

**CITY OF WEST DES MOINES  
BOARD OF ADJUSTMENT COMMUNICATION**

**Meeting Date:** March 9, 2016

**Item:** Kum & Go #97 – 220 50<sup>th</sup> Street – Construct a 6,200 sq. ft. convenience store with gas pumps – Kum & Go, LC – PC-002825-2015

**Requested Action:** Approval of a Permitted Conditional Use Permit

**Case Advisor:** Kara Tragesser, AICP 

**Applicant's Request:** The applicant, Kum & Go, LC., is requesting approval of a Permitted Conditional Use permit to construct a 6,200 sq. ft. convenience store with six gas pumps at 220 50<sup>th</sup> Street (see Attachment B – Location Map, Attachment C – Site Map, and Attachment D – Building Elevations).

**City Council Subcommittee:** This item was presented to the Development and Planning City Council Subcommittee on September 24, 2015. The Subcommittee was supportive of the request. The general topic of the use of bollards and a zero curb in lieu of the required 6" curb was discussed at the Subcommittee's February 8, 2016, meeting. The Subcommittee requested more information on the rationale behind the use of zero curbs and bollards.

Staff met with representatives from Kum & Go to discuss their proposed use of bollards and zero curbs and the rationale for using them. Generally, the use of zero curbs eliminates the trip and fall hazard for the business, while also increasing accessibility of the parking spaces. The use of the bollards is to prevent vehicles from driving into the building. Per the Subcommittee's recommendation, Staff has discussed with the applicant a compromise situation where safety rated vegetation planters are primarily used to define the vehicle area from the pedestrian area, thereby allowing the zero curb with some use of the bollards to preserve the safety and accessibility goals of the business, while defining the vehicle areas from the pedestrian areas. Staff anticipates that city code will need to be amended to allow the use of zero curbs, bollards, and planters on a regular basis for safety and accessibility aspects of a site.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. Staff notes the following:

A final plat for Southwoods Plat 2 was scheduled for approval at the City Council on Monday, March 7, 2016, to subdivide the property into two lots, one for the Dahl's building and one for the proposed convenience store. Ingress/Egress easements were put in place to share the existing access locations. A Notice of Parking Restriction also was put in place to notify future buyers of the lot containing the Dahl's building that the lot currently may not have enough parking constructed to support full use of the building depending upon the future use of the building.

The lot for the proposed Kum & Go meets city code a regulations with regard to size, street frontage, and access. The site plan for the convenience store meets codes and regulations for the convenience store in regards to parking, landscaping, open space, ingress/egress, setbacks, and canopy regulations. Staff has worked with the Kum & Go architect to achieve the presented architectural elevations.

**Bollards and Planters:** As discussed above, in lieu of the required curbing at the edges of vehicle use areas, the applicant proposes to have no curb (zero curb) and install bollards and planters (see Attachment E - Bollards and Planters close up). The first submittal of the site plan indicated all bollards to separate the building from the vehicle areas. The applicant advises that the zero curb increases accessibility and minimizes legal action against the company in the case of trip and fall hazards. Also, the placement of bollards, with or without zero curbs, decreases the occurrences where vehicles override the curbs and hit the buildings. Staff worked out a compromise with Kum & Go to define the vehicle area without the use of curbs, but to also decrease the use of bollards through the implementation of vegetation planters interspersed to provide some opacity of the view, and mitigate a fortress look of all bollards. The bollards are to be painted or covered in a color to be compatible with the primary materials of the building and not to be colored red, yellow, or a corporate color.

**Ampersand Symbol:** The applicant proposes to install an ampersand symbol at the southeast corner of their store (see Attachment F – Ampersand Symbol). The applicant also proposes that this symbol will be treated like a sculpture

with local artists or community members designing and implementing the surface designs on the symbol. While the ampersand is a brand element of Kum & Go and intended to be implemented at various stores, the applicant indicates that the symbol will not be painted or clad in corporate colors, but will be painted differently for every store; hopefully with local artists doing the work. This was discussed with the Development and Planning City Council Subcommittee with the Council representatives in agreement that the element could be classified as art and allowed as long as it is located near the store and unique to other ampersand art pieces. Staff recommends that the Board approve the ampersand symbol as a sculpture, as opposed as a sign.

**Permitted Conditional Use Permit Findings:** Kum & Go, LC's application for a Permitted Conditional Use Permit to construct a 6,200 sq. ft. convenience store with pumps was reviewed by various City departments. Based upon that review and any conditions of approval, the following findings have been made on the proposed project:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare, and safety of the community.
4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.
5. The proposed development and use has met the requirements contained in the City Code in that this project was reviewed by various City Departments and public agencies and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the Zoning regulations and the Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

**Staff Recommendations and Conditions of Approval:** Based upon the review of the proposal, a finding of consistency with the goals and policies of the Comprehensive Plan, and compliance with the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution to approve the Permitted Conditional Use Permit to allow a 6,200 sq. ft. convenience store with gas pumps at 220 50<sup>th</sup> Street, subject to meeting all City Code requirements and the following:

1. That the use of bollards and vegetation planter boxes is acceptable in lieu of a curb between the building and the vehicle area. At all times, said bollards and boxes must be of an earth tone color which compliments and is cohesive with colors and materials of the primary structure.
2. The ampersand symbol is approved as part of the site plan as a sculpture so long as the symbol is unique from that at other stores and is not clad, painted or otherwise turned red as part of the corporation's branding signage.
3. That the storm water facility management agreement be executed and submitted to the City prior to obtaining any building permits, including footing and foundation, commencing site grading, or installation of any utilities, private or public.

**Noticing Information:** On February 19, 2016, notice of the March 9, 2016, Board of Adjustment Public Hearing on this project was published in the Des Moines Register Community Section. Notice of this public hearing was also mailed to surrounding property owners within 370 feet of the subject property on February 18, 2016.

**Applicant/Owner:** Kum & Go LLC  
6400 Westown Parkway  
West Des Moines IA 50265  
515-226-0128

**Applicant Representative:** Keith Weggen  
Civic Design Advantage LLC  
3405 SE Crossroads Drive Suite G  
Grimes IA 50111  
515-369-4400

**Attachments:**

Attachment A	-	Permitted Conditional Use Resolution
Attachment B	-	Location Map
Attachment C	-	Site Plan
Attachment D	-	Building Elevations
Attachment E	-	Bollards and Planters close up
Attachment F	-	Ampersand Symbol

Prepared by: KTragesser City of West Des Moines PO Box 65320 West Des Moines, IA 50265-0320 515-222-3620  
When Recorded Return to: City Clerk City of West Des Moines PO Box 65320, West Des Moines, IA 50265-0320

**RESOLUTION**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING THE PERMITTED CONDITIONAL USE PERMIT (PC-002825-2015) FOR THE PURPOSE OF CONSTRUCTING A 6,200 SQUARE FEET CONVENIENCE STORE WITH GAS PUMPS AT 220 S. 50<sup>TH</sup> STREET**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Kum & Go, LC, has requested approval for a Permitted Conditional Use Permit to construct a 6,200 square feet convenience store with gas pumps at 220 50<sup>th</sup> Street and legally described as:

**Legal Description of Property**

Lot 2, Southwoods Plat 1, except that part conveyed to the City of West Des Moines Iowa, recorded in Book 10719 Page 672, an official plat now in and forming a part of the City of West Des Moines, Polk County, Iowa

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on March 9, 2016, the Board of Adjustment held a duly-noticed public hearing to consider the application for Permitted Conditional Use Permit (PC-002825-2016);

**NOW, THEREFORE**, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

**SECTION 1.** The findings, for approval, in the staff report, or as amended orally at the Board of Adjustment hearing, are adopted.

**SECTION 2.** The PERMITTED CONDITIONAL USE PERMIT (PC-002825-2015) to construct a convenience store with gasoline sales is approved, subject to compliance with all the conditions in the staff report including conditions added at the hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on March 9, 2016

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Erik P. Christiansen, Chair, Board of Adjustment

ATTEST:

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Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on March 9, 2016, by the following vote:

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:

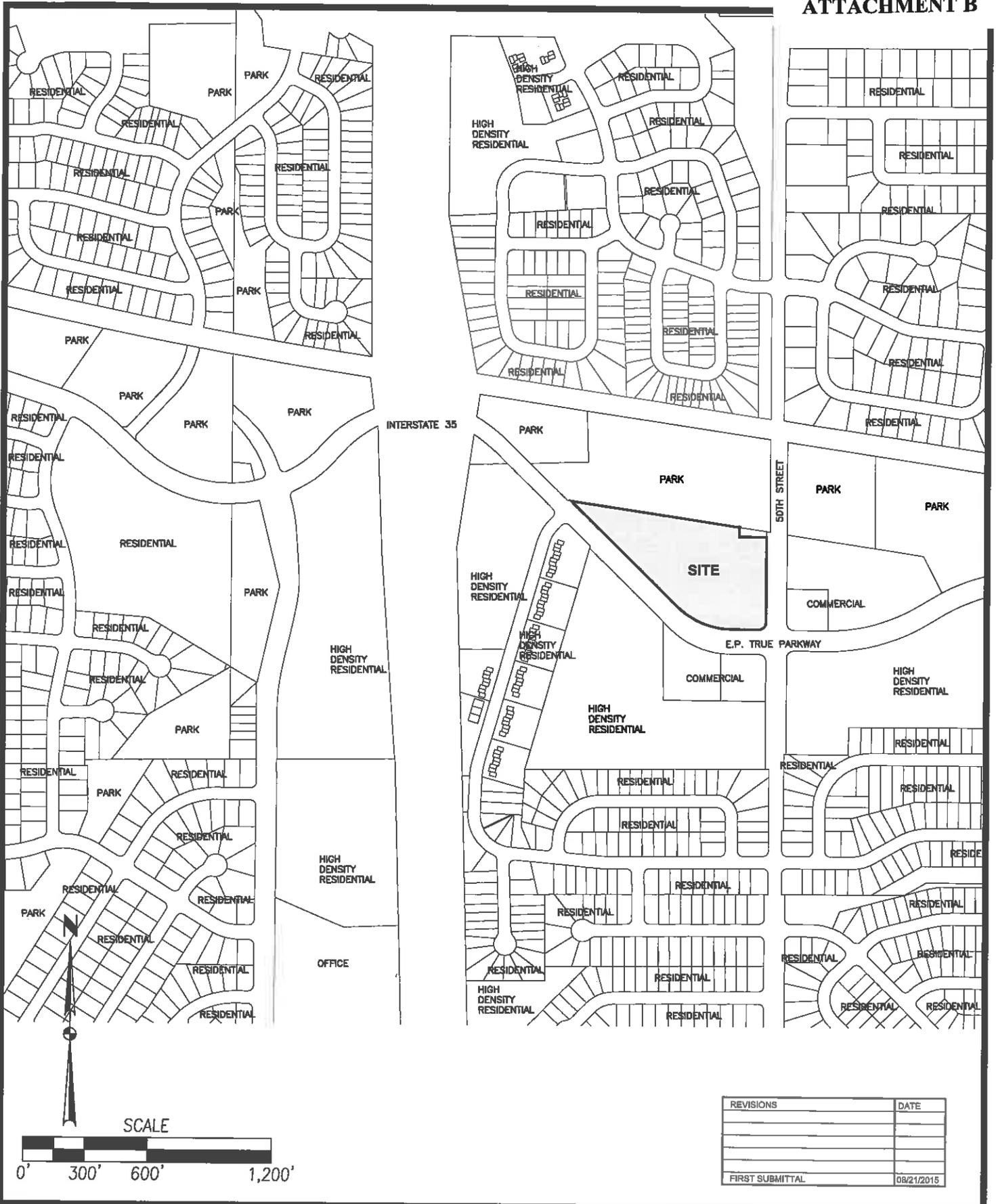
ATTEST:

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Recording Secretary

## EXHIBIT A

1. That the use of bollards and vegetation planter boxes is acceptable in lieu of a curb between the building and the vehicle area. At all times, said bollards and boxes must be of an earth tone color which compliments and is cohesive with colors and materials of the primary structure.
2. The ampersand symbol is approved as part of the site plan as a sculpture so long as the symbol is unique from that at other stores and is not clad, painted or otherwise turned red as part of the corporation's branding signage.
3. That the storm water facility management agreement be executed and submitted to the City prior to obtaining any building permits, including footing and foundation, commencing site grading, or installation of any utilities, private or public.



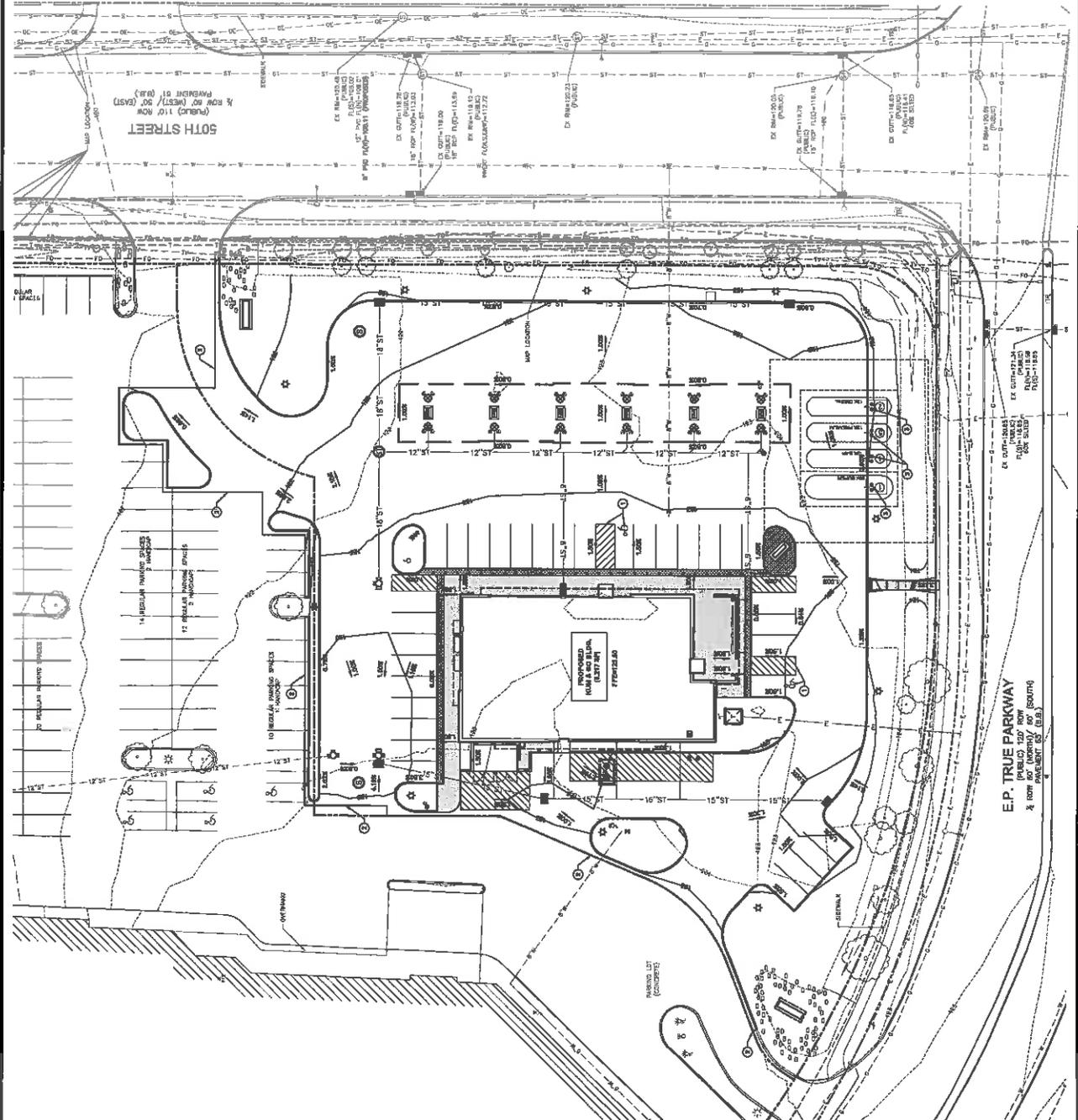






- GRADING NOTES**
1. BEFORE ANY GRADING, A SURVEY OF THE EXISTING GRADE SHALL BE PERFORMED TO THE NEAR THE EXISTING BUILDINGS AND DRIVEWAYS TO DETERMINE THE EXISTING GRADE. THE TOP OF CURB SHALL BE TO THE FINISHED AND UNFINISHED GRADE. THE FINISHED GRADE SHALL BE TO THE FINISHED GRADE. THE UNFINISHED GRADE SHALL BE TO THE UNFINISHED GRADE.
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- FLAG NOTES**
1. ALL ACCESSIBLE SHALL NOT TO EXCEED LOW GRADE IN ANY DIRECTION
  2. MATCH EXISTING GRADE
  3. ALL FILL LOTS FOR UNDERGROUND TANKS TO BE 1 INCH ABOVE FINISHED GRADE



**EROSION CONTROL NOTES**

- THE EROSION CONTROL PLAN IS BASED ON THE DATA PROVIDED BY THE CLIENT AND THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND THE ADJACENT AREAS. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND THE ADJACENT AREAS. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND THE ADJACENT AREAS.
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**SWPPP LEGEND**

- DRAINAGE ARROW
- GRADING LIMITS
- FILTER SOCK
- Silt Fence
- Inlet Protection
- Portable Restroom
- Concrete Washout Pit
- Temporary Staircase
- Undisturbed Area
- Gravel Entrance
- Staging Area

**STABILIZATION QUANTITIES**

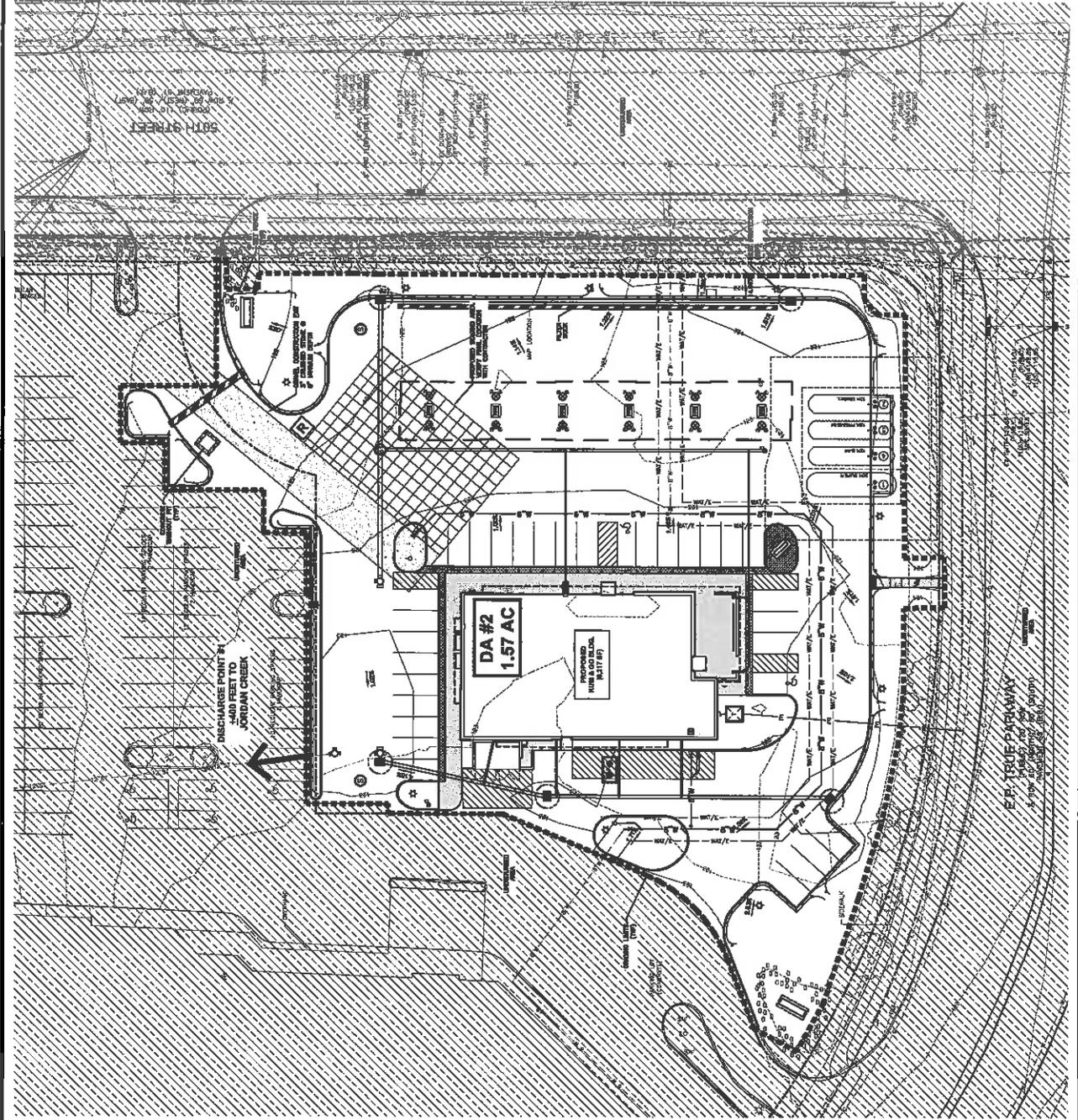
ITEM NO.	ITEM	UNIT	TOTAL
1	SEED	LB	100
2	FERTILIZER	LB	100
3	EROSION PROTECTION FAB	SQ YD	100
4	WOOD MULCH	CY	100
5	CONCRETE WASHOUT PIT	EA	1

**DISCHARGE POINT SUMMARY**

DISCHARGE POINT TO: JORDAN CREEK  
 STORAGE VOLUME REQUIRED: 1000 CU FT  
 STORAGE VOLUME PROVIDED: 1000 CU FT  
 TOTAL VOLUME PROVIDED: 1000 CU FT

**EROSION CONTROL CONTACT**

ATKINS WATER REMEDIATION COMPANY, LLC  
 1000 WEST TOWN SQUARE, SUITE 14  
 WEST DES MOINES, IOWA 50325  
 PH: (515)283-0043



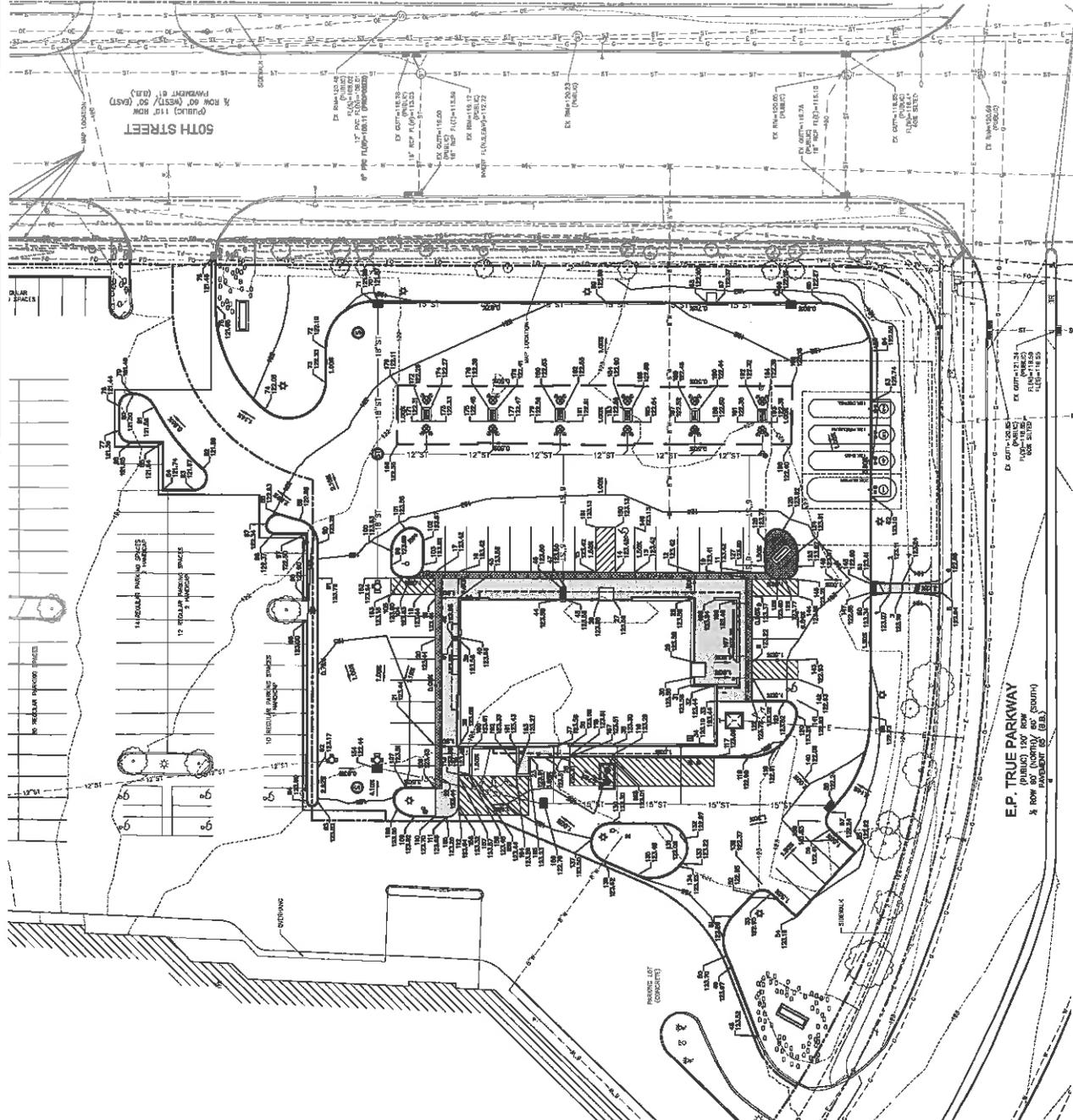


DATE	REVISION DESCRIPTION



**GRADING NOTES**

1. FINISH GRADES SHOWN ON THIS PLAN SHALL BE PROVIDED TO THE BEST OF THE DESIGNER'S ABILITY AND SHALL BE SUBJECT TO THE FIELD CONDITIONS.
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B | R | A  
 ARCHITECTS  
 1100 N. W. 10th St.  
 Ft. Lauderdale, FL 33304  
 Phone: (954) 562-1100  
 Fax: (954) 562-1101  
 www.brarchitects.com



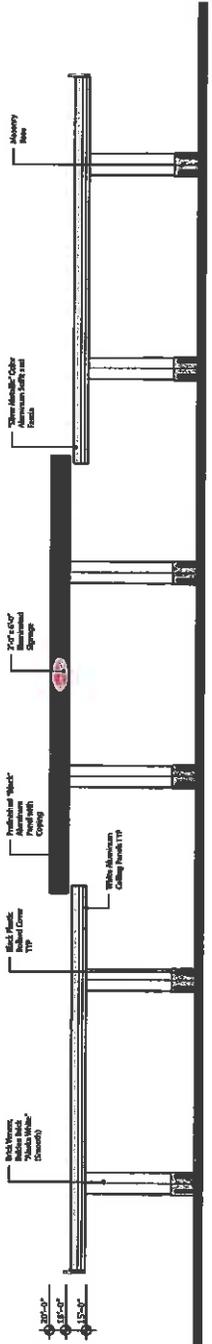
6400 Westchase Parkway  
 West Des Moines, Iowa  
 50269  
 P: 515-281-1100  
 F: 515-282-8473

**#897 - WEST DES MOINES, IOWA**  
**220 50TH STREET**  
**CANOPY ELEVATIONS OPT 2**

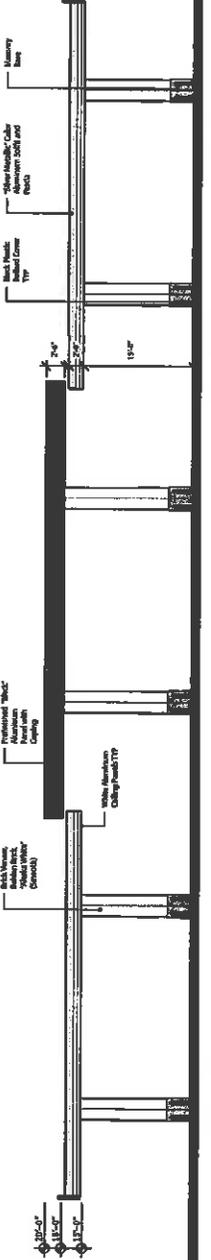
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NO.	DATE	REVISION DESCRIPTION

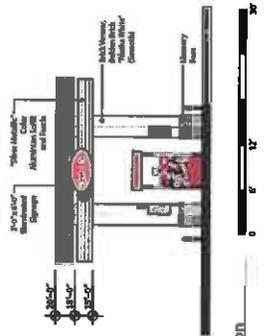
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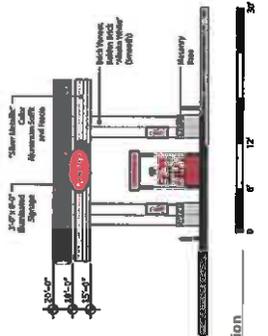
East Elevation



West Elevation



North Elevation



South Elevation

B R / A  
 CONSULTING  
 1000 West 10th Street  
 Des Moines, IA 50319  
 Phone: 515.281.1111  
 Fax: 515.281.1112  
 www.brar.com



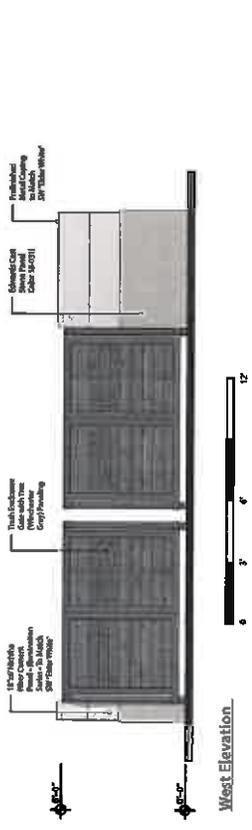
6400 Western Parkway  
 West Des Moines, Iowa  
 50327  
 P: 515.226.0128  
 F: 515.226.8673

TRASH ENCLOSURE ELEVATIONS  
 220 50TH STREET  
 #097 - WEST DES MOINES, IOWA

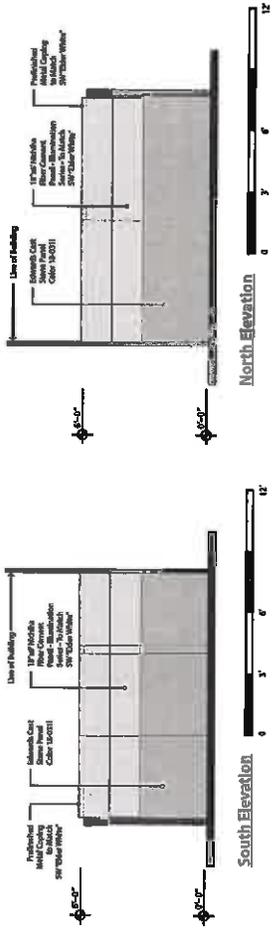
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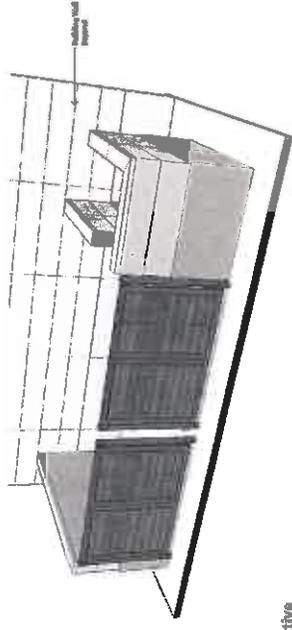


West Elevation

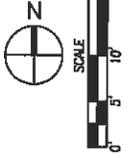
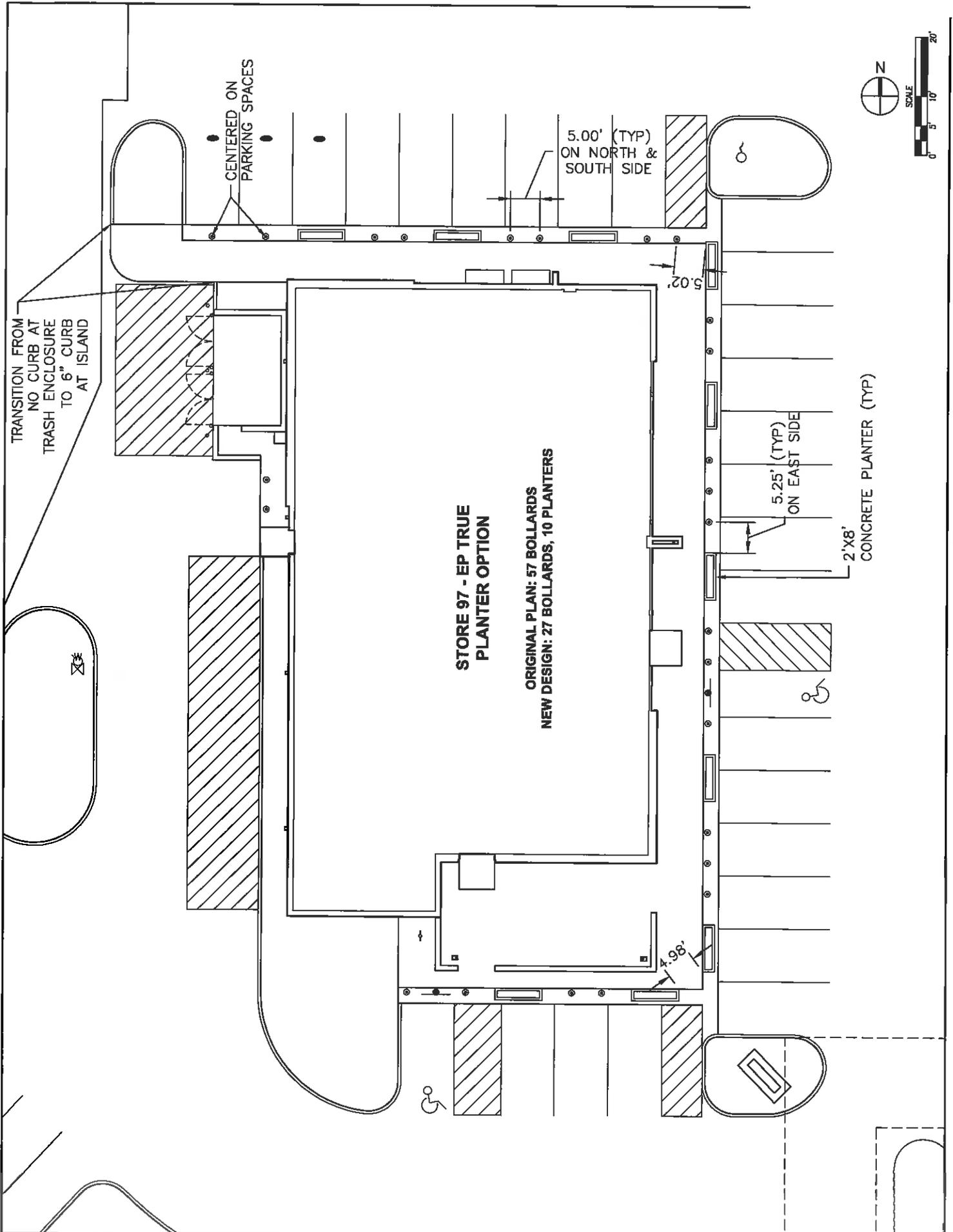


South Elevation

North Elevation



Perspective  
Aug 13, 2019





A COMMUNITY OF STRENGTH AND HOPE

REBUILDING TOGETHER

ART

MUSIC

MISSOURI

Bonnie AND Clyde

From Mining Town  
To Urban Center

Shifferdeck BEER  
House

DALES  
QUE  
66

MOTEL

ROCKET  
MOTEL

HISTORIC  
MISSOURI  
US  
66  
ROUTE

GET your  
Kicks