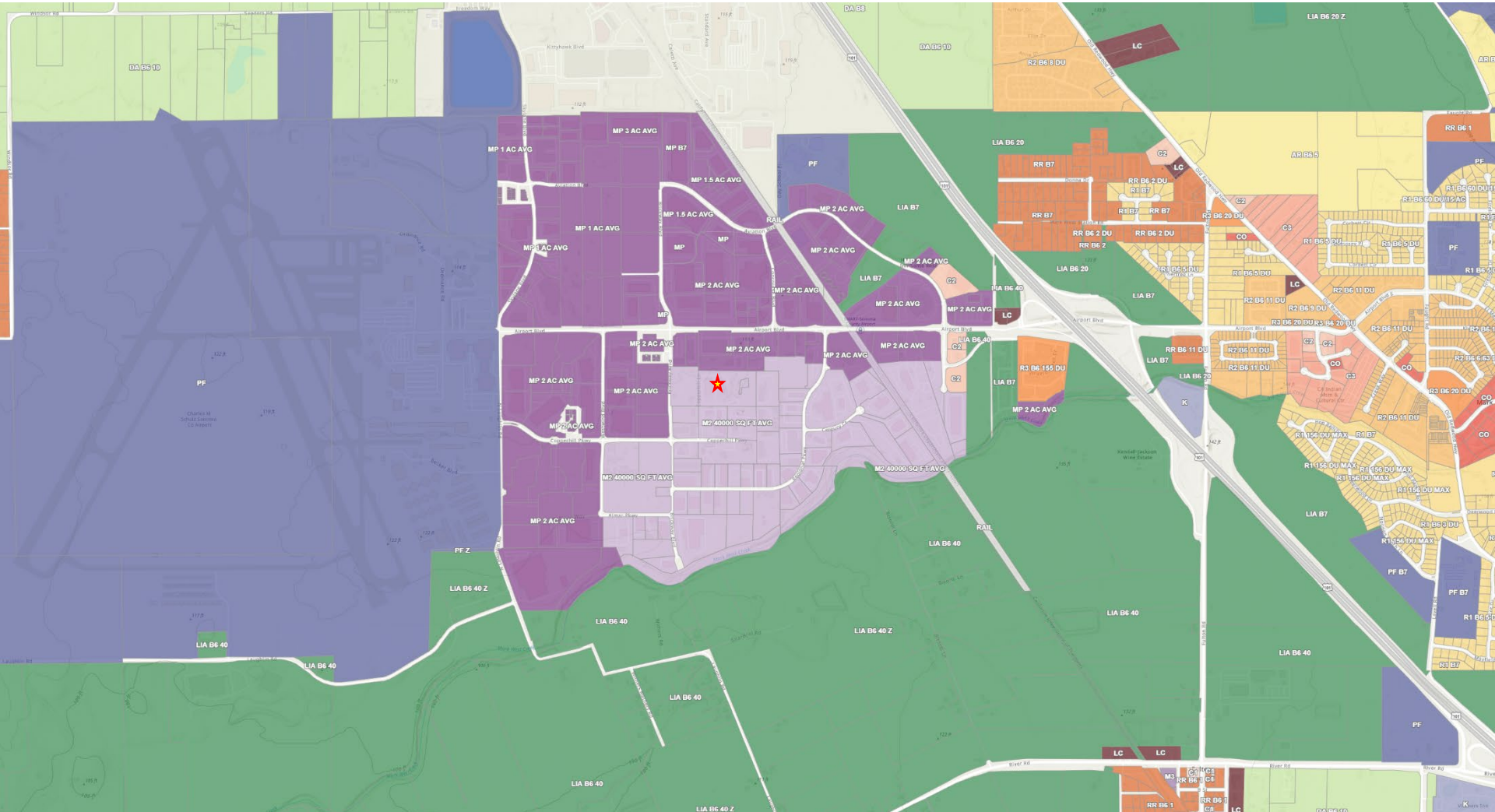
**Cecily Condon, Project Planner**



# Vicinity Map



# Zoning Map: M2 Heavy Industrial



# Project Area



# UPE07-0112

- *Approved by hearing waiver 04/21/2008*
- *Revoked March 28, 2024 by BZA*

## **Project**

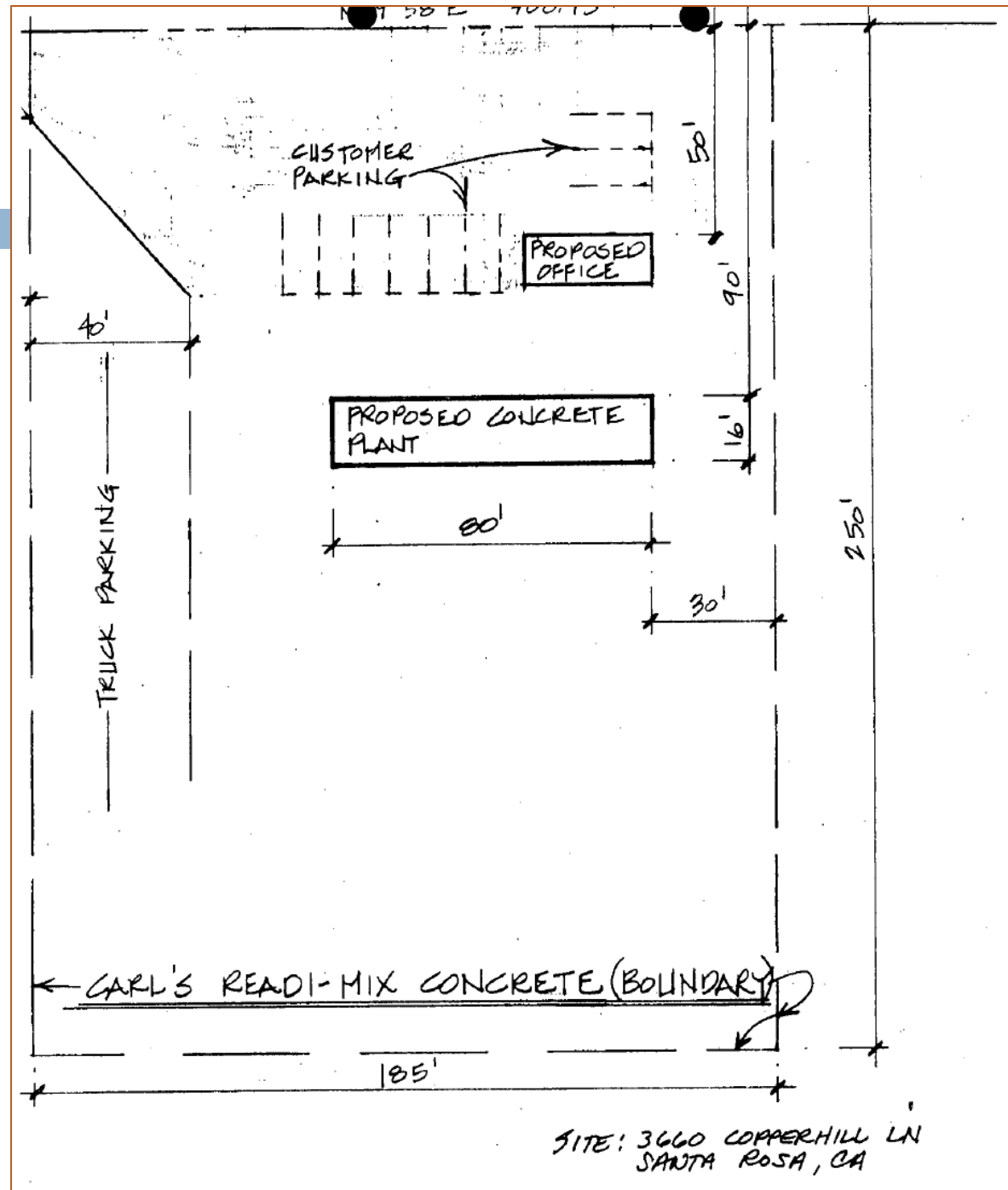
- Concrete manufacturing plant
- 250 sq. ft. mobile office
- On-site truck storage for 8 trucks
- Hours of operation from 5 am to 5 pm
- Estimated 45 truck trips per day.

# Site Plan

Partial Site Plan for  
concrete batch plant area

1.2 ac of 6.78 ac parcel

Approved as UPE07-0112



# Building Violations Summary

- May 11, 2011, a Notice and Order for construction without building permits in violation of Chapter 7 the Building Code and declaring such as dangerous and a public nuisance by the authority of Sonoma County Code Chapter 1.  
Unpermitted Work included:
  - Batch plant structure;
  - Commercial coach; and
  - Tank exceeding 5,000 gallons (Removed)
  
- December 2, 2011 a Notice of Abatement Proceedings was recorded due to the violations for construction without permit.

# Planning Violations Summary

- Condition of Approval #1 listed for this project requires that Building Permits and other development permits be issued for establishment of the use.
- Preoperational Conditions of Approval were never fully satisfied and no use permit certificate was issued on the subject parcel.
- Condition 32 of the permit provides explicit authority to consider revocation for failure to comply with the Building Code:

*“This use shall be constructed, maintained, and operated in conformance with all applicable county, state, and federal statutes, ordinances, rules, and regulations. A violation of any applicable statute, ordinance, rule or regulation shall be a violation of the Use Permit, subject to revocation.”*



# Condition Compliance, March 2024

- UPE07-0112 is subject to 56 Conditions of Approval
- Notable submittals include:
  - ▣ The Town of Windsor Water Permit
  - ▣ Bay Area Air Quality Management District (BAAQMD) Permit
  - ▣ State Water Resource Control Board (SWRCB) Permit
  - ▣ Recorded Sewer Easement
  - ▣ Sign Posting to satisfy Condition 25
- Previous attempts by operators to come into compliance have been unsuccessful

# Board of Zoning Adjustments

- March 28, 2024 the BZA held a public hearing and adopted a resolution revoking UPE07-0112, Finding;
  1. There exist ongoing building violations at the subject property for unpermitted structures violates condition number 32 of the Use Permit
  2. The ongoing violations are well documented, including recordation of a Notice of Abatement Proceedings recorded December 2, 2011, and a reminder letter of the proceedings was sent in 2019.
  3. Failure to abate the violations constitutes a public nuisance based on non-compliance with the County Code.
  4. The ongoing violations have lasted 12 years.
  5. Continued operation of the use with unpermitted structures constitutes is substantial failure to fulfill the conditions of approval.

# Condition Compliance

- Since the March 28, 2024 Hearing:
  - Building Permits for the Batch Plant and Commercial Coach have been received.
    - Pending Planning clearance for conformance with UPE07-0112 site plan
    - Addressed Fire and Building comments
  - Demolition Permit has been issued
  - SEW21-0141 Has been issued
  - Avigation Easement
  - Payment of Mitigation Fee for California Tiger Salamander Received

# Appeal

The project operator (Applicant), filed a timely appeal of the revocation April 05, 2024; which alleges:

- Intent to comply is supported by litigation record
- BZA findings were inadequate
- Litigation and ownership obstructed compliance
- Diligence toward compliance has continued
- Amendment of the Conditions of Approval
- Takings

# Appeal Response

- The BZA record included record of the litigation and condition compliance record
- Finding of the public nuisance was stated in the Notice and Order dated May 11, 2011
- Compliance with the permit conditions has not been achieved since issuance in 2008
- The original Conditions of Approval allowed 2 years to legally establish the use, illegal construction does not constitute a vested right

# Public Comment

- The property owners and legal representatives have provided correspondence supporting timely revocation of the permit
- The operators' team, including legal representation has provided documentation confirming an intent to comply with regulations, including progress reports on Condition Compliance
- No other public comments have been received

# Staff Recommendation

Staff recommends the Board of Supervisors Deny the Appeal and uphold the Board of Zoning Adjustments decision to revoke UPE07-0112 for noncompliance with the Conditions of Approval and find the revocation exempt from CEQA as an Enforcement Action (Sec. 15321)

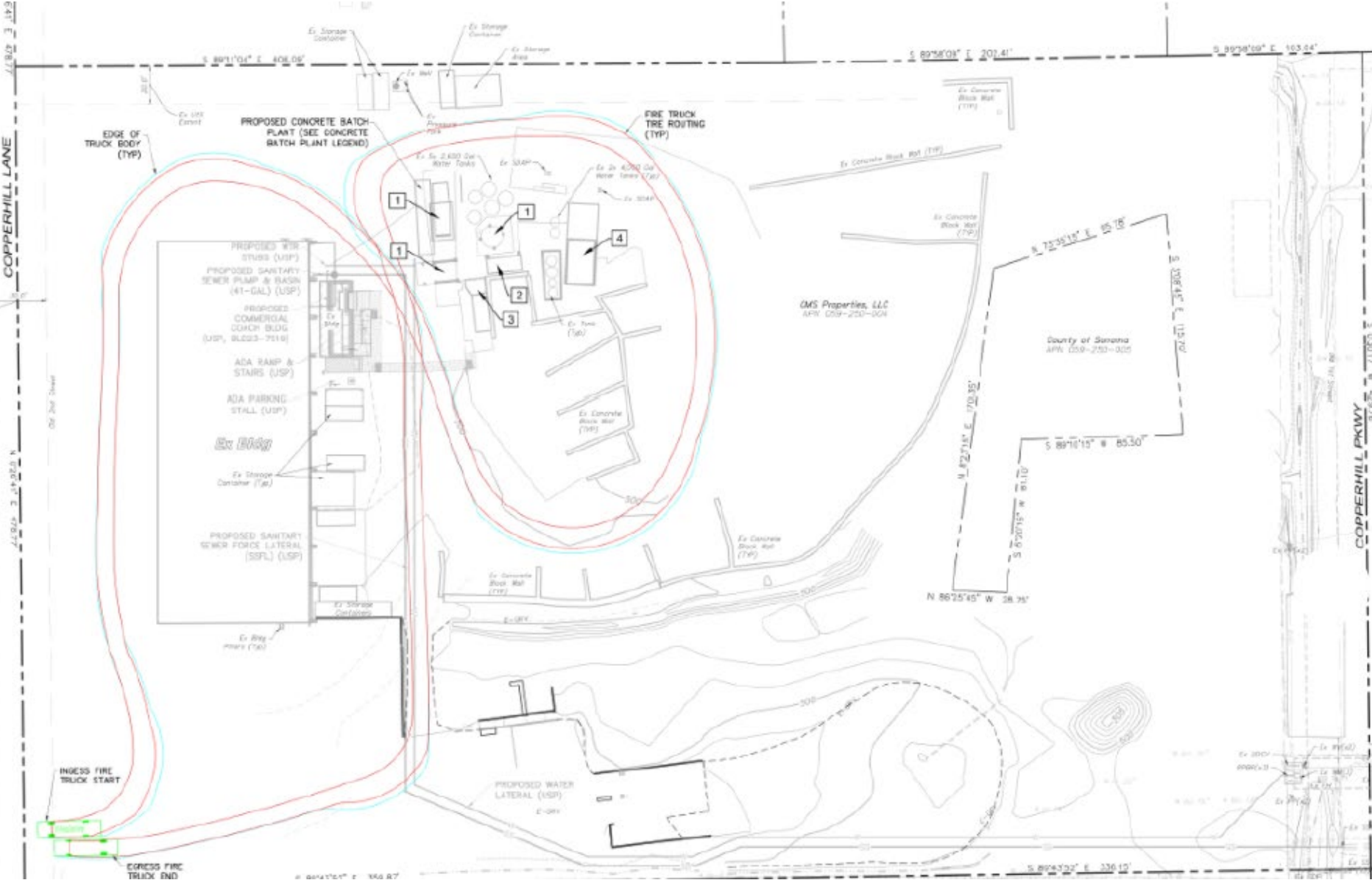
**Alternatively**, the Board of Supervisors may reject Staff's recommendation causing Permit UPE07-0112 to remain in Approved Condition Compliance status. Failure to complete abatement of violations would result in continued encumbrance of this property, though there are often options for addressing encumbrances to facilitate sale or refinance of such properties that can be explored with County Counsel.

# Questions?

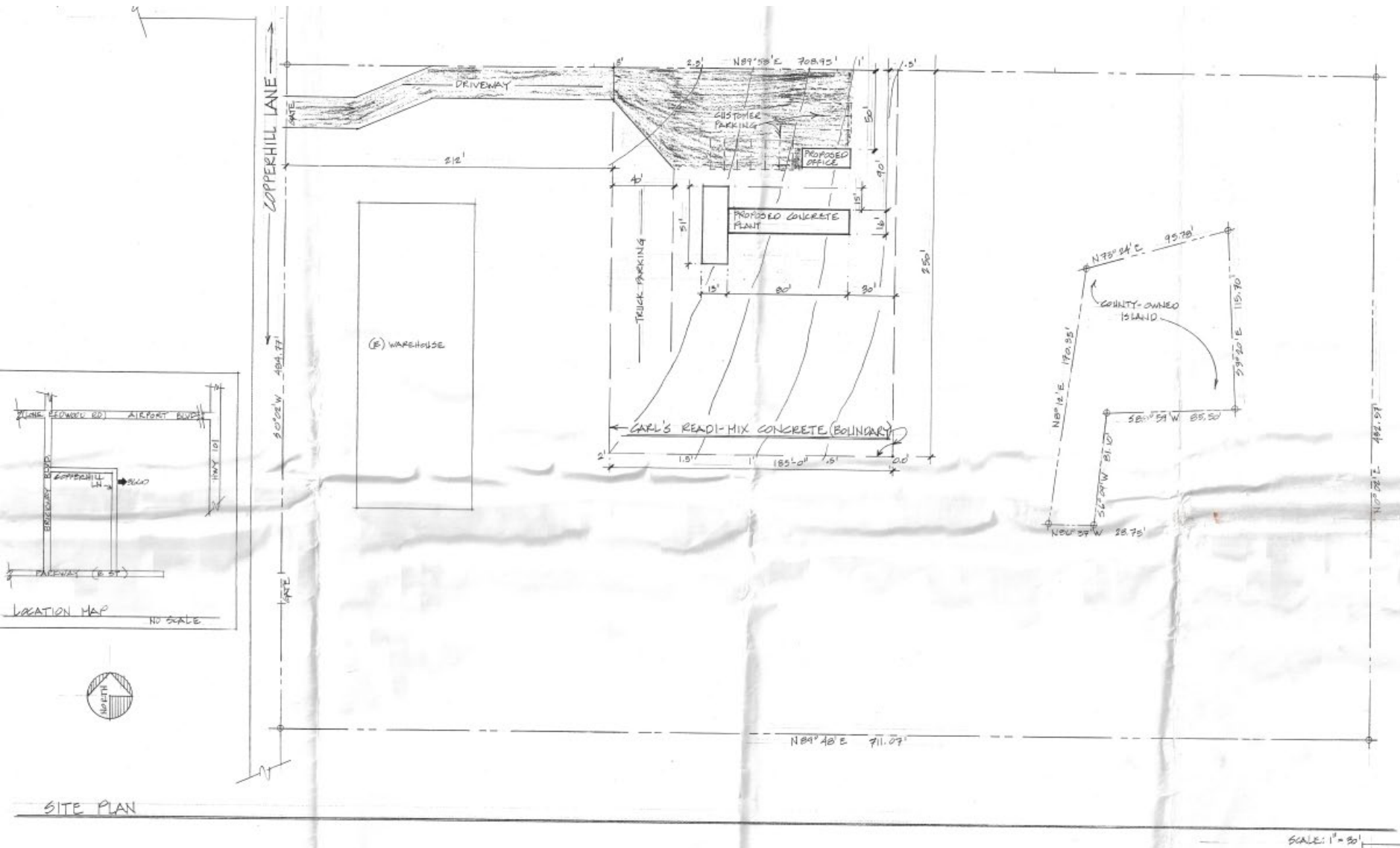




# Current Site Plan



# UPE07-0112 Site Plan



SITE PLAN

SCALE: 1" = 30'

# Enforcement and Conditions Timeline

<b>Date</b>	<b>Enforcement/Condition Compliance Milestone</b>
<b>03/2011</b>	Violation Complaint (VCM11-0185)
<b>04/26/2011</b>	Code Enforcement Site Inspection
<b>05/10/2011</b>	Violation (VPL11-0051) Issued for Non-Compliance with UPE
<b>05/11/2011</b>	Notice + Order (VBU11-0102) Issued for Construction Without Permit
<b>12/02/2011</b>	Notice of Abatement
<b>09/21/2016</b>	Use Permit Application to Legalize Modifications (UPE16-0076)
<b>12/7/2016</b>	Demolition Permits Issued to Remove Unpermitted Improvements
<b>01/25/2018</b>	UPE16-0076 Withdrawn
<b>12/30/2019</b>	Recordation Reminder Letter

<b>01/01/2020</b>	Demolition Permits Expire
<b>09/02/2021</b>	Code Enforcement Site Visit Failed to Close Outstanding Violations
<b>08/28/2023</b>	Letter of Intent to Revoke UPE07-0112 Issued
<b>09/15/2023</b>	Deadline Provided for Compliance as Verified by Site Inspection
<b>11/28/2023</b>	BLD23-7519 Started for ADA improvements and Violations
<b>11/29/2023</b>	SEW23-0141 Started for Condition Compliance
<b>02/08/2024</b>	Condition Compliance Table submitted by Applicant
<b>02/29/2024</b>	Condition Compliance package, Includes Outside Agency Permits
<b>05/2024</b>	BLD24-3307, BLD24-2332 Submitted
<b>04-06/2024</b>	DEM24-0034 Issued, DEM24-0249 Issued
<b>08/02/2024</b>	SEW23-0141 issued
<b>11/07/2025</b>	CTS Mitigation Paid

<b>Date</b>	<b>Project Event/Milestone</b>
<b>10/02/2007</b>	Application UPE07-0112 initiated
<b>04/22/2008</b>	UPE07-0112 was Approved via Hearing Waiver
<b>06/29/2010</b>	One Year Extension Granted, for Condition Compliance
<b>12/27/2018</b>	Authorization: Farrow Ready Mix Subject to Conditions
<b>08/28/2023</b>	Letter of Intent to Revoke UPE07-0112 Issued
<b>09/15/2023</b>	Compliance Deadline to be Verified by Site Inspection
<b>10/16/2023</b>	Hearing Notice and Request for Continuance
<b>10/26/2023</b>	Board of Zoning Adjustments: Continuance
<b>03/28/2024</b>	Revocation at Board of Zoning Adjustments Hearing
<b>04/05/2024</b>	Appeal Filed of BZA Revocation
<b>1/28/2025</b>	Board of Supervisors Appeal Hearing