APPROVED AS TO FORM:

/s/ Gary D. Goudelock
Gary D. Goudelock
Assistant City Attorney

Roll Call	Number
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Agenda Item	Number
	18

Date	May 23.	2022	

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APP	ROVED

Mayor
_ Mayor

#### **CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk	
City Clark	
	City Clark



Roll Call #

Date May 23,7022

Agenda Item 8

May 3, 2022

Communication from the City Plan and Zoning Commission advising that at their April 21, 2022 meeting, the following action was taken regarding a request from John Knapp (owner), represented by Adam Cockerill (officer), for review and approval of a Public Hearing Site Plan "Scooter's" located at 4402 Douglas Avenue, and for the following Type 2 Design Alternatives in accordance with City Code Sections 135-9.2.4(B) and 135-9.3.1(B).

- A) Waive the requirement of a primary build-to-zone of 0-5 feet, per City Code Section 135-2.5.3.A.3.
- B) Allow a primary frontage coverage of 15%, which is 45% less than the minimum 60% required, per City Code Section 135-2.5.3.A.2.
- C) Waive the requirement for 65% transparency on the primary façade measured between 2 feet and 8 feet, per City Code Section 135-2.5.D.18.
- D) Allow fiber cement board lap siding as a primary façade material, per City Code Section 135-4.2-1.D.
- E) Waive the requirement for the primary frontage entrance to be recessed between 3 feet and 8 feet, per City Code Section 135-2.5.3.D.21.
- F) Waive the requirement for a primary frontage entrance per City Code Section 135-2.5.3.D.20.
- G) Waive the requirement for a drive-through facility to be located on the rear or interior side of the building, fully screened by the building from a primary street, per City Code Section 135-2.22.3.D.1

#### **COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	Χ	•		
Dan Drendel	Χ			
Leah Rudolphi	Χ			
				X
Dory Briles Abby Chungath	Χ			
Kayla Berkson				X
Chris Draper	X			
Jann Freed	Χ			
Todd Garner	Χ			
Johnny Alcivar	Χ			
Justyn Lewis	X			
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen	X			
Emily Webb				X

**DENIAL** of the requested Type 2 Design Alternatives and Public Hearing Site Plan.

#### STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends denial of the requested Type 2 Design Alternatives and Public Hearing Site Plan.

#### STAFF REPORT TO THE PLANNING COMMISSION

#### I. GENERAL INFORMATION

- 1. Purpose of Request: The applicant is proposing to construct a new 669-square-foot drive-through kiosk style building (Scooter's Coffee). The site was previously a vacant gas station. Staff analysis of the proposal can be found in Section II of the report.
- **2. Size of Site:** 0.57 acres (approximately 25,046 square feet).
- 3. Existing Zoning (site): "MX3" Mixed Use District.
- **4. Existing Land Use (site):** The property is currently a vacant gas station.
- 5. Adjacent Land Use and Zoning:

North – "MX3"; Use is a pharmacy (Walgreens).

**South** – "MX1, PUD"; Uses are vacant land, commercial retail, bar, and dry cleaners.

**East** – "MX1"; Use is a gas station (Casey's).

West - "MX1"; Use is auto repair (Beaver Auto Repair).

- **6. General Neighborhood/Area Land Uses:** The subject property is located southwest of the Douglas Avenue and Beaver Avenue intersection.
- 7. Applicable Recognized Neighborhood(s): The subject property is located within the Beaverdale Neighborhood. The neighborhood association was notified of the March 17, 2022 public hearing by mailing of the Preliminary Agenda on March 25, 2022, and by mailing of the Final Agenda on March 11, 2022. Additionally, separate notifications of the March 17, 2022 public hearing for this specific item were mailed on March 7, 2022 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. The neighborhood association was notified of the April 21, 2022 public hearing by mailing of the Preliminary Agenda on April 4, 2022 and by mailing of the Final Agenda on April 15, 2022.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing.

- **8. Relevant Zoning History:** The subject property was rezoned from MX1 to MX3 on December 6, 2021 in order to allow a restaurant use with a drive-up window.
- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Community Mixed Use.
- **10. Applicable Regulations:** Pursuant to Section 135-9.1.1. B of the Planning and Design Ordinance, the site plan review requirements of Chapter 135 are designed to ensure the orderly and harmonious development of property in a manner that shall:
  - Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;
  - Permit present development of property commensurate with fair and orderly
    planning for future development of other properties in the various areas of the city
    with respect to the availability and capacity, present and foreseeable, of public
    facilities and services. The factors to be considered in arriving at a conclusion
    concerning proposed present development of property shall include the following:
    - The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded, or capacity so substantially decreased that site use will inhibit or preclude planned future development;

- > Zoning restrictions at the time of the proposal;
- The city's comprehensive plan;
- The city's plans for future construction and provision for public facilities and services; and
- The facilities and services already available to the area which will be affected by the proposed site use;
- Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in various areas of the city will not be adversely affected;
- Provide suitable screening of parking, truck loading, refuse and recycling disposal, and outdoor storage areas from adjacent residential districts;
- Encourage the preservation of canopied areas and mature trees and require mitigation for the removal of trees; and
- Consider the smart planning principles set forth in Iowa Code Chapter 18B.

Based on Chapter Section 135-9.2.4 and 135-9.3.1. B of the Planning and Design Ordinance, Type 2 Design Alternatives are to be considered by the Plan and Zoning Commission after a public hearing whereby the following criteria are considered:

- The design alternative provisions of Section 135-9.2.4 are intended to authorize the granting of relief from strict compliance with the regulations of this chapter as part of the site plan or alternate design documentation review process when specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable. The design alternative provisions are also intended to recognize that alternative design solutions may result in equal or better implementation of the regulation's intended purpose and greater consistency with the comprehensive plan.
- Consideration of requested design alternatives through the administrative and public hearing review processes will be evaluated on the merits of the applicable request and independently of prior requests from the same applicant, and may include the following criteria:
  - ➤ An evaluation of the character of the surrounding neighborhood, such as:
    - Whether at least 50% of the developed lots within 250 feet of the subject property are designed and constructed consistently with the requested design alternative(s); and
    - Whether the directly adjoining developed lots are designed and constructed consistently with the requested design alternative(s);
- For purposes of this subsection, if the lots that exist within 250 feet of the subject property are undeveloped, then the neighborhood character determination will be based upon the assumption that such lots, as if developed, comply with the applicable requirements of this chapter for which a design alternative(s) has been requested.

- ➤ The totality of the number and extent of design alternatives requested compared to the requirements of this chapter for each site plan or alternate design documentation reviewed;
- Whether the requested design alternative(s) is consistent with all relevant purpose and intent statements of this design ordinance and with the general purpose and intent of the comprehensive plan;
- Whether the requested design alternative(s) will have a substantial or undue adverse effect upon adjacent: property, the character of the surrounding area or the public health, safety, and general welfare;
- Whether any adverse impacts resulting from the requested design alternative(s) will be mitigated to the maximum extent feasible; and
- > Other factors determined relevant by the community development director, plan and zoning commission, or city council as applicable.

#### II. ADDITIONAL APPLICABLE INFORMATION

The application has requested the following Type 2 Design Alternatives:

- Waiver of the build-to-zone of 0-5 feet required along Beaver Avenue and Douglas Avenue.
- Waiver of the building's primary frontage coverage of 60% on Beaver Avenue and Douglas Avenue.
- Waiver of the requirement for the building to have a primary entrance that faces the street
- Waiver of the primary entrance having to be recessed between 2 and 8 feet to avoid conflict with sidewalk traffic.
- Allowance for the use of fiber cement board lap siding as a primary façade material on the northern edge of the building.
- Allowance for 10.83% of transparency instead of the required 65% on the northern façade facing Douglas Avenue.
- Waiver to allow a drive-through facility to be in the front yard fronting Beaver Avenue and Douglas Avenue.

This item was continued from the March 17, 2022, Plan and Zoning Commission meeting to give the applicant time to meet with staff and revise the proposed layout. City Engineering and Planning Staff met with the applicant team to give their recommendations on stormwater, grading, and building layout. After the initial meeting, discussions between planning staff, building staff, and the applicant indicated that an outdoor patio would trigger a building code requirement for a bathroom facility on site. Staff communicated with the applicant that a bathroom facility would be needed with the inclusion of the patio space. The current proposed layout was submitted after this discussion with staff.

Staff recognizes the effort made by the applicant to make a more pedestrian friendly layout by providing a walkup window and siting the building closer to Beaver Avenue. The current proposed layout does not include a patio space to accompany the walk-up window. Staff believes the patio space is an integral part of providing accommodations for pedestrians

and creating a gathering space for sidewalk traffic. Without the inclusion of the patio, Staff cannot support the necessary Type 2 Design Alternative relief needed for the project.

#### SUMMARY OF DISCUSSION

Jillian Sommer presented staff report and recommendation.

<u>Chris Draper</u> asked if the design without the patio is something city staff will or will not support.

<u>Jillian Sommer</u> stated this design does not include a patio. City staff believes that the addition of a patio would be an integral part of the design, therefore city staff is recommending denial.

Will Page asked what the addition of a patio would involve.

<u>Jillian Sommer</u> stated staff believe that a patio, feasibly on the north side of the building would create a gathering space for pedestrians using the walk up window. Without the patio, that pedestrian element is lacking.

<u>Will Page</u> asked if the commission is seeing a design without a patio, after city staff had discussion with the developer about the addition of a patio.

Jillian Sommer stated correct.

Johnny Alcivar asked if the building will have a restroom for employees.

Jillian Sommer stated yes.

Leah Rudolphi asked if there is a certain size of patio that triggers the need for restrooms.

<u>Jason Van Essen</u> stated offering outdoor seating in general requires a public restroom be provided.

Jann Freed asked who had the idea of a walk-up window.

<u>Jillian Sommer</u> stated to make this building more pedestrian friendly, the walk-up window was suggested by city staff.

<u>Jason Van Essen</u> stated when this item came to the commission a month ago, there was a lot of discussion around providing pedestrian friendly elements and the walk-up window is something they are providing to achieve that.

Carolyn Jenison asked how big this building will be.

Jillian Sommer stated 669 square feet.

<u>Dan Drendel</u> asked if city staff could go through the transparency and material requirements.

<u>Jillian Sommer</u> stated a significant portion of the facade has been proposed as brick and that's why you see the design material item removed as a design alternative. Jillian presented renderings of the site to give the commission a sense of transparency.

<u>Justyn Lewis</u> asked if the walk-up window would be eliminated if there is no patio.

Jillian Sommer stated the walk-up window would remain.

<u>Justyn Lewis</u> stated a walk-up window would not be successful without outdoor seating. He followed by asking if the entrance off Beaver and Douglas would be 2-way access.

<u>Jillian Sommer</u> stated the entrances off Douglas and Beaver would be 2-way access points, allowing traffic to go in and out of the site.

Justyn Lewis asked if any adjustments will be made to the median along Douglas Avenue.

Jillian Sommer replied no

<u>Johnny Alcivar</u> asked if there are any utility concerns preventing public restrooms.

<u>Jillian Sommer</u> stated not that city staff is aware of.

Will Page asked how many parking spots will be provided.

<u>Jillian Sommer</u> stated 7 parking spaces will be provided, some being occupied by employees.

Abby Chungath asked if the issues regarding storm water detention and the placement of the building were resolved.

<u>Jillian Sommer</u> stated its generally the same design but there have been a few modifications on how to manage the site given existing conditions.

<u>Jason Van Essen</u> stated the stie currently drains towards Douglas and Beaver. In the previous design, most of the storm water was being pushed towards Douglas Avenue and now that existing split will generally be maintained.

Brandon Short, Pelds Design Services, 2323 Dickson Street stated the build-to-zone cannot be met on both street fronts because of building size and the room needed for circulation of the drive thru lane. The transparency requirements cannot be met because it's a small building filled with food service equipment. They have met with city staff and came up with this layout that's more walkable, more sidewalk oriented and provides the walk-up window. They originally planned for the patio, but the addition of restrooms is not an option the developer is agreeable to providing. Scooters would like to provide an improvement at this corner and believe this is conducive to pedestrian access.

<u>Jann Freed</u> asked if the large drive-thru lane could be redesigned to provide room for the patio and public restrooms.

<u>Brandon Short</u> stated they did go through 6 iterations of the site and the problem with those were not allowing enough queuing space to avoid cars backing up onto Douglas Avenue.

<u>Francis Boggus</u> asked why a restroom couldn't be designed to service both the employees and customers.

Brandon Short stated it would cause a security issue by allowing public access into the interior of building.

<u>Justyn Lewis</u> stated the patio and restrooms should be provided to create a gathering spot for pedestrians.

Will Page asked if the developer has agreed to provide a patio.

<u>Brandon Short</u> stated they did agree to the patio, until they found out about the requirement of restrooms.

<u>Chris Draper</u> asked if this project is receiving any funding from the city.

<u>Jason Van Essen</u> stated there is no development agreement for this project, but they could possibly qualify for commercial tax abatement.

Brandon Short stated the developer is not seeking commercial tax abatement.

Andrew Lorentzen asked how tall the building is.

Brandon Short stated 19 feet.

<u>Andrew Lorentzen</u> asked if the reason for that height is to make it more noticeable from the street.

<u>Brandon Short</u> stated that could be an aspect of it but also to allow room for screening of rooftop mechanicals.

Justyn Lewis asked why the developer doesn't want to provide restrooms.

Brandon Short stated he wouldn't be able to answer that question.

Abby Chungath asked if they are aware of any Scooters that provide public restrooms.

<u>Brandon Short</u> stated there is a full-service Scooters in Ames but the developer told them this is the option for this site given the character of the site and location.

#### CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

#### CHAIRPERSON CLOSED THE PUBLIC HEARING

<u>Will Page</u> stated he would like to continue this to the next meeting so the developer has a chance to review the project again and come up with a design that includes public restrooms and the patio.

<u>Chris Draper</u> stated he would rather move staff recommendation. The design looks the exact same as it did a month ago, it comes with a ton of concessions, staff has done a lot of work and the proposal doesn't align with the direction of the goals of city code.

<u>Todd Garner</u> stated he finds it unbelievable that a project like this got this far. If we have a code that requires this many waivers, it should never have gotten past city staff. At some point city staff has to be empowered to say this is not the right use for this property as the code won't allow it. A patio is not going to make it better, this is not the best use for the site.

## **COMMISSION ACTION:**

<u>Chris Draper</u> made a motion for denial of the requested Type 2 Design Alternatives and Public Hearing Site Plan.

Motion passed: 12-0

Respectfully submitted,

Jason Van Essen, AICP

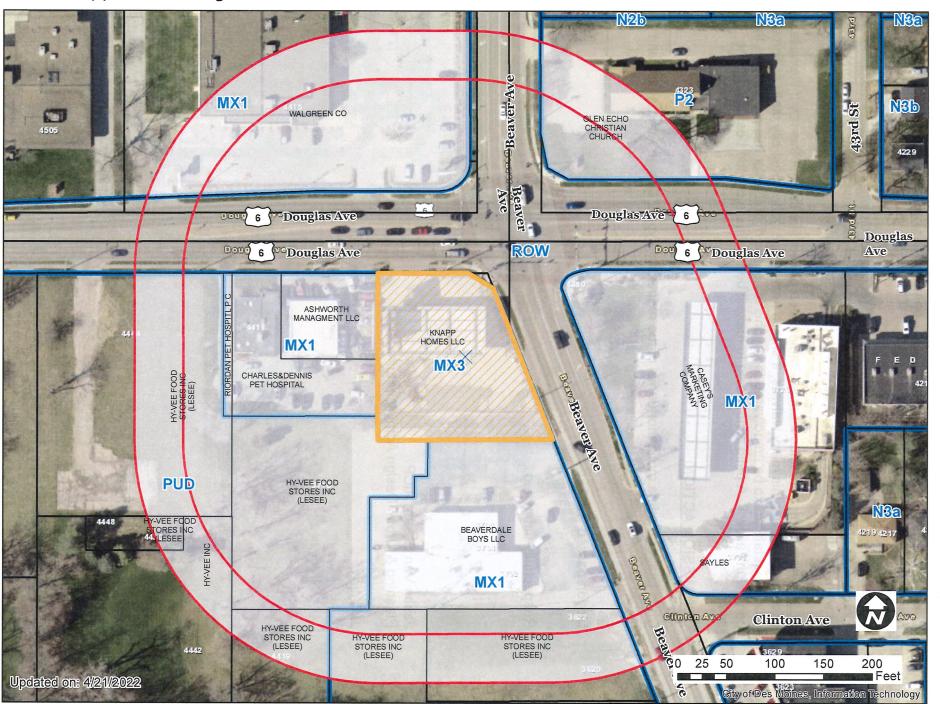
Julia Com

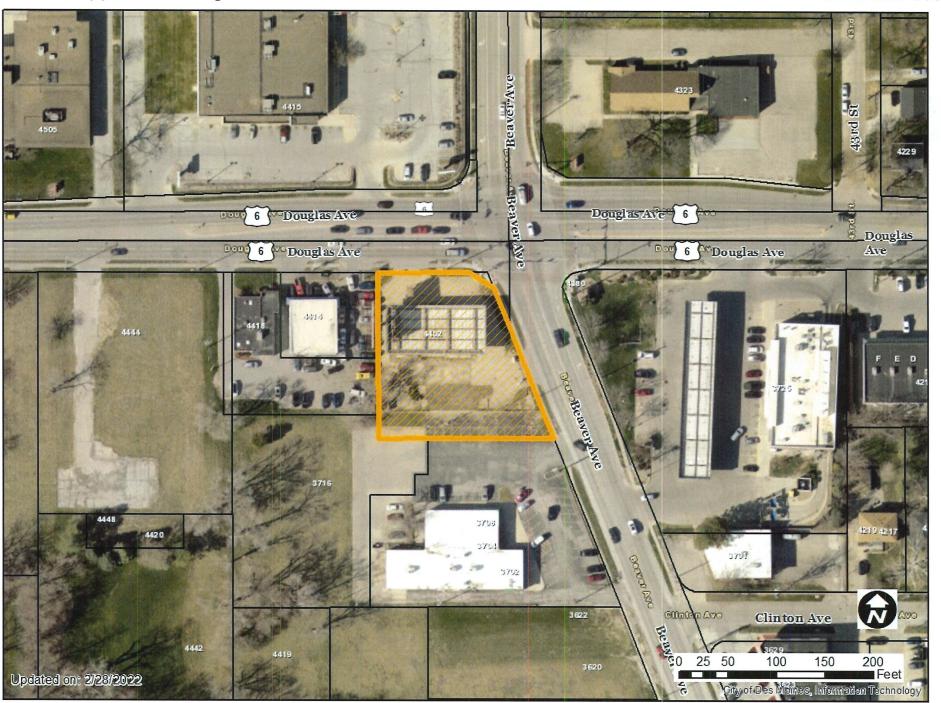
Planning & Urban Design Administrator

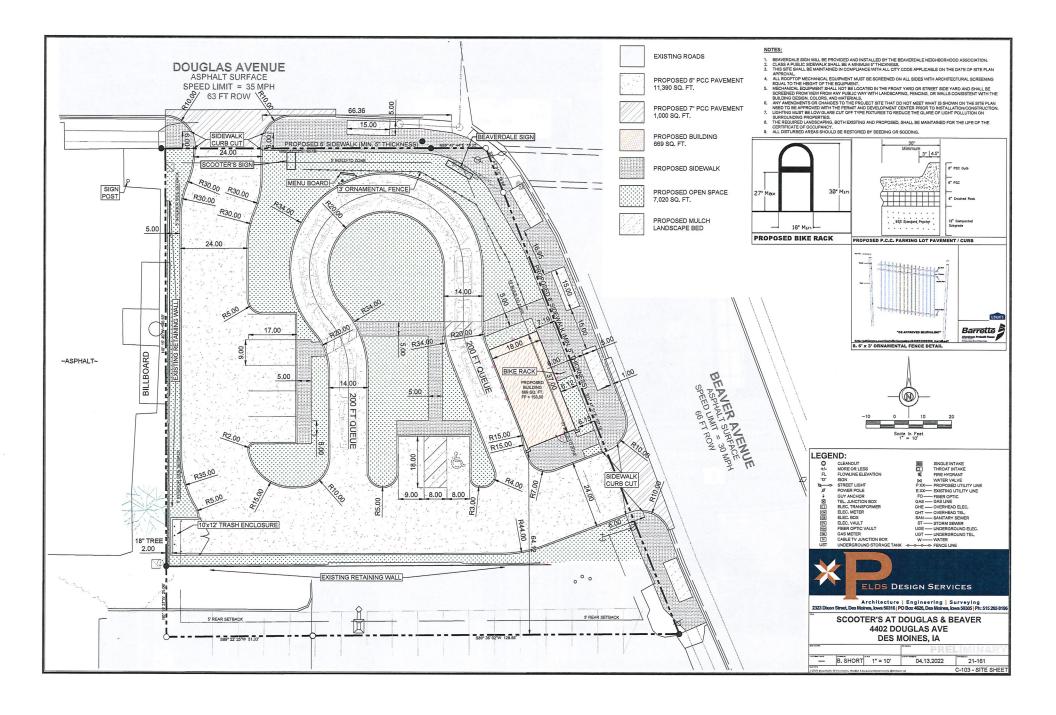
JMV:tjh

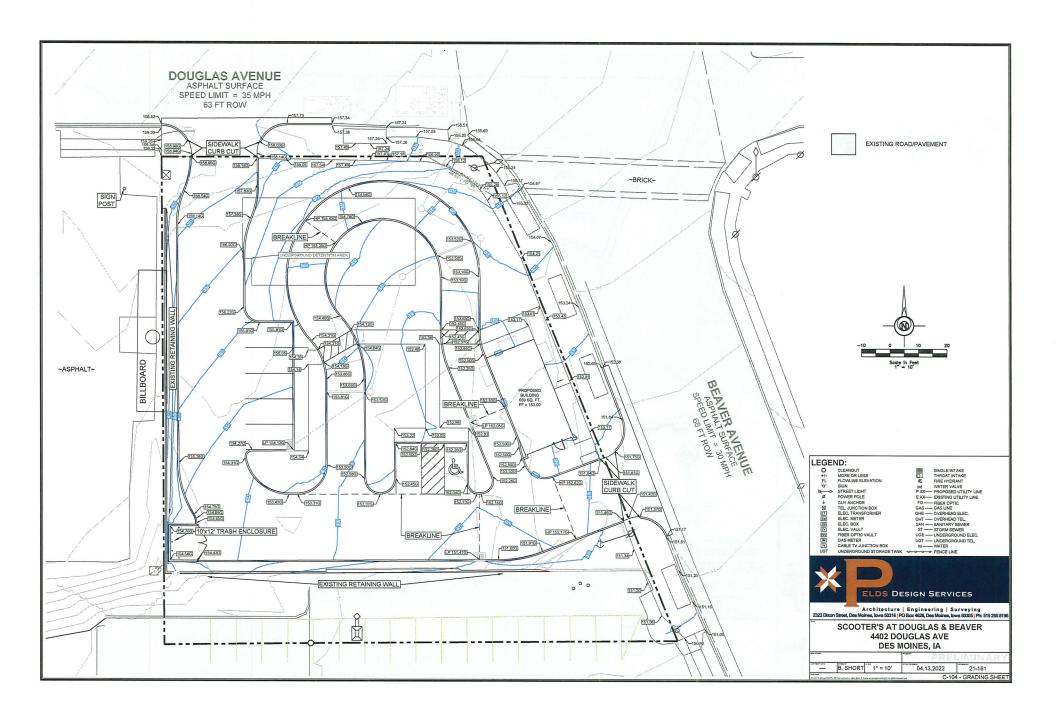
# John Knapp, 4402 Douglas Avenue

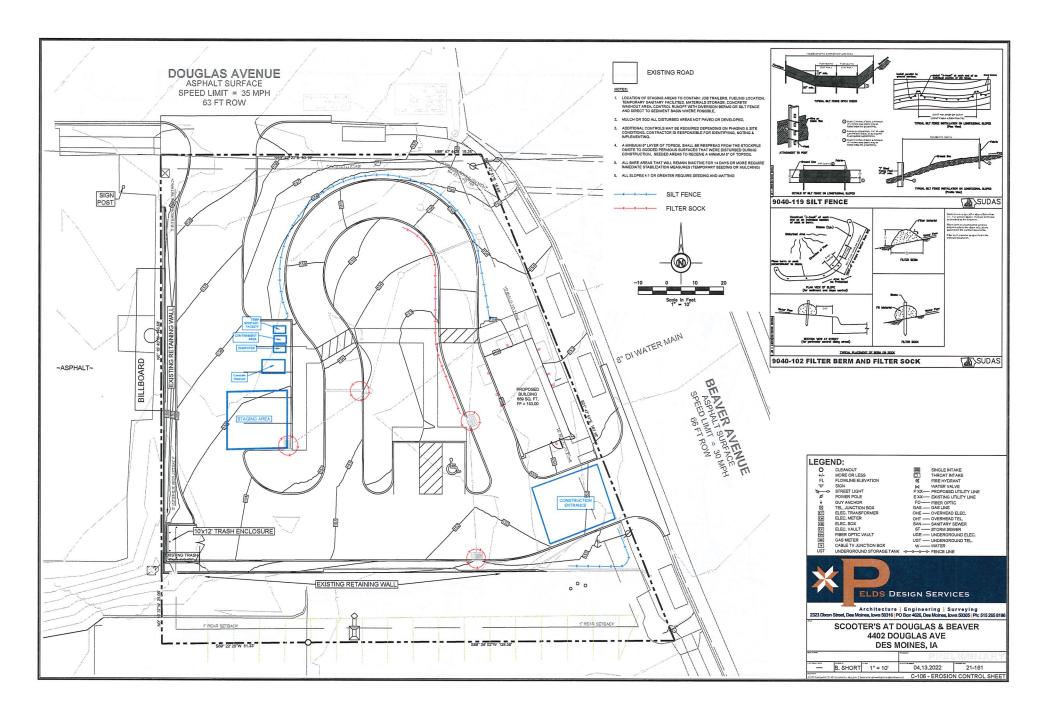
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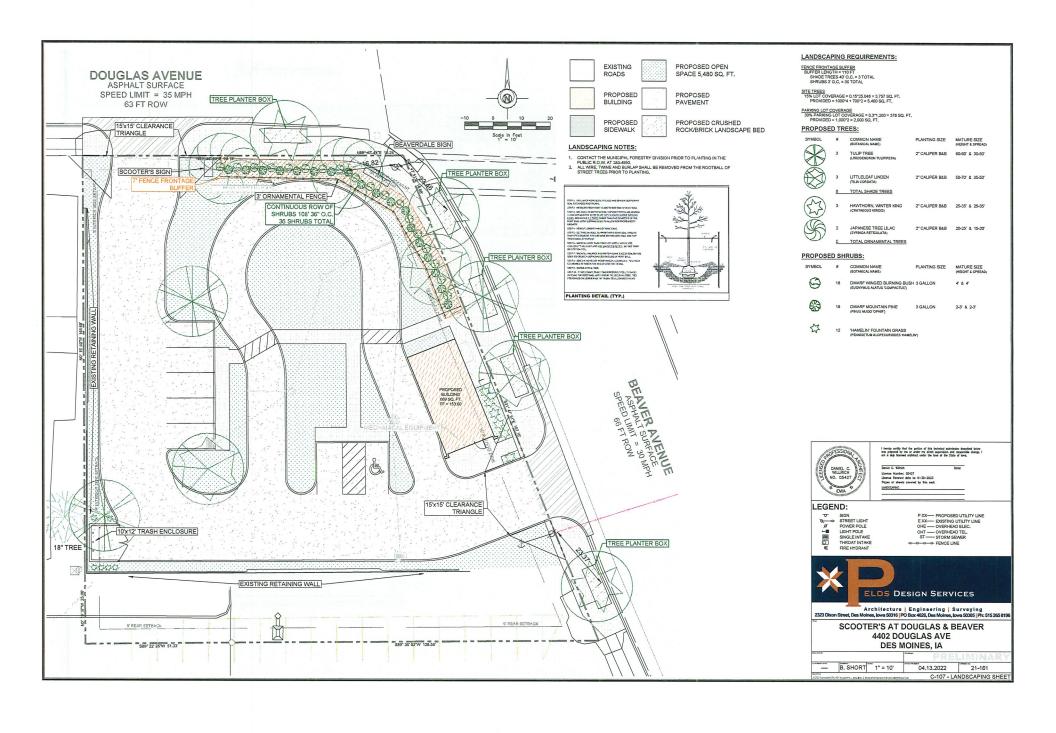
















Scooter's Coffee Drive-Thru #804 4402 Douglas Ave Des Noines, IA **EXTERIOR ELEVATION** 

Adam Cockerill
ARC Holdings, LLC
3615 Summit Plaza Dr, #104
Belleview, NE 68123



SHEET NUMBER

A3.2 JOB NUMBER 5696-21

<u>KEYNOTES</u> 1. FACE BRICK - ENDICOTT - COLOR: MANGANESE IRONSPOT - VELOUR FACE BRICK - GLEN GERY - SIOUX CITY BRICK - COLOR: CARBON BLACK-VELOUR HARDIE REVEAL PANEL SYSTEM HZ10 - SMOOTH FINISH, SEE HARDIE DETAIL SHEET AG.5 - COLOR: SW 1015 SKYLINE STEEL 21)-4 3 1/2" HARDIE TRIM, SEE HARDIE DETAIL SHEET A6.5 - COLOR: SHERWIN WILLIAMS SW6992 INKWELL EGGSHELL FINISH T.O. PARAPET EL = 19-0" 4. 20 GAUGE METAL ACCENTS AND SOFFITS - COLOR: BLACK 5. INSULATED DARK BRONZE ALUMINUM WINDOWS WITH DUAL PANE TEMPERED GLASS 17 4 4 6. QUICKSERVE 48X48 WINDOW-COLOR: DARK BRONZE 7. AWNING BY OTHERS, UNDER A SEPARATE PERMIT - COLOR: RED INSULATED HOLLOW METAL DOOR AND FRAME - COLOR: SHERWIN WILLIA SW6992 INKWELL EGGSHELL FINISH - 12 21 (21) 9. PEEP HOLE, BY DOOR MANUFACTURER **∠\_\_\_**--③ -(3) 10. DOOR BELL T.O. LAP SIDING EL = 12-2 1/2" 11. 20 GAUGE METAL PARAPET CAP 12. LINE OF ROOF BEYOND 7 -(16) 13. ROOF TOP UNIT BEYOND, SEE MECHANICAL DRAWINGS 14. ROOF SCUPPER AND DOWNSPOUT, SEE DETAIL 8/46,3 B,O, AWNING EL = 9'-6" 15. MAILBOX BY OWNER 16. WALL MOUNTED LIGHT FIXTURE, SEE ELECTRICAL DRAWINGS 4 4 (w2) 18, SES PANEL, SEE ELECTRICAL DRAWINGS 5 19. ELECTRICAL OUTLETS, SEE ELECTRICAL DRAWINGS 20. HOSE BIBB, SEE PLUMBING DRAWINGS 11 21. SIGNAGE BY OTHERS, UNDER A SEPARATE PERMIT SILL EL = 3'-3" 22. SPANDREL GLASS 2 FINISH FLOOR -(19) FINISH GRADE 2 EXTERIOR ELEVATION - NORTH 11 4 -(13) SLOPE T.O. PARAPET 4 T.O. BRICK EL = 12-2 1/2" 7 7 16 // (5) 17

*	
EXTERIOR ELEVATION - EAST	
SCALE: 3/8" = 1'-0"	

2-0

EXTERIOR	R FINISH	MATERI	ALS CALCULAT	TON TAE	BLE
NORTH	FACADE		EAST	FACADE	
MATERIAL	AREA	PERCENTAGE	MATERIAL	AREA	PERCENTAGE
GROSS	345.35 SF	100%	GROSS	728.84 SF	100%
METAL	17,22 SF	4,99%	METAL	48,86 SF	6,73%
CANVAS AWNING	12.27 SF	3,55%	CANVAS AWNING	15,31 SF	2.15%
GLAZING	37.38 SF	10.83%	GLAZING	40,63 SF	5,57%
FIBER CEMENT PANEL	130,49 SF	37.78%	FIBER CEMENT PANEL	401.81 SF	55,09%
FACE BRICK	147.99 SF	42.85%	FACE BRICK	222.18 SF	30.46%

SILL EL = 3-3"

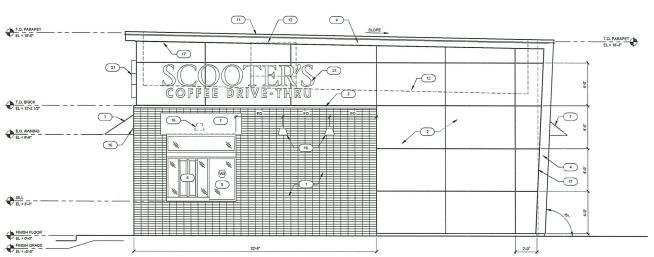
FINISH FLOOR EL = 0-0"

Scooter's Coffee Drive-Thru #804 4402 Douglas Ave Des Moines, IA EXTERIOR ELEVATIONS

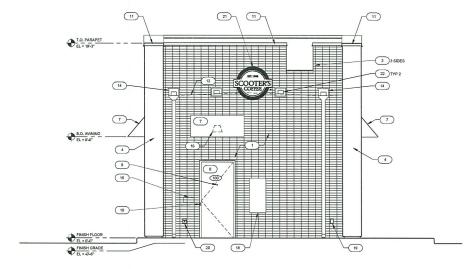
Adam Cockerill
ARC Holdings, LLC
3615 Summit Plaza Dr, #104
Belleview, NE 68123



A3.1 5696-21



## 2 EXTERIOR ELEVATION - WEST



(1)	EXTERIOR	ELEVATION - SOUTH
	SCALE: 3/8" = 1'-0"	

#### **KEYNOTES**

- 1. FACE BRICK ENDICOTT COLOR: MANGANESE IRONSPOT VELOUR FACE BRICK - GLEN GERY - SIOUX CITY BRICK - COLOR: CARBON BLACK - VELOUR
- HARDIE REVEAL PANEL SYSTEM HZ10 SMOOTH FINISH, SEE HARDIE DETAIL SHEET A6.5 COLOR: SW 1015 SKYLINE STEEL
- 3. 3 1/2" HARDIE TRIM, SEE HARDIE DETAIL SHEET A6,5-COLOR: SHERWIN WILLIAMS SWE992 INKWELL EGGSHELL FINISI
- 4. 20 GAUGE METAL ACCENTS AND SOFFITS COLOR: BLACK
- INSULATED DARK BRONZE ALUMINUM WINDOWS WITH DUAL PANE TEMPERE GLASS
- 6. QUICKSERVE 48X48 WINDOW COLOR: DARK BRONZE
- 7. AWNING BY OTHERS, UNDER A SEPARATE PERMIT COLOR: RED
- 10. DOOR BELL
- 11. 20 GAUGE METAL PARAPET CAP
- 12. LINE OF ROOF BEYOND
- 13. ROOF TOP UNIT BEYOND, SEE MECHANICAL DRAWINGS
- 14. ROOF SCUPPER AND DOWNSPOUT, SEE DETAIL 9/A6.3
- 15. MAILBOX BY OWNER

EXTERIOR FINISH MATERIALS CALCULATION TABLE

100%

10.10 SF 2.77% CANVAS AWN

251,15 SF 69,00% FACE BRICK

0 SF 0.00% GLAZING 0 SF 0.00% FIBER CEMENT PANE

102.77 SF 28.23% METAL

METAL

GLAZING FIBER CEMENT PANEL

- 16. WALL MOUNTED LIGHT FIXTURE, SEE ELECTRICAL DRAWINGS
- 17. LED LIGHT BAND, SEE ELECTRICAL DRAWINGS
- 18. SES PANEL SEE ELECTRICAL DRAWINGS

728.84 SF 100%

48.86 SF 6.73%

15.31 SF 2.15%

40.63 SF 5.57% 401.81 SF 55.09%

222.18 SF 30.46%

- 19. ELECTRICAL OUTLETS, SEE ELECTRICAL DRAWINGS

- 21. SIGNAGE BY OTHERS, UNDER A SEPARATE PERMIT
- 22. ROOF OVERFLOW SCUPPER, SEE DETAIL 8/A6,3