



City of Arvada City Council Agenda

**MARCH 6, 2023
CITY COUNCIL CHAMBERS
Regular Business**

Councilmembers:

**Marc Williams, Mayor
David Jones, Mayor Pro-Tem
Bob Fifer, At large
John Marriott, District 3
Randy Moorman, District 1
Lauren Simpson, District 2
Lisa Smith, At large**

Staff Members Usually Present:

**Lorie Gillis, City Manager
Linda Haley, Deputy City Manager
Don Wick, Deputy City Manager
Rachel Morris, City Attorney
Jacqueline Rhoades, Director of Public Works
Sharon Israel, Director of Utilities
Ryan Stachelski, Dir. of Community & Economic Development
Bryan Archer, Director of Finance
Gabriella Bommer, Director of Human Resources
Rob Smetana, Manager of City Planning & Development
Rachael Kuroiwa, Director of Communications & Engagement
Kristen Rush, City Clerk**

Info: 720-898-7550

ARVADA HOUSING AUTHORITY CITY COUNCIL CHAMBERS 6:00 P.M.

CITY COUNCIL MEETING – CITY COUNCIL CHAMBERS 6:15 PM

1. Call to Order - 6:15 PM
2. Moment of Reflection and Pledge of Allegiance - Councilmember Smith
3. Roll Call of Councilmembers
4. Approval of Minutes
 - A. February 6, 2023 City Council Meeting
 - B. February 13, 2023 City Council Meeting
5. Recognitions and Communications - None
6. Presentations
 - A. Presentation of Elks Grant Check to Community Table
7. Public Comment on Issues not Scheduled on Agenda - Three Minute Limit

8. New Business
 - A. Consent Agenda
 1. R23-022, A Resolution Acknowledging and Accepting the Arvada Police Department's Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. 24-18-302
 - B. Resolutions
 1. R23-023, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and Arvada Urban Renewal Authority ("AURA") for the Lease of Aura's Property Located at 5603 Yukon Street, Suite A
 2. R23-024, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and North Table Mountain Water and Sanitation District for Mutual Aid of Water During Certain Emergency and Non-Emergency Events
 - C. Ordinances (First Reading)
 1. CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)
 2. CB23-006, An Ordinance Amending Article IV - Liquor Tastings, of Chapter 6, Alcoholic Beverages, of the Arvada City Code (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)
9. Other
 - A. Ratification and Approval of CP2023-0004 a Resolution by the Planning Commission for the City of Arvada, Colorado, Adopting the 2014 Arvada Comprehensive Plan as Arvada's Three Mile Plan Pursuant to Section 31-12-105(1)(E), C.R.S., as Amended
10. Public Hearings - 6:15 PM
 - A. A Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient to the main pedestrian entrance of the building to a public or private street
 - B. Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.
 - C. Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.
 - D. Conditional Use for Marshall Pointe to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district.
 - E. Major Modification to waive the requirement in table 2-1-4-2(A) of the Land Development Code (LDC) that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, a 4.36 acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.
11. Public Comment - Five Minute Limit
12. Reports from City Council
 - A. Council Committee Reports

13. Reports from City Manager
 - A. Review of Future Workshops and Presentations
14. Reports from City Attorney
15. Adjournment



SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD FEBRUARY 6, 2023

1. Executive Session – 5:00 p.m.

- A. Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) re the City's Future Negotiations with the Arvada Junior Chamber Foundation Inc. for Direct and Indirect Support of the 2023 Arvada Harvest Festival

Councilmember Smith moved to go into Executive Session for Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) re the City's Future Negotiations with the Arvada Junior Chamber Foundation Inc. for Direct and Indirect Support of the 2023 Arvada Harvest Festival.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Simpson

The Motion was Approved

1. Call to Order - 6:00 p.m.

This Arvada City Council meeting was a hybrid meeting using webinar technology. Mayor Williams, Mayor Pro Tem Jones, Councilmember Marriott, Councilmember Fifer, Councilmember Moorman, and Councilmember Smith were all present in chambers.

Members of the public were given notice with instructions on how to participate with public comment.

2. Moment of Reflection and Pledge of Allegiance

3. Roll Call of Councilmembers

Those Present: Mayor Marc Williams, Mayor Pro Tem David Jones, Councilmember Bob Fifer, Councilmember John Marriott, Councilmember Randy Moorman, Councilmember Lisa Smith.

Councilmember Fifer moved to excuse Councilmember Simpson from the meeting.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Simpson

The Motion was Approved

Also Present: Lorie Gillis, City Manager, Rachel Morris, City Attorney; Linda Haley, Deputy City Manager; Don Wick, Deputy City Manager, Bryan Archer, Director of Finance; Ryan Stachelski,

Director of Community and Economic Development; Rachael Kuroiwa, Director of Communications and Engagement and Kristen Rush, City Clerk.

4. Approval of Minutes – January 23, 2023 City Council Meeting

The minutes stand approved.

5. Recognition and Communication – none

6. Presentations - none

7. Public Comment –

- A. Kia Ruiz, Arvada resident, addressed council regarding Sustain Arvada funding.
- B. Dar-Lon Chang, Arvada resident, addressed council regarding Sustain Arvada funding.
- C. Bodie Cabean, Arvada resident, addressed council regarding climate change.
- D. Taylor Jarnagin, Arvada resident, addressed council regarding Sustain Arvada funding

8. New Business

A. Consent Agenda – none

B. Resolutions –

- 1. R23-015 A Resolution Authorizing Acceptance of a Memorandum of Understanding between Adams County, Colorado and the Cities of Aurora, Brighton, Commerce City, Federal Heights, Northglenn, Thornton, Westminster, the Town of Bennett, and the City and County of Broomfield Regarding Homelessness Services and Related First Amendment Joining Arvada to the Memorandum of Understanding

Lorie Gillis, City Manager, reviewed this resolution with council.

Councilmember Smith moved that R23-015, A Resolution Authorizing Acceptance of a Memorandum of Understanding between Adams County, Colorado and the Cities of Aurora, Brighton, Commerce City, Federal Heights, Northglenn, Thornton, Westminster, the Town of Bennett, and the City and County of Broomfield Regarding Homelessness Services and Related First Amendment Joining Arvada to the Memorandum of Understanding, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Simpson

The Motion was Approved

C. Ordinances (First Reading) - none

9. Other - None

10. Public Hearings –

- A. Ratification and Approval of CP2022-0003 A Resolution By The Planning Commission For The City Of Arvada, Colorado To Amend The 2014 Arvada Comprehensive Plan Land Use Designation Pertaining To Sabell Filing No. 3, From Medium Density Residential To High Density Residential, Located West Of Urban Street And South Of West 58th Avenue
- B. R23-016 A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Sabell Filing 3, a Parcel of Land Located West of Urban Street and South of West 58th Avenue in the County of Jefferson and State of Colorado
- C. CB23-002 An Ordinance Annexing Certain Land into the City of Arvada, Colorado, Sabell Filing 3, a Parcel of Land Located West of Urban Street and South of West 58th Avenue in the County of Jefferson and State of Colorado (Ordinance No. 4835)
- D. CB23-003 An Ordinance Rezoning Certain Land Within the City of Arvada, Sabell Filing 3, from Jefferson County A-2 (Agricultural) to City of Arvada PUD (Planned Development), and Amending the Official Zoning Maps of the City of Arvada, Colorado, Parcel of Land West of Urban Street and South of West 58th Avenue (Ordinance No. 4836)
- E. PUD Development Plan for Sabell Filing No. 3, generally located West of Urban St. and South of 58th Ave.
- F. Preliminary Plat for Sabell Filing No. 3 generally located West of Urban St. and South of 58th Ave.

Mayor Williams opened the public hearing on the Ratification and Approval of CP2022-0003, R23-016, CB23-002, CB23-003, the PUD Development Plan of Sebell Filing No. 3 and the Preliminary Plat for Sabell Filing No. 3

Rob Smetana, Planning Manager, reviewed these items with council and stated that the posting logs and mailing affidavit have been received and are in order. Mayor Williams made them a part of the official record, along with the staff report.

Sworn Testimony: Matt Cavanaugh, representing applicant
John Presowich, representing applicant

Mayor Williams closed the public hearing.

Councilmember Marriott moved that the Ratification and Approval of CP2022-0003 A Resolution By The Planning Commission For The City Of Arvada, Colorado To Amend The 2014 Arvada Comprehensive Plan Land Use Designation Pertaining To Sabell Filing No. 3, From Medium Density Residential To High Density Residential, Located West Of Urban Street And South Of West 58th Avenue, be approved. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith
Those Absent: Simpson
The Motion was Approved

Councilmember Marriott moved that R23-016, A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Sabell Filing 3, a Parcel of Land Located West of Urban Street and South of West 58th Avenue in the County of Jefferson and State of Colorado, be approved.

The following votes were cast on the Motion:
Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith
Those Absent: Simpson
The Motion was Approved

Councilmember Marriott moved that CB23-002, An Ordinance Annexing Certain Land into the City of Arvada, Colorado, Sabell Filing 3, a Parcel of Land Located West of Urban Street and South of West 58th Avenue in the County of Jefferson and State of Colorado, be approved on final reading, numbered 4835 and ordered published by title only. This motion is based on the findings of fact adopted by the Planning Commission.

The following votes were cast on the Motion:
Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith
Those Absent: Simpson
The Motion was Approved

Councilmember Marriott moved that CB23-003, An Ordinance Rezoning Certain Land Within the City of Arvada, Sabell Filing 3, from Jefferson County A-2 (Agricultural) to City of Arvada PUD (Planned Development), and Amending the Official Zoning Maps of the City of Arvada, Colorado, Parcel of Land West of Urban Street and South of West 58th Avenue, be approved on final reading, numbered 4836, and ordered published by title only.

The following votes were cast on the Motion:
Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith
Those Absent: Simpson
The Motion was Approved

Councilmember Marriott moved that the PUD Development Plan for Sabell Filing No. 3, generally located West of Urban St. and South of 58th Ave., be approved. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:
Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith
Those Absent: Simpson
The Motion was Approved

Councilmember Marriott moved that the Preliminary Plat for Sabell Filing No. 3 generally located West of Urban St. and South of 58th Ave., be approved. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Simpson

The Motion was Approved

- G. CB23-004 An Ordinance Rezoning Certain Land Within the City of Arvada, Ralston Gardens, from RN-7.5 (Residential Neighborhood 7,500) to MX-N (Mixed-Use Neighborhood), and Amending the Official Zoning Maps of the City of Arvada, Colorado, Parcel of Land Generally Located at the Southeast Corner of Ralston Road and Garrison Street, Formerly Known as 5790 Garrison Street (Ordinance No. 4837)
- H. Major Modification to Waive the Requirement in Section 5-1-2-5(G)(1) of the City of Arvada Land Development Code (LDC) That Requires at Least 75 percent of the Units to Have a Private Outdoor Yard, Patio, or Balcony. Approximately Located at the Southeast Corner of Ralston Road and Garrison Street

Mayor Williams opened the public hearing on CB23-004 and the Major Modification to Waive the Requirement in Section 5-1-2-5(G)(1)

Rob Smetana, Planning Manager, reviewed these items with council and stated that the posting logs and mailing affidavit have been received and are in order. Mayor Williams made them a part of the official record, along with the staff report.

Sworn Testimony: Maureen Phair, Executive Director of Urban Renewal
George Thorn, Representing applicant

Mayor Williams closed the public hearing.

Councilmember Smith moved that CB23-004, An Ordinance Rezoning Certain Land Within the City of Arvada, Ralston Gardens, from RN-7.5 (Residential Neighborhood 7,500) to MX-N (Mixed-Use Neighborhood), and Amending the Official Zoning Maps of the City of Arvada, Colorado, Parcel of Land Generally Located at the Southeast Corner of Ralston Road and Garrison Street, Formerly Known as 5790 Garrison Street, be approved on final reading, numbered 4837, and ordered published by title only. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Simpson

The Motion was Approved

- H. Major Modification to Waive the Requirement in Section 5-1-2-5(G)(1) of the City of Arvada Land Development Code (LDC) That Requires at Least 75 percent of the Units to Have a Private Outdoor Yard, Patio, or Balcony. Approximately Located at the Southeast Corner of Ralston Road and Garrison Street, be approved. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Smith

Those voting No: Moorman

Those Absent: Simpson

The Motion was Approved

11. Public Comment - Five Minute Limit –

- A. Amy Traven, Arvada resident, addressed council regarding the new DEI Consultant.
- B. John Olson, Arvada resident, addressed council regarding gun legislation.

12. City Council Reports –

- A. Mayor Williams and Councilmember Marriott noted the passing of Cindi Kreutzer.
- B. Councilmember Moorman reported on the Rocky Flats Stewardship Council meeting that he recently attended.

13. City Manager Reports –

14. City Attorney Reports – none

15. Adjournment at 7:45 p.m.

Marc Williams, Mayor

SEAL:

Kristen R. Rush, City Clerk



SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD FEBRUARY 13, 2023

1. Executive Session – 5:00 p.m.

- A. Legal Advice, Pursuant to CRS 24-6-402(4)(b) regarding liability issues associated with Lake Arbor Golf Course.

The following votes were cast on the Motion:

Those voting Yes: Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Williams, Simpson

The Motion was Approved

1. Call to Order - 6:00 p.m.

This Arvada City Council meeting was a hybrid meeting using webinar technology. Mayor Pro Tem Jones, Councilmember Marriott, Councilmember Fifer, Councilmember Moorman, and Councilmember Smith were all present in chambers.

Members of the public were given notice with instructions on how to participate with public comment.

2. Moment of Reflection and Pledge of Allegiance

3. Roll Call of Councilmembers

Those Present: Mayor Pro Tem David Jones, Councilmember Bob Fifer, Councilmember John Marriott, Councilmember Randy Moorman, Councilmember Lisa Smith.

Councilmember Fifer moved to excuse Mayor Williams and Councilmember Simpson.

The following votes were cast on the Motion:

Those voting Yes: Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Williams, Simpson

The Motion was Approved

Also Present: Lorie Gillis, City Manager, Rachel Morris, City Attorney; Linda Haley, Deputy City Manager; Don Wick, Deputy City Manager, Bryan Archer, Director of Finance; Ryan Stachelski, Director of Community and Economic Development; Rachael Kuroiwa, Director of Communications and Engagement and Kristen Rush, City Clerk.

4. Approval of Minutes – none

5. Recognition and Communication – none
6. Presentations - none
7. Public Comment –
 1. Vinnid LaSalvia, Arvada resident, addressed council regarding a sustainable plan
 2. Susan Doak, Arvada resident, addressed council regarding homelessness
 3. Iris Horowitz, representing Arvada Sustainability Committee, addressed council regarding funding for Sustain Arvada
 4. Dar-Lon Chang, Arvada resident, addressed council regarding a sustainable plan
 5. Joyce Richardson, Arvada resident, addressed council regarding funding for Sustain Arvada
 6. Nicholas Jenneman, Arvada resident, addressed council regarding hole number 5 at the Lake Arbor Golf Course
 7. Brian Howell, Arvada resident, addressed council regarding the Lake Arbor Golf Course
 8. Grace Murray, Arvada resident, addressed council regarding the Lake Arbor Golf Course
8. New Business
 - A. Consent Agenda –
 1. R23-017 A Resolution Authorizing Amendment No. 3 to the Agreement by and between the City of Arvada and PCL Construction, Inc. Establishing Contractor's Guaranteed Maximum Price III of the "Construction Management/General Contractor Agreement for Preconstruction Services for the Rehabilitation and Modification of the Filter and Solids Handling Systems at the Ralston Water Treatment Plant," in an Amount Not to Exceed \$3,518,653.00
 2. R23-018 A Resolution Authorizing Amendment No. 2 to the Agreement Between the City of Arvada and Moltz Construction, Inc., Awarding Contractor Phase II and Establishing Contractor's Guaranteed Maximum Price for Phase II of the "The Construction Management/General Contractor Agreement for Preconstruction Services for Alkire Lift Station Improvements" in an Amount not to Exceed \$838,985.00
 3. R23-019 A Resolution Authorizing a License Agreement by and between the City of Arvada and the Church Ditch Water Authority pertaining to Construction and Maintenance of Improvements along W. 80th Avenue
 4. R23-020 A Resolution Authorizing An Agreement Between The City Of Arvada And Frontier Environmental Services, LLC For Goods And Services Relating To Boring Conduit And Fiber Pulling In An Amount Not To Exceed \$500,000.00

Councilmember Marriott moved that R23-017, A Resolution Authorizing Amendment No. 3 to the Agreement by and between the City of Arvada and PCL Construction, Inc. Establishing Contractor's Guaranteed Maximum Price III of the "Construction Management/General Contractor Agreement for Preconstruction Services for the Rehabilitation and Modification of the Filter and Solids Handling Systems at the Ralston Water Treatment Plant," in an Amount Not to Exceed \$3,518,653.00; R23-018, A Resolution Authorizing Amendment No. 2 to the Agreement Between the City of Arvada and Moltz Construction, Inc., Awarding Contractor Phase II and Establishing Contractor's Guaranteed Maximum Price for Phase II of the "The Construction

Management/General Contractor Agreement for Preconstruction Services for Alkire Lift Station Improvements" in an Amount not to Exceed \$838,985.00; R23-019, A Resolution Authorizing a License Agreement by and between the City of Arvada and the Church Ditch Water Authority pertaining to Construction and Maintenance of Improvements along W. 80th Avenue; R23-020, A Resolution Authorizing An Agreement Between The City Of Arvada And Frontier Environmental Services, LLC For Goods And Services Relating To Boring Conduit And Fiber Pulling In An Amount Not To Exceed \$500,000.00, be approved.

The following votes were cast on the Motion:

Those voting Yes: Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Williams, Simpson

The Motion was Approved

B. Resolutions –

1. R23-021 A Resolution Revising and Adopting Bylaws for the Arvada Human Services Advisory Committee

Lorie Gillis, City Manager, reviewed this resolution with council.

Councilmember Smith moved that R23-021, A Resolution Revising and Adopting Bylaws for the Arvada Human Services Advisory Committee, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Smith

Those Absent: Williams, Simpson

The Motion was Approved

C. Ordinances (First Reading) - none

9. Other - None

10. Public Hearings – none

11. Workshops

A. Community Survey

Ryan Stachelski, Director of Community and Economic Development, and Adam Probolsky, Consultant with Probolsky Research, reviewed this workshop with Council. Mr. Stachelski said that the City has conducted a random sample survey of approximately 1,200 citizens every other year, starting in 1997, with its last bi-annual survey in 2019. The City did not conduct its 2021 survey due to the Covid -19 pandemic. The Community Survey results are used by the City Council and City team to help ensure that the City Council's strategic plan and the City's operation plans are aligned with the community (voice of the customer). This methodology is a best practice as seen in the Baldrige framework.

In 2022, the City of Arvada hired Probolsky Research to conduct a Community Survey. The survey was sent to all residents via the Arvada Report. Additional methods of communication were also used in order to solicit the largest possible response. Adam Probolsky will present the Community Survey methodology and findings.

Mr. Probolsky said that key findings are that most residents say that the city is heading in the right direction but there is room for improvement. Quality of Life is ranked as high. Key concerns are crime, homelessness, and the pace of growth.

Next Steps: The City team will use this information to support the City Council strategic planning retreat scheduled for March 3, 2023.

B. Lake Arbor Golf Course Master Planning and Course Improvements

Enessa Janes, Director of Vibrant Communities and Neighborhoods, along with members of her team reviewed this workshop with council.

Lake Arbor Golf Course, located at 86th and Wadsworth in northeast Arvada, is currently the oldest city owned and operated golf course in Arvada. Designed in 1973, and measuring 5,900 yards in length, Lake Arbor Golf Course is an approachable, walkable, traditionally designed 18 hole course that features some of the best quality greens in the metro area. With a quick pace of play, around 4 hours, Lake Arbor Golf Course is consistently regarded as one of the best values in the region.

The primary mission of municipal golf courses is to provide reasonably priced outdoor recreation for local residents. In addition to recreation benefits, municipal courses like Lake Arbor provide valuable open space for established pockets of a community. A focus on promoting healthy outdoor activity in an accessible, family-friendly environment, regardless of physical abilities, distinguishes municipal golf courses from semi-private and exclusive private golf courses.

With over 95 acres of open space, Lake Arbor is also an important environmental asset for vegetation and wildlife. Preserving the many amenities Lake Arbor has to offer, while investing in innovative opportunities for growth and improved community and customer experience, will require a strategic approach. This will include financial contributions in order to achieve long-term objectives which address environmental, demographic, and societal needs and challenges.

In 2019, the United States Golf Association (USGA) conducted an on-site visit to the Lake Arbor Golf Course to conduct an agronomy study. Following that study, the Arvada Golf team partnered with three architectural firms to develop a series of possible redesign scenarios for the course. Each design concept considered emerging trends in the golf industry (including efforts to accommodate changing demographics) as well as ways to improve the experience of both community members and players.

In February 2022, the Arvada Golf Advisory Committee reviewed the design proposals with staff and selected a favorite. Those preliminary designs and recommendations were shared with the Arvada City Council during a workshop on May 9, 2022.

Additionally, beginning in August 2022, the Arvada Golf leadership team completed an assessment of the playability of Lake Arbor Golf Course and developed a course improvement plan. The leadership team consists of subject matter experts with over 60 years of experience managing and maintaining Lake Arbor Golf Course. The leadership team outlined a path forward for Lake Arbor by developing a set of criteria for systematizing course improvements, which include: the frequency of misplaced tee shots, proximity of shots to out-of-bounds, cost effectiveness of construction, and overall aesthetics. The leadership team scored each hole based on the outlined criteria to determine a prioritization for hole improvements using existing financial resources.

The Arvada Golf team completed the improvement plan in November 2022 and will begin implementing the recommended improvements in priority order using previously-approved CIP dollars starting in the spring of 2023.

The Arvada Golf team will present historical background, data, and potential strategies for addressing the current and future reinvestment needs of the Lake Arbor Golf Course.

The policy question at hand is: *At what level will the City of Arvada recommit to developing a successful golf service model within the city's existing golf course footprint?*

The Arvada Golf team will be looking for direction from the City Council to determine what level of reinvestment shall be made to improve the customer and community experience of this community asset.

11. Public Comment - Five Minute Limit –
12. City Council Reports – none
13. City Manager Reports – none
14. City Attorney Reports – none
15. Adjournment at 8:00 p.m.

Marc Williams, Mayor

SEAL:

Kristen R. Rush, City Clerk



REPORT TO CITY COUNCIL

AGENDA ITEM
6.A.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Presentation of Elks Grant Check to Community Table

Report in Brief

PRESENTER: Rick Assmus

Arvada's Elk Lodge #2278 applied for and received a Spotlight Grant from their national foundation. The foundation asked that the lodge use the funds to help a local organization.

The Elks chose the Community Table.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Rachel Morris, City Attorney 2/21/2023

Linda Haley, Deputy City Manager 2/21/2023

Lorie Gillis, City Manager 2/22/2023

Enclosure, exhibits & attachments required to support the report



REPORT TO CITY COUNCIL

AGENDA ITEM
8.A.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Consent Agenda

Report in Brief

R23-022, A Resolution Acknowledging and Accepting the Arvada Police Department's Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. 24-18-302

Suggested Motion: Moved by: _____ I move that the Consent Item(s),
Number(s) _____

be
(Removed from the Consent Agenda and Heard Upon Item _____) (Referred to a Workshop) (Postponed
Indefinitely).

YES _____ NO _____ ABSENT _____

That All/Remaining Consent Items be (Approved) (Rejected).

YES _____ NO _____ ABSENT _____ t

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.A.1.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: R23-022, A Resolution Acknowledging and Accepting the Arvada Police Department's Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. 24-18-302

Report in Brief

PRESENTER: Chief Ed Brady

Recent State legislation requires a law enforcement agency that wishes to implement or continue to utilize facial recognition services ("FRS") as an investigative tool to file a "notice of intent" to do so with its governing body.

FRS is a valuable tool for APD investigators. FRS can be utilized to compare an image of an unknown suspect to a database of known offender images (typically from booking photos) to develop leads as to the suspect's identity. Importantly, while FRS is valuable, the results of an FRS comparison cannot serve as the sole basis to establish probable cause in a criminal investigation. FRS is not a substitute for other investigative techniques, but can be critical to provide an investigative lead or to corroborate other information to build a strong case.

This resolution memorializes City Council's acknowledgment and acceptance of the Arvada Police Department's (APD) notice of intent to utilize FRS.

The Arvada team recommends that the City Council approve R23-022, A Resolution Acknowledging and Accepting the Arvada Police Department's Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. 24-18-302.

Financial Impact

This resolution has no financial impact. Work on FRS utilization will be completed within existing APD budgets.

Background

Senate Bill 22-113 enacted various requirements for law enforcement agencies who wish to utilize FRS as an investigative tool. First among the requirements is that an agency must "file" a "notice of intent" with its governing body before preparing an extensive "Accountability Report" discussing how the agency will implement and utilize FRS. The law does not specify how the notice of intent is to be "filed" with an agency's governing body.

The APD intends to move forward with meeting the statutory requirements in order to utilize FRS in appropriate investigations. The APD provides City Council its notice of intent to utilize FRS in the attached memorandum, to be acknowledged and accepted by Council and therefore "filed" in accordance with the statute.

Discussion

FRS is a valuable investigative tool in cases where a suspect's identity is unknown. FRS can be used, along with other tools, to develop leads to the suspect's possible identity. The APD recognizes that FRS is only one tool among many, and will utilize such services only in compliance with applicable law. The notice of intent provided to Council is the first step in the APD's effort to develop and implement an appropriate FRS Accountability Report which meets the requirements of the statute.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

na

Strategic Alignment

This resolution aligns with the City's Safe Community strategies by permitting the APD to utilize FRS in appropriate investigations.

Alternative Courses of Action

na

Recommendation for Action

The Arvada team recommends that the City Council approve R23-022, A Resolution Acknowledging and Accepting the Arvada Police Department's Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. 24-18-302.

Suggested Motion:

I move that R23-022, A Resolution Acknowledging and Accepting the Arvada Police Department's Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. 24-18-302, be (approved) (rejected).

Prepared by:
Aaron Jacks, Assistant City Attorney

Reviewed by:

Approved by:

Aaron Jacks, Assistant City Attorney	2/6/2023
Ed Brady, Deputy Police Chief	2/6/2023
Rachel Morris, City Attorney	2/15/2023
Lorie Gillis, City Manager	2/21/2023

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R23-022

A RESOLUTION ACKNOWLEDGING AND ACCEPTING THE ARVADA POLICE
DEPARTMENT’S NOTICE OF INTENT TO UTILIZE FACIAL RECOGNITION
TECHNOLOGY IN ACCORDANCE WITH C.R.S. § 24-18-302

WHEREAS, Colorado law enforcement agencies which intend to develop, procure, or use a facial recognition service (“FRS”) after August 10, 2022 must file with their “reporting authority” a notice of the agency’s intent to do so in accordance with C.R.S. §§ 24-18-302 *et. seq.*; and

WHEREAS, the Arvada City Council is the Arvada Police Department’s “reporting authority” as defined at C.R.S. § 24-18-301(14); and

WHEREAS, the Arvada Police Department, through the Arvada City Attorney, has filed with the Arvada City Council a notice of intent to use FRS in accordance with C.R.S. § 24-18-302 *et. seq.*; and

WHEREAS, FRS is a valuable investigative tool to assist law enforcement agencies to develop leads as to the identity of criminal suspects; and

WHEREAS, the Arvada Police Department will prepare an Accountability Report for its use of FRS as required by C.R.S. § 24-18-302; and

WHEREAS, the City Council finds that the Arvada Police Department’s use of FRS in appropriate investigations will promote the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to acknowledge and accept, by signature of this resolution as attested by the City Clerk, the Arvada Police Department’s Notice of Intent to Utilize Facial Recognition Technology in Accordance with C.R.S. § 24-18-302, which is in substantially the same form as that attached hereto.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 6th day of March, 2023.

Marc Williams, Mayor

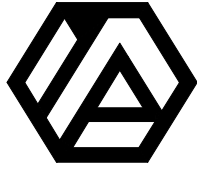
ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____



**City of Arvada
Office of the City Attorney**

February 6, 2023

TO: City Council

FROM: Aaron Jacks, Sr. Asst. City Attorney

THROUGH: Lorie Gillis, City Manager
Rachel Morris, City Attorney
Nora Steenson, Deputy City Attorney
Ed Brady, Chief of Police

SUBJECT: Notice of Intent - APD Use of Facial Recognition Services in Accordance with C.R.S. 24-18-302

EXECUTIVE SUMMARY

In June 2022, the State legislature passed SB 22-113 (SB113), which enacted C.R.S. §§ 24-18-301 through 309 imposing new requirements on local government agencies, including law enforcement, related to the use of facial recognition services (FRS).

For purposes of the statute, FRS is defined as, “technology that analyzes facial features to facilitate the identification, verification, or persistent tracking of individuals in still or video images.” (C.R.S. § 24-18-301(5)(a)). The statute provides very limited exceptions for FRS used to open an electronic device (i.e. Apple’s Face ID feature) and for redaction of video recordings to protect privacy interests (e.g. redaction of body worn camera footage).

Investigative uses of FRS by law enforcement are subject to the statute. SB113 requires that a municipal police department that wishes to use or to continue to use an FRS for investigative purposes must file with its city council a “Notice of Intent” and thereafter an “Accountability Report” related to its proposed use of FRS.

This memorandum serves as the Arvada Police Department’s (APD) Notice of Intent to City Council that it will move forward with meeting the requirements of SB113 in order to utilize FRS in appropriate criminal investigations.

BACKGROUND

City Council
FRS Notice of Intent

FRS is a valuable tool for APD investigators. FRS can be utilized to compare an image of an unknown suspect to a database of known offender images (typically from booking photos) to develop leads as to the suspect's identity. Importantly, while FRS is valuable, the results of an FRS comparison cannot serve as the sole basis to establish probable cause in a criminal investigation. FRS is not a substitute for other investigative techniques, but can be critical to provide an investigative lead or to corroborate other information to build a strong case. A notable APD case from 2018 illustrates the importance of FRS as an investigative tool.

In late 2018, a male suspect committed a robbery and an attempted carjacking at the Wal-Mart at Ralston Road and Independence Street. The suspect threatened Wal-Mart employees with a handgun during an attempted theft, and then tried to carjack a driver in the parking lot. The suspect fled the area on foot. Wal-Mart's video surveillance system captured images of the suspect.

Later that night, a male suspect entered the apartment of an elderly female at the Brookdale Meridian facility through an unlocked sliding door. The suspect violently assaulted the victim before fleeing with her purse and cell phone. The suspect fled before the victim was able to summon help.

It was believed that the same suspect committed both crimes; however, investigators had no leads as to the suspect's identity. An APD detective obtained the Wal-Mart surveillance footage, which included images of the suspect's face and a tattoo on his left wrist. The detective compared still images from the footage to a database of known offender photos utilizing an FRS. The FRS returned a possible match to a wanted felon, based on the suspect's image in the surveillance footage. Officers developed further information that the suspect in the FRS match was known to frequent the area of I-70 and Kipling St., and that he had a tattoo on his left wrist matching the one seen in the surveillance footage.

Detectives obtained a warrant to "ping" the burglary victim's cell phone and learned it was in the area of I-70 and Kipling St. Detectives searched the area and found the suspect in a stolen vehicle in the area of the cell phone ping. FRS information was instrumental in the APD's efforts to identify and apprehend the suspect, ultimately preventing a violent criminal from committing further crimes in our community.

This case is just one of many that illustrate the importance of having FRS available as an investigative tool. The APD recognizes that FRS must be utilized only in accordance with applicable law. At the same time, the APD believes that this technology can continue to assist officers in identifying suspects, especially those that pose a threat to community safety.

Therefore, the APD intends to utilize FRS in compliance with the requirements of SB113.

DISCUSSION

Accountability Report Requirements

SB 113 requires that a law enforcement agency that intends to utilize FRS must file with its “reporting authority”, defined to include the city council of a municipality, a notice of intent to use FRS, and to thereafter prepare an “Accountability Report.”

The Accountability Report must include a myriad of information related to the agency’s use of FRS, including all of the following (C.R.S. §§ 24-18-302(2)(a-h)):

1. The name, vendor, and version of the FRS;
2. A description of its general capabilities and limitations, including reasonably foreseeable capabilities outside the scope of the agency’s proposed use of the FRS;
3. The type of data inputs that the FRS uses;
4. How FRS data is generated, collected, and processed;
5. The type of data the FRS is reasonably likely to generate;
6. A description of the purpose and proposed use of the FRS, including:
 - a. What decision (*sic*) will be used to make or support the FRS; and
 - b. The intended benefits of the proposed use, including any data or research demonstrating those benefits.
7. A clear use and data management policy, including protocols for the following:
 - a. How, when, and by whom the FRS will be deployed or used; to whom data will be available; the factors that will be used to determine where, when, and how the technology is deployed; and other relevant information, such as whether the technology will be operated continuously or used only under specific circumstances;
 - b. If the FRS will be operated or used by an entity on the agency’s behalf, a description of the entity’s access and any applicable protocols;
 - c. Any measures taken to minimize inadvertent collection of additional data beyond the amount necessary for the specific purpose for which the FRS will be used;
 - d. Data integrity and retention policies applicable to the data collected using the FRS, including how the agency will maintain and update records used in connection with the service, how long the agency will keep the data, and the processes by which data will be deleted;
 - e. What processes will be required prior to each use of the FRS;
 - f. Data security measures applicable to the FRS, including:
 - i. How data collected using the FRS will be securely stored and accessed; and

City Council
FRS Notice of Intent

- ii. If an agency intends to share access to the FRS or the data from that FRS with any third party that is not a law enforcement agency, the rules and procedures by which the agency will ensure that the third party complies with the agency's use and data management policy;
 - g. The agency's training procedures, including those implemented in accordance with section 24-18-305, and how the agency will ensure that all personnel who operate the FRS or access its data are knowledgeable about and able to ensure compliance with the use and data management policy before using the FRS; and
 - h. Any other policies that will govern use of the FRS;
- 8. The agency's testing procedures, including its processes for periodically undertaking operational tests of the FRS in accordance with section 24-18-304;
- 9. Information concerning the FRS's rate of false matches, potential impacts on protected subpopulations, and how the agency will address error rates that are determined independently to be greater than one percent;
- 10. A description of any potential impacts of the FRS on civil rights and liberties, including potential impacts to privacy and potential disparate impacts on marginalized communities, including the specific steps the agency will take to mitigate the potential impacts; and
- 11. The agency's procedures for receiving feedback, including the channels for receiving feedback, from individuals affected by the use of the FRS and from the community at large, as well as the procedures for responding to feedback.

The Accountability Report requirements are extensive. SB113 also requires that law enforcement agencies hold three public meetings to receive comments regarding the agency's use of FRS before finalizing the Accountability Report.

Chief Brady and the APD believe that FRS has sufficient value as an investigative tool to warrant an effort to meet the many requirements of the statute.

Available FRS Tools

The APD is a member of the Colorado Information Sharing Consortium (CISC). CISC facilitates criminal justice information sharing between law enforcement agencies which includes an FRS tool available to CISC member agencies that certify Accountability Report requirements. The APD intends to work internally and with CISC as necessary to prepare appropriate information to provide the Accountability Report to City Council. The APD will then certify its compliance to permit access to CISC's "turn-key" FRS tool.

Additionally, it is the APD's understanding that the Colorado Bureau of Investigation (CBI) has started work to meet Accountability Report requirements for the CBI's FRS tool. The

City Council
FRS Notice of Intent

APD is hopeful that CBI's work will inform the APD's process to meet Accountability Report requirements, and will collaborate with CBI if feasible or as needed to be able to utilize FRS through CBI.

APD Policy #703- Use of Facial Recognition Technology

The APD currently addresses the use of FRS in APD Policy Manual #703 (PM 703). PM 703 has been in place since 2019, and provides policy guidance for FRS use by APD members. A number of the requirements of SB113 are already addressed by PM 703, and this policy will be updated as required to ensure compliance with applicable statutes.

CONCLUSION

FRS can be critical to generate investigative leads or to corroborate other information to identify unknown criminal suspects. The APD wishes to resume use of this valuable investigative tool in compliance with the requirements of SB113.

The APD therefore provides this Notice of Intent to City Council that it intends to utilize FRS technology in appropriate investigations. The APD will prepare the required Accountability Report for public meetings and presentation to Council later in 2023.



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.B.1.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: R23-023, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and Arvada Urban Renewal Authority ("AURA") for the Lease of Aura's Property Located at 5603 Yukon Street, Suite A

Report in Brief

PRESENTER: Ryan Stachelski

As part of the City's plans to repurpose the former Arvada Economic Development Association (AEDA) staff offices at City Hall, the AEDA team will be relocating to the Arvada Urban Renewal Authority's (AURA) new offices in Olde Town, located at 5603 Yukon Street. As such, the City of Arvada must enter into a lease agreement with AURA. AEDA and AURA have agreed upon lease terms for 1,375 square feet of usable office space adjacent to AURA's offices at a rate of \$18 per square foot, plus 50% of annual Common Area Maintenance expenses. The first year's term will be March 1, 2023 through December 31, 2023, all subsequent terms will be full-year leases from January 1st through December 31st.

Financial Impact

The lease rate plus annual maintenance expenses will cost the City approximately \$30,000 per year.

Background

The AEDA team vacated office space at City Hall in 2022 to allow for other departmental uses of the space. AEDA staff have been working in a highly remote hybrid capacity since the pandemic, and it was agreed that other City functions could more optimally use the space. The AEDA team feels strongly that a collocation with AURA in its new Olde Town offices will be beneficial in regards to the partnership between the two organizations, and AEDA's brand as a business-friendly and business-facing organization.

AEDA's proposed new space will provide offices for its three FTE's, plus a flexible reception/team meeting area. The space will be fully connected into the City of Arvada's respective communications networks. AEDA plans to begin operating in the space in March of 2023.

Discussion

CED and AEDA feel highly confident that the team can continue to operate at a high capacity and level of excellence away from City Hall. The team has demonstrated ongoing success since it began working in a mostly remote, hybrid fashion in 2020.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

This resolution is aligned with both AEDA's mission and the Community and Economic Development Worksystem Strategic Goals, including the Strategic Result of by 12/25, fully align the city's economic development efforts with the Community's vision expressed in the Community Survey and Business Survey.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends the City Council approve R23-023, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and Arvada Urban Renewal Authority (“AURA”) for the Lease of Aura’s Property Located at 5603 Yukon Street, Suite A.

Suggested Motion:

I move that R23-023, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and Arvada Urban Renewal Authority (“AURA”) for the Lease of Aura’s Property Located at 5603 Yukon Street, Suite A, be (approved) (rejected).

Prepared by:

Josie Suk, Development Systems and Administrative Manager

Reviewed by:

Approved by:

Daniel Ryley, Director of Economic Development	2/3/2023
Ryan Stachelski, Director of Community and Economic Development	2/13/2023
Kim Vagher, Manager of City Facilities	2/13/2023
Bryan Archer, Director of Finance	2/13/2023
Gail Walker, Legal Specialist-Contracts	2/14/2023
Kylie Justus, Assistant City Attorney	2/15/2023
Linda Haley, Deputy City Manager	2/15/2023
Rachel Morris, City Attorney	2/21/2023
Lorie Gillis, City Manager	2/23/2023

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R23-023

A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL
AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND ARVADA
URBAN RENEWAL AUTHORITY (“AURA”) FOR THE LEASE OF AURA’S
PROPERTY LOCATED AT 5603 YUKON STREET, SUITE A

WHEREAS, Article XIV, Section 18(2) of the Constitution of the State of Colorado encourages and authorizes intergovernmental agreements; and

WHEREAS, C.R.S. §29-1-203 permits local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other local governments in order to provide any lawfully authorized function, service, or facility; and

WHEREAS, AURA owns the property located at 5603 Yukon Street, Suite A, Arvada, CO 80002 and has the property available for rent; and

WHEREAS, Arvada is looking for office space for Arvada’s Economic Development Association (“AEDA”) unit.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor, or the Mayor Pro-tem, is hereby authorized to execute, the City Clerk to attest, in form approved by the City Attorney, the lease for the property located at 5603 Yukon Street, Suite A, Arvada, CO 80002, which is substantially the same as the lease attached hereto.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 6th day of March, 2023.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

**LEASE AGREEMENT BY AND BETWEEN THE ARVADA URBAN RENEWAL
AUTHORITY AND THE CITY OF ARVADA FOR THE PROPERTY LOCATED AT
5603 YUKON STREET, SUITE A**

1. **PARTIES.** The parties to this Lease Agreement ("Lease" or "Agreement") are Arvada Urban Renewal Authority, a body corporate and politic of the State of Colorado ("AURA"), and the City of Arvada, a Colorado home rule municipal corporation ("Arvada") and collectively referred to as "the Parties." This Agreement shall be effective upon its mutual approval and execution by the Parties.
2. **RECITALS AND PURPOSE.**
 - 2.1 AURA owns the approximately 1,375 square foot property located at 5603 Yukon Street, Suite A, Arvada, Colorado 80002 (the "Property").
 - 2.2 AURA wishes to lease the Property further described in **Exhibits A** to Arvada.
 - 2.3 The Parties desire to enter into this Lease to define all rights, duties, and liabilities of the Parties during the term described herein.
3. **CONTRACT DOCUMENTS AND EXHIBITS.** The Contract Documents shall consist of this Lease together with the following:

Exhibit A: Legal Description of Property;

All exhibits referred to in this Agreement are attached hereto and are, by reference, incorporated herein for all purposes.
4. **RENT.**
 - 4.1 Rate. Arvada agrees to pay \$18 square foot for useable/leasable square footage. Useable/leasable square footage is 1,375 square feet. Rent will be calculated at this rate for the term of this Lease. This includes the use of one on-premise parking space.
 - 4.2 First Year. Arvada agrees to pay rent for the period of March 1, 2023 through December 31, 2023, in the amount of \$20,625.00. Arvada shall pay AURA on or before March 1, 2023.
 - 4.3 Subsequent Years. Arvada shall pay AURA \$24,750.00 by January 15 of each year (covering the period of January 1 through December 31) this Lease remains in effect. If AURA does not receive rent by the January 30 of each year, rent is considered late. If rent is late, a \$50.00 dollar fee per day shall be assessed in addition to the annual rent owed.
5. **TERM.**

- 5.1 AURA leases to Arvada the Property beginning March 1, 2023 and ending on December 31, 2023. This Lease will be automatically renewed for 4 additional one-year (January 1 through December 31) periods unless either Party provides notice of their intent to terminate in accordance with the terms and conditions contained in this Lease.
- 5.2 This Lease may be extended for a longer term by written Amendment between AURA and Arvada.
- 5.3 **Holdover.** Should Arvada remain in possession of the Property with the consent of AURA after the natural expiration of this Lease, a new tenancy from month-to-month shall be created between AURA and Arvada which shall be subject to all the terms and conditions of this Lease, provided however, such tenancy shall be terminable by either Party upon 30 days' written notice served by either AURA or Arvada. It is expressly understood and agreed that the rent for any holdover under this paragraph shall be renegotiated at that time.

6. COMMON AREA MAINTENANCE ("CAM")

- 6.1 AURA and Arvada agree to equally split the charges for CAM. Arvada shall pay 50% and AURA shall pay 50%.
- 6.2 Arvada will pay AURA for its share of CAM expenses annually within 30 days of receipt of invoice from AURA for the previous year's expenses.
- 6.3 CAM shall include charges for yard/landscaping services, snow removal, trash services, water, insurance, and parking lot maintenance.

7. AURA'S RESPONSIBILITIES.

- 7.1 AURA provides the Property as is.
- 7.2 AURA will be responsible for maintaining, repairing, and replacing the roof, outdoor plumbing systems, outdoor electrical systems, and sidewalks.
- 7.3 AURA will be responsible for replacing any interior improvements that are unable to be reasonably repaired or have reached the end of their useful life including the indoor plumbing, indoor electrical, and windows. AURA will also be responsible for replacing the HVAC system (furnace and air conditioning) and hot water heater if such systems are unable to be reasonably repaired or have reached the end of their useful life.
- 7.4 AURA will to pay its portion of the CAM as described in Section 6.
- 7.5 AURA will to continue to insure the Property.

- 7.6 AURA will allow Arvada to use the conference room located in Suite B when available.
- 7.7 AURA will allow Arvada to use the handicapped restrooms located in Suite B at all times.
- 7.8 AURA covenants and agrees that Arvada shall and may, at all times, peaceably and quietly have, hold, and enjoy the entire Property (Unit A) during the term of the Lease.

8. ARVADA'S RESPONSIBILITIES.

- 8.1 Arvada, in consideration of the leasing of said Property, hereby covenants and agrees to the following:
 - 8.1.1 Arvada will pay the Rent described in Section 4 on time every year.
 - 8.1.2 Arvada will pay its portion of the CAM as described in Section 6.
 - 8.1.3 Arvada will timely pay all utility charges for heat, electric, and gas assessments levied against the Property. Arvada will transfer the above listed utility services to its name.
 - 8.1.4 Arvada will be responsible for maintaining and repairing all interior improvements including the indoor plumbing, indoor electrical, and windows. Arvada will also be responsible for maintaining and repairing the HVAC system (furnace and air conditioning) and hot water heater.
 - 8.1.5 Arvada will use and care for the Property in a good and responsible manner.
 - 8.1.6 Arvada will keep the Property in good condition and repair.
 - 8.1.7 Arvada will not make any alterations, changes, or improvements built, constructed, or placed on the Property without the prior written approval of AURA. This provision does not include the placement of fixtures removable without damage to the Property and movable personal property.
 - 8.1.8 Arvada acknowledges that all personal property of any kind kept in or on the Property is at the sole risk of the Arvada, and AURA is not liable for any damage, insurance, or loss to such personal property.
 - 8.1.9 Arvada agrees not to commit or cause to be committed any waste or rubbish in or upon said Property or any part thereof, nor will Arvada degrade the condition of the Property.

8.1.10 At the expiration of this Lease, Arvada will promptly surrender and deliver up said Property in like good order and condition to AURA.

8.1.11 Arvada shall promptly notify AURA in writing of any condition necessitating repair or maintenance within 14 calendar days of noticing such condition.

9. AURA'S ACCESS TO THE PROPERTY.

9.1 AURA may access all parts of the Property, in such a manner as will minimize disruption to events or activities to the extent reasonably practicable, for the purposes of:

9.1.1 Performing, administering, or enforcing this Lease.

9.1.2 Examining, inspecting, evaluating, planning, making any agreed upon repairs or maintenance, designing, showing, or otherwise administering the building or grounds.

9.2 AURA reserves the right to conduct health/safety inspections of the building and grounds.

10. TERMINATION.

10.1 Either Party may terminate this Lease, at any time, for its convenience upon 90 days' written notice to the other Party.

10.2 In the event the Property is rendered untenable by fire or other casualty, AURA shall have the right to terminate this Lease on the date of such occurrence.

10.3 If the either Party is in default of any of the covenants or agreements described in this Lease and such default remains uncorrected for a period of 14 calendar days after the defaulting-Party has received written notice of such default, the non-defaulting Party shall have the option, without liability for trespass or for damages, to terminate this Lease without prejudice to any other remedies available.

11. PROJECT MANAGER. Arvada designates the Daniel Ryley (dryley@arvada.org) as Arvada's project manager. AURA designates Maureen Phair (mphair@arvada.org) as its Project Manager.

12. NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, or by email with read receipt requested,

addressed to the Party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other Party or Parties. Such notice shall be deemed to have been given when deposited via the United States mail or when sent via email if sent during normal business hours (Mon-Fri 8:00 a.m.-5:00 p.m. except for Federally recognized holidays), otherwise on the next business day.

13. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Lease.
14. **ADDITIONAL DOCUMENTS OR ACTION.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Lease.
15. **INTEGRATION AND AMENDMENT.** This Lease represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Lease may be amended only by an instrument in writing signed by the Parties. If any other provision of this Lease is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Lease shall continue in full force and effect.
16. **WAIVER OF BREACH.** A waiver by any Party to this Lease of the breach of any term or provision of this Lease shall not operate or be construed as a waiver of any subsequent breach by either Party.
17. **BINDING EFFECT.** This Lease shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Lease except as otherwise expressly authorized herein.
18. **NO THIRD PARTY BENEFICIARIES.** It is expressly understood and agreed that enforcement of the terms and conditions of this Lease, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Lease shall give or allow any such claim or right of action by any other third party on such Lease. It is the express intention of the Parties that any person or entity other than the Parties receiving services or benefits under this Lease shall be deemed to be an incidental beneficiary only.
19. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** Nothing contained in this or any of the exhibits attached thereto shall be construed as a waiver of any of the immunities, limitations, privileges, rights, procedures, or requirements contained in the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 *et seq.*
20. **GOVERNING LAW AND VENUE.** Notwithstanding any provision in the response to a solicitation or proposed contract, lease, escrow Lease, or any other type of Lease to the

contrary, the Lease shall be governed by the laws of the State of Colorado. Venue for any action arising under the Lease or for the enforcement of the Lease shall be in the appropriate court for Jefferson County, Colorado.

21. **FORCE MAJEURE.** Any delays in or failure of performance by any Party of his or its obligations under the Lease shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, pandemics, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such Party.
22. **BINDING AUTHORITY.** The Parties represent and affirm that their signature pages accurately state the full legal name of the Parties, contain all requisite signatures on behalf of Parties, have been properly acknowledged and in all other respects are effective to bind the Parties, in accordance with all applicable statutes, regulations, resolutions, rules, bylaws, Leases, or similar sources of authority or limitation.

DATED THIS ____ day of ____, 2023.

CITY OF ARVADA

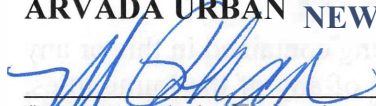
Marc Williams, Mayor
8101 Ralston Road
Arvada, CO 80002

ATTEST:

City Clerk

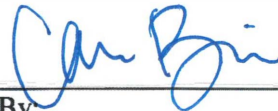
APPROVED AS TO FORM:
Rachel A. Morris, City Attorney by:

ARVADA URBAN NEWAL AUTHORITY

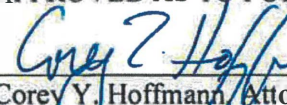


Kam n Phair, Executive Director
5601 Olde Wadsworth Boulevard, Suite 210
Arvada, Colorado 80002

ATTEST:


By: _____

APPROVED AS TO FORM:



Corey Y. Hoffmann, Attorney for AURA
Hoffmann, Parke, Wilson, & Carberry P.C.
511 Sixteenth Street, Suite 610
Denver, CO 80202

Exhibit A

Legal Description

Lot 12 and 13, Block 2, Reno Park
County of Jefferson, State of Colorado



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.B.2.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: R23-024, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and North Table Mountain Water and Sanitation District for Mutual Aid of Water During Certain Emergency and Non-Emergency Events

Report in Brief

Presenter: Sharon Israel

This Resolution is for approval of an Intergovernmental Agreement (IGA) between the City of Arvada and North Table Mountain Water and Sanitation District (NTM) to supply raw or potable water in an emergency or planned non-emergency event. The City has existing interconnections with NTM's water system for both a raw water supply and a potable drinking water supply. This IGA ensures Arvada can respond accordingly and provide mutual aid to a neighboring community when in need of safe drinking water. In the event Arvada is in need of aid, this agreement also establishes terms for purchasing water from NTM.

The Arvada team recommends that the City Council approve R23-024, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and North Table Mountain Water and Sanitation District for Mutual Aid of Water During Certain Emergency and Non-Emergency Events.

Financial Impact

Approving this Resolution does not impact the City budget.

All water delivered to North Table Mountain Water and Sanitation District or to the City of Arvada will be metered and billed to the receiving party accordingly. Billing rates have been established to reasonably cover the cost of providing water for mutual aid.

Background

The City of Arvada has potable and raw water interconnections with North Table Mountain Water and Sanitation District (NTM). The interconnections allow Arvada or NTM to supply each other with raw or potable water in an emergency or planned non-emergency water supply outage to ensure safe drinking water and reliable pressure for customers of either system.

Arvada has two sources of raw water, Ralston and Arvada Reservoirs, that can supply either of Arvada's Water Treatment Plants. North Table Mountain is a smaller district with only Denver Water's Ralston Reservoir for a raw water supply to their one water treatment plant. In the event of a planned Denver Water Ralston Reservoir shutdown or emergency supply outage, line break, or plant failure, NTM will need a raw and/or potable source of water for their customers. This Intergovernment Agreement ensures Arvada can respond accordingly and provide mutual aid to a neighboring community when in need of safe drinking water.

The agreement ensures cost reimbursement to the supplying party for water supply and administration costs. Finished water will be billed to NTM at Arvada's Tier 1 residential price. The raw water rates for NTM will be billed at Arvada's then current Denver Water Raw Water charge plus 10%. In the event Arvada needs to purchase water, NTM will bill the City at their lowest residential rate.

In 2002, the City and NTM entered into a similar agreement for mutual aid and shared water resources through interconnects. The agreement term was 20 years. The agreement to be authorized under this resolution is for five years, and will be renewed periodically as long as there is agreement between the City and NTM that there is mutual benefit.

Discussion

The approval of this Resolution ensures Arvada and North Table Mountain Water and Sanitation District continue to work together as good neighbors and responsible organizations. Both parties can benefit from this agreement in a time of need. Safe drinking water is a critical part of life.

Without an IGA in place, the only option the City and NTM would have to provide mutual aid would be through an emergency agreement.

Approving the IGA at the March 6, 2023 City Council meeting will support NTM through a brief (estimated 4-day) planned outage of Denver Water's Ralston Reservoir later in the month. The outage is scheduled to perform maintenance and inspections to ensure a long reservoir life for both communities.

A fair value for water provided has been calculated and meets both parties' acceptance.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The approval of the Intergovernmental Agreement will ensure continued availability of safe, high quality drinking water for the citizens of Arvada and the North Table Mountain community and align to the City Council Strategic Plan Infrastructure work system principles.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve R23-024, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and North Table Mountain Water and Sanitation District for Mutual Aid of Water During Certain Emergency and Non-Emergency Events.

Suggested Motion:

I move that R23-024, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and North Table Mountain Water and Sanitation District for Mutual Aid of Water During Certain Emergency and Non-Emergency Events, be (approved) (rejected).

Prepared by:
Brad Wyant, Water Treatment Manager

SUBJECT: R23-024, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and North Table Mountain Water and Sanitation District for Mutual Aid of Water During Certain Emergency and Non-Emergency Events

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Reviewed by:

Approved by:

Sharon Israel, Director of Utilities	2/27/2023
Bryan Archer, Director of Finance	2/28/2023
Jessica Morales, Assistant City Attorney	2/28/2023
Tammy Hedlund, Legal Specialist	2/28/2023
Rachel Morris, City Attorney	2/28/2023
Don Wick, Deputy City Manager	2/28/2023
Lorie Gillis, City Manager	2/28/2023

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R23-024

A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND
BETWEEN THE CITY OF ARVADA AND NORTH TABLE MOUNTAIN WATER AND
SANITATION DISTRICT FOR MUTUAL AID OF WATER DURING CERTAIN
EMERGENCY AND NON-EMERGENCY EVENTS

WHEREAS, the City of Arvada and the North Table Mountain Water and Sanitation District (the “District”) may enter into intergovernmental agreements pursuant to C.R.S. §§ 29-1-201 et. seq.; and

WHEREAS, the City of Arvada and the District previously entered into an Intergovernmental Agreement dated May 6, 2002, for an emergency interconnection between their potable water systems through which potable water from one system could flow into the other system during emergency situations (“the 2002 IGA”); and

WHEREAS, the 2002 IGA has expired; and

WHEREAS, the City of Arvada and the District wish to enter into a new agreement, similar to the 2002 IGA, which will allow for mutual aid of potable and raw water during certain emergency and non-emergency events.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, an Agreement, which is in substantially the same form as that attached hereto.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 6th day of March, 2023.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE
CITY OF ARVADA AND NORTH TABLE MOUNTAIN WATER
AND SANITATION DISTRICT FOR MUTUAL AID OF WATER
DURING CERTAIN EMERGENCY AND NON-EMERGENCY
EVENTS**

1. **PARTIES.** The Parties to this Intergovernmental Agreement (“IGA”) are the City of Arvada, a Colorado home rule municipal corporation (“Arvada” or the “City”) and the North Table Mountain Water and Sanitation District, a Colorado special district (“NTM” or the “District”). The Parties may be referred to individually as a “Party” and collectively as the “Parties.”
2. **RECITALS AND PURPOSE.**
 - 2.1. C.R.S. §29-1-203, as amended, permits and encourages local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other local governments in order to provide any lawfully authorized function, service, or facility.
 - 2.2. Arvada and the District operate raw and potable water systems for the benefit of their respective citizens and customers.
 - 2.3. Arvada and the District desire to enter into an IGA whereby water from one system can flow into the other system during Emergency situations or certain Non-Emergency situations as further defined below.
3. **DEFINITIONS.**
 - 3.1. Emergency. Emergency is defined as an unexpected event which results in the curtailment or interruption of either Parties capability to deliver water to their citizens or customers, and includes, but is not limited to such events as a major fire, a water main break, a pump failure, or other unforeseen shut-down of the water supply.
 - 3.2. Non-Emergency. Non-Emergency is defined as an anticipated or otherwise planned event that results in the curtailment or interruption of either Parties capability to deliver water to their citizens or customers.
 - 3.3. Interconnection. The Interconnection is defined as the two existing physical interconnections between the two water systems, one which is used to transport raw water and one which is used to transport potable water, and which include the meter vault, meter and associated valves and plumbing and necessary piping needed to allow water to physically flow between the two water systems.

4. TERMS AND CONDITIONS.

4.1. The Interconnection.

- 4.1.1. Arvada shall be responsible for maintaining and replacing the piping from its water supply system to the meter vault.
- 4.1.2. The District shall be responsible for maintaining and replacing the piping from its water supply system to the vault.
- 4.1.3. Arvada will be responsible for maintaining the meter vault, the meter, and associated valves and plumbing.
- 4.1.4. Arvada and the District agree to share equally in the costs associated with replacement of the meter vault, the meter, and associated valves and plumbing.
- 4.1.5. The portion of the Interconnection that is used to transport potable water is located near the intersection of 64th Avenue and Yankee Street, in Arvada. The portion of the Interconnection that is used to transport raw water is located near the intersection of 64th Parkway and Dunraven Street. However, the Interconnection may be relocated to a new location by the mutual agreement of the Parties. The Parties, for themselves, their successors, heirs and assigns, hereby grant and convey to the other a nonexclusive easement to perform construction, inspections, maintenance, repairs, or modifications to the Interconnection as may be necessary or convenient during the term of this IGA. Each Party shall notify and obtain the written consent of the other Party prior to commencing work in the easement. Any easement granted hereby shall automatically terminate upon relocation of the Interconnection or following the expiration or termination of this IGA.
- 4.1.6. The Interconnection shall be used only to supply water between the Parties during a qualifying Emergency or Non-Emergency event, as defined in this IGA, and then only upon a request from one Party to the other as described below.

4.2. Operation of the Interconnection.

- 4.2.1. The Interconnection will be placed into service only if all of the following conditions occur:
 - 4.2.1.1. An Emergency or Non-Emergency occurs in the water supply of a Party;
 - 4.2.1.2. The Party experiencing the Emergency or Non-Emergency (the “requesting Party”) requests water from the other Party (the “responding Party”) to be delivered through the Interconnection; and
 - 4.2.1.3. The responding Party has surplus water available that the responding Party can deliver to the requesting Party through the Interconnection without

impairing the delivery of water to the responding Party's own water system customers.

4.2.2. In the event of a qualifying Emergency or Non-Emergency, the requesting Party shall notify the responding Party as follows:

4.2.2.1. Notification by telephone. The Requesting party shall call the responding Party to request water under the terms of this IGA. The requesting Party will provide the responding Party with (1) information explaining how the event is a qualifying Emergency or Non-Emergency, (2) the number of days the requesting Party will need water; (3) an estimate of the amount of water that is being requested; and (4) any other pertinent information needed to response to the Emergency or Non-Emergency.

4.2.2.2. Written Notification. Within two days of notification by telephone, the requesting Party will confirm its request for water by submitting written notification to the responding Party with (1) information explaining how the event is a qualifying Emergency or Non-Emergency, (2) the number of days the requesting Party will need water; (3) an estimate of the amount of water that is being requested; and (4) any other pertinent information needed to response to the Emergency or Non-Emergency. Written notification may be provided through email. When reasonably possible, the requesting Party shall provide written Notification to the responding Party in advance of the Non-Emergency event.

4.2.3. The activation of the Interconnection shall be accomplished only with representatives of both Parties present.

4.2.4. Delivery of water through the Interconnection shall be subject to and conditioned upon the availability of surplus water volume and pressure from the responding Party's water transmission and distribution system as reasonably determined by the responding Party. The surplus water determination rests solely in the discretion of the responding Party and delivery may cease at any time with a two-hour notice, which notice may be provide by telephone.

4.2.5. The Parties understand there may be pressure differences between the respective water distribution systems and that there may be pressure and volume problems when the Interconnection is activated. In the event of water pressure and volume problems which are the result of the implementation of emergency or non-emergency water delivery, the responding party, in coordination with the requesting party, will attempt to the best of their ability to correct pressure and/or volume concerns without risk to damaging their own system.

4.3. Limitations of Water Supply.

4.3.1. *Fire Protection.* The Parties acknowledge that a Party may not have surplus water volume or pressure available in the event a major fire occurs in the area of the responding Party's water supply system. In the event such a fire erupts during the use of the Interconnection, the responding Party shall have the right to immediately curtail the delivery of water without notice and without a time delay.

4.3.2. *Denver Water Board Contract Limitations.*

4.3.2.1. Arvada is bound by two contractual agreements with the City and County of Denver, acting by and through its Denver Board of Water Commissioners dated May 25, 1965 and August 6, 1991 respectively. The maximum annual supply of raw water to Arvada from Denver Water is limited to a maximum of 19,525 acre feet per year availability of potable water and a maximum rate of raw water delivery of 36.0 million gallons per day. Arvada's ability to supply Non-Emergency and Emergency water to the District may be limited by these contractual limitations. If, in Arvada's sole discretion, delivering water to the District would breach or otherwise impair either of the two agreements with the City and County of Denver, Arvada shall not deliver or shall discontinue delivery of water to the District within one hour of said determination by Arvada.

4.3.2.2. The District is bound by a contractual agreement with the City and County of Denver, acting by and through its Denver Board of Water Commissioners dated January 18, 1988. The maximum annual supply of raw water to the District from Denver Water is limited to a maximum of 6,000 acre feet per year availability of potable water and a maximum rate of raw water delivery of 16 million gallons a day. The District's ability to supply Non-Emergency and Emergency water to Arvada may be limited by these contractual limitations. If, in the District's sole discretion, delivering water to Arvada would breach or otherwise impair the agreement with the City and County of Denver, the District shall not deliver or shall discontinue delivery of water to Arvada within one hour of said determination by the District.

4.3.3. *Usage.* The water delivered through the Interconnection shall only be used for municipal uses and there shall be no reuse of the water authorized by this IGA.

4.4. Quality. The quality of the water may change upon initial mixing with the requesting Party's water in the area to be served. This quality change may produce a water taste change and increased turbidity. The requesting party shall handle all customer complaints and concerns arising from any change in the quality of the water.

4.5. Maintenance. Arvada shall be responsible for the routine maintenance of the Interconnection meter vault, meter, valves, and plumbing. All repairs other than routine maintenance must be approved by both Parties. All costs for repair shall be shared

equally by both Parties. The Interconnection shall be inspected routinely at the respective Party's expense by personnel from both Parties during the period of this IGA to determine the condition and readiness of the Interconnection.

4.6. Metering and Rates.

4.6.1. All water delivered from the responding Party to the requesting Party through the Interconnection shall be metered.

4.6.2. Arvada shall bill the District for the metered water volume provided to the District as follows:

4.6.2.1. Potable water shall be billed at Arvada's Tier 1 residential pricing.

4.6.2.2. Raw water shall be billed at Arvada's then current Denver Water raw water charge, plus 10%.

4.6.3. The District shall bill Arvada for the metered water volume provided to Arvada at the District's then current inside City lowest residential rate.

4.6.4. Both Parties reserve the right to change its rate in its sole discretion at any time during the term of this IGA.

4.6.5. The requesting Party shall pay the responding Party within 30 days after the date of billing. The requesting Party shall pay late charges of 10 percent of the invoiced amount for late payments of the water bill.

4.7. Notice of Qualifying Emergency or Non-Emergency. The Parties designate the following as their point of contact for Emergency and Non-Emergency events:

Director of Utilities, or such other person as Arvada may, in writing, designate.
8101 Ralston Road
Arvada, CO 80002
Telephone: 720-898-7761
Email: sisrael@arvada.org

District Manager, or such other person as the District may, in writing, designate.
The North Table Mountain Water and Sanitation District
14806 W. 52nd Ave.
Golden, CO 80403
Telephone: 303-279-2854 Ext 305
Email: bart@ntmwater.org

4.8. Notices. Except as otherwise provided herein, all notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of

same in person to the addressee or by courier delivery via FedEx or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as stated in section 4.7 above.

- 4.9. Term. The term of this IGA shall be from the date approved by both Parties for a period of **five years**. This IGA may be terminated by either Party upon 60 days written notice to the other Party. At the end of the term of this IGA or in the event of termination of this IGA, the meter, valves, and other appurtenances in the Interconnection shall be removed and salvaged by Arvada in a timely manner and the proceeds, after the deduction of costs incurred in the removal, shall be shared equally between the Parties.
- 4.10. The Parties intend that this IGA shall not affect in any way any existing contracts between the Parties and the City and County of Denver, through its Denver Board of Water Commissioners. If any provision of this IGA conflicts with a City and County of Denver contract, the conflicting provision shall be deemed null and void.
- 4.11. Assignment. This IGA shall not be assigned by any Party without the prior written consent of the other Party.
- 4.12. Force Majeure. No Party will be liable for any failure or delay in performing an obligation under this IGA that is due to any of the following causes, to the extent beyond its reasonable control (which events and/or circumstances are hereinafter referred to as “Force Majeure”): acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, breakdown of communication facilities, breakdown of web host, breakdown of internet service provider, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, and generalized lack of availability of raw materials or energy.
- 4.13. Section Captions. The captions of the sections are set forth only for convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this IGA.
- 4.14. Additional Documents or Action. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this IGA.
- 4.15. Integration and Amendment. Subject to the Denver Water Board contracts identified in section 4.3.2. above, this IGA represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This IGA may be amended only by an instrument in writing, signed by the Parties.
- 4.16. Severability. If any term, section or other provision of this IGA shall, for any reason, be held to be invalid or unenforceable, the invalidity or un-enforceability of such term, section or other provision shall not affect any of the remaining provisions of this IGA, and to this end, each term, section and other provision of this IGA shall be severable and continue in full force and effect.

- 4.17. Default. Time is of the essence. If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either Party, then this IGA, at the option of the Party who is not in default, may be terminated by the non-defaulting Party; in which case, the non-defaulting Party may recover such damages as may be proper. If the non-defaulting Party elects to treat this IGA as being in full force and effect, the non-defaulting Party shall have the right to an action for specific performance or damages or both.
- 4.18. Waiver. Any waiver by any Party to this IGA of a breach of any provision of this IGA shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this IGA by the other Party. To be effective, any waiver must be in writing. Failure by any Party to this IGA to insist upon strict adherence to any term of this IGA on one or more occasions shall not be considered a waiver or deprive such Party of the right thereafter to insist upon strict adherence to that term or any other term of this IGA.
- 4.19. Attorney's Fees. If any Party breaches this IGA, the breaching Party shall pay all of the prevailing Party's reasonable attorney's fees and costs in enforcing this IGA.
- 4.20. Governing Law and Venue. This IGA shall be governed by the laws of the State of Colorado and venue shall be in a court of competent jurisdiction in Jefferson County.
- 4.21. Governmental Immunity. This IGA is not intended, and shall not be construed, as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the Parties, and their past and present directors, officers, employees and volunteers, under federal or state constitutional, statutory or common law, including but not limited to the Colorado Governmental Immunity Act, Section 24-10-101, C.R.S., et seq., as may be amended.
- 4.22. Insurance. Each Party to this IGA will be required to, at its own expense, keep in full force and effect during the term of this IGA, and during the term of any extension or amendment of the same, insurance reasonably sufficient to insure against the liability assumed by that Party pursuant to the provisions of this IGA.
- 4.23. Worker's Compensation. The Parties shall at their own expense keep in full force and effect during the term of this IGA statutory Worker's Compensation insurance.
- 4.24. Relationship of the Parties. This IGA does not create a partnership, joint venture or agency relationship between the Parties. None of the Parties shall have any authority to bind any other Party to any agreement, understanding or other instrument, in any manner whatsoever.
- 4.25. No Third Party Beneficiaries. Nothing in this IGA shall be deemed to create any third party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a Party to this IGA.

- 4.26. Counterparts, Electronic Signatures and Electronic Records. This IGA may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document. Facsimile signatures shall be accepted as originals. The Parties consent to the use of electronic signatures by each of the Parties. The Parties agree not to object to the admissibility of this IGA in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.
- 4.27. Binding Effect and Authority. This IGA shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this IGA except as otherwise expressly authorized herein. The undersigned to this IGA warrant that each has the authority to execute and enter into this IGA, that their signatures are authorized and binding, and that all actions and approvals necessary for the execution and delivery of the IGA have been properly taken by their respective governing boards.

(Remainder of page intentionally left blank. Signatures on next page.)

DATED this _____ day of _____, 2023.

CITY OF ARVADA, a Colorado home
rule municipal corporation

Marc Williams
Mayor
8101 Ralston Road
Arvada, CO 80002

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

DATED this _____ day of _____, 2023.

**NORTH TABLE MOUNTAIN
WATER & SANITATION DISTRICT**

ATTEST:

Chair Person

Board Member



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

**AGENDA ITEM
8.C.1.**

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)

Report in Brief

PRESENTER: Janelle Miller

This ordinance proposes amendments to the Arvada City Code regarding obstructions on sidewalks and crosswalks. It expands the areas that citizens would be prohibited from obstructing, to include alleys, stairwells, etc. in addition to sidewalks and crosswalks (collectively, "passageways"). It broadens the definition of "obstruct", to include the placement of furniture or other personal property in the passageway, rendering a passageway hazardous, etc. It also reclassifies the charge as a misdemeanor ordinance violation, rather than a non-criminal traffic infraction.

The proposed ordinance helps to ensure that all citizens have full access to all City passageways, including those with limited mobility, by prohibiting the obstruction of City passageways.

The Arvada team recommends that the City Council approve CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54 Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses.

Financial Impact

No anticipated financial impact.

Background

In 2013, the City adopted the 2010 edition of the "Model Traffic Code for Colorado." In its adoption, the City amended Part 8, "Pedestrians", adding section 809. Section 809 contains two violations. First, section 809 prohibits the obstruction of sidewalks and crosswalks. For purposes of enforcement, an obstruction occurs when it becomes necessary for a pedestrian to leave the sidewalk or crosswalk and walk on the adjacent property or street. Subject to a few exceptions, section 809 also prohibits stopping, standing in, or occupying a crosswalk for a period of time than reasonably necessary to cross over the roadway. Both of these violations are considered non-criminal traffic infractions, punishable by a fine not to exceed \$2650 as set forth in A.C.C. §1-5.

Recently, City staff realized that there are several gaps in section 809, both as it relates to the criminal conduct itself and subsequent sentencing.

The first issue relates to the limitations created by the definitions of "sidewalks" and "crosswalks." For instance, if an individual were to place a significant amount of personal property in the landing of a public stairwell, rendering the stairwell unusable for other pedestrians, under the current ordinance, the individual could not be charged with obstruction, as the stairwell does not meet the definition of a sidewalk or crosswalk. This ordinance expands the areas that citizens would be

SUBJECT: CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)

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prohibited from obstructing, to include alleys, railways, etc. in addition to sidewalks and crosswalks (collectively, "passageways").

The second issue is that categorizing the violation as a non-criminal traffic infraction causes confusion when sentencing an individual for obstructing a sidewalk. When sentencing a defendant in a traffic case, the court generally considers factors such as the seriousness of the traffic charge (ex. driving 40 MPH over the speed limit vs. making a u-turn where prohibited by sign), the defendant's driving history, and any potential mitigating information. Sentences in traffic cases generally include the assessment of fines or, in some instances, traffic school. However, when a defendant is charged with "Obstruction of Sidewalks and Crosswalks", traditional sentencing approaches for this type of traffic infraction may not be feasible or appropriate. For example, the defendant may be experiencing homelessness and may not have the financial resources to pay a fine. Sentencing a defendant to traffic school would also be of little benefit. By reclassifying this charge as a misdemeanor ordinance violation, sentencing options are opened up for the court, to include participation in the One Small Step program (ex. 10 days jail suspended upon compliance with the One Small Step program for up to 12 months).

City departments who frequently interact with defendants charged with "Obstruction of Sidewalks and Crosswalks", including the Police Department, City Attorney's Office, and Municipal Court are supportive of these proposed changes.

Discussion

The primary changes to the existing "Obstruction of Sidewalks and Crosswalks" ordinance include:

- Broader definition of "obstruct"
- Expansion of area coverage (i.e. beyond just sidewalks and crosswalks)
- Re-classification of the violation type
- Heightened potential penalties

From the perspective of City staff, the proposed changes benefit the Police Department, City Attorney's Office, and Municipal Court. The changes allow for greater enforcement by the Police Department in areas that, while obstructed, fell outside of the definition of a sidewalk or crosswalk. It also allows prosecutors in the City Attorney's Office and Municipal Court to structure more appropriate sentences for individuals convicted of "Obstruction of Sidewalks and Crosswalks" to address potential underlying issues, going beyond traditional sentencing structures for traffic cases.

From a defendant's perspective, one concern with the proposed change is the possibility of imprisonment. However, the possibility of imprisonment for this type of violation is consistent with penalties in other cities for similar violations (ex. City of Englewood).

From the perspective of the community, this ordinance helps to ensure that City passageways are kept free and clear of obstructions. City staff have received complaints from pedestrians and local businesses about City passageways being blocked. This ordinance helps to remedy those complaints. Additionally, the ordinance helps to ensure compliance with the Americans with Disabilities Act (ADA) by providing all individuals, including those with limited mobility, full and unimpeded access to City passageways.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

SUBJECT: CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)

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Strategic Alignment

This ordinance helps to meet one of City Council's strategic results:

"By 6/2023 complete revisions to Chapter 62 of the ACC to be more consistent with Colorado State criminal laws to facilitate prosecution of defendants in the Municipal Court and help hold defendants accountable for their conduct."

This ordinance amends a section within Chapter 62. The ordinance helps to facilitate the prosecution of defendants for obstructing public passageways and holds defendants accountable by expanding possible penalties.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54 Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses.

Suggested Motion:

I move that CB23-005, An Ordinance Repealing and Reenacting Section 54-36, MTC Part 8 "Pedestrians" Amended, of Article II, Model Traffic Code, of Chapter 54 Motor Vehicles and Traffic, and Adding Section 62-52, Obstruction of Public Passageways, to Article II, Miscellaneous Offenses, of Chapter 62, Offenses be (approved on first reading, ordered published in full, and a public hearing set for March 20, 2023, at 6:15 p.m.) (rejected).

Prepared by:

Alyssa Gleinn, Legal Specialist-Prosecution

Reviewed by:

Approved by:

Janelle Miller, Assistant City Attorney 2/14/2023

Rachel Morris, City Attorney 2/21/2023

Ed Brady, Deputy Police Chief 2/21/2023

Lorie Gillis, City Manager 2/22/2023

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 23-005
ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REENACTING SECTION 54-36, MTC PART 8
“PEDESTRIANS” AMENDED, OF ARTICLE II, MODEL TRAFFIC CODE, OF CHAPTER
54, MOTOR VEHICLES AND TRAFFIC, AND ADDING SECTION 62-52, OBSTRUCTION
OF PUBLIC PASSAGEWAYS, TO ARTICLE II, MISCELLANEOUS OFFENSES, OF
CHAPTER 62, OFFENSES

WHEREAS, the City wishes to clarify certain provisions of the Model Traffic Code; and

WHEREAS, the purpose of City passageways is to provide a means of pedestrian transportation, including pedestrians with limited mobility; and

WHEREAS, passageways that are rendered impassable by various types of obstructions hinders pedestrians’ ability to utilize the passageways for their intended purpose; and

WHEREAS, the City wishes to clarify conduct that constitutes obstructing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Section 54-36, MTC Part 8 “Pedestrians” amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, is hereby repealed and reenacted to read as follows:

“Sec. 54-36. MTC Part 8 “Pedestrians” amended.

The Model Traffic Code is hereby amended by amending section 802 of Part 8 to read as follows:

802. Pedestrians' right-of-way in crosswalks.

- (1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (2) Subsection (1) of this section shall not apply under the conditions stated in section 803.
- (3) No pedestrian shall suddenly leave a curb or other place of safety and ride a bicycle, ride an electrical assisted bicycle, ride an electric scooter, walk, or run into the path of a moving vehicle that is so close as to constitute an immediate hazard.
- (4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver

of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

- (5) Whenever special pedestrian-control signals exhibiting "Walk" or "Don't Walk" word or symbol indications are in place, as declared in the traffic control manual adopted by the department of transportation, such signals shall indicate and require as follows:
 - (a) "Walk" (steady): While the "Walk" indication is steadily illuminated, pedestrians facing such signal may proceed across the roadway in the direction of the signal indication and shall be given the right of-way by the drivers of all vehicles.
 - (b) "Don't Walk" (steady): While the "Don't Walk" indication is steadily illuminated, no pedestrian shall enter the roadway in the direction of the signal indication.
 - (c) "Don't Walk" (flashing): Whenever the "Don't Walk" indication is flashing, no pedestrian shall start to cross the roadway in the direction of such signal indication, but any pedestrian who has partly completed crossing during the "Walk" indication shall proceed to a sidewalk or to a safety island, and all drivers of vehicles shall yield to any such pedestrian.
 - (d) Whenever a signal system provides for the stopping of all vehicular traffic and the exclusive movement of pedestrians and "Walk" and "Don't Walk" signal indications control such pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection while the "Walk" indication is exhibited, if signals and other official devices direct pedestrian movement in such manner consistent with section 803 (4).
- (6) Any person who violates any provision of this section commits a class A traffic infraction."

This repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed prior to the effective date of this ordinance and that is in violation of the section repealed by this ordinance.

Section 2. Section 62-52, Obstruction of public passageways, of Article II, Miscellaneous Offenses, of Chapter 62, Offenses, of the Arvada City Code, is hereby added to read as follows:

"Sec. 62-52. Obstruction of public passageways.

- (a) *Definitions.* As used in this section:
 - (1) *Obstruct* means to render a passageway impassable or make passage thereupon unreasonably inconvenient or hazardous; to place furniture or other personal property upon a passageway unless incidental to the lawful use of the passageway; to stop or stand within or occupy a crosswalk for a period of time

longer than that reasonably necessary to cross over the roadway, except when necessary to avoid conflict with vehicular traffic, or in compliance with the direction of a police officer or an official traffic control device; or to cause a violation of other applicable law, such as the Americans with Disabilities Act, to occur or exist the passageway.

- (2) *Passageway* means an alley, building entrance, public elevator or entrance to a public elevator, sidewalk, stairway, stairwell or stairwell landing, railway, creek, creek bank or other waterway, or any other public place used for the passage of persons, vehicles, or conveyances.
 - (3) *Person with authority to control the use of the premises* means a uniformed peace officer, emergency medical technician, paramedic, firefighter, or city employee acting within the course and scope of their duties.
 - (4) *Public place* means property owned by the City or other political subdivision of the State.
- (b) *Unlawful Act.* No person shall intentionally, knowingly, or recklessly:
- (1) Obstruct a passageway, whether the obstruction was created by the person acting alone or with others; or
 - (2) Disobey a reasonable request or order to end or discontinue an obstruction of a passageway that is issued by a person with authority to control the use of the premises to maintain public safety.
- (c) *Exception.* Subsection (b)(1) shall not apply to an obstruction caused by a medical emergency, or by attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted in the public right-of-way pursuant to any permit or license issued by the city, or as otherwise authorized by law.
- (d) *Penalty.* Any violation of this section shall be punished by a fine or imprisonment not to exceed the limits established in section 1-5 of this Code.”

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of constitutionality of the remaining portions of this ordinance. The City Council declares it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. This ordinance shall become effective five days after publication.

INTRODUCED, READ, AND ORDERED PUBLISHED this 6th day of March, 2023.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2023.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

Publication Dates: March 9, 2023

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY – NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

Sec. 54-36. MTC Part 8 "Pedestrians" amended.

The Model Traffic Code is hereby amended by amending section 802 of Part 8 to read as follows:

802. Pedestrians' right-of-way in crosswalks.

- (1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (2) Subsection (1) of this section shall not apply under the conditions stated in section 803.
- (3) No pedestrian shall suddenly leave a curb or other place of safety and ride a bicycle, ride an electrical assisted bicycle, ride an electric scooter, walk, or run into the path of a moving vehicle that is so close as to constitute an immediate hazard.
- (4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.
- (5) Whenever special pedestrian-control signals exhibiting "Walk" or "Don't Walk" word or symbol indications are in place, as declared in the traffic control manual adopted by the department of transportation, such signals shall indicate and require as follows:
 - (a) "Walk" (steady): While the "Walk" indication is steadily illuminated, pedestrians facing such signal may proceed across the roadway in the direction of the signal indication and shall be given the right of-way by the drivers of all vehicles.
 - (b) "Don't Walk" (steady): While the "Don't Walk" indication is steadily illuminated, no pedestrian shall enter the roadway in the direction of the signal indication.

- (c) "Don't Walk" (flashing): Whenever the "Don't Walk" indication is flashing, no pedestrian shall start to cross the roadway in the direction of such signal indication, but any pedestrian who has partly completed crossing during the "Walk" indication shall proceed to a sidewalk or to a safety island, and all drivers of vehicles shall yield to any such pedestrian.
- (d) Whenever a signal system provides for the stopping of all vehicular traffic and the exclusive movement of pedestrians and "Walk" and "Don't Walk" signal indications control such pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection while the "Walk" indication is exhibited, if signals and other official devices direct pedestrian movement in such manner consistent with section 803 (4).
- (6) Any person who violates any provision of this section commits a class A traffic infraction.

~~809. Obstruction of sidewalks and crosswalks.~~

~~(1) Definitions:~~

~~Crosswalk. For purposes of this section, "crosswalk" shall have the same meaning as that set forth in the MTC Definitions Appendix, and shall include that portion of a roadway which lies between a lane of traffic moving straight ahead and a lane of traffic used as a right hand turn lane, which may have a completely flat or partially raised surface area, which is intended for pedestrian crossing between these lanes of traffic, and which is known as a "right-turn raised median."~~

- ~~(2) It shall be unlawful for any person to knowingly obstruct a sidewalk or crosswalk by blocking or obstructing the sidewalk or crosswalk so that it becomes necessary for any pedestrian to leave the sidewalk or crosswalk and walk on adjacent property or on the street.~~

~~(a) Nothing in this subsection shall be interpreted as prohibiting any person from stopping on any sidewalk to talk or to engage in other protected activities, so long as the person does not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or the street. If two or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to prevent any pedestrian from passing them on the sidewalk.~~

- ~~(3) It shall be unlawful for any person to stop or stand within or occupy a crosswalk for a period of time longer than that reasonably necessary to cross over the roadway, except when necessary to avoid conflict with vehicular traffic, or in~~

~~compliance with the direction of a police officer or an official traffic control device.~~

~~(a) It shall be an affirmative defense to a charge brought under this subsection that a person:~~

~~(I) Stops or stands within a crosswalk due to a medical emergency; or~~

~~(II) Is attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted in the public right-of-way pursuant to any permit or license issued by the city.~~

“Sec. 62-52. Obstruction of public passageways.

(a) Definitions. As used in this section:

(1) Obstruct means to render a passageway impassable or make passage thereupon unreasonably inconvenient or hazardous; to place furniture or other personal property upon a passageway unless incidental to the lawful use of the passageway; to stop or stand within or occupy a crosswalk for a period of time longer than that reasonably necessary to cross over the roadway, except when necessary to avoid conflict with vehicular traffic, or in compliance with the direction of a police officer or an official traffic control device; or to cause a violation of other applicable law, such as the Americans with Disabilities Act, to occur or exist the passageway.

(2) Passageway means an alley, building entrance, public elevator or entrance to a public elevator, sidewalk, stairway, stairwell or stairwell landing, railway, creek, creek bank or other waterway, or any other public place used for the passage of persons, vehicles, or conveyances.

(3) Person with authority to control the use of the premises means a uniformed peace officer, emergency medical technician, paramedic, firefighter, or city employee acting within the course and scope of their duties.

(4) Public place means place owned by the City or other political subdivision of the State.

(b) Unlawful Act. No person shall intentionally, knowingly, or recklessly:

(1) Obstruct a passageway, whether the obstruction was created by the person acting alone or with others; or

(2) Disobey a reasonable request or order to end or discontinue an obstruction of a passageway that is issued by a person with authority to control the use of the premises to maintain public safety.

(c) Exception. Subsection (b)(1) shall not apply to an obstruction caused by a medical emergency, or by attending a parade, festival, performance, rally, demonstration, meeting,

or similar event conducted in the public right-of-way pursuant to any permit or license issued by the city, or as otherwise authorized by law.

(d) *Penalty.* Any violation of this section shall be punished by a fine or imprisonment not to exceed the limits established in section 1-5 of this Code.



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

**AGENDA ITEM
8.C.2.**

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: CB23-006, An Ordinance Amending Article IV - Liquor Tastings, of Chapter 6, Alcoholic Beverages, of the Arvada City Code (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)

Report in Brief

PRESENTER: Kylie Justus

On November 8, 2022, Colorado held an election where voters passed Proposition 125 allowing grocery and convenience stores to sell wine as of March 2023. Proposition 125 amended the Colorado Revised Statutes to automatically convert fermented malt beverage retailer licenses to fermented malt beverage and wine retailer licenses. The new fermented malt beverage and wine retailer license allows licensees to offer tastings within their licensed premises. This ordinance updates the City Code to comply with the change in State law.

The Arvada team recommends that the City Council approve CB23-006, An Ordinance Amending Article IV - Liquor Tastings, of Chapter 6, Alcoholic Beverages, of the Arvada City Code.

Financial Impact

There is no cost to the City. The City may collect fees from licensees when issuing the tasting permits.

Background

On November 8, 2022, Colorado held an election where voters passed Proposition 125 allowing grocery and convenience stores to sell wine as of March 2023. Proposition 125 amended the Colorado Revised Statutes to automatically convert fermented malt beverage retailer licenses to fermented malt beverage and wine retailer licenses. The new fermented malt beverage and wine retailer license allows licensees to offer tastings within their licensed premises. Arvada's City Code already permits liquor tastings. This ordinance only updates the City Code to comply with the change in State law licensing.

Discussion

Article IV of Chapter 6 of the City Code permits the city clerk to accept applications for tastings to be conducted by retail liquor stores and liquor-licensed drugstores. With the passing of Proposition 125, this amendment to the City Code permits fermented malt beverage and wine retailers to also apply for a tasting permit.

Public Contact

This update to the Code is in accordance with the Colorado voters' approval of Proposition 125 and subsequent change to state law. Posting of the City Council agenda.

Commission Recommendation

Strategic Alignment

SUBJECT: CB23-006, An Ordinance Amending Article IV - Liquor Tastings, of Chapter 6, Alcoholic Beverages, of the Arvada City Code (Public Hearing to be set for March 20, 2023 at 6:15 p.m.)

PAGE: 2
ITEM: 8.C.2.

The Colorado Revised Statutes were updated when Proposition 125 passed. Fermented malt beverage retailer licenses were automatically converted to fermented malt beverage and wine retailer licenses. This amendment to the Code reflects the update to Colorado State law passed by the voters.

Alternative Courses of Action

Recommendation for Action

The Arvada team recommends that the City Council approve CB23-006, An Ordinance Amending Article IV - Liquor Tastings, of Chapter 6, Alcoholic Beverages, of the Arvada City Code.

Suggested Motion:

I move that CB23-006, An Ordinance Amending Article IV - Liquor Tastings, of Chapter 6, Alcoholic Beverages, of the Arvada City Code, be (approved on first reading, ordered published in full, and a public hearing set for March 20, 2023, at 6:15 p.m.) (rejected).

Prepared by:
Kylie Justus, Assistant City Attorney

Reviewed by:

Approved by:

Gail Walker, Legal Specialist-Contracts	2/10/2023
Kelsy Sargent, Assistant City Attorney	2/15/2023
Sarah Walters, Deputy City Clerk	2/15/2023
Kristen Rush, City Clerk	2/16/2023
Rachel Morris, City Attorney	2/21/2023
Lorie Gillis, City Manager	2/23/2023

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 23-006

ORDINANCE NO.

AN ORDINANCE AMENDING ARTICLE IV – LIQUOR TASTINGS, OF CHAPTER 6,
ALCOHOLIC BEVERAGES, OF THE ARVADA CITY CODE

WHEREAS, on November 8, 2022, Colorado held an election where voters passed Proposition 125 allowing grocery and convenience stores to sell wine as of March 2023; and

WHEREAS, Proposition 125 amended the Colorado Revised Statutes to automatically convert fermented malt beverage retailer licenses to fermented malt beverage and wine retailer licenses; and

WHEREAS, the new fermented malt beverage and wine retailer license allows licensees to offer tastings within their premises.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Article IV – Liquor Tastings of Chapter 6, Alcoholic Beverages, of the Arvada City Code is hereby amended to read as follows:

“ARTICLE IV. LIQUOR TASTINGS

Sec. 6-151. State law applicable.

C.R.S. § 44-3-301(10), as may be amended from time to time, shall apply to tastings under this article.

Sec. 6-152. Definition.

"Tastings" means the sampling of malt, vinous, or spirituous liquors that may occur on the premises of a retail liquor store licensee, fermented malt beverage and wine retailer licensee, or liquor-licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of C.R.S. § 44-3-301(10).

Sec. 6-153. Authorization.

The city hereby authorizes the city clerk to accept applications for tastings to be conducted by retail liquor store, fermented malt beverage and wine retailer, and liquor-licensed drugstore licensees in accordance with this section and pursuant to C.R.S. § 44-3-301(10)(a).

Sec. 6-154. Application for permit.

Any retail liquor store, fermented malt beverage and wine retailer, or liquor-licensed drugstore licensee wishing to conduct tastings shall submit an application for a permit to the city clerk on forms provided by the city clerk's office. Such application shall be accompanied by a non-refundable annual fee as set by the city.

Sec. 6-155. Term of permit.

The tastings permit shall be valid for a period of one year, and shall run and expire concurrently with the license of the retail liquor store, fermented malt beverage and wine retailer, or liquor-licensed drugstore; except, that the first tastings permit issued to a retail liquor store, fermented malt beverage and wine retailer, or liquor-licensed drugstore licensee shall be valid only until the expiration of the current license.

Sec. 6-156. Unlawful acts.

It is unlawful for anyone to conduct tastings without first having obtained a permit to do so in accordance with this article.

Secs. 6-157—6-160. Reserved.”

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The city council declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. This ordinance shall be effective five days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 6th day of March, 2023.

PASSED, ADOPTED, AND APPROVED this _____ day of _____, 2023.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

Publication Dates: March 9, 2023.

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY – NOT PART OF THE ORDINANCE

Underlined indicates new material

~~Strikethrough~~ indicates deleted material

“ARTICLE IV. LIQUOR TASTINGS

Sec. 6-151. State law applicable.

C.R.S. § 44-3-301(10), as may be amended from time to time, shall apply to tastings under this article.

Sec. 6-152. Definition.

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Sec. 6-153. Authorization.

The city hereby authorizes the city clerk to accept applications for tastings to be conducted by retail liquor store, fermented malt beverage and wine retailer, and liquor-licensed drugstore licensees in accordance with this section and pursuant to C.R.S. § 44-3-301(10)(a).

Sec. 6-154. Application for permit.

Any retail liquor store, fermented malt beverage and wine retailer, or liquor-licensed drugstore licensee wishing to conduct tastings shall submit an application for a permit to the city clerk on forms provided by the city clerk's office. Such application shall be accompanied by a non-refundable annual fee as set by the city.

Sec. 6-155. Term of permit.

The tastings permit shall be valid for a period of one year, and shall run and expire concurrently with the license of the retail liquor store, fermented malt beverage and wine retailer, or liquor-licensed drugstore; except, that the first tastings permit issued to a retail liquor store, fermented malt beverage and wine retailer, or liquor-licensed drugstore licensee shall be valid only until the expiration of the current license.

Sec. 6-156. Unlawful acts.

It is unlawful for anyone to conduct tastings without first having obtained a permit to do so in accordance with this article.

Secs. 6-157—6-160. Reserved.”



REPORT TO CITY COUNCIL OTHER

AGENDA ITEM
9.A.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Ratification and Approval of CP2023-0004 a Resolution by the Planning Commission for the City of Arvada, Colorado, Adopting the 2014 Arvada Comprehensive Plan as Arvada's Three Mile Plan Pursuant to Section 31-12-105(1)(E), C.R.S., as Amended

Report in Brief

PRESENTER: Robert Smetana

The purpose of this resolution is to comply with Section 31-12-105(1)(e), C.R.S. of the Colorado Municipal Annexation Act, which requires that the City's Three Mile Plan regarding future annexations be updated at least once annually.

The City has used the Arvada Comprehensive Plan as Arvada's Three Mile Plan for purposes of compliance with Section 31-12-105(1)(e). That section generally requires:

1. That no annexation have the effect of extending a municipal boundary more than three miles in any one year; and
2. That, as a precondition to final adoption of an annexation ordinance within the three mile area outside present city boundaries, the municipality has in place a plan for that area, in the nature of a comprehensive or master plan. The plan must be updated at least annually.

The Arvada Team recommends that City Council ratify CP2023-0004 a Resolution by the Planning Commission for the City of Arvada, Colorado, Adopting the 2014 Arvada Comprehensive Plan as Arvada's Three Mile Plan Pursuant to Section 31-12-105(1)(E), C.R.S., as Amended

Financial Impact

None

Background

The Three Mile Plan is intended to provide guidance on land use decisions in the plan area; to promote well-ordered development compatible with the indigenous character of the area; and to encourage the simplification of governmental structure and efficient provision of services through discouragement of special district creation. To that end, the plan must generally describe items such as proposed streets, other public ways, open spaces, utilities and proposed land uses within the three mile area.

All plans require an annual update in order to comply with the statute. Accordingly, Arvada's Three Mile Plan must be reviewed (and updated where necessary) to ensure such conformance. The 2014 Comprehensive Plan, as amended in association the new Land Development Code adopted in May of 2020, addresses proposed land uses and other statutorily prescribed matters with respect to land within the three mile area; consequently, it should be adopted as the City's Three Mile Plan.

Discussion

The City has routinely adopted a resolution annually, either at the end of a year or at the beginning of a year.

During the previous year, the City did not annex any property more than three miles from the previous City boundary. Additionally, the City does have a plan in place for future annexations within the 2014 Comprehensive Plan, which includes the City's Planning Boundary on the Future Land Use map.

Public Contact

Posting of the City Council Agenda.

Commission Recommendation

On February 7, 2023 the Planning Commission held a public hearing and voted 6-0 (1 absent) to approve the ratification and approval of the Three Mile Plan.

Strategic Alignment

The proposed action aligns with the Community and Economic Development Priority Area of the City Council Strategic Plan.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends that City Council ratify CP2023-0004 a Resolution by the Planning Commission for the City of Arvada, Colorado, Adopting the 2014 Arvada Comprehensive Plan as Arvada's Three Mile Plan Pursuant to Section 31-12-105(1)(E), C.R.S., as Amended.

Suggested Motion:

I move that CP2023-0004, a Resolution by the Planning Commission for the City of Arvada, Colorado, Adopting the 2014 Arvada Comprehensive Plan as Arvada's Three Mile Plan Pursuant to Section 31-12-105(1)(E), C.R.S., as Amended, be (ratified and approved) (rejected).

This motion is based on the findings of fact adopted by Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:

Josie Suk, Development Systems and Administrative Manager

Reviewed by:

Approved by:

Robert Smetana, Manager of City Planning and Development

2/13/2023

Ryan Stachelski, Director of Community and Economic Development

2/13/2023

SUBJECT: Ratification and Approval of CP2023-0004 a Resolution by the Planning Commission for the City of Arvada, Colorado, Adopting the 2014 Arvada Comprehensive Plan as Arvada's Three Mile Plan Pursuant to Section 31-12-105(1)(E), C.R.S., as Amended

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ITEM: 9.A.

Gail Walker, Legal Specialist-Contracts	2/14/2023
Emily Grogg, Senior Assistant City Attorney	2/14/2023
Linda Haley, Deputy City Manager	2/14/2023
Rachel Morris, City Attorney	2/21/2023
Lorie Gillis, City Manager	2/23/2023

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. CP2023-0004

A RESOLUTION BY THE PLANNING COMMISSION FOR THE CITY OF
ARVADA, COLORADO ADOPTING THE 2014 ARVADA
COMPREHENSIVE PLAN AS ARVADA'S THREE MILE PLAN PURSUANT
TO SECTION 31-12-105(1)(E), C.R.S., AS AMENDED

WHEREAS, Section 31-12-105(1)(e), C.R.S., as amended, of the Colorado Municipal Annexation Act provides that no annexation by a municipality shall have the effect of extending a municipal boundary more than three miles in any one year; and

WHEREAS, Section 31-12-105(1)(e), C.R.S., as amended, further provides that the municipality shall have in place a plan for the three mile area outside present municipal boundaries prior to any annexation and that such plan be updated at least annually; and

WHEREAS, the Planning Commission adopted, to the extent applicable, the 2014 Comprehensive Plan as the City's Three Mile Plan in accordance with the Municipal Annexation Act, which action was ratified by the Arvada City Council on October 6, 2014; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF ARVADA, COLORADO:

That, to the extent applicable, the 2014 Comprehensive Plan is hereby adopted as the City's Three Mile Plan pursuant to Section 31-12-105(1)(e), C.R.S., as amended.

APPROVED AND ADOPTED this _____ day of _____, 2023.

CITY OF ARVADA PLANNING COMMISSION

Michael P. Griffith

Michael P. Griffith, Chairman

ATTEST:

Tim Knapp

Tim Knapp, Secretary

RATIFIED AND APPROVED this _____ day of _____, 2023.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

City of Arvada Community and Economic Development Department STAFF REPORT

Three Mile Plan Comprehensive Plan Amendment CP2023-0004

NATURE OF REQUEST

The purpose of this resolution is to comply with Section 31-12-105(1)(e), C.R.S. of the Colorado Municipal Annexation Act, which requires that the City's Three Mile Plan regarding future annexations be updated at least once annually.

The City has used the Arvada Comprehensive Plan as Arvada's Three Mile Plan for purposes of compliance with Section 31-12-105(1)(e). That section generally requires:

1. That no annexation have the effect of extending a municipal boundary more than three miles in any one year; and
2. That, as a precondition to final adoption of an annexation ordinance within the three mile area outside present city boundaries, the municipality has in place a plan for that area, in the nature of a comprehensive or master plan. The plan must be updated at least annually.

The Three Mile Plan is intended to provide guidance on land use decisions in the plan area; to promote well-ordered development compatible with the indigenous character of the area; and to encourage the simplification of governmental structure and efficient provision of services through discouragement of special district creation. To that end, the plan must generally describe items such as proposed streets, other public ways, open spaces, utilities and proposed land uses within the three mile area.

All plans require an annual update in order to comply with the statute. Accordingly, Arvada's Three Mile Plan must be reviewed (and updated where necessary) to ensure such conformance. The 2014 Comprehensive Plan, as amended in association the new Land Development Code adopted in May of 2020, addresses proposed land uses and other statutorily prescribed matters with respect to land within the three mile area; consequently, it should be adopted as the City's Three Mile Plan.



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.A.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: A Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient to the main pedestrian entrance of the building to a public or private street

Report in Brief

PRESENTER: Robert Smetana

Kum and Go represented by Olsson is requesting approval of Major Modifications to allow for the construction of a new fueling station and convenience store with a detached fuel pump canopy within the Mixed Use – Urban (MX-U) zone district.

This Major Modification is from Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street.

The project includes a full redevelopment of the site including the demolition of the existing building and fuel pump canopy and the construction of a new 3,990 square-foot convenience store and a new fuel pump canopy.

The Arvada Team recommends that City Council approves the Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street.

Financial Impact

There is no fiscal impact to the city.

Background

The subject property is located at 6401 Wadsworth Bypass and is currently occupied by a fueling station with a convenience store and fuel pumps (Jenny's Market) that was constructed in 1998. The property contains three street frontages (Wadsworth Bypass, Olde Wadsworth Boulevard and W. 64th Avenue), is triangular in shape and is approximately 0.88 acres in size.

Discussion

Div. 8-3-11 Major Modification Approval Criteria	Finding	Rationale
1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.	Complies	The modification requests are consistent with the Comprehensive Plan and the MX-U zone district by allowing redevelopment of an aging infill site to occur that is consistent with a mixed-use

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2. The requested modification addresses a unique situation or incorporates creative site design.	Complies	character and provides services to the neighborhood. The modifications address a unique situation based on the constraints of the site having three street frontages while allowing the use to operate on the site in a manner that reduces its impact to the neighborhood.
3. The requested modification will not result in incompatible development.	Complies	The modifications will not result in incompatible development. The use already exists on the site and the proposal with the modifications will result in less non-conformities and will be more compatible than what exists today.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.	Complies	The modifications will not result in significant health, safety, or general welfare impacts.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.	Complies	The modifications requested are being mitigated to the extent reasonably feasible by locating the canopy in a location that will be least impactful to the pedestrian realm and by creating a better, direct, and more convenient pedestrian route to the main entrance of the building from the right-of-way.

Public Contact

The required neighborhood meeting for this project took place on September 23, 2022. The applicant, staff and approximately 4 neighbors(s) were in attendance.

Neighbors in attendance included both residential and commercial property owners. Questions asked primarily related to lighting, hours of operation, landscaping, and delivery truck schedules. The applicant prepared a summary of the meeting, which is attached.

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

Commission Recommendation

On February 7, 2023 the Planning Commission voted 6 to 0 (1 absent) to recommend it for approval to the City Council.

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Strategic Alignment

The project is consistent with the City Council Strategic Plan principles for the Community and Economic Development work system.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends approval of the Major Modification from the Land Development Code for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street, generally located at 6401 Wadsworth Bypass, in the City of Arvada, CO.

Suggested Motion:

I move that a Major Modification from the Land Development Code for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street, generally located at 6401 Wadsworth Bypass, in the City of Arvada, CO be (approved)(denied).

This motion is based on the findings of fact and any conditions, if applicable, adopted by Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:
Dixielee Rodriguez, Administrative Specialist

Reviewed by:

Approved by:

Jeremiah Bebo, Planner II	2/14/2023
Josie Suk, Development Systems and Administrative Manager	2/14/2023
Robert Smetana, Manager of City Planning and Development	2/14/2023
Ryan Stachelski, Director of Community and Economic Development	2/14/2023
Gail Walker, Legal Specialist-Contracts	2/14/2023
Emily Grogg, Senior Assistant City Attorney	2/15/2023

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Rachel Morris, City Attorney

2/21/2023

Linda Haley, Deputy City Manager

2/21/2023

Lorie Gillis, City Manager

2/21/2023

Enclosure, exhibits & attachments required to support the report

City of Arvada
Community and Economic Development Department
PUBLIC HEARING STAFF REPORT

Kum & Go #2299
Major Modifications
DA2022-0052

NATURE OF REQUEST

Kum and Go represented by Olsson is requesting approval of Major Modifications to allow for the construction of a new fueling station and convenience store with a detached fuel pump canopy within the Mixed Use – Urban (MX-U) zone district.

The project includes a full redevelopment of the site including the demolition of the existing building and fuel pump canopy and the construction of a new 3,990 square-foot convenience store and a new fuel pump canopy.

MAJOR MODIFICATIONS REQUESTED

The Applicant is requesting modifications to the Arvada Land Development Code (LDC) standards as part of this project. Those modifications are from:

1. Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street;
2. Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets; and
3. Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

Currently the site is occupied by and operates as a convenience store with associated fuel pumps and a canopy and the site is considered non-conforming based on numerous development and other standards within the LDC. The proposal for the Kum & Go represents a full redevelopment of the site and therefore is required to adhere to all standards and regulations within the LDC. As proposed, the project brings the site closer into conformance with the current, adopted LDC and for those standards that still cannot be met, the applicant is seeking relief through the major modification process.

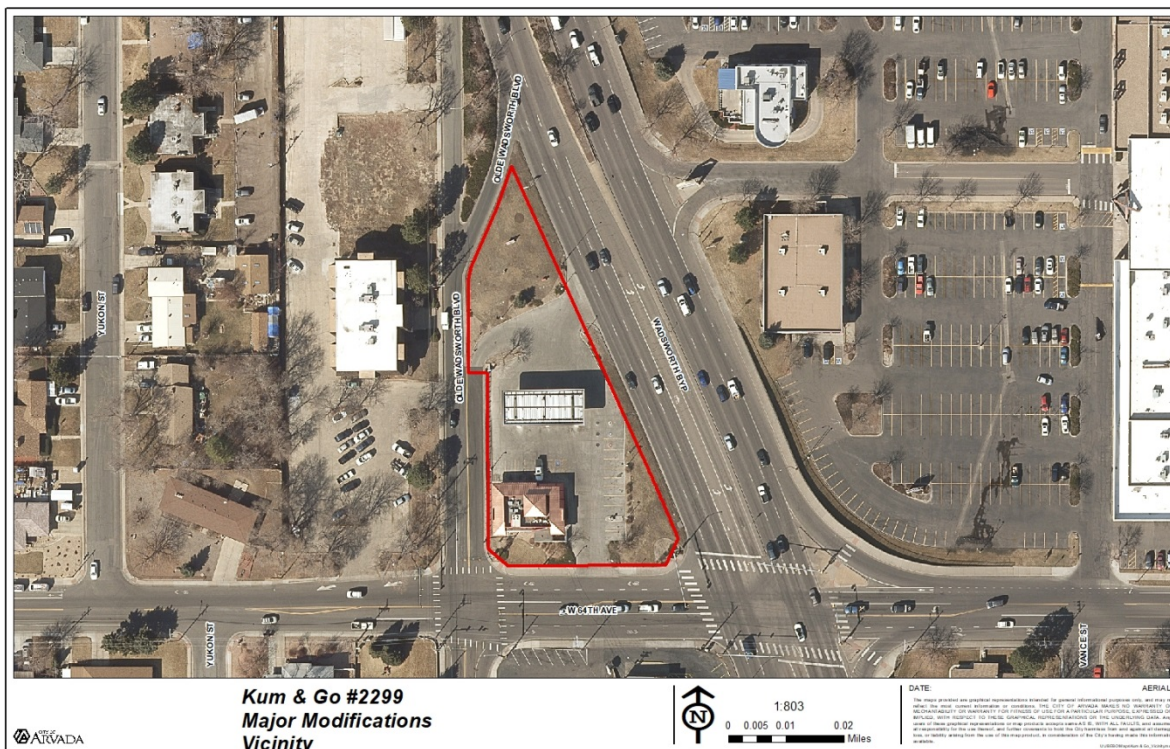
The most significant challenge of this site is due to the both the shape of the lot and the fact that the property contains three street frontages with no side or rear yards; making setback and locational requirements for the canopy impossible to achieve.

Staff is recommending approval of the Major Modification requests. Based on the proposal, staff believes that the applicant has worked to get the site as close to conformance with all of the

applicable development standards as possible and the requested modifications represent deviations that can be mitigated to an extent reasonably feasible. In addition, the proposal also seeks to remove vehicular access from W. 64th Avenue which staff believes is a benefit to the public and creates a safer route along the street for pedestrians. The applicant will be required to reconstruct the W. 64th Avenue frontage with curb, gutter, and sidewalk and install new landscaping and trees along the frontage.

LOCATION AND HISTORY

The subject property is located at 6401 Wadsworth Bypass and is currently occupied by a fueling station with a convenience store and fuel pumps (Jenny's Market) that was constructed in 1998. The property contains three street frontages (Wadsworth Bypass, Olde Wadsworth Boulevard and W. 64th Avenue), is triangular in shape and is approximately 0.88 acres in size.



NEIGHBORHOOD MEETING

Division 8-2-2 of the Land Development Code requires that at least one neighborhood meeting be held for projects that require public hearings before the Planning Commission and City Council.

The required neighborhood meeting for this project took place on September 22, 2022. The applicant, staff, and four neighbors were in attendance.

Neighbors in attendance included both residential and commercial property owners. Questions asked primarily related to lighting, hours of operation, landscaping, and delivery truck schedules.

The applicant prepared a summary of the meeting, which is attached.

PUBLIC NOTIFICATION

Division 8-2-4 of the Land Development Code requires public notification for all public hearings as follows:

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

SEVERED MINERAL RIGHTS

At least 30 days prior to the public hearing, written notice of the application must be mailed to any owner of mineral rights associated with the subject property. The applicant has provided the required Certification of Notice pursuant to Colorado Revised Statute 24-65.5-103.

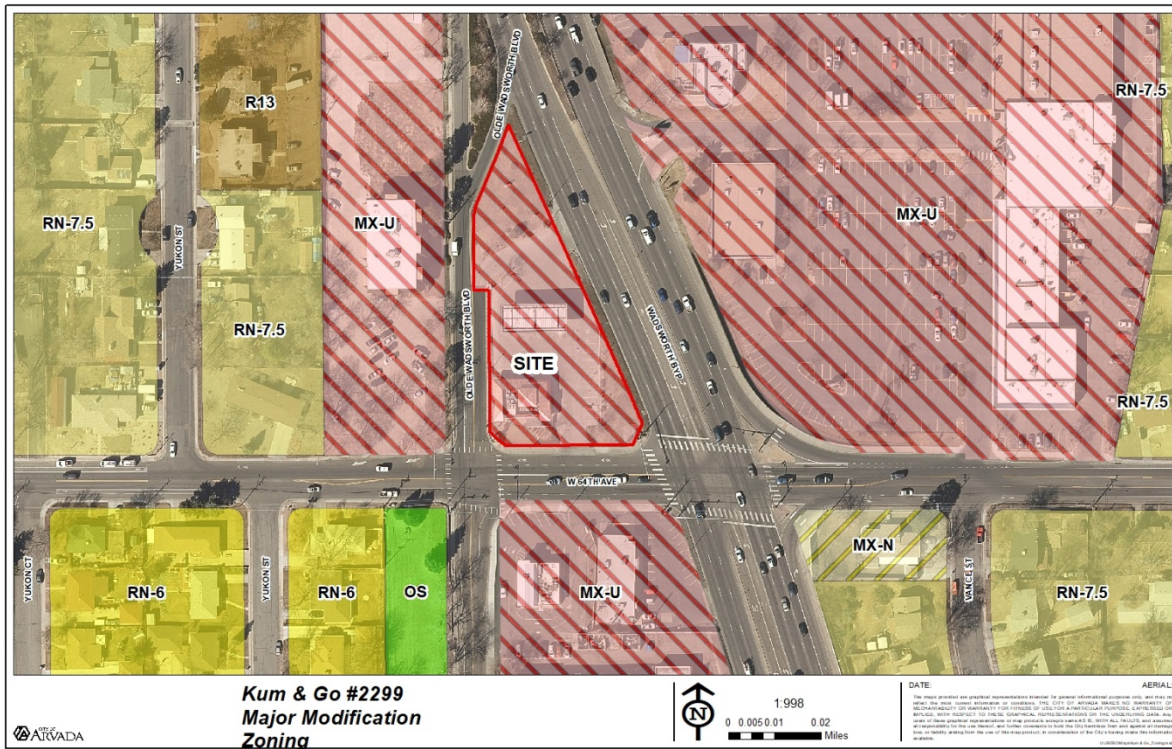
DEVELOPMENT REVIEW TIMELINE

Review of the application began on June 13, 2022. Two reviews were required in order to determine the Major Modifications required and mitigation efforts. Additionally, a Site Plan application is being reviewed concurrently and cannot be approved unless the Major Modifications are approved. Several variances were also necessary for the project.

ALIGNMENT WITH CITY COUNCIL STRATEGIC PLAN

The project is consistent with the City Council Strategic Plan principles for the Community and Economic Development work system.

ZONING AND LAND USE



The subject property is currently zoned MX-U (Mixed Use – Urban) and is approximately 0.88 acres in size.

Surrounding properties are zoned and utilized as follows:

Direction	Zoning	Actual Use
North (across Wadsworth bypass)	MX-U	Shopping Center
South (across W. 64 th Ave.)	MX-U	Fast Food with Drive-Through and a Commercial Building
East (across Wadsworth Bypass)	MX-U	Shopping Center
West (across Olde Wadsworth Boulevard)	MX-U	Office Building

The intent of the MX-U zone district is to “provide for a variety of residential and nonresidential uses, in vertically mixed-use, horizontally mixed-use, or single-use configurations with an urban character.” The proposal adds to the mixed-use nature of the area by providing a small convenience store with limited food, beverage, and retail products and by upgrading the street frontage along W. 64th Avenue to be more pedestrian friendly. However, the standards being modified through the Major Modification process are not strictly adhered to and therefore relief is being sought.

PROJECT ANALYSIS

Compliance with the Comprehensive Plan

The project complies with the following goals and policies within the Comprehensive Plan:

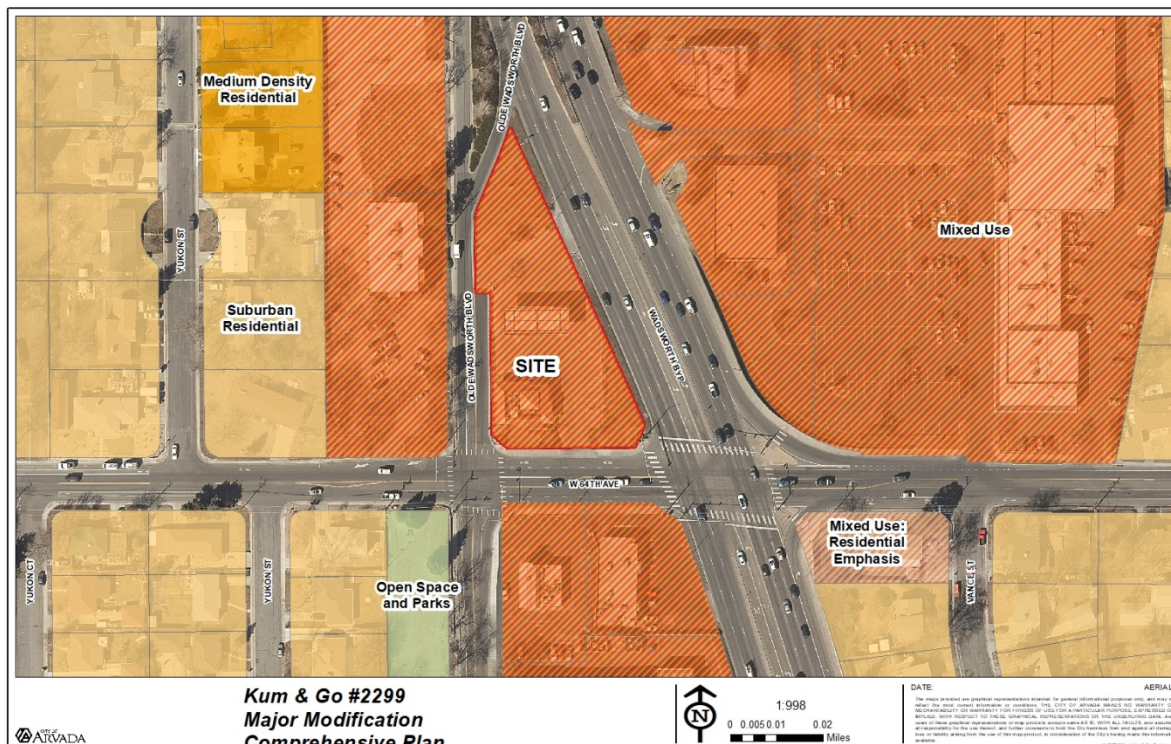
GOAL L-5: Designate and promote redevelopment and infill to generate economic revitalization, improve physical conditions, and provide an appropriate mix of quality housing choices.

GOAL ED-3: Plan for well-located, high-quality commercial developments.

GOAL ED-4: Redevelop and revitalize existing commercial and industrial areas.

POLICY ED-4.1: Promote Redevelopment of Underutilized Commercial Areas

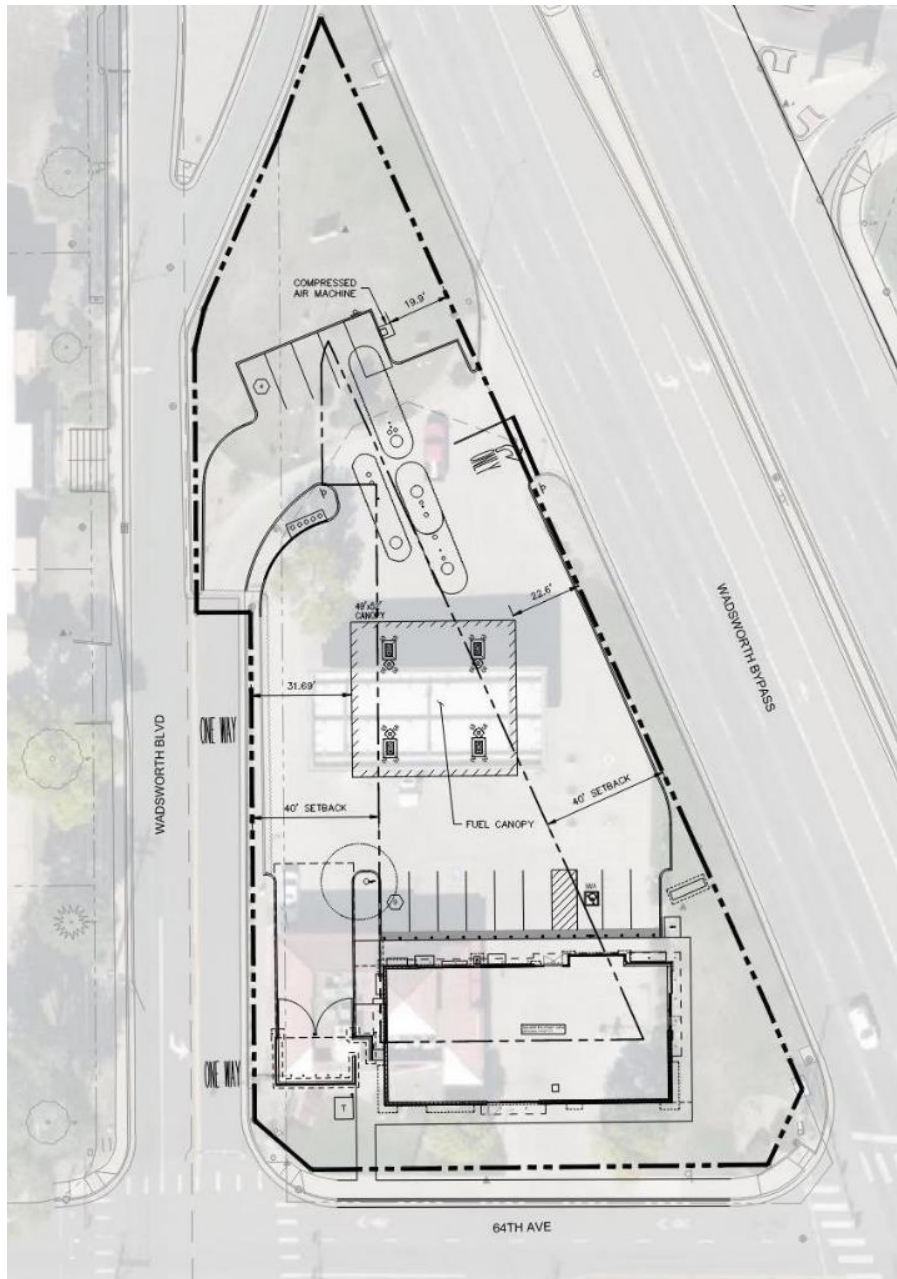
The site is identified as Mixed-Use on the Future Land Use map in the Comprehensive Plan. The project represents the redevelopment of a challenging site that will upgrade the site by improving the physical conditions of the site by bringing the building, fuel canopy, parking lot, landscaping, lighting, and other elements into compliance or closer to compliance with the adopted LDC and will improve the pedestrian experience along W. 64th Avenue helping to create a better, safer pedestrian route that is desired in mixed-use areas. Additionally, the convenience store will add additional options for food, beverage and limited retail to the neighborhood.



Setbacks

The setback range for the property is between 0 and 20-feet within the frontage zone. The building will be built at a 20-foot-setback along W. 64th Avenue.

Subsection 3-1-3-8(A)(3)(i) requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets. The proposal situates the canopy at 31.69 feet from the west (Olde Wadsworth Boulevard) and 22.6 feet from Wadsworth Bypass at the closet points and therefor a modification is required.



Subsection LDC 4-3-3-4(F)(2) requires a fuel pump canopy to be located behind or to the side of a building in the MX-U zone district. With three street frontages, the proposal cannot adhere to this requirement since there are no side or rear yards to place the canopy.

The location for the canopy presented in the proposal is the best location for a canopy to be located on the site given the constraints associated with having three frontages. It is staff's opinion that the most critical street frontage is W. 64th Avenue which provides the safest and most direct pedestrian route from neighborhoods on the east-side of Wadsworth Bypass to the west-side and vice versa. Therefore it is the street frontage that the canopy should be the furthest away from in order to provide visual and safety mitigation. Additionally, the canopy location near Olde Wadsworth Boulevard to the west is the portion of the roadway that is only intended to provide access to this property and does not contain a sidewalk on this side of the street, making its impact to that street minimal.

Building Height

The building height limitation for the site is 45 feet and the proposed building will be 18 feet.

Open Space

Fifteen percent of the total site area is required to be landscaped open space; the proposal will provide 31 percent.

Landscaping, Buffering and Fencing

Landscaping around the site will be upgraded and brought into conformance with the LDC by providing a total of 13 new deciduous trees, five new evergreen trees, and two new ornamental trees. New street trees within the area between the public sidewalk on W. 64th Avenue and the internal walk as well as street trees along Wadsworth Bypass will also be planted. Five existing trees will be removed; however, they are being replaced with the caliper inches required by the LDC with the new trees. Enhanced landscaping is also used around the pedestrian route from W. 64th Avenue around the building and to the main pedestrian entrance on the north-side of the building. No bufferyards are required.

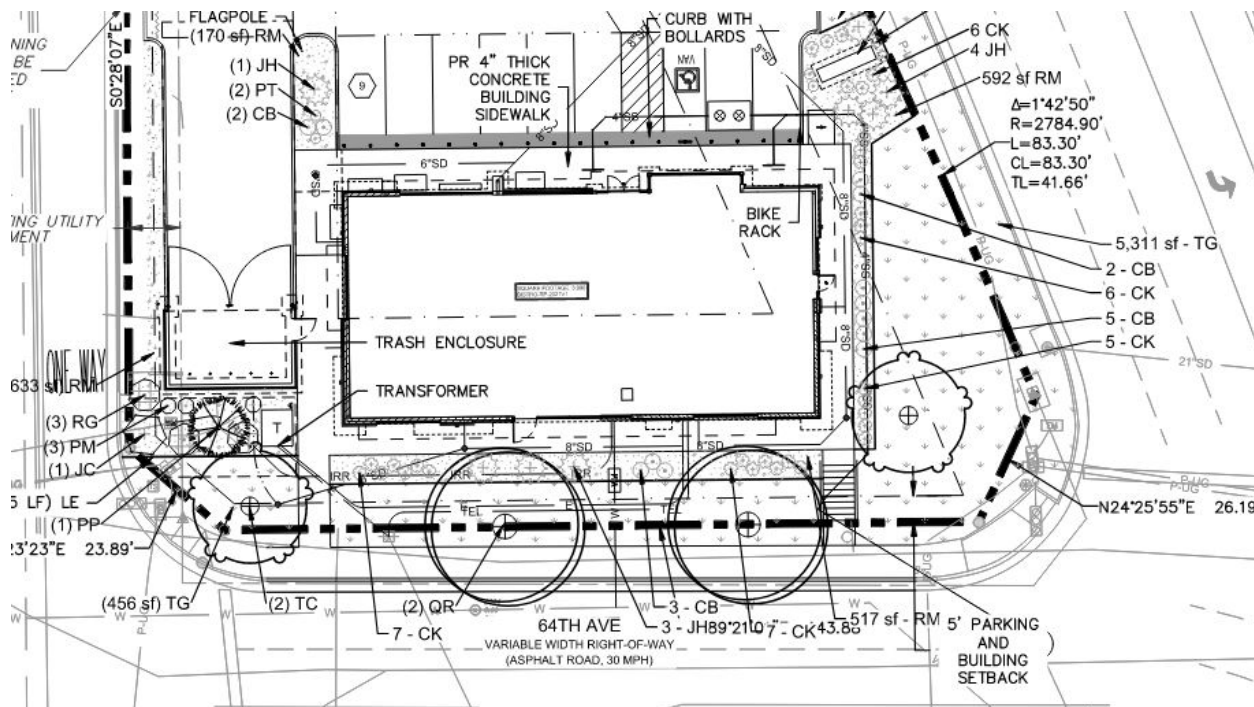
Building Design

The building's design is comprised primarily of a mix of fiber cement paneling of three different colors (brown, gray, and white) and textures, an aluminum storefront on both the north and south facades, and a parapet of three-feet in height to screen rooftop mechanical equipment. Additionally, the fuel pump canopy is required to contain a similar roof pitch, cladding materials, and color scheme as the building. The canopy will be clad with the same fiber cement paneling and aluminum as the building and the color scheme will be the same.

A modification is requested from Subsection LDC 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street. While the south façade of the building that is adjacent to W. 64th Avenue does contain a pedestrian entrance, it does not serve as the main entrance. The main entrance will be located on the north façade of the building adjacent to the parking lot and therefor a modification is required.

In order to mitigate the impact from this modification, the applicant has proposed to construct an additional pedestrian connection from the sidewalk on W. 64th Avenue and provide enhanced landscaping along the pedestrian route around the building that will lead pedestrians to the main

entrance. This will result in one connection from the west-side and one connection from the east-side which will reduce the distance needed to reach the entrance regardless of what direction pedestrians may be traveling from.



Circulation and Connectivity

Currently three points of vehicular access are provided to the site with one off of Wadsworth Bypass, one off from Olde Wadsworth Boulevard, and one off of W. 64th Avenue. The proposal would eliminate the access off of W. 64th Avenue and the developer will be required to reconstruct the entire length of the frontage with new curb, gutter, and sidewalk.

A one-way point of access from northbound Olde Wadsworth Boulevard will be maintained and a two-way right in/right out access onto Wadsworth Bypass will be maintained.

Grading and Drainage

Grades generally slope from the west to the east and from the south to the north with significant changes in grade from Olde Wadsworth Boulevard to the site. Stormwater is captured by several private inlets on the site and connect to the public storm system within Wadsworth Bypass.

Parking and Loading

Twenty off-street parking spaces are required for this proposal and 25 are being provided which include spaces next to the fuel pump islands and stacking spaces.

Utility Services

Water and sanitary sewer service is provided by the City and the City has the capacity to service the property.

Police and Fire Protection

The proposal has been reviewed by the Arvada Fire and Protection District and is supportive of the proposal. The property is served by Arvada Police.

LAND DEVELOPMENT CODE APPROVAL CRITERIA

It is the responsibility of the applicant to justify the requested land use application. The Planning Commission should make a recommendation to the City Council based on its findings regarding the approval criteria shown in the table(s) below and upon testimony heard during the public hearing as it applied to the criteria.

Staff performed an analysis of the proposal, based on the approval criteria listed in Chapter 8 of the Land Development Code, and presents the following findings:

Div. 8-3-11 Major Modification Approval Criteria	Finding	Rationale
1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.	Complies	The modification requests are consistent with the Comprehensive Plan and the MX-U zone district by allowing redevelopment of an aging infill site to occur that is consistent with a mixed-use character and provides services to the neighborhood.
2. The requested modification addresses a unique situation or incorporates creative site design.	Complies	The modifications address a unique situation based on the constraints of the site having three street frontages while allowing the use to operate on the site in a manner that reduces its impact to the neighborhood.
3. The requested modification will not result in incompatible development.	Complies	The modifications will not result in incompatible development. The use already exists on the site and the proposal with the modifications will result in less non-conformities and will be more compatible than what exists today.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.	Complies	The modifications will not result in significant health, safety, or general welfare impacts.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.	Complies	The modifications requested are being mitigated to the extent reasonably feasible by locating the canopy in a location that will be least impactful to the pedestrian realm and by creating a better, direct, and more convenient pedestrian route to

		the main entrance of the building from the right-of-way.
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STAFF RECOMMENDATION

Based upon project analysis and review of the Land Development Code approval criteria, staff recommends approval of the project.

The Planning Commission may recommend denial of the request(s) if it cannot make affirmative findings of the approval criteria stated above.

Neighborhood Meeting Summary



September 23, 2022

Re: Kum & Go #2299 Neighborhood Meeting

The following are resident comments from the neighborhood meeting held on September 22, 2022 for the proposed project located at 64th & Wadsworth. Olsson's responses are in red.

- Who is responsible for maintaining the landscaping?
Kum & Go is responsible.
- Will this project really happen?
Yes, pending approval from the city and barring nothing unexpected happens.
- When does the current lease end?
We do not have an exact date for the lease termination. By the time construction breaks-ground, Kum & Go will own the property. That time frame is about 6 months from now (Spring 2023).
- Will the store be a 24/7 operation? The resident is concerned about noise and lighting.
Possibly. Kum & Go is going to attempt a 24 hour a day operation, but it may be less.
- What are the proposed photometrics and its impact to nearby residences?
Potential for dimming at night-time and will be in compliance with commercial site city criteria. There will be screening from a constructed retaining wall and landscaping. Kum & Go will improve upon existing condition.
- One nearby resident is concerned about the trash truck noise.
- A question was posed regarding replacing the tanks.
Yes, since they were originally built in 1998.
- An inquiring was made regarding the construction hours.
Kum & Go plans on the hours from 7 AM – 4PM Monday-Friday and, if permitting, Saturdays.

Olsson spoke to the modifications that triggered the neighborhood meeting. These included a 40-foot canopy and air machine set-back, along with the building and canopy orientation. Fitting a gas station with associated fuel canopy within .88-acre lot was not feasible with current regulations; therefore, the aforementioned requests were submitted to the City.

DWG: F:\2022\00001-00500\022-00002\40-Design\AutoCAD\Preliminary Plans\Sheets\GNVC\VC_TTL01_02200002.dwg
DATE: Jan 05, 2023 11:31am
XREFs: C:\BULK_DP_02200002

USER: ekilgore

PROJECT TEAM:

DEVELOPER/APPLICANT:

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E: ASCHWENNER@OLSSON.COM

BENCHMARKS:

BM#1- #5 REBAR WITH A 2" ALUMINUM CAP STAMPED "OLSSON CONTROL 1". LOCATED EAST SIDE OF THE GAS STATION ON THE WEST SIDE OF SOUTH BOUND WADSWORTH BYPASS. ELEVATION: 5431.69 (CITY OF ARVADA VERTICAL DATUM).

BM#2- FOUND CITY OF ARVADA CONTROL POINT 687 - A FOUND 2" BRASS CAP STAMPED "BM 687". LOCATED ON THE TOP OF THE HANDICAP RAMP ON THE NORTHEAST CORNER OF THE INTERSECTION OF WADSWORTH BLVD AND 64TH AVE. ELEVATION: 5437.60 (CITY OF ARVADA VERTICAL DATUM).

BASIS OF BEARINGS:

BASIS OF BEARINGS: BEARINGS ARE BASED UPON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M, SAID LINE MONUMENTED AT THE WEST END BY A 3.25" ALUMINUM CAP IN A RANGE BOX STAMPED "LS 5112", FROM WHICH THE EAST END OF SAID LINE, MONUMENTED BY 3.25" ALUMINUM CAP IN A RANGE BOX STAMPED "1997, LS 17508", BEARS SOUTH 89°49'07" EAST A GROUND DISTANCE OF 2,652.98 FEET, AS DETERMINED BY GLOBAL POSITIONING SYSTEM OBSERVATIONS REFERENCED TO COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83

LEGAL DESCRIPTION:

A REPLAT OF LOT 1, KEN LEWIS PLAT, MINOR SUBDIVISION, BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M. CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

FLOOD ZONE:

THE SUBJECT PROPERTY IS WITHIN FLOOD ZONE "X" (AREA OF MINIMAL FLOOD HAZARD), AS SHOWN ON A NATIONAL FLOOD HAZARD LAYER FIRMETTE, OBTAINED ONLINE FROM THE AUTHORITATIVE NHL WEB SERVICES PROVIDED BY FEMA AND ACQUIRED BY THIS FIRM ON 02/04/2022.

GENERAL NOTES:

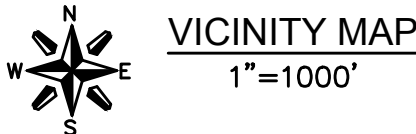
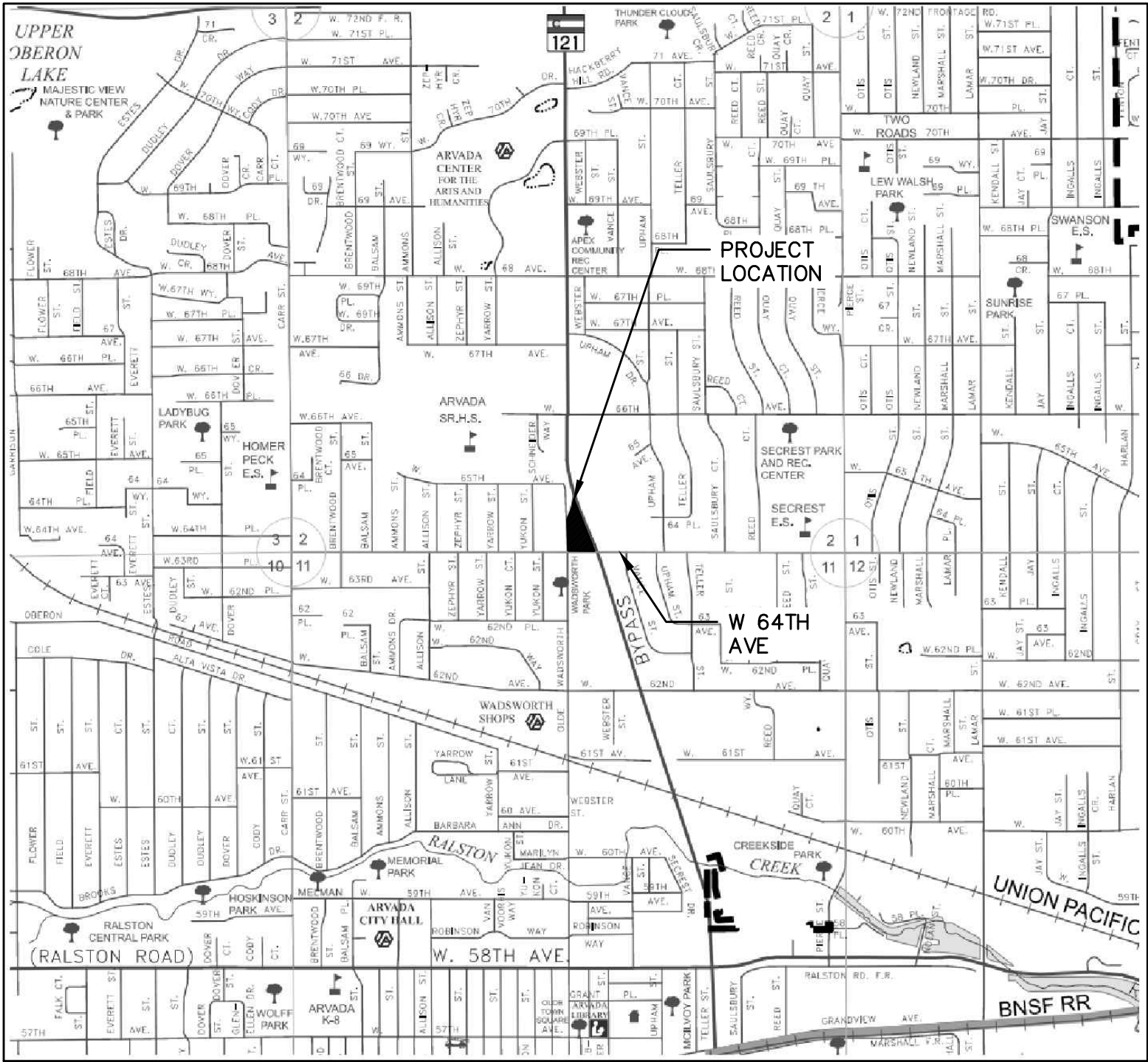
- ANY PROPOSED FENCES, WALLS, SIGNS AND ACCESSORY STRUCTURES SHOWN ON THIS PLAN ARE ILLUSTRATIVE ONLY AND SUBJECT TO SEPARATE REVIEWS AND PERMITS.
- A 3'-0" CLEAR SPACE SHALL BE MAINTAINED AROUND ALL FIRE HYDRANTS AND NOT OBSTRUCTED.
- FIRE HYDRANTS SHALL BE INSTALLED AND OPERATIONAL TO PROVIDE THE MINIMUM REQUIRED FIRE FLOW PRIOR TO COMMENCING VERTICAL CONSTRUCTION.
- DURING CONSTRUCTION AND UPON COMPLETION THERE SHALL BE BUILDING SIGNAGE PROVIDED, A MINIMUM OF 0'-4" INCHES HIGH WITH A 0.5" STROKE AND VISIBLE FROM THE STREET OR ROAD FRONTING THAT BUILDING.
- THE CITY OF ARVADA IS NOT RESPONSIBLE FOR THE ACCURACY AND ADEQUACY OF THE SURVEY DATA SHOWN HEREIN. THE CITY OF ARVADA'S REVIEW IS FOR GENERAL COMPLIANCE WITH ARVADA'S LAND DEVELOPMENT CODE. THE CITY OF ARVADA, THROUGH THE ACCEPTANCE OF THE PLAT/SITE PLAN, ASSUMES NO RESPONSIBILITY FOR COMPLETENESS AND/OR ACCURACY OF PLAT/SITE PLAN.THE ACCURACY OF SURVEY INFORMATION INCLUDING BOUNDARY INFORMATION, MONUMENTATION, LOT LINES, ETC IS THE SOLE RESPONSIBILITY OF THE LICENSED SURVEYOR NAMED HEREIN.
- DESIGNED IN ACCORDANCE TO THE CITY OF ARVADA ENGINEERING DESIGN STANDARDS AND GUIDELINES 2016 EDITION.

NARRATIVE SUMMARY:

THE EXISTING SITE IS COMPRISED OF A SMALL CONVENIENCE STORE WITH 6 FUEL PUMPS. THIS PLAN IS PROPOSING TO REMOVE THE EXISTING STORE, FUEL PUMPS AND ALL EXISTING COMPONENTS, ROAD SURFACES AND MOST OF THE EXISTING LANDSCAPING. KUM & GO WILL BUILD A NEW STORE WITH NEW FUEL PUMPS, NEW CONCRETE AND LANDSCAPING. KUM & GO WILL ALSO BE INSTALLING AN UNDERGROUND STORMWATER QUALITY TREATMENT FACILITY TO IMPROVE THE QUALITY OF STORMWATER DISCHARGES FROM THE SITE. THERE WILL BE NO CHANGE IN USE OR ZONING.



WHERE & MEANS MORE.



SHEET INDEX

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2	C1.0	SITE PLAN
3	C1.1	STACKING EXHIBIT
4	L1.0	TREE SURVEY
5	L1.1	LANDSCAPE PLAN
6	L1.2	LANDSCAPE DETAILS
7	SE1.1	PHOTOMETRIC PLAN
8	SE1.2	LIGHTING CUT SHEET
9	SE1.3	LIGHTING CUT SHEET
10	SE1.4	LIGHTING CUT SHEET
11	A1.1	EXTERIOR ELEVATIONS
12	A1.2	CANOPY ELEVATIONS
13	A1.3	TRASH ENCLOSURE ELEVATIONS
14	A1.4	FIXTURE PLAN
15	A1.5	ROOF PLAN

LOT 1, KEN LEWIS PLAT, MINOR SUBDIVISION,
BEING A PART OF THE SOUTHEAST QUARTER
OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE
69 WEST OF THE 6TH P.M. CITY OF ARVADA,
JEFFERSON COUNTY, COLORADO
6401. WADSWORTH BLVD ARVADA, CO
STORE #2299 SITE PLAN

SITE DATA TABLE

SITE DEVELOPMENT INFORMATION			
ZONE DISTRICT		MX-U (MIXED USE - URBAN)	
HOUSING PALETTE LOT TYPE		NA	
TOTAL PROJECT AREA		38,544 SF	
ROW DEDICATION		NA	
DEVELOPMENT STANDARDS		SITE	STANDARD
LOT STANDARDS			
LOT AREA (MIN)		38,544 SF	NA
LOT WIDTH (MIN)		NA	NA
LOT WIDTH, CORNER (MIN)		NA	NA
LOT COVERAGE (MAX)		10.4%	75%
BUILDING AND PARKING SITING STANDARDS			
FRONTAGE ZONE (MIN/MAX) [ONLY IN MX AND OT ZONES]		20'	0 / 20'
FACADE IN FRONTAGE ZONE (MIN) [ONLY IN MX AND OT ZONES]		10.5%	17.5%
FRONT PARKING SETBACK (MIN)		20.02'	20'
SIDE SETBACK, STREET (MIN)		40.85'	0'
SIDE SETBACK, INTERIOR (MIN)		NA	NA
REAR SETBACK (MIN)		NA	NA
BUILDING STANDARDS			
BUILDING HEIGHT (FT)		18' - 0"	45' - 0"
PARAPET HEIGHT (FT)		21' - 0"	45' - 0"
BLADE WALL HEIGHT (FT)		22' - 8"	45' - 0"
FUELING CANOPY HEIGHT (FT)		17' - 6"	45' - 0"
HEIGHT TRANSITION ZONE DEPTH (MIN) [ONLY IN MX ZONES]		NA	NA
SITE STANDARDS			
LANDSCAPE SURFACE AREA (MIN)		12,039 SF / 31.23%	5,781.6 SF / 15%
IMPERMEABLE SURFACE AREA		28,231 SF / 73.24%	NA
SMALL URBAN PARK [ONLY IN MX ZONES]		NA	NA
PARKING STANDARDS			
STANDARD SPACES		12 SPACES	19 SPACES
ACCESSIBLE SPACES		1 SPACE	1 SPACE
FUELING POSITIONS		8 SPACES	NA
STACKING SPACES		4	NA
TOTAL		25 SPACES	20 SPACES
BICYCLE SPACES		2	1
PROPOSED USE(S) WITH GROSS FLOOR AREA			
USE 1		SF	NA
BUILDING GFA		3,990 SF	NA

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#2299 - ARVADA, COLORADO

6401 Wadsworth Blvd

COVER SHEET

KG PROJECT TEAM:
RDM: TC
SDM: DG
CPM: BS

REVISION DESCRIPTION	DATE								
△									

DATE: 01/06/2023

SHEET NUMBER:
C0.0
1 OF 15

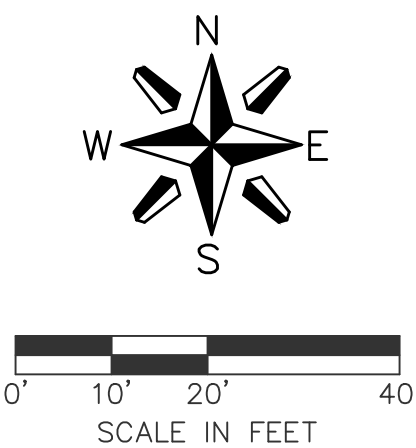
LOT 0152
SCENIC HEIGHTS
SUBDIVISION,
PIN:300005422
ZONE: MIXED-USE
URBAN - VACANT LOT

LOT 1-3, BLOCK 1
GILBERT SUBDIVISION,
PIN:300072246
ZONE: MIXED-USE
URBAN - RELIGIOUS
PURPOSE/NON-RESIDENTIAL

TRACT B
NORTH PARK CENTER
SUBDIVISION,
PIN:300192434
ZONE: MIXED-USES
URBAN - MERCHANDISING

TRACT 003,
PIN:300109629
ZONE: MIXED-USES
URBAN - FAST FOOD

TRACT 019,
PIN:300193904
ZONE: MIXED-USES
URBAN - MERCHANDISING



LEGEND

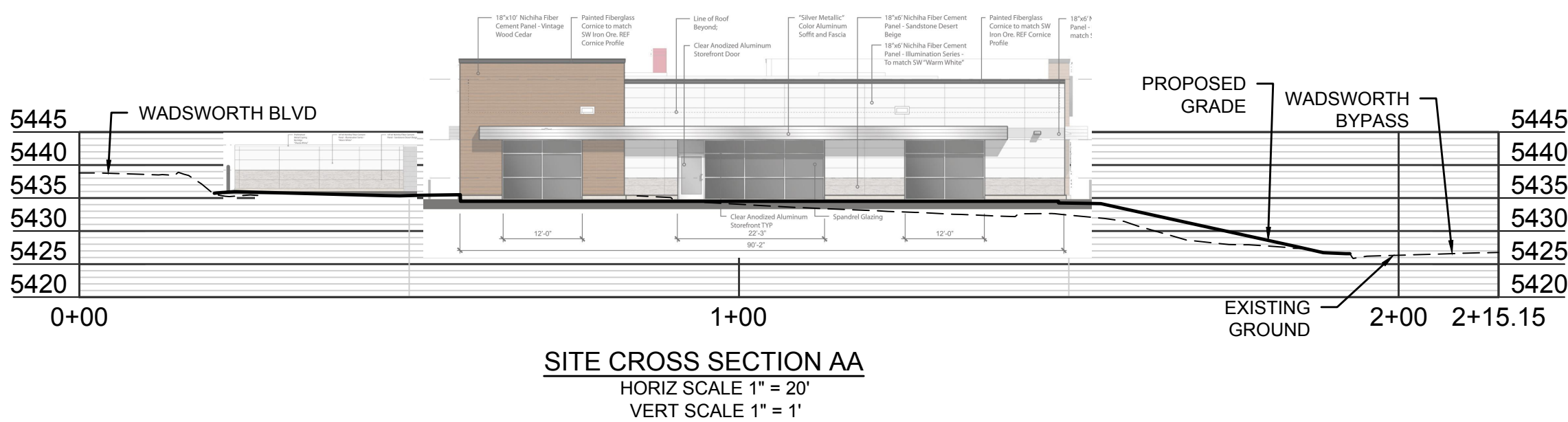
- EXISTING PROPERTY LINE
- PROPERTY BOUNDARY
- PROPOSED INTEGRAL CURB
- PROPOSED CURB AND GUTTER
- EXISTING CURB AND GUTTER
- ADA ACCESSIBLE ROUTE
- PROPOSED SETBACK LINE
- SIGHT TRIANGLE
- SAWCUT LINE
- COLORED CONCRETE PAVEMENT
- STORM SEWER STRUCTURE
- PROPOSED TRANSFORMER
- PR = PROPOSED

PARKING COUNT

- PROPOSED BOLLARD
- CONTROL POINT
- FIRE HYDRANT
- LIGHT POLE
- GUY WIRE
- POWER POLE
- WATER VALVE
- VEGETATION
- GAS METER
- TRAFFIC SIGNAL ARM
- FIBER OPTIC MANHOLE
- SANITARY SEWER STRUCTURE
- GREASE INTERCEPTOR
- SIGN
- GRATED STORM INLET

NOTES:

- SAWCUT EXISTING ASPHALT TO A CLEAN STRAIGHT EDGE.
- SEE PAVEMENT SECTION ON SHEET C2.1 & C2.2
- 12'x60' LOADING ZONE, 45° CROSS HATCH, 2' O.C. STRIPING.
- THE DEVELOPER WILL BE REQUIRED TO REPLACE ANY BROKEN, CRACKED, SETTLED, RAISED, ETC CURB, GUTTER AND SIDEWALK THAT FRONTS THE LOT OR IS PUBLIC PRIOR TO ANY CONSTRUCTION ON THAT LOT.
- CONTRACTOR TO REPLACE THE CHIP SEAL ALONG WITH THE ASPHALT FROM ANY TRENCHES ON W 64TH AVE AND WADSWORTH BYPASS AFTER THE ROADS HAVE BEEN CHIP SEALED.
- DURING CONSTRUCTION THERE SHALL BE SIGNAGE THAT PROVIDES THE ADDRESS AR THE FIRE DEPARTMENT ACCESS POINT. THE CHARACTERS SHALL BE A MINIMUM OF 4 INCHES HIGH WITH A 0.5 INCH STROKE AND VISIBLE FROM THE FIRE DEPARTMENT ACCESS POINT. THE COLOR OF THE SIGN SHALL EITHER BE A RED BACKGROUND WITH WHITE CHARACTERS OR A WHITE BACKGROUND WITH RED CHARACTERS.



BASIS OF BEARINGS:
BASIS OF BEARINGS: BEARINGS ARE BASED UPON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M, SAID LINE MONUMENTED AT THE WEST END BY A 3.25" ALUMINUM CAP IN A RANGE BOX STAMPED "LS 5112", FROM WHICH THE EAST END OF SAID LINE, MONUMENTED BY 3.25" ALUMINUM CAP IN A RANGE BOX STAMPED "1997, LS 17508", BEARS SOUTH 89°49'07" EAST A GROUND DISTANCE OF 2,652.98 FEET, AS DETERMINED BY GLOBAL POSITIONING SYSTEM OBSERVATIONS REFERENCED TO COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83

**Know what's below.
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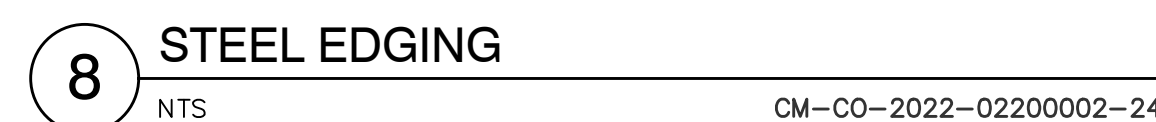
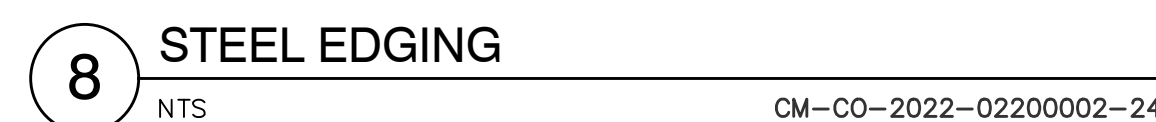
#2299 - ARVADA, COLORADO
6401 Wadsworth Blvd
SITE PLAN

KG PROJECT TEAM:
RDM: TC
SDM: DG
CPM: BS

REVISION DESCRIPTION	DATE

DATE: 01/06/2023

SHEET NUMBER:
C1.0
2 OF 15



²TURF PROVIDED

³ADDITIONAL LG TREE SUB

WATER WISE STANDARDS:

1. PLANTS HAVE BEEN SELECTED FOR THEIR APPROPRIATENESS TO THE LOCAL ENVIRONMENT. THEY ARE EITHER NATIVE OR NATURALIZED SPECIES WITH LOW TO MODERATE WATER DEMANDS.
2. AMEND SOIL AT A DEPTH OF 3 CUBIC YARDS PER 1,000 SQUARE FEET, TILLED TO A MINIMUM DEPTH OF SIX INCHES.
3. AN UNDERGROUND IRRIGATION SYSTEM TO INCLUDE A RAIN SENSOR AND WATERWISE CONTROLLER WILL BE INSTALLED AS PART OF THIS PROJECT.
4. SENSITIVE ZONES TO BE INSTALLED FOR SHRUBS, TREES, AND TREES IN TURF. SOD WILL BE SPRAYED WITH PRESSURE COMPENSATING HEADS.

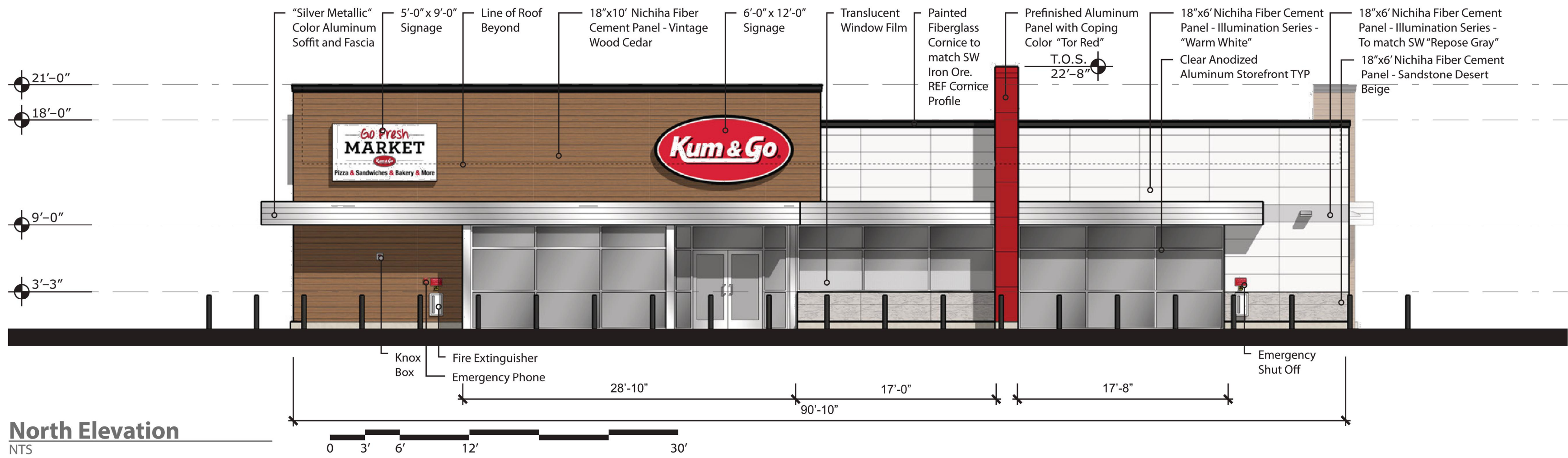
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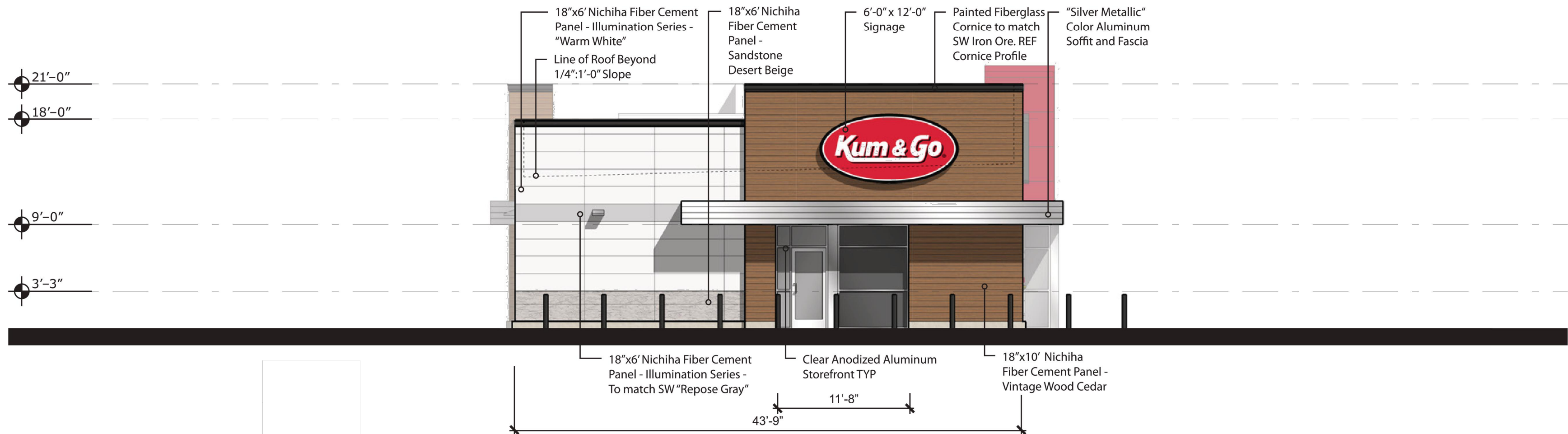
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MARKING OF UNDERGROUND MEMBER UTILITIES

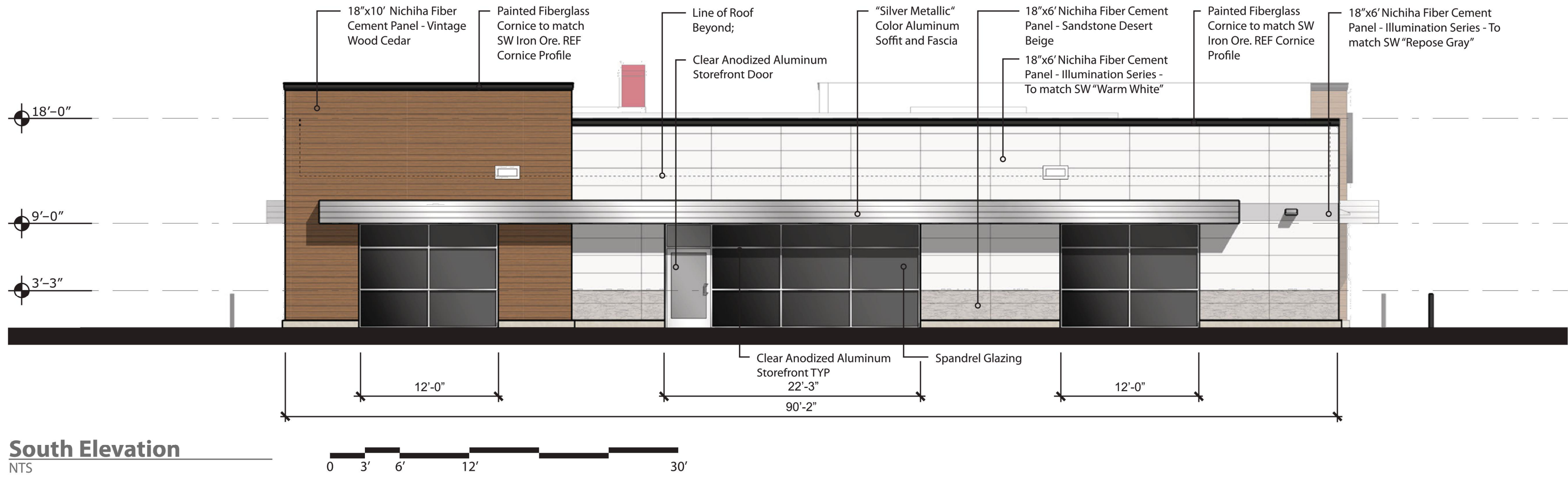
Proposed Building Signage			
Location	Sign	Size	Area
North Elevation	"Kum & Go" Sign	6' x 12'	72 SF
	"Go Fresh Market" Sign	5' x 9'	45 SF
East Elevation	"Kum & Go" Sign	6' x 12'	72 SF
South Elevation	No Signage	---	0 SF
West Elevation	No Signage	---	0 SF
Total			189 SF



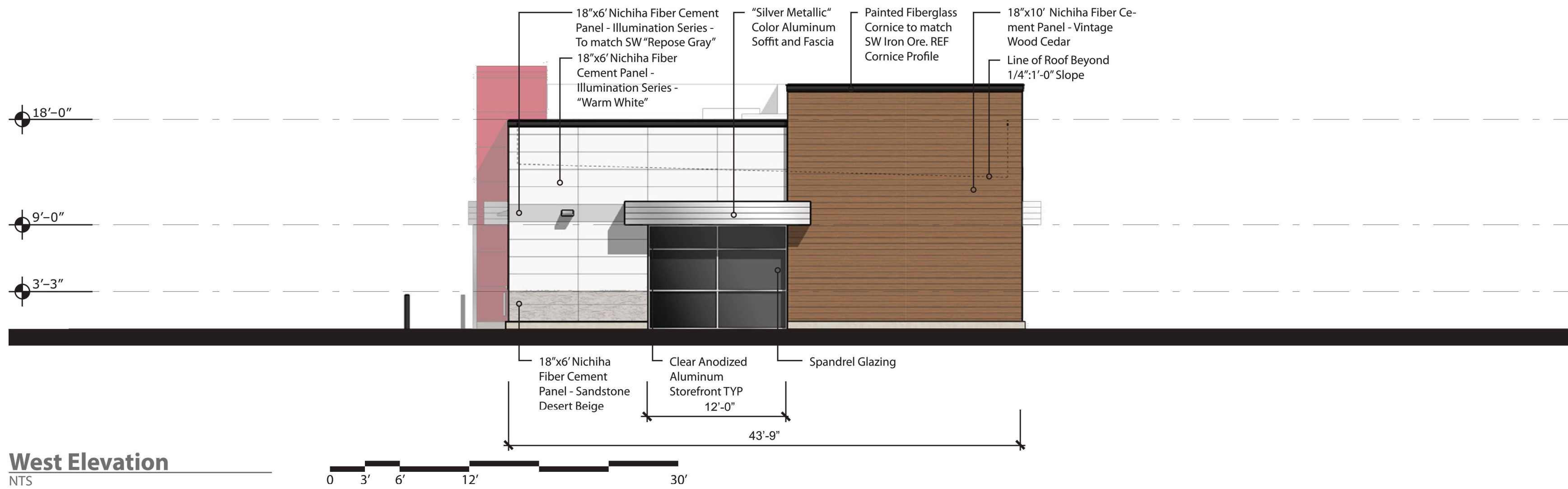
North Elevation
NTS



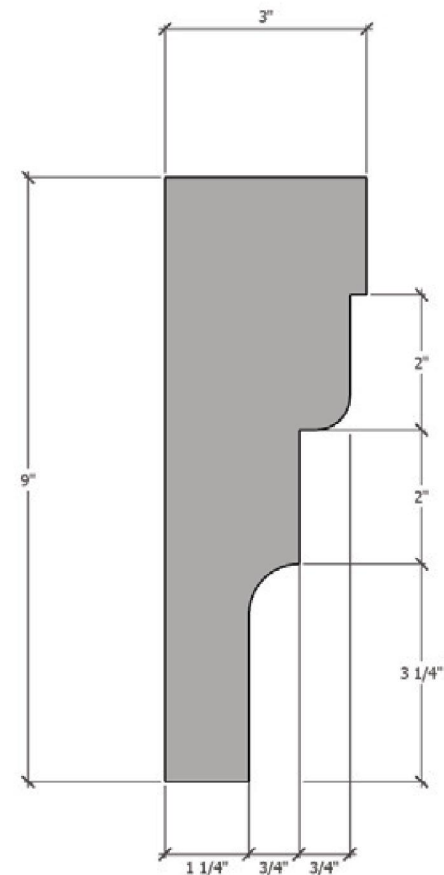
East Elevation
NTS



South Elevation
NTS



West Elevation
NTS



Cornice Profile
NTS

GENERAL NOTES:
Rooftop mechanical equipment and appurtenances should all be screened from a public street through the use of parapets or enclosures that are equal to, or greater than, the height of the equipment to be screened. The parapet or enclosure shall use one of the predominant materials or colors used on the primary facade of the building.

All air conditioning compressors shall be completely screened. Screening enclosures shall use at least one of the predominant materials used in the facades of the primary structure where feasible, and one of the predominant colors used in the primary structure.

All rooftop and wall vents and flues on a pitched roof or extending above the top of the nearest parapet shall be painted with one of the predominant colors used in the primary structure.

Wall-mounted utility equipment and meters shall be screened from view from a public street and shall be painted a color to blend with the building facade.

Material Calculations		
Sign	SF	% of Elevation
Nichiha	1059	59%
Red ACM	45	3%
Silver ACM	168	9%
Glazing	516	29%
Total	1788	

Pedestrian Zone Calculations		
Sign	SF	% of Elevation
Overall Area	818	
Glazing	516	63%

Material Calculations		
Sign	SF	% of Elevation
Nichiha	712	83%
Red ACM	--	--
Silver ACM	66	8%
Glazing	80	9%
Total	858	

Pedestrian Zone Calculations		
Sign	SF	% of Elevation
Overall Area	350	
Glazing	82	23%

Material Calculations		
Sign	SF	% of Elevation
Nichiha	1122	70%
Red ACM	--	--
Silver ACM	159	10%
Glazing	322	20%
Total	1603	

Pedestrian Zone Calculations		
Sign	SF	% of Elevation
Overall Area	722	
Glazing	322	44%

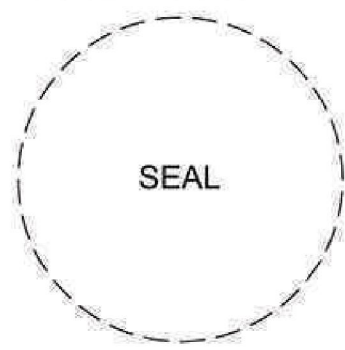
Material Calculations		
Sign	SF	% of Elevation
Nichiha	712	84%
Red ACM	--	--
Silver ACM	32	4%
Glazing	108	13%
Total	852	

Pedestrian Zone Calculations		
Sign	SF	% of Elevation
Overall Area	350	
Glazing	84	24%

NOTE: Pedestrian zone calculations use the area of the front and sides of a building between two (2) and ten (10) feet above the sidewalk or ground plane TYP



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8131 METCALF AVENUE
SUITE 300
OVERLAND PARK, KS 66204
www.brrarch.com
TEL: 913-262-9055
FAX: 913-262-9044



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50309
P:515-457-6247

#2299 - ARVADA, CO
6401 WADSWORTH BLVD

EXTERIOR ELEVATIONS

KG PROJECT TEAM:
RDM:
SDM:
CPM:

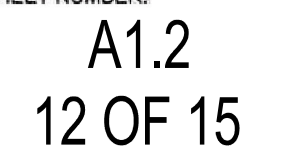
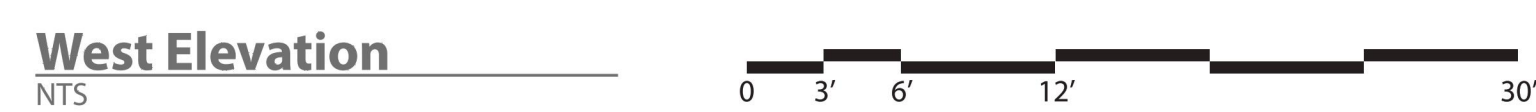
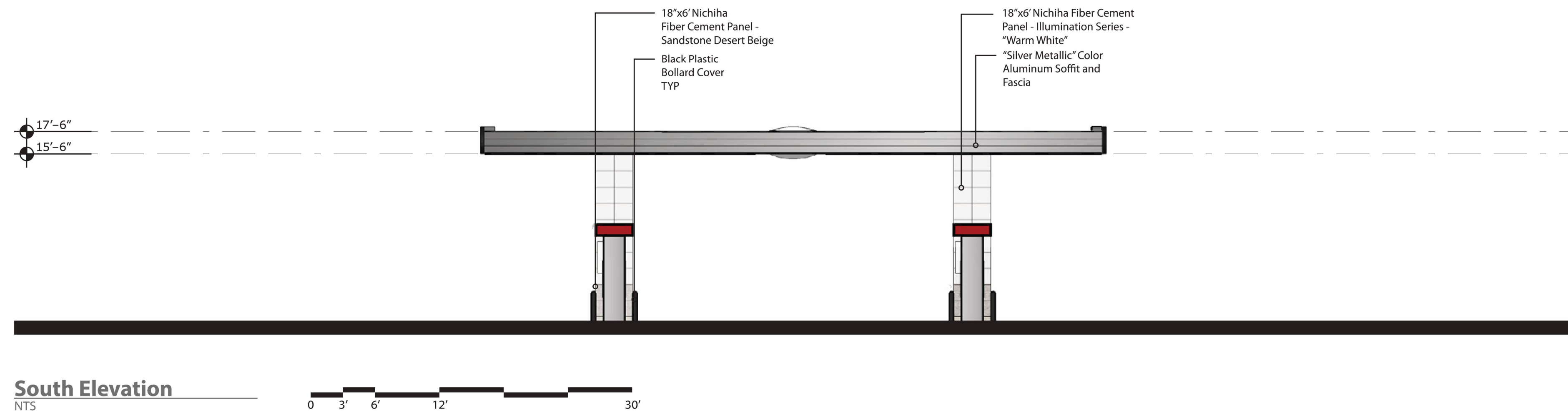
REVISION DESCRIPTION		DATE		DATE	

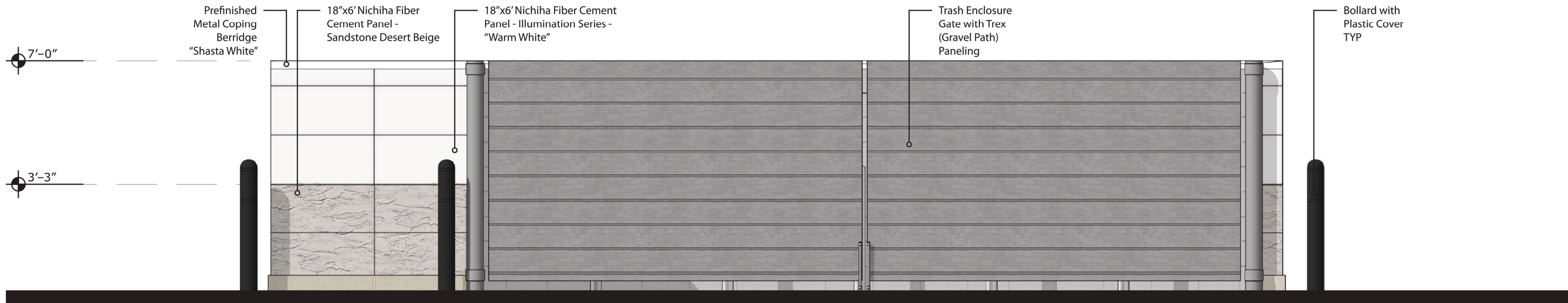
DATE: 01/06/2023

SHEET NUMBER:

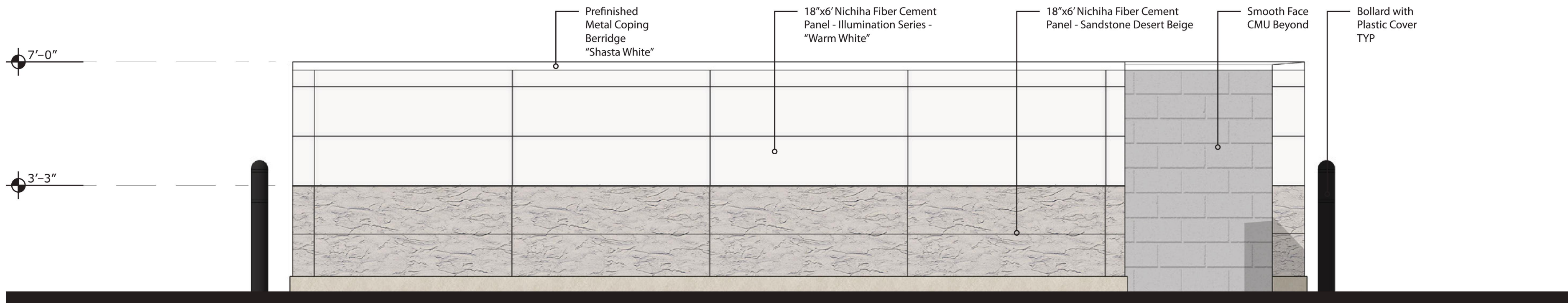
A1.1
11 OF 15

Location	Sign	Size	Area
North Elevation	"Kum & Go" Sign	3'x 6'	18 SF
South Elevation	No Signage	---	0 SF
East Elevation	"Kum & Go" Sign	3'x 6'	18 SF
West Elevation	"Kum & Go" Sign	3'x 6'	18 SF
Total			54 SF

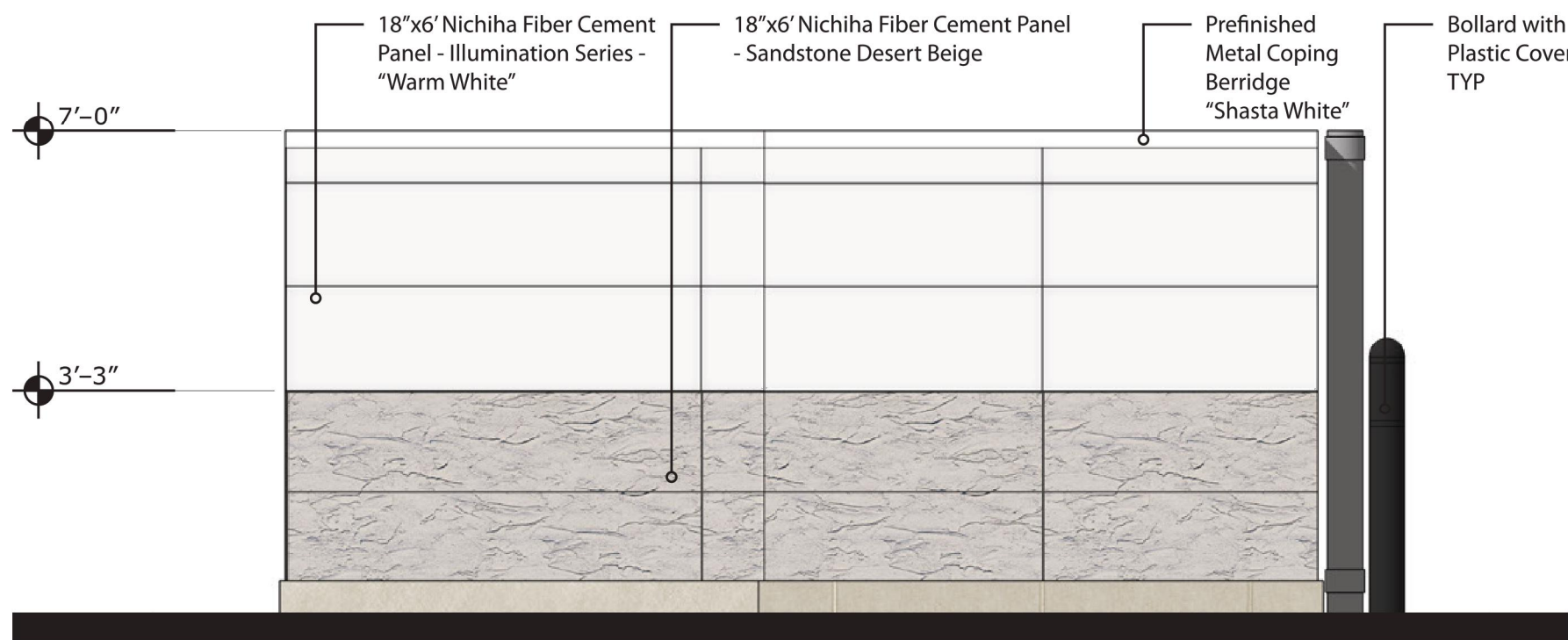




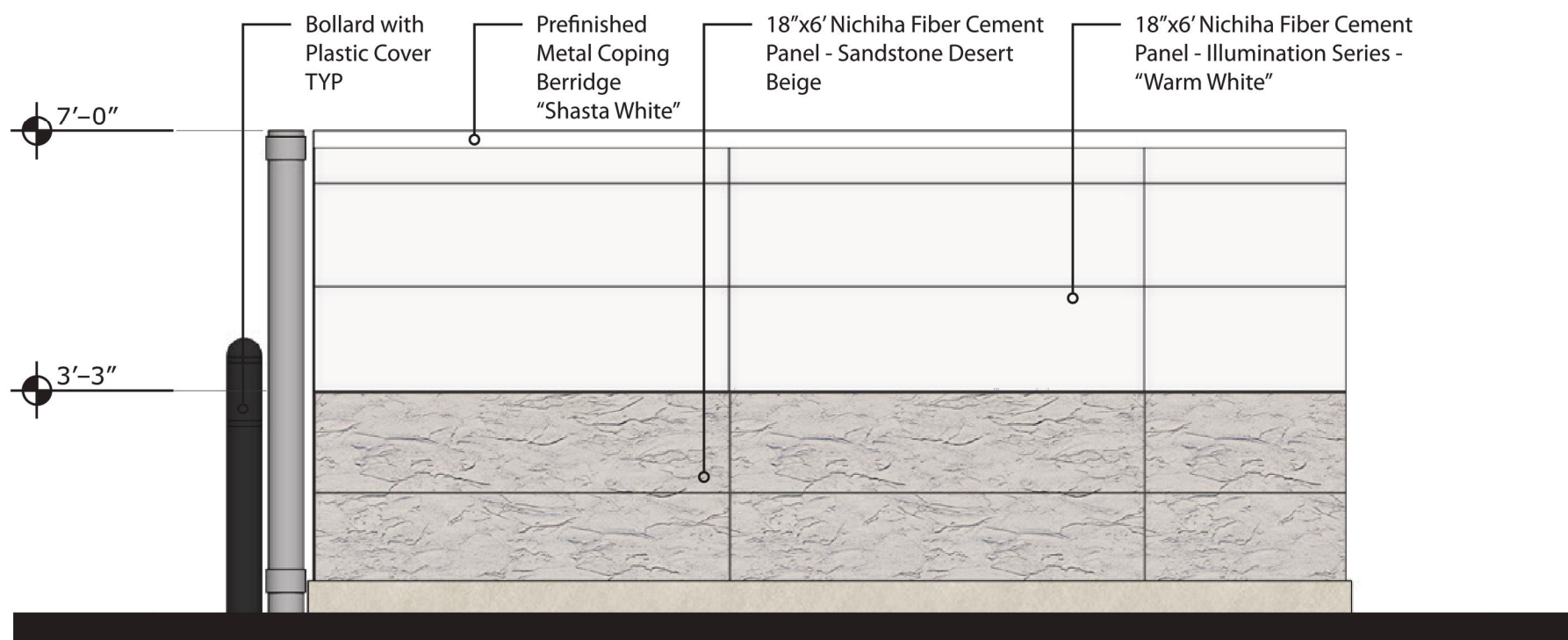
North Elevation
NTS



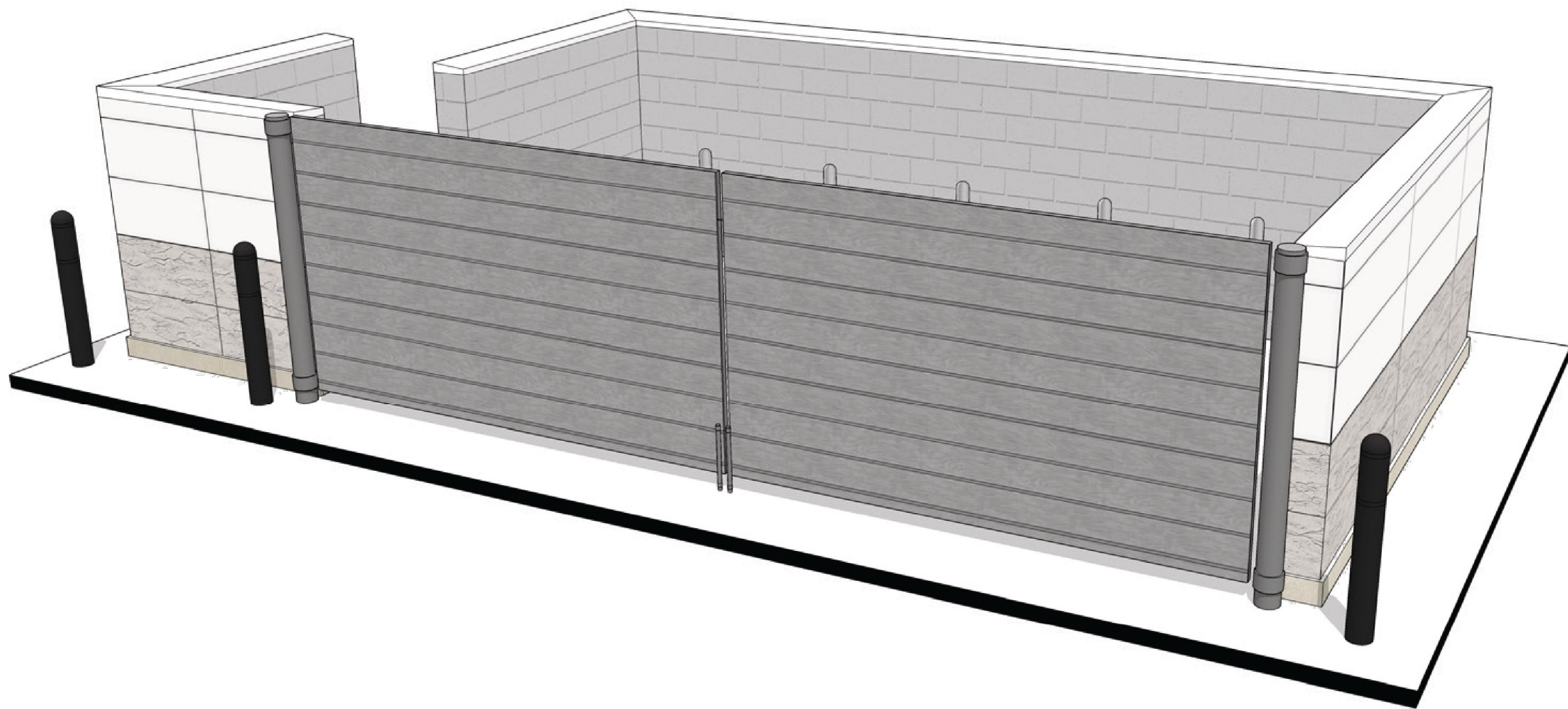
South Elevation
NTS



East Elevation
NTS



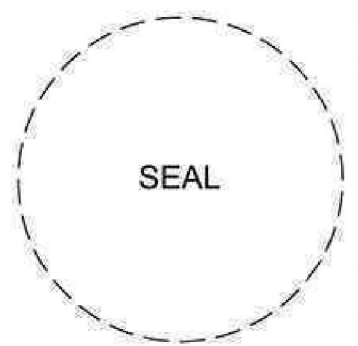
West Elevation
NTS



Perspective
NTS

brr

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OVERLAND PARK, KS 66204
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P:515-457-6247

#2299 - ARVADA, CO
6401 WADSWORTH BLVD

TRASH ENCLOSURE ELEVATIONS

KG PROJECT TEAM:
RDM:
SDM:
CPM:

REVISION DESCRIPTION	DATE	REVISIONS

DATE: 01/06/2023

SHEET NUMBER:
A1.3
13 OF 15

**SYNOPSIS OF PLANNING COMMISSION ACTION ON 3 MAJOR MODIFICATIONS FOR
KUM & GO LOCATED AT 6401 WADSWORTH BYPASS.
FEBRUARY 7, 2023**

Major Modification 1. Kum & Go #2299 To construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street;

Major Modification 2. for Kum & Go #2299 To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets;

Major Modification 3. Kum & Go #2299 To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district, generally located at 6401 Wadsworth Bypass.

Mr. Griffith opened the public hearing.

Mr. Griffith entered into the record the staff report for DA2022-0052 dated February 7, 2023, posting of signs, affidavit of mailing, and posting log.

Mr. Bebo stated the affidavit of mailing and posting log are in order.

Mr. Bebo introduced the project to the Planning Commission, he stated that the applicant is requesting three major modifications from the Land Development Code and has a request for site plan approval with a minor subdivision under administrative review. Currently, the site is being used as a fueling station which is non-conforming. Mr. Bebo continued to say that the major modifications have been requested due to the shape of the lot which presents certain challenges to developing the site as a fueling station due to the constraints of 3 street frontages making the setback requirements difficult to achieve. Mr. Bebo confirmed that the requests do meet the approval criteria as stated in the Land Development Code and staff is in support.

Erica Morton, Applicant, 2455 John Field Ct, Lafayette CO 80026- Ms. Morton, introduced the project stating the reasons for major modification requests. Ms. Morton stated that the presence of rights-of-way on 3 sides of the site makes it impossible for the building and canopy to meet setbacks.

Mr. Griffith opened the hearing for comments from the public.

PUBLIC COMMENT

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 - KUM & GO

None

IN FAVOR

None

APPLICANT REBUTTAL

None

Mr. Griffith closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Knapp asked staff what the intent of LDC Subsection 4-3-3-4(F) is and why the regulation forces a canopy to be to the side or to the rear of the building?

Mr. Bebo states this regulation applies to the MX-U zone which is intended to be more walkable and pedestrian oriented. The regulation forces the canopy away from public right of way both for safety, circulation, and visual reasons.

Mr Knapp asked about the landscaping, who will enforce it in 5 years to ensure it's still there?

Mr. Bebo stated that if complaints are received staff will confirm what was approved in the landscape plans and that the city will enforce through code enforcement if needed.

Mr. Griffith stated no further discussion with no further question from the commission

MOTION: Agenda Item 8.A

It was moved by Mr. Magee, That DA2022-0052 – Major Modification for Kum & Go #2299, To construct a new fueling station and convenience store with a detached fuel pump canopy where the building does not adhere to the building orientation and configuration requirement of LDC Subsection 5-1-2-6(B)(1) which requires that all nonresidential buildings orient the main pedestrian entrance of the building to a public or private street and generally located at 6401 Wadsworth Bypass be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Page 9 & 10 of the Staff Report.

DISCUSSION OF MOTION

Mr Figliolino will support this project, likes the building footprint and appreciates the offerings for an area that lacks fresh produce due to no close grocery store.

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Figliolino

Those voting No:

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 - KUM & GO

Those absent: Gay

The motion carried: 6-0 (1 absence)

MOTION: Agenda Item 8.B

It was moved by Mr. Magee, DA2022-0052 - Major Modification for Kum & Go #2299, To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets and generally located at 6401 Wadsworth Bypass be recommended to City Council for approval.

This motion is based on the finding of fact and approval criteria on Page 9 & 10 of the Staff Report.

DISCUSSION OF MOTION

None

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Figliolino

Those voting No:

Those absent: Gay

The motion carried: 6-0 (1 absence)

MOTION: Agenda Item 8.C

It was moved by Mr. Magee, DA2022-0052 – Major Modification for Kum & Go #2299, To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district and generally located at 6401 Wadsworth Bypass be recommended to City Council for approval.

This motion is based on the finding of fact and approval criteria on Page 9 & 10 of the Staff Report.

DISCUSSION OF MOTION

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Figliolino

Those voting No:

Those absent: Gay

The motion carried: 6-0 (1 absence)

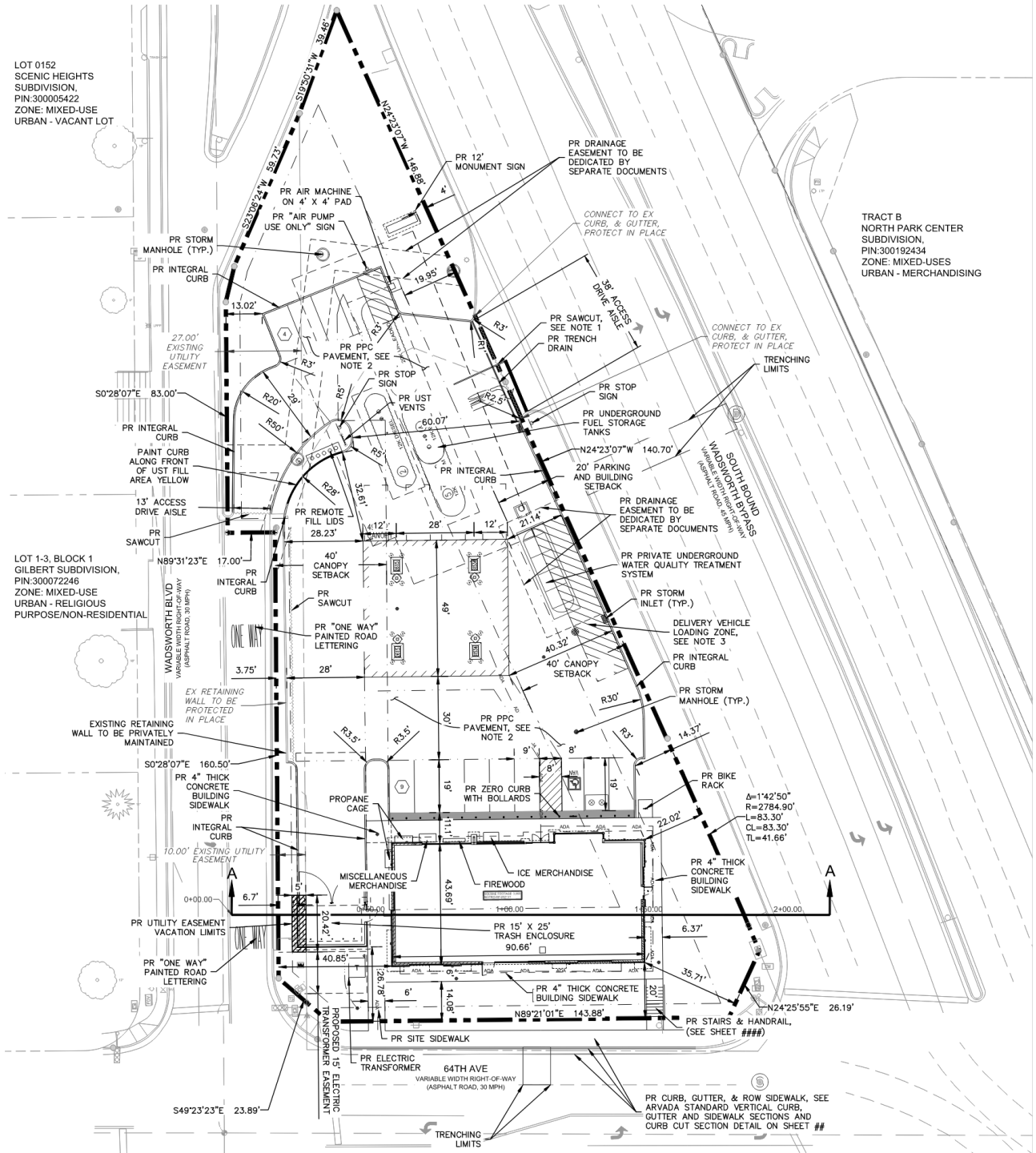


City Council

March 6, 2023

Arvada, CO – 6401 Wadsworth Blvd

LOT 0152
SCENIC HEIGHTS
SUBDIVISION,
PIN:300005422
ZONE: MIXED-USE
URBAN - VACANT LOT



[illegible]

North Elevation

Materials and Details:

- "Silver Metallic" Color Aluminum Soffit and Fascia
- 12"x12" Nichia Fiber Cement Panel - Storage Wood Cedar
- Line of Roof Beyond
- 6"x6" x 12' Signage
- Translucent Window Film
- Painted Fiberglass Cornice to match SW Iron Ore 803 Cornice Profile
- Profined Aluminum Panel with Coping Cable "To Roof" T.O.S.
- 22'-6"
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Clear Anodized Aluminum Storefront TYP
- Emergency Exit

Dimensions:

- 20'-10"
- 17'-0"
- 17'-8"

East Elevation

Materials and Details:

- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Line of Roof Beyond
- 18"x18" Nichia Fiber Cement Panel - Sandstone Desert Beige
- 6"x6" x 12' Signage
- Painted Fiberglass Cornice to match SW Iron Ore 803 Cornice Profile
- "Silver Metallic" Color Aluminum Soffit and Fascia
- 18"x18" Nichia Fiber Cement Panel - Sandstone Desert Beige
- Clear Anodized Aluminum Storefront TYP
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Clear Anodized Aluminum Storefront TYP
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Clear Anodized Aluminum Storefront TYP
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"

Dimensions:

- 43'-0"
- 11'-8"

South Elevation

Materials and Details:

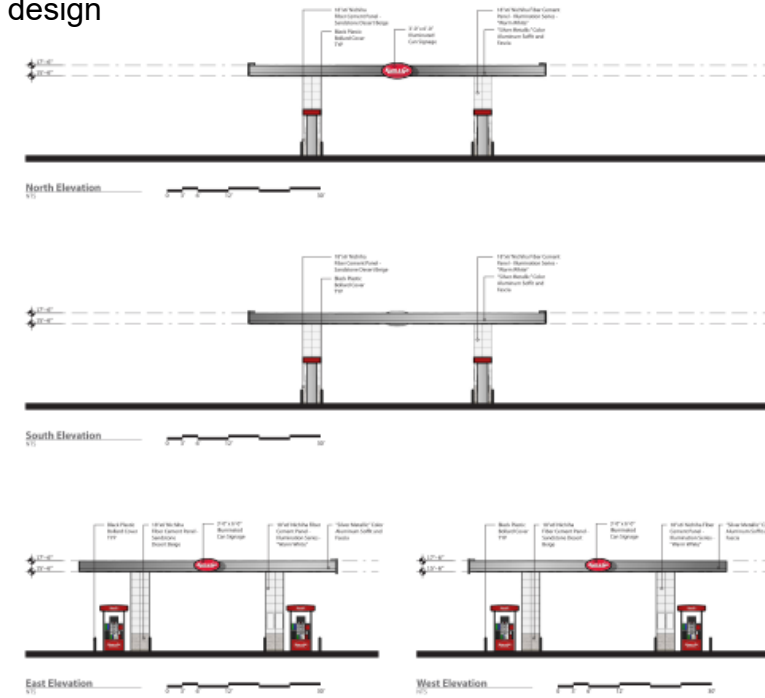
- 18"x18" Nichia Fiber Cement Panel - Storage Wood Cedar
- Painted Fiberglass Cornice to match SW Iron Ore 803 Cornice Profile
- Line of Roof Beyond
- Clear Anodized Aluminum Storefront Door
- "Silver Metallic" Color Aluminum Soffit and Fascia
- 18"x18" Nichia Fiber Cement Panel - Sandstone Desert Beige
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Clear Anodized Aluminum Storefront TYP
- 22'-3"
- Spanther Glazing
- 12'-0"
- 12'-0"

West Elevation

Materials and Details:

- 18"x18" Nichia Fiber Cement Panel - Sandstone Desert Beige
- Clear Anodized Aluminum Storefront TYP
- Spanther Glazing
- 12'-0"
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Line of Roof Beyond
- 18"x18" Nichia Fiber Cement Panel - Storage Wood Cedar
- Painted Fiberglass Cornice to match SW Iron Ore 803 Cornice Profile
- "Silver Metallic" Color Aluminum Soffit and Fascia
- 18"x18" Nichia Fiber Cement Panel - Sandstone Desert Beige
- 18"x18" Nichia Fiber Cement Panel - Illumination Series - "Warm White"
- Clear Anodized Aluminum Storefront TYP
- 12'-0"

- New design inside and out with open kitchen layout, clear aisles, and easy-to-navigate zones
- Focus on fresh food and elevated dining experience with our “Go Fresh” market
- Seating inside
- Complimentary wifi and charging stations for customers
- Designed for LEED-certifiable status using energy-efficient and sustainable design





interior (kitchen)



interior (seating area)



interior (cooler and snacks)



fresh, healthy food



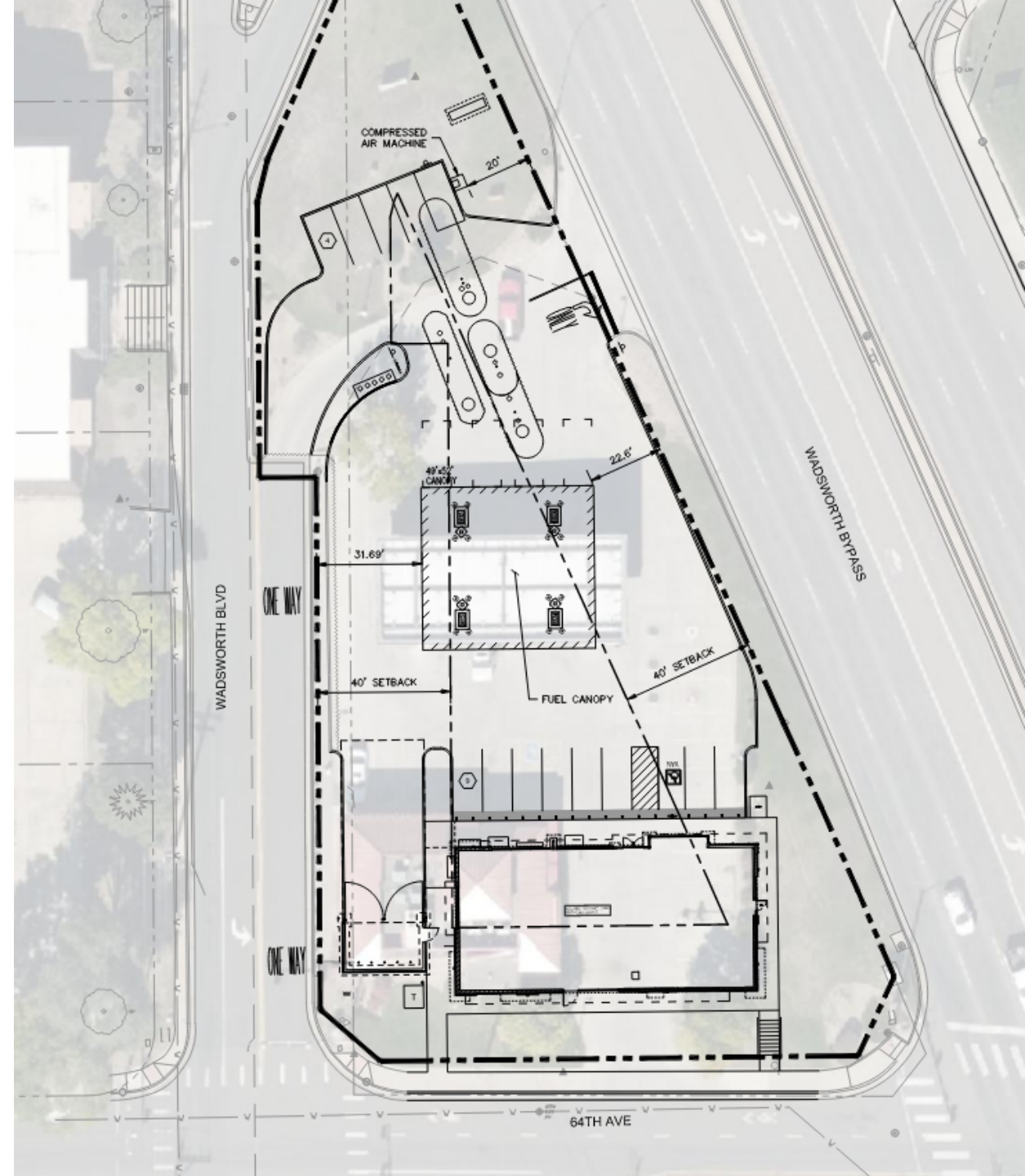
major modification approval criteria

Per LDC Section: 8-3-11-4 (D), a major modification may be approved if the following criteria is met:

1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.
2. The requested modification addresses a unique situation or incorporates creative site design.
3. The requested modification will not result in incompatible development.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.

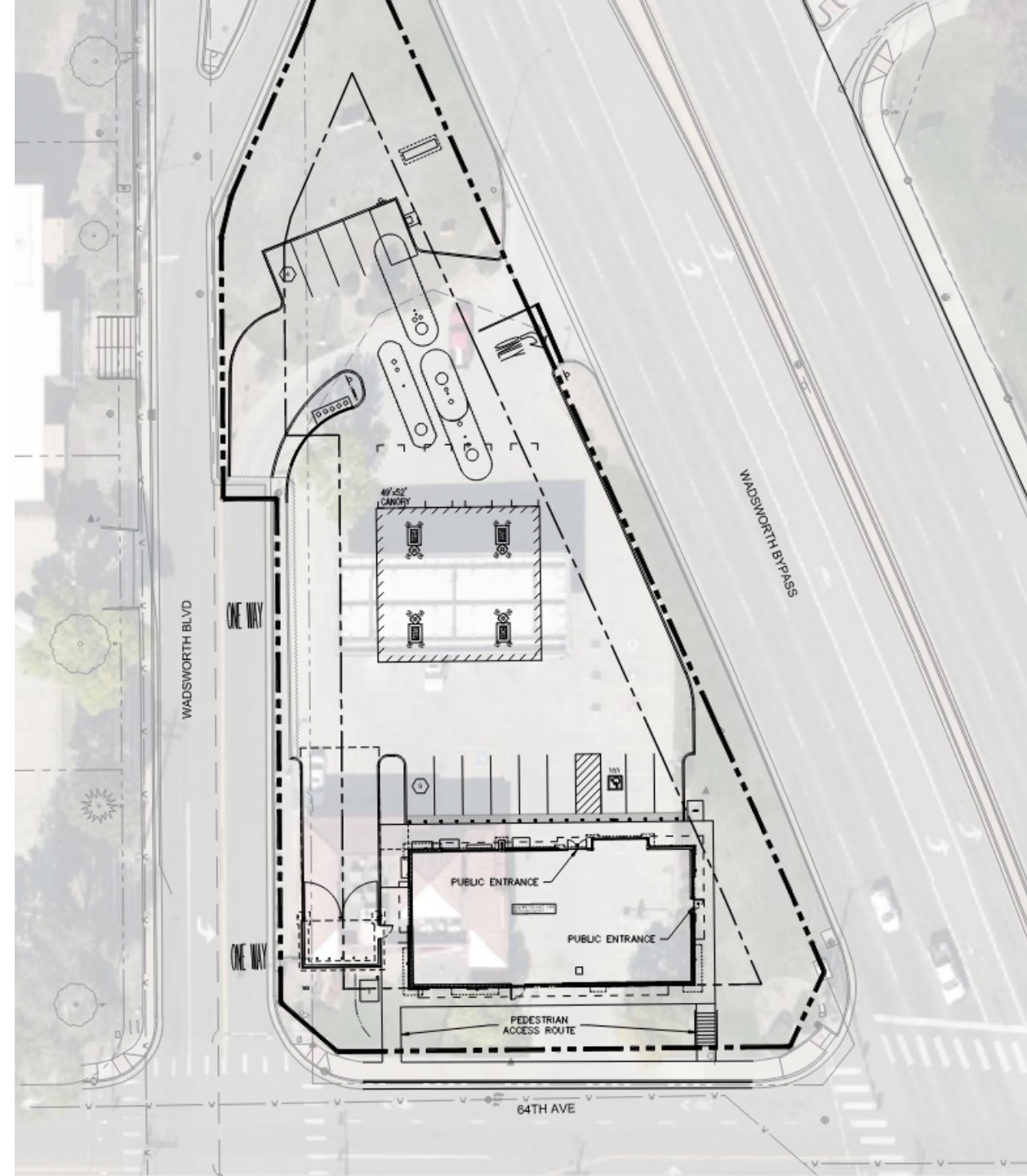
major modifications

- 40-ft fuel canopy & air machine setback
 - LDC Section: 3-1-3-8(A)(3)(i) - Fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment, shall be set back a minimum of 40 feet from all street rights-of-way and from all property lines abutting a residential zoning district or a parcel containing residential uses.



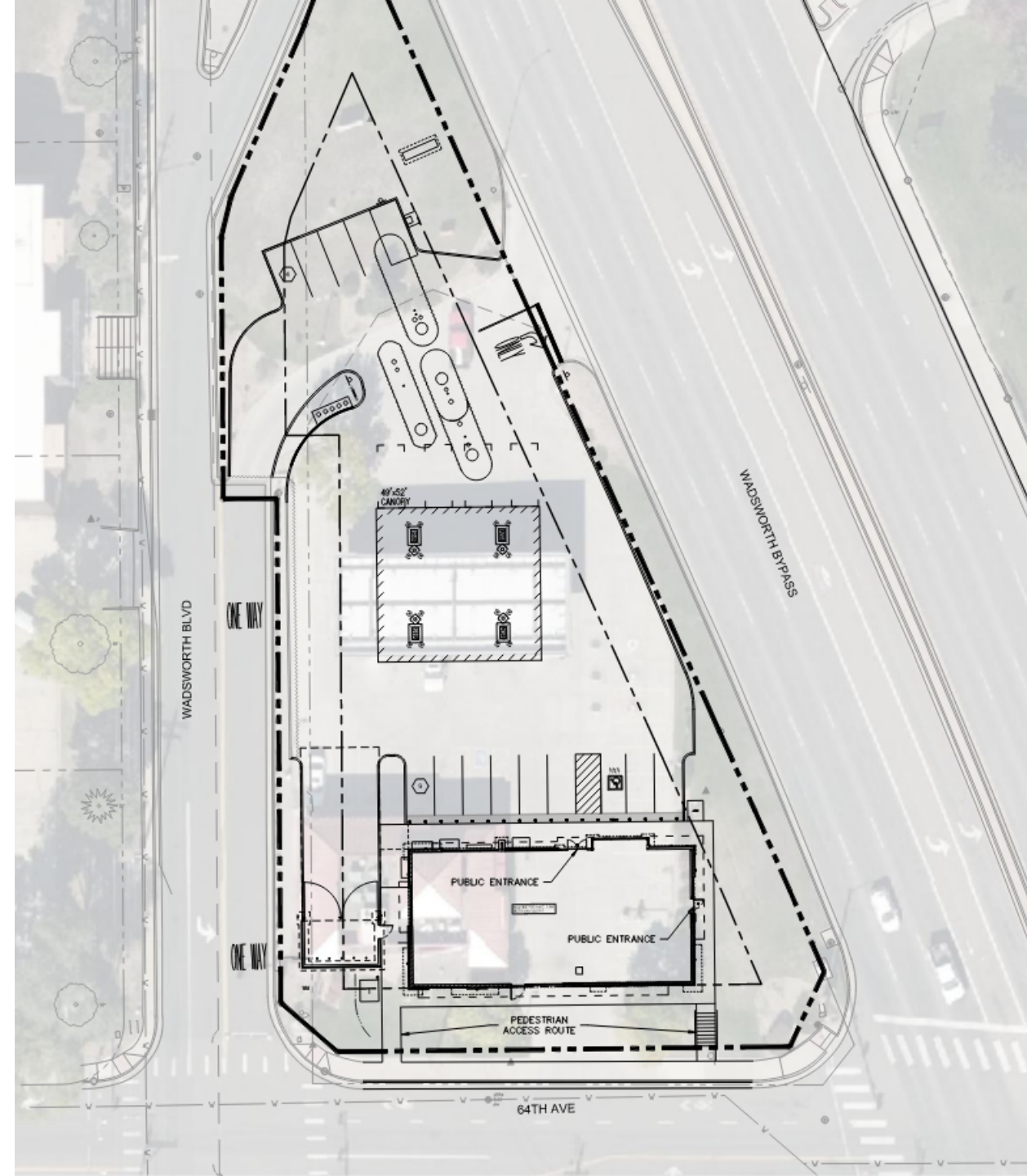
major modifications

- building/canopy configuration
 - LDC Section: 4-3-3-4 (F-2) - In the MX-U zoning district, the retail building or convenience kiosk associated with the fueling station shall meet the Frontage Zone requirements, per Table 2-1-4-3A, except that the building or kiosk shall only be required to meet 50 percent of the Frontage Zone requirement. The pump canopy shall be located behind or to the side of the building or kiosk.



major modifications

- building entry orientation
 - Structures shall be arranged so that the primary facade, or each facade with a main pedestrian entry, orients onto a public or private street, a public park, open space or common green, plaza, courtyard, private street-like drive, or a pedestrian passage, in the following order of priority:
 - A public or private street;
 - A public park, open space, or common green;
 - A plaza or courtyard; or
 - A pedestrian walkway.



major modification approval criteria

Per LDC Section: 8-3-11-4 (D), a major modification may be approved if the following criteria is met:

1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.
2. The requested modification addresses a unique situation or incorporates creative site design.
3. The requested modification will not result in incompatible development.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.

How we meet the criteria:

1. Proposed fuel station is in alignment with the existing zoning classification and application.
2. Due to the unusual shape and small size of the property, there is no configuration of the site that would meet these standards.
3. Proposed layout meets or improves upon the existing condition.
4. The proposed development is bringing the site into compliance with the current land development code thus positively impacts health, safety, and general welfare of the surrounding property owners and general public.
5. There are no anticipated adverse or negative impacts resulting from the proposed modifications.

next steps

- construction drawing review – ongoing
 - submittals and revisions between applicant and city staff
 - construction permits issued
- building plan review – after variances & major modifications are approved
 - submittals and revisions between applicant and city staff
 - building permits issued
- construction
 - 6-9 months

questions





REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.B.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.

Report in Brief

PRESENTER: Robert Smetana

Kum and Go represented by Olsson is requesting approval of Major Modifications to allow for the construction of a new fueling station and convenience store with a detached fuel pump canopy within the Mixed Use – Urban (MX-U) zone district.

This Major Modification is from Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.

The project includes a full redevelopment of the site including the demolition of the existing building and fuel pump canopy and the construction of a new 3,990 square-foot convenience store and a new fuel pump canopy.

The Arvada Team recommends that City Council approves the Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.

Financial Impact

There is no fiscal impact to the city.

Background

The subject property is located at 6401 Wadsworth Bypass and is currently occupied by a fueling station with a convenience store and fuel pumps (Jenny's Market) that was constructed in 1998. The property contains three street frontages (Wadsworth Bypass, Olde Wadsworth Boulevard and W. 64th Avenue), is triangular in shape and is approximately 0.88 acres in size.

Discussion

Div. 8-3-11 Major Modification Approval Criteria	Finding	Rationale
1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.	Complies	The modification requests are consistent with the Comprehensive Plan and the MX-U zone district by allowing redevelopment of an aging infill site to occur that is consistent with a mixed-use

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.

PAGE: 2
ITEM: 10.B.

2. The requested modification addresses a unique situation or incorporates creative site design.	Complies	character and provides services to the neighborhood. The modifications address a unique situation based on the constraints of the site having three street frontages while allowing the use to operate on the site in a manner that reduces its impact to the neighborhood.
3. The requested modification will not result in incompatible development.	Complies	The modifications will not result in incompatible development. The use already exists on the site and the proposal with the modifications will result in less non-conformities and will be more compatible than what exists today.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.	Complies	The modifications will not result in significant health, safety, or general welfare impacts.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.	Complies	The modifications requested are being mitigated to the extent reasonably feasible by locating the canopy in a location that will be least impactful to the pedestrian realm and by creating a better, direct, and more convenient pedestrian route to the main entrance of the building from the right-of-way.

Public Contact

The required neighborhood meeting for this project took place on September 23, 2022. The applicant, staff and approximately 4 neighbors(s) were in attendance.

Neighbors in attendance included both residential and commercial property owners. Questions asked primarily related to lighting, hours of operation, landscaping, and delivery truck schedules. The applicant prepared a summary of the meeting, which is attached.

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

Commission Recommendation

On February 7, 2023 the Planning Commission voted 6 to 0 (1 absent) to recommend it for approval to the City Council.

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.

PAGE: 3
ITEM: 10.B.

Strategic Alignment

The project is consistent with the City Council Strategic Plan principles for the Community and Economic Development work system.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends that the City Council Approve the Major Modification from the Land Development Code for Kum & Go #2299 To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets, in the City of Arvada, CO.

Suggested Motion:

I move that a Major Modification from the Land Development Code for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets, in the City of Arvada, CO, be (approved)(denied).

This motion is based on the findings of facts and any conditions, if applicable, adopted by Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:
Dixielee Rodriguez, Administrative Specialist

Reviewed by:

Approved by:

Jeremiah Bebo, Planner II	2/14/2023
Josie Suk, Development Systems and Administrative Manager	2/14/2023
Robert Smetana, Manager of City Planning and Development	2/14/2023
Ryan Stachelski, Director of Community and Economic Development	2/14/2023
Gail Walker, Legal Specialist-Contracts	2/14/2023
Emily Grogg, Senior Assistant City Attorney	2/14/2023
Rachel Morris, City Attorney	2/21/2023

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required 40-foot setback from all streets in LDC Subsection 3-1-3-8(A)(3)(i) which requires fuel pumps, fuel islands, and fueling canopies to be set back at least 40-feet from all streets.

PAGE: 4
ITEM: 10.B.

Linda Haley, Deputy City Manager

2/21/2023

Lorie Gillis, City Manager

2/23/2023

Enclosure, exhibits & attachments required to support the report



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.C.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

Report in Brief

PRESENTER: Robert Smetana

Kum and Go represented by Olsson is requesting approval of Major Modifications to allow for the construction of a new fueling station and convenience store with a detached fuel pump canopy within the Mixed Use – Urban (MX-U) zone district.

This Major Modification is from Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

The project includes a full redevelopment of the site including the demolition of the existing building and fuel pump canopy and the construction of a new 3,990 square-foot convenience store and a new fuel pump canopy.

The Arvada Team recommends that City Council approves the Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

Financial Impact

There is no fiscal impact to the city.

Background

The subject property is located at 6401 Wadsworth Bypass and is currently occupied by a fueling station with a convenience store and fuel pumps (Jenny's Market) that was constructed in 1998. The property contains three street frontages (Wadsworth Bypass, Olde Wadsworth Boulevard and W. 64th Avenue), is triangular in shape and is approximately 0.88 acres in size.

Discussion

Div. 8-3-11 Major Modification Approval Criteria	Finding	Rationale
1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.	Complies	The modification requests are consistent with the Comprehensive Plan and the MX-U zone district by allowing redevelopment of an aging infill site to occur that is consistent with a mixed-use

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

PAGE: 2
ITEM: 10.C.

2. The requested modification addresses a unique situation or incorporates creative site design.	Complies	character and provides services to the neighborhood. The modifications address a unique situation based on the constraints of the site having three street frontages while allowing the use to operate on the site in a manner that reduces its impact to the neighborhood.
3. The requested modification will not result in incompatible development.	Complies	The modifications will not result in incompatible development. The use already exists on the site and the proposal with the modifications will result in less non-conformities and will be more compatible than what exists today.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.	Complies	The modifications will not result in significant health, safety, or general welfare impacts.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.	Complies	The modifications requested are being mitigated to the extent reasonably feasible by locating the canopy in a location that will be least impactful to the pedestrian realm and by creating a better, direct, and more convenient pedestrian route to the main entrance of the building from the right-of-way.

Public Contact

The required neighborhood meeting for this project took place on September 23, 2022. The applicant, staff and approximately 4 neighbor(s) were in attendance.

Neighbors in attendance included both residential and commercial property owners. Questions asked primarily related to lighting, hours of operation, landscaping, and delivery truck schedules. The applicant prepared a summary of the meeting, which is attached.

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

Commission Recommendation

On February 7, 2023 the Planning Commission voted 6 to 0 (1 absent) to recommend it for approval to the City Council.

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

PAGE: 3
ITEM: 10.C.

Strategic Alignment

The project is consistent with the City Council Strategic Plan principles for the Community and Economic Development work system.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends that the City Council Approve the Major Modification from the Land Development Code for Kum & Go #2299 To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district, generally located at 6401 Wadsworth Bypass, in the City of Arvada, CO.

Suggested Motion:

I move that a Major Modification from the Land Development Code for Kum & Go #2299 To construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district, generally located at 6401 Wadsworth Bypass, in the City of Arvada, CO be (approved)(denied).

This motion is based on the findings of fact and any conditions, if applicable adopted by Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:
Dixielee Rodriguez, Administrative Specialist

Reviewed by:

Approved by:

Jeremiah Bebo, Planner II	2/14/2023
Josie Suk, Development Systems and Administrative Manager	2/14/2023
Robert Smetana, Manager of City Planning and Development	2/15/2023
Ryan Stachelski, Director of Community and Economic Development	2/16/2023
Gail Walker, Legal Specialist-Contracts	2/16/2023
Emily Grogg, Senior Assistant City Attorney	2/17/2023
Rachel Morris, City Attorney	2/21/2023

SUBJECT: Major Modification for Kum & Go #2299 to construct a new fueling station and convenience store with a detached fuel pump canopy where the fueling canopy does not adhere to the required site design standard of LDC Subsection 4-3-3-4(F)(2) which requires the fuel pump canopy to be located behind or to the side of a building in the MX-U zone district.

PAGE: 4
ITEM: 10.C.

Linda Haley, Deputy City Manager

2/21/2023

Lorie Gillis, City Manager

2/22/2023

Enclosure, exhibits & attachments required to support the report



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.D.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Conditional Use for Marshall Pointe to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district.

Report in Brief

PRESENTER: Robert Smetana

Norris Design, on behalf of Lincoln Avenue Capital (LAC), is requesting approval of a Conditional Use and a Major Modification to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district. The applicant has stated that the project will be funded through an issuance of Tax-Exempt Bonds from the Colorado Housing and Finance Authority (CHFA) along with an equity investment from a low income housing tax credit (LIHTC) investor. Additionally, the Colorado Department of Local Affairs (DOLA) is providing a \$5,000,000 soft loan through their Operation Turn-Key (OTK) program to assist in the acquisition of the land.

The proposed multifamily development will contain 260 units in one four-story building on the 4.36 acre site. Of the 260 units, 149 are planned to be one-bedroom units, 84 are planned to be two-bedroom units, and the remaining 27 units will be three-bedroom units. The applicant anticipates that rents will be restricted to between 30 and 60 percent of the area median income (AMI).

The Arvada Team recommends that City Council approves Conditional Use for Marshall Pointe DA2022-0070 to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district.

Financial Impact

There is no fiscal impact to the city.

Background

The subject property consists of two parcels located at the southeast corner of W 52nd Avenue and Marshall Street, also known as 5190 Marshall Street. Currently, there is a single-family detached structure, numerous accessory buildings, and a variety of outdoor storage on the property. According to Jefferson County Assessor's records, most of the buildings on site were built between 1957 and 1960. The property was annexed into the City of Arvada in 2016 as the Spano Corner Annexation. With annexation, the property was zoned CC-A (Clear Creek Zoning District – Industrial and Commercial Sub-District). The current MX-S zoning was adopted in May of 2020 as part of the remapping associated with the adoption of the Land Development Code (LDC). In March of 2021, a Conditional Use for a five-story, 275-unit, affordable multifamily building was approved by City Council (Case No. DA2020-0077).

Discussion

8-3-5-1 Conditional Use Permit Approval Criteria	Finding	Rationale
(5-18-20)		

1. The application complies with the applicable standards of this LDC, other adopted City ordinances, resolutions and regulations including but not limited to any use-specific standards for the proposed conditional use in Division 3-1-3, any approved Master Development Plan that includes the property, and any conditions specifically applied to development of the property by the Planning Commission or City Council in a prior decision affecting the property;	Complies	The proposed use complies with all of the requirements of the LDC other than the requested Major Modification.
2. The application is consistent with the Arvada Comprehensive Plan;	Complies	The proposed use is consistent with numerous Comprehensive Plan goals.
3. The use is consistent with the purpose and intent of the zoning district in which it is located;	Complies	The proposed use is consistent with the purpose of the MX-S zone district, which allows for a variety of residential and nonresidential uses, in a mixed-use or single-use configuration. The project, as planned, will comply with all of the dimensional and development standards of the zoning district.
4. The size, scale, height, density, multi-modal traffic impacts, hours of operation and other similar characteristics of the proposed use are comparable with existing and planned uses in the surrounding area;	Complies	The size, scale, height, density, and traffic impacts are consistent with the planned uses in the surrounding area. The land on the west side of Marshall St. has a Comprehensive Plan Future Land Use designation of Mixed-Use and is zoned MX-U which allows for mixed-use buildings up to 65 feet in height. This project would act as a transition between the more intensive development and taller maximum building heights allowed in the MX-U zone district to the west. It is also consistent with the planned uses on the west side of Marshall St. north of W 52 nd Ave. which is also zoned MX-S. Much of the surrounding area to the north and west is zoned IL (Light Industrial) or IG (Heavy Industrial) and include industrial uses in large industrial buildings, many of which are two stories in height, but allowed to heights of between 40 and 45 feet, depending on the zoning district, if redeveloped in the future. While the proposed building is taller than the other existing buildings in the area, it complies with the maximum height allowed within the MX-S zone district with the height bonus for LIHTCs. In addition, as explained above, the site layout substantially exceeds the height transition requirement. For these reasons, staff finds that the proposed conditional use is comparable with existing and planned uses in the surrounding area.
5. Facilities and services including sewer, water, storm water, gas, electricity, police and fire protection, and roads and transportation will, prior to or as part of the development, be available to serve the subject property while maintaining adequate levels of service for existing development; and	Complies	All facilities and services are available to this site. The proposed use will not have an adverse impact on facilities or services.

6. The application mitigates any adverse impacts on the surrounding area to the degree practicable.

Complies

The proposed four-story building is located 78 feet from the east property line and 76 feet from the south property line. This combined with the landscape bufferyards along the eastern and southern property lines results in an application that mitigates adverse impacts on the surrounding area to the degree practicable.

Public Contact

The required neighborhood meeting for this project took place on September 21, 2022. The applicant's team, staff, and six members of the public were in attendance.

A range of topics were raised by attendees during the meeting. These included: concern over traffic impacts and questions about the potential future roundabout; concerns about solar access, especially during the winter months; a desire to see additional sidewalks in the area; questions about how the project will be funded; positive comments regarding the aesthetics of the building; and questions regarding the construction timeline. The applicant prepared a summary of the meeting, which is attached to the staff report.

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

Commission Recommendation

On February 7, 2023 the Planning Commission voted 6 to 0 (1 absent) to recommend it for approval to the City Council.

Strategic Alignment

This project aligns with the Community and Economic Development strategic goals.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends that the City Council Approve the Conditional Use for Marshall Pointe to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district a 4.36 - acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave, in the City of Arvada, CO.

Suggested Motion:

I move that the Conditional Use for Marshall Pointe to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district, a 4.36 - acre parcel of land approximately located

at the southeast corner of Marshall St and W 52nd Ave., in the City of Arvada, CO, be (approved) (rejected).

This motion is based on the findings of fact and any conditions, if applicable, adopted by Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:
Dixielee Rodriguez, Administrative Specialist

Reviewed by:

Approved by:

Jacob Nitchals, Senior Planner	2/14/2023
Josie Suk, Development Systems and Administrative Manager	2/15/2023
Robert Smetana, Manager of City Planning and Development	2/15/2023
Ryan Stachelski, Director of Community and Economic Development	2/16/2023
Gail Walker, Legal Specialist-Contracts	2/16/2023
Emily Grogg, Senior Assistant City Attorney	2/17/2023
Rachel Morris, City Attorney	2/21/2023
Linda Haley, Deputy City Manager	2/21/2023
Lorie Gillis, City Manager	2/22/2023

Enclosure, exhibits & attachments required to support the report



CED Boards and Commission <cedboardsandcommission@arvada.org>

5190 Marshall St. DA2022-0070

1 message

Mike Starnes

Fri, Jan 20, 2023 at 1:38 PM

To: "cedboardsandcommission@arvada.org" <cedboardsandcommission@arvada.org>

Marshall Pointe Apartments Southeast corner of 52nd Ave and Marshall St

I understand the need for affordable multi family housing.

What I do not want is 260 units without a small Urban Park.

I live at [6785 W 52nd Ave, Arvada, CO 80002](#) , for 38 years.

That's 4 houses from that corner.

Have them give up a few units and and DENY their request for MAJOR MODIFICATION!

There needs to be a SMALL URBAN PARK !

Don't ruin our small part of Arvada

I would come to the Feb 7 public hearing, however I will be out of town at that time.

I vote NO

Mike Starnes

[6785 W 52nd Ave](#)

[Arvada Co 80002](#)



CED Boards and Commission <cedboardsandcommission@arvada.org>

Marshall Pointe Apartments DA2022-0070

1 message

Mary Starn [REDACTED]

Fri, Jan 20, 2023 at 1:51 PM

To: CEDBOARDSANDECOMMISSION@arvada.org

To Whom It May Concern:

As a 38 year resident of Arvada Columbine, I am very concerned about our local park being overrun if a variance for no park is allowed on this project.

In addition I am concerned about the traffic issues on Harlan/Lamar/ Marshall. It is a small pot filled road and that's a lot more daily traffic?

I will be out of town in February or I would attend the meeting. Please at least make them have their own park

Mary Starnes
6785 W52nd Ave



Sent from my iPad

City of Arvada
Community and Economic Development Department
PUBLIC HEARING STAFF REPORT

Marshall Pointe
Conditional Use and Major Modification
DA2022-0070

NATURE OF REQUEST

Norris Design, on behalf of Lincoln Avenue Capital (LAC), is requesting approval of a Conditional Use and a Major Modification to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district. The applicant has stated that the project will be funded through an issuance of Tax-Exempt Bonds from the Colorado Housing and Finance Authority (CHFA) along with an equity investment from a low income housing tax credit (LIHTC) investor. Additionally, Colorado Department of Local Affairs (DOLA) is providing a \$5,000,000 soft loan through their Operation Turn-Key (OTK) program to assist in the acquisition of the land.

The proposed multifamily development would contain 260 units in one four-story building on the 4.36 acre site. Of the 260 units, 149 are planned to be one-bedroom units, 84 are planned to be two-bedroom units, and the remaining 27 units will be three-bedroom units. The applicant anticipates that rents will be restricted between 30 and 60 percent of the area median income (AMI).

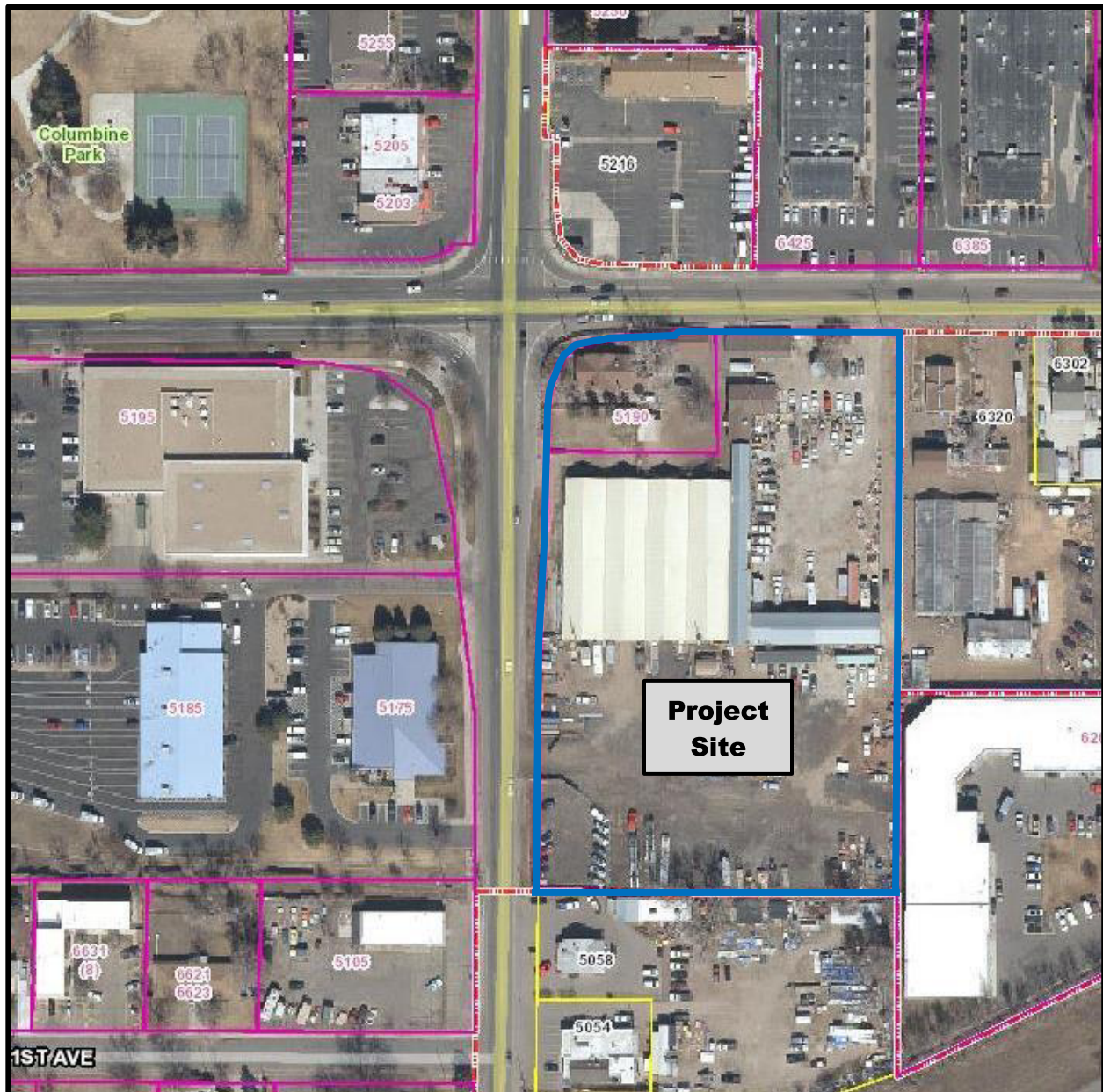
LOCATION AND HISTORY

The subject property consists of two parcels located at the southeast corner of W 52nd Avenue and Marshall Street, also known as 5190 Marshall Street. Currently, there is a single-family detached structure, numerous accessory buildings, and a variety of outdoor storage on the property. According to Jefferson County Assessor records, most of the buildings on site were built between 1957 and 1960.

The property was annexed into the City of Arvada in 2016 as the Spano Corner Annexation. With annexation, the property was zoned CC-A (Clear Creek Zoning District – Industrial and Commercial Sub-District). The current MX-S zoning was adopted in May of 2020 as part of the remapping associated with the adoption of the Land Development Code (LDC).

In March of 2021, a Conditional Use for a five-story, 275-unit, affordable multifamily building was approved by City Council (Case No. DA2020-0077).

Vicinity Map



NEIGHBORHOOD MEETING

Division 8-2-2 of the Land Development Code requires that at least one neighborhood meeting be held for projects that require public hearings before the Planning Commission and City Council.

The required neighborhood meeting for this project took place on September 21, 2022. The applicant's team, staff, and six members of the public were in attendance.

A range of topics were raised by attendees during the meeting. These included: concern over traffic impacts and questions about the potential future roundabout; concerns about solar access, especially during the winter months; a desire to see additional sidewalks in the area; questions about how the project will be funded; positive comments regarding the aesthetics of the building; and questions regarding the construction timeline.

The applicant prepared a summary of the meeting, which is attached.

PUBLIC NOTIFICATION

Division 8-2-4 of the Land Development Code requires public notification for all public hearings as follows:

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

SEVERED MINERAL RIGHTS

At least 30 days prior to the public hearing, written notice of the application must be mailed to any owner of mineral rights associated with the subject property. The applicant has provided the required Certification of Notice pursuant to Colorado Revised Statute 24-65.5-103.

DEVELOPMENT REVIEW TIMELINE

The application was accepted by the City for review on August 15, 2022. The standard review timeline allows for three reviews within a 20 week timeframe to reach a Planning Commission public hearing. This project required two reviews and will be presented to Planning Commission within 26 weeks of acceptance of the application.

ALIGNMENT WITH CITY COUNCIL STRATEGIC PLAN

This project aligns with the Community and Economic Development strategic goals.

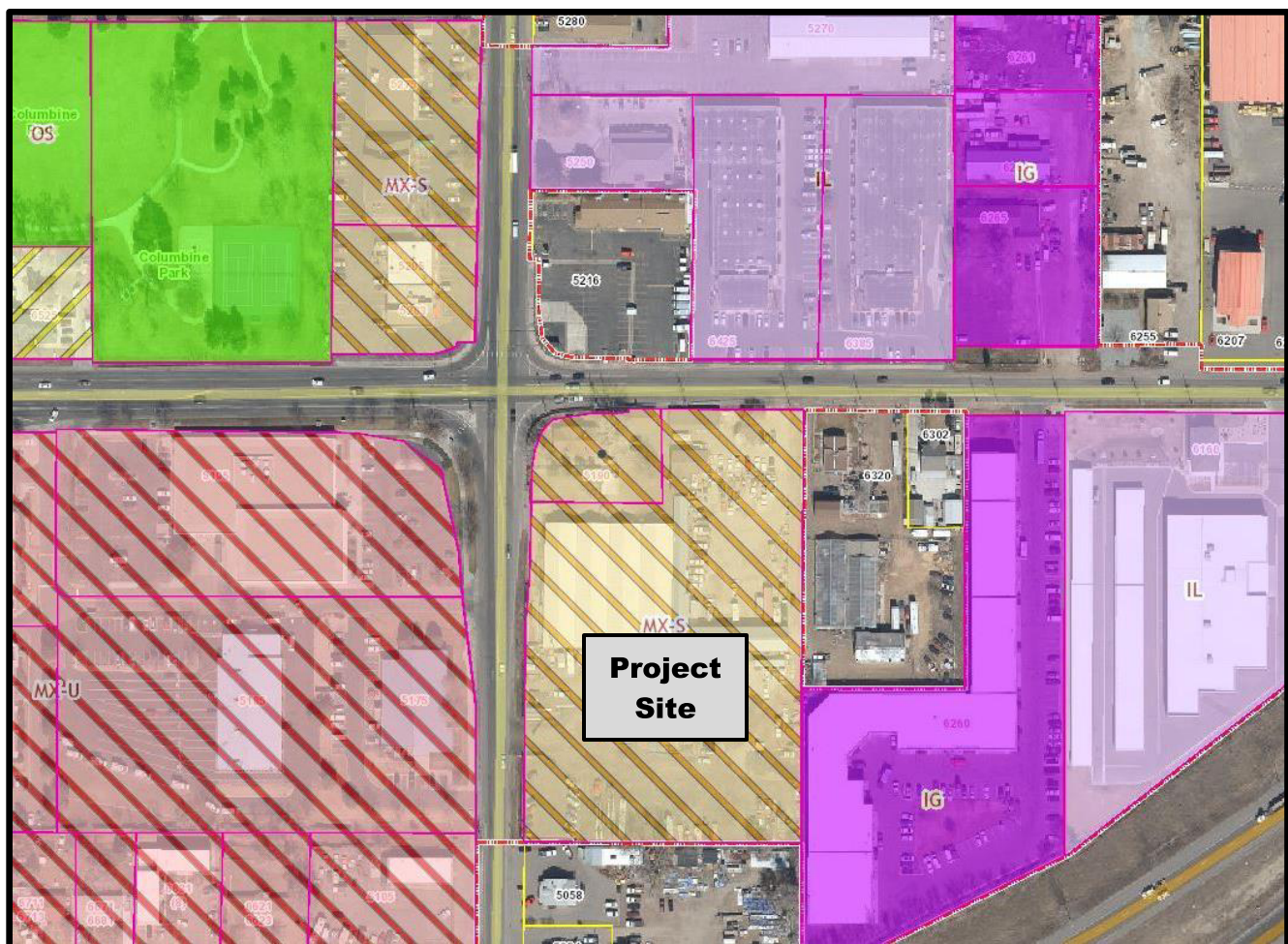
ZONING AND LAND USE

The subject property is currently zoned MX-S and is 4.36 acres in size.

Surrounding properties are zoned and utilized as follows:

Direction	Zoning	Actual Use
North	IL (Light Industrial) and Jefferson County C-1 (Commercial One)	Office & Light Industrial and Retail & Vehicle & Equipment Rental (U-Haul)
South	Split Zoned Parcel: Jefferson County C-1 & R-2 (Residential-Two)	Restaurant and unknown storage yard
East	Split Zoned Parcel: Jefferson County R-2 and A-1 (Agricultural-One)	Single-Family Residential
West	MX-U (Mixed-Use Urban)	Light Industrial & Office (Vehicle Emission Testing Facility & Corporate Office) Warehouse & Office (Complete Business Systems)

Zoning – City of Arvada



Zoning – Jefferson County



MAJOR MODIFICATION REQUESTED

The Applicant is requesting a Major Modification to waive the requirement in table 2-1-4-2(A) of the LDC that requires at least 10 percent of the net parcel area be developed as a Small Urban Park. Small Urban Parks are privately owned and maintained areas that are intended to provide publically accessible park space. The applicant is requesting to reduce the required area of Small Urban Park from 10 percent to 5.1 percent. In terms of area, this request would reduce the Small Urban Park requirement from 18,419 square feet to 9,452 square feet.

In their request for the Major Modification, the applicant included the following rationale:

“The community is being designed with two internal courtyards at a total of 20,029 square feet. The courtyards are planned to provide many park amenities that will be available to the residents. The north courtyard is designed to include a flex lawn space, outdoor seating, cut flower garden, hammock grove, and a bocce court. The south courtyard is designed to include a turf playground hill, natural playground, climbing /

movie wall, outdoor seating, covered outdoor dining area with grills, and a discovery path.

LAC and the design team are excited to provide this wide array of amenities for the residents of this community. The outdoor theme is centered on a message of "Looking Up". Many residents will be greatly improving their housing situation and we want to provide them with reasons to feel optimistic and hopeful about the trajectory of their life. Additionally, approximately 9,452 square feet (5.1 % of the site) of street frontage, outside of the ROW, is planned for pedestrian walks, plaza space and enhanced seating and landscape areas. This plaza space is designed to meet the Small Urban Parks requirements.

It is our preference to retain the interior courtyards to be enjoyed by the residents and not the general public. Opening these courtyards to the public poses a myriad of challenges both from a maintenance and operation standpoint. Staff would need to be on hand to check the public in and out of the courtyard areas since they are accessed from the interior of the building. Approximately 600 residents will reside at Marshall Pointe. Providing outdoor amenity space for those residents is a priority. Opening the courtyards to the public may crowd those internal spaces which would result in a loss of the outdoor respite created specifically for the Marshall Pointe residents.

While Marshall Pointe will be introducing approximately 600 new residents, the community will include a total of 29,481 sf (0.68 ac) of outdoor amenity area which includes the public plaza area along Marshall St. and 52nd Street (9,452 sf/5.1%) and the two interior, private courtyards (20,029 / 10.9%) which equates to 16% of the site being designed for outdoor amenity space. In total, the amenities being considered for the residents, both in the interior courtyards and in the urban plazas along Marshall Rd. and 52nd Ave., are estimated to cost approximately \$1.56M

Thus, we request a Major Modification to the Small Urban Parks requirement to allow for approximately 5.1% of the site to be counted towards this requirement public plaza space. To meet the full requirements for Small Urban Parks on site would result in the loss of 15 affordable residential units (~22 residents). Providing the most affordable housing units provides the greatest benefit to the City and its residents over the long-term; by way of example, just one affordable unit with an estimate monthly savings of rent of \$500 from market rents will yield \$180,000 of housing cost savings to a single Arvada household over 30 years."

Per the LDC, Small Urban Parks are allowed to be credited toward fees-in-lieu of park land dedication. Therefore, if granted, the Major Modification will result in a larger fee-in-lieu of park land dedication given that the cost of a 9,452 square-foot Small Urban Park costs less than an 18,419 square-foot Small Urban Park.

For the reasons stated in their request for a Major Modification, Staff recommends that the Major Modification be approved.

PROJECT ANALYSIS

Compliance with the Comprehensive Plan

The project site is within an area designated as Clear Creek on the 2014 Comprehensive Plan Future Land Use map. The proposed Conditional Use is consistent with the following Comprehensive Plan Goals:

- Goal L-5: Designate and promote redevelopment and infill to generate economic revitalization, improve physical conditions, and provide and appropriate mix of quality housing choices.
- Goal N-1: Plan for a range of neighborhoods and accessible housing of different tenure types to accommodate diverse incomes and all ages and abilities.
- Goal N-2: Encourage development of workforce or assisted housing throughout Arvada.

Setbacks

The MX-S zone district requires that urban multifamily buildings be located within a 10 to 35-foot wide frontage zone adjacent to public streets. Since this is a corner lot, both of non-street frontage property lines are considered side lot lines. The side setback is 10 feet.

Although setbacks will be reviewed as part of a Site Plan application, should the Conditional Use be granted, the conceptual plan included as part of this application indicates that the building will comply with this frontage zone requirement, as well as the side setback.

Building Height

The maximum building height allowed in the MX-S zone district on this property is 45 feet.

Although final building height will be reviewed as part of a Site Plan application, should the Conditional Use be granted, the conceptual elevations depict compliance with the 45-foot maximum building height.

Small Urban Park

As stated above, the applicant is requesting to reduce the required area of land designated as a Small Urban Park from 10 percent to 5.1 percent. For the reasons stated above, Staff recommends approval of this request.

Landscaping, Buffering and Fencing

Specific details of the landscape plan will be reviewed as part of any future Site Plan application; however, the conceptual plan indicates that all applicable landscaping standards will be complied with.

Building Design

The conceptual plan shows a building with a modern architectural theme, with a variety of exterior materials being utilized. Some of the proposed materials identified include synthetic wood, a variety of cementitious siding, and ground-face concrete masonry units.

Circulation and Connectivity

There are two points of vehicular access proposed, one off of Marshall Street at the southern edge off the property and the other off W 52nd Ave. at the eastern edge of the property. Fire and emergency access is provided between the two points of access.

With the development, sidewalks will be constructed along Marshall St. and W 52nd Avenue.

Grading and Drainage

Stormwater will be conveyed to an underground detention and water quality system.

Parking and Loading

The majority of the parking will be in a parking garage located in the center of the building. The remaining parking will be provided in surface lots along the south and east of the building. Per Division 4-5-2 of the LDC, an affordable multifamily project such as this is required to provide 1.4 parking spaces for each studio or one bedroom unit, two spaces for each two bedroom or larger unit, and two loading spaces. Compliance with the LDC will be reviewed as with the Site Plan application.

Utility Services

This site is served by City of Arvada water. Clear Creek Valley Water and Sanitation District provides sanitary service.

Police and Fire Protection

Police and fire protection is available for this project.

LAND DEVELOPMENT CODE APPROVAL CRITERIA

It is the responsibility of the applicant to justify the requested land use application. The Planning Commission should make a recommendation to the City Council based on its findings regarding the approval criteria shown in the table(s) below and upon testimony heard during the public hearing as it applied to the criteria.

Staff performed an analysis of the proposal, based on the approval criteria listed in Section 8 of the Land Development Code, and presents the following findings:

8-3-5-1 Conditional Use Permit Approval Criteria (5-18-20)	Finding	Rationale
1. The application complies with the applicable standards of this LDC, other adopted City ordinances, resolutions and regulations including but not limited to any use-specific standards for the proposed conditional use in Division 3-1-3, any approved Master Development Plan that includes the property, and any conditions specifically applied to development of the property by the Planning Commission or City Council in a prior decision affecting the property;	Complies	The proposed use complies with all of the requirements of the LDC other than the requested Major Modification.
2. The application is consistent with the Arvada Comprehensive Plan;	Complies	The proposed use is consistent with numerous Comprehensive Plan goals.

3. The use is consistent with the purpose and intent of the zoning district in which it is located;	Complies	The proposed use is consistent with the purpose of the MX-S zone district, which allows for a variety of residential and nonresidential uses, in a mixed-use or single-use configuration. The project, as planned, will comply with all of the dimensional and development standards of the zoning district.
4. The size, scale, height, density, multi-modal traffic impacts, hours of operation and other similar characteristics of the proposed use are comparable with existing and planned uses in the surrounding area;	Complies	The size, scale, height, density, and traffic impacts are consistent with the planned uses in the surrounding area. The land on the west side of Marshall St. has a Comprehensive Plan Future Land Use designation of Mixed-Use and is zoned MX-U which allows for mixed-use buildings up to 65 feet in height. This project would act as a transition between the more intensive development and taller maximum building heights allowed in the MX-U zone district to the west. It is also consistent with the planned uses on the west side of Marshall St. north of W 52nd Ave. which is also zoned MX-S. Much of the surrounding area to the north and west is zoned IL (Light Industrial) or IG (Heavy Industrial) and include industrial uses in large industrial buildings, many of which are two stories in height, but allowed to heights of between 40 and 45 feet, depending on the zoning district, if redeveloped in the future. While the proposed building is taller than the other existing buildings in the area, it complies with the maximum height allowed within the MX-S zone district with the height bonus for LIHTCs. In addition, as explained above, the site layout substantially exceeds the height transition requirement. For these reasons, staff finds that the proposed conditional use is comparable with existing and planned uses in the surrounding area.

5. Facilities and services including sewer, water, storm water, gas, electricity, police and fire protection, and roads and transportation will, prior to or as part of the development, be available to serve the subject property while maintaining adequate levels of service for existing development; and	Complies	All facilities and services are available to this site. The proposed use will not have an adverse impact on facilities or services.
6. The application mitigates any adverse impacts on the surrounding area to the degree practicable.	Complies	The proposed four-story building is located 78 feet from the east property line and 76 feet from the south property line. This combined with the landscape bufferyards along the eastern and southern property lines results in an application that mitigates adverse impacts on the surrounding area to the degree practicable.

Div. 8-3-11 Major Modification Approval Criteria	Finding	Rationale
1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.	Complies	The requested modification allows the Marshall Pointe project to be approved as proposed. The Marshall Pointe project is consistent with numerous Comprehensive Plan goals and the MX-S zone district.
2. The requested modification addresses a unique situation or incorporates creative site design.	Complies	The Marshall Pointe project is a unique project in that it is a truly affordable project that provides units for those making between 30 and 60 percent of AMI. The requested modification allows the project to move forward with approximately 15 additional units, while also providing the residents with two amenitized courtyards that exceed code requirements.
3. The requested modification will not result in incompatible development.	Complies	The proposed modification only eliminates a portion of the Small Urban Park, a feature that has only recently been included in the LDC and is not currently found in the area.

4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.	Complies	The proposed modification only eliminates a portion of the Small Urban Park and therefore, will have no impact of the health, safety or welfare of the community or surrounding properties.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.	Complies	The elimination of a portion of the Small Urban Park will not result in adverse impacts.

STAFF RECOMMENDATION

Based upon project analysis and review of the Land Development Code approval criteria, staff recommends approval of the Conditional Use.

The Planning Commission may recommend denial of the request(s) if it cannot make affirmative findings of the approval criteria stated above.

Marshall Pointe Neighborhood Meeting Residents Comments/Concerns

9/21/22

1. Concern about the potential roundabout being built in the area (Evelyn).
2. Comment about traffic/population increase and pool/water issues and conservation (Beverly E.).
3. Positive comments about the aesthetics of the proposed development (Evelyn).
4. Concern regarding Northern portion of the property and shading/winter weather conditions (neighbor owns property east of proposed development) (Evelyn).
5. Concern over sidewalks and whether or not they will be shoveled during colder months.
6. Residents want to see more than just one solar study board at next meeting (Evelyn).
7. Comment regarding AMI/whether or not there will be housing vouchers/subsidies for 30-60% (Scott).
8. Concern over affordability aspect and if someone comes in without a voucher there will need to be some sort of subsidy or on-site supporting services (Scott).
9. Winter solar study concern (Pauline).
10. Comment regarding the construction timeline for project (Evelyn).
11. Comments regarding the mailing notification radius – 2 residents did not receive a notification in the mail (Beverly).



Jacob Nitchals <jnitchals@arvada.org>

Marshall Point Apartments

Amanda Centre [REDACTED]

To: jnitchals@arvada.org

Sat, Jan 21, 2023 at 6:14 PM

To who this may concern,

I'm not in support of allowing this project to eliminate the required urban park for the reasons below: Columbine park is already busy and overcrowded at peak times, the Arvada area needs more green space, green space is proven to help with mental health (a current crisis in our state), it increases the value and appeal of the area, provides refuge for wildlife and pollinators, helps with climate change and managing pollution, and lowers the temperatures of the area around them!

Lastly the foot and car traffic in the area is already out of control! Making residents of the apartments walk or drive into another neighborhood doesn't make any sense and burdens the residents that already live there. Please do not allow their urban park requirements to be eliminated!

Thank you,

MARSHALL POINTE CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO:

SHEET 1 OF 18

LEGAL DESCRIPTION

PARCEL 1:

A TRACT OF LAND IN THE NW 1/4 OF THE SW 1/4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 25 FEET SOUTH OF THE NORTHEAST CORNER OF SAID NW 1/4 OF THE SW 1/4 OF SECTION 13, THENCE SOUTH ALONG THE EAST LINE OF SAID NW 1/4 OF THE SW 1/4, 548.3 FEET; THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID NW 1/4 OF THE SW 1/4, 356.25 FEET TO A POINT ON THE EAST LINE OF MARSHALL STREET; THENCE NORTHERLY ALONG THE EAST LINE OF MARSHALL STREET, 548.33 FEET; THENCE EAST AND PARALLEL TO THE NORTH LINE OF SAID NW 1/4 OF THE SW 1/4, 350.00 FEET TO THE TRUE POINT OF BEGINNING, EXCEPTING THEREFROM A TRACT OF LAND IN THE NW 1/4 OF THE SW 1/4 OF SECTION 13, TOWNSHIP 3 SOUTH, RAGE 69 WEST OF THE 6 P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NW 1/4 OF THE SW 1/4 OF SECTION 13, THENCE SOUTH ALONG THE EAST LINE OF SAID NW 1/4 OF THE SW 1/4, 25 FEET; THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID NW 1/4 OF THE SW 1/4, 180.0 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH AND PARALLEL TO THE EAST LINE OF SAID NW 1/4 OF THE SW 1/4, 126.0 FEET; THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID NW 1/4 OF THE SW 1/4, 171.45 FEET TO A POINT ON THE EAST LINE OF MARSHALL STREET; THENCE NORTHERLY ALONG THE EAST LINE OF MARSHALL STREET, 126.0 FEET; THENCE EAST AND PARALLEL TO THE NORTH LINE OF SAID NW 1/4 OF THE SW 1/4, 170.0 FEET TO THE TRUE POINT OF BEGINNING AND EXCEPT THAT PORTION CONVEYED TO THE CITY OF ARVADA IN DEED RECORDED APRIL 18, 1985 UNDER RECEPTION NO. 85036218.

PARCEL 2

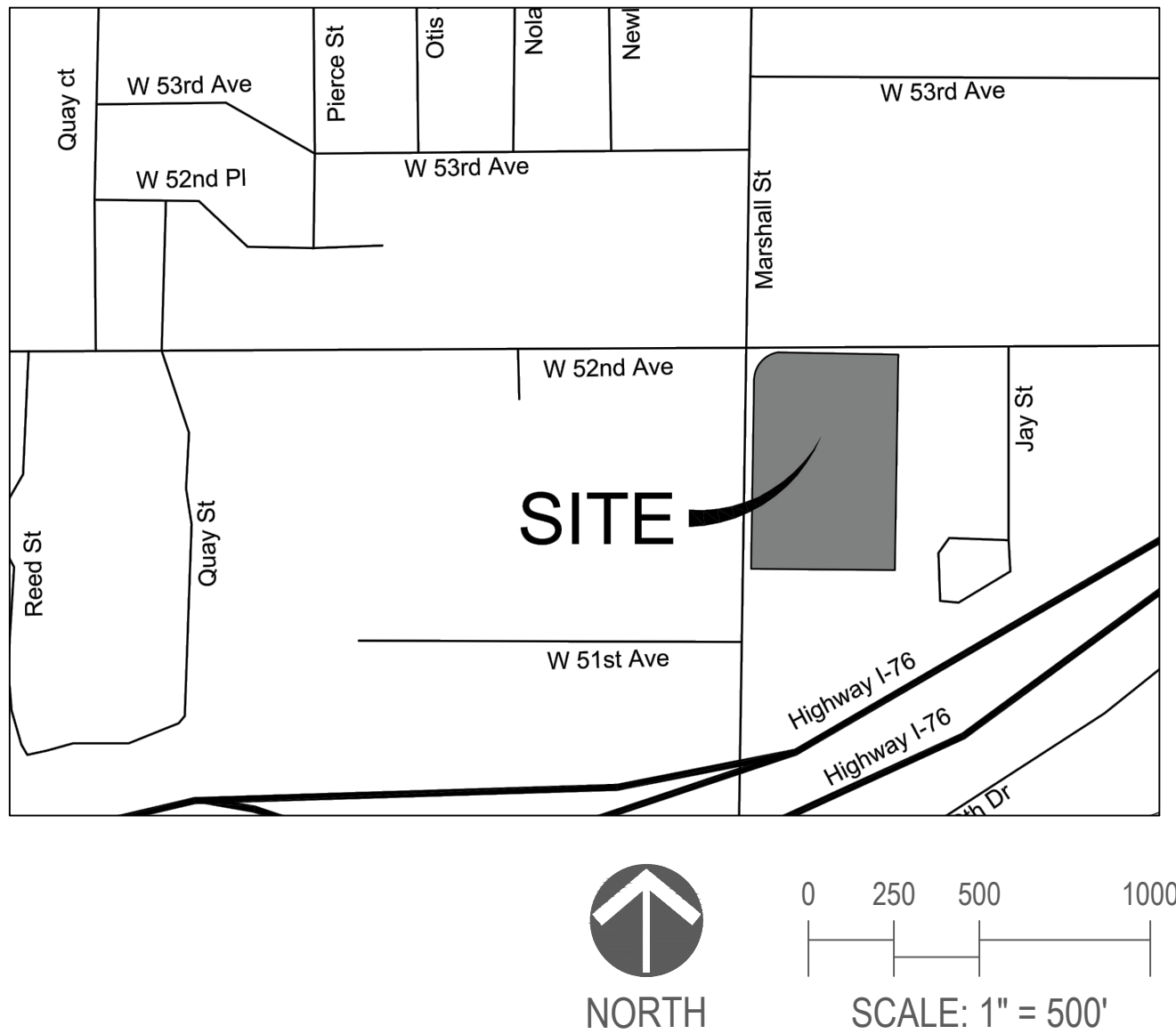
A TRACT OF LAND IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY JEFFERSON, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, THENCE SOUTH ALONG THE EAST LINE OF THE SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, 25 FEET, THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, 180.0 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH AND PARALLEL TO THE EAST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, 126.0 FEET; THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, 171.45 FEET TO A POINT ON THE EAST LINE OF MARSHALL STREET; THENCE NORTHERLY ALONG THE EAST LINE OF MARSHALL STREET, 126.0 FEET; THENCE EAST AND PARALLEL TO THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, 170.0 FEET TO THE TRUE POINT OF BEGINNING; EXCEPT THAT PORTION DESCRIBED IN DEED RECORDED APRIL 18, 1985 UNDER RECEPTION NO. 85036220, COUNTY OF JEFFERSON, STATE OF COLORADO.

PROJECT SUMMARY

A CONDITIONAL USE ("CU") FOR THE PROPOSED MARSHALL POINTE AFFORDABLE MULTI-FAMILY COMMUNITY. THE PROPERTY IS LOCATED AT THE CORNER OF WEST 52ND AVENUE AND MARSHALL STREET AND IS APPROXIMATELY 4.36-ACRES. APPROXIMATELY 5,000 SQUARE FEET IS PLANNED FOR ROW DEDICATION, RESULTING IN A NET SITE AREA OF 4.23 ACRES. THE PROJECT WILL BE A 100% AFFORDABLE COMMUNITY UTILIZING LIHTC FUNDING. ON-SITE AMENITIES FOR THE RESIDENTS WILL BE PROVIDED IN TWO INTERIOR COURTYARDS TOTALING APPROXIMATELY 20,029 SQUARE FEET. BOTH SURFACE AND STRUCTURED PARKING WILL BE PROVIDED.

VICINITY MAP



SHEET INDEX

1. COVER SHEET
2. SITE PLAN
3. OVERALL UTILITY PLAN
4. OVERALL GRADING PLAN
5. ILLUSTRATIVE SITE PLAN
6. SMALL URBAN PARKS EXHIBIT
7. ELEVATIONS
8. ELEVATIONS
9. ELEVATIONS
10. ELEVATIONS
11. ELEVATIONS
12. EXTERIOR VIEWS
13. EXTERIOR VIEWS
14. EXTERIOR VIEWS
15. MATERIAL BOARD
16. SOLAR STUDY
17. SOLAR STUDY
18. SOLAR STUDY

SITE DATA

SITE DEVELOPMENT INFORMATION		
ZONE DISTRICT	MIXED-USE SUBURBAN (MX-S)	
HOUSING PALLETTE LOT TYPE	MULTIFAMILY DEVELOPMENT	
TOTAL PROJECT AREA	4.36 AC / 189,992 SQ.FT.	
ROW DEDICATION	5,798 SQ.FT.	
NET PROJECT AREA	4.23 AC / 184,194 SQ.FT.	
DEVELOPMENT STANDARDS		
	REQUIREMENT	PROVIDED
LOT AREA	NO MIN	184,114 SF
LOT WIDTH	50'	340.83'
LOT COVERAGE	90% MAX	60%
LINEAR FOOTAGE OF FRONTAGE ZONE	166 LF (827' LF FRONTAGE ZONE)	677 LF (81%)
FRONT SETBACK	10' MIN	12.5'-17.4'
SIDE SETBACK (STREET)	10' MIN	13.95'-19.96'
SIDE SETBACK (INTERIOR)	10' MIN	72.2'-77.43'
REAR SETBACK	10' MIN	76.58'-82.01'
FRONT PARKING SETBACK	20' MIN	24.11'
SIDE PARKING SETBACK	20' MIN	24'
BUILDING STANDARDS		
HEIGHT ((MAX)STANDARDS)	45' (ADD. 15' WITH AFFORDABLE UNITS)	51'
HEIGHT TRANSITION ZONE DEPTH (MIN)	35'	EAST SIDE - 78' SOUTH SIDE - 76'
SITE STANDARDS		
LANDSCAPE SURFACE AREA	25%	43,730 SQ.FT. (24.0%)
SMALL URBAN PARK	10% OF NET PARCEL AREA	9,452 SQ.FT. (5.1%)
PARKING STANDARDS		
STANDARD SPACES	422	362 (124 SURFACE / 238 GARAGE)
ACCESSBLE SPACES	9 (WITH 2 VAN ACCESSIBLE)	3
ACCESSBLE VAN SPACE		2
TOTAL SPACES	431	367
BICYCLE SPACES	65	65 (13 LONG TERM)
LOADING SPACES	2	2
PROPOSED USE WITH GROSS FLOOR AREA		
RESIDENTIAL		241,130 SQ.FT.
PARKING GARAGE		100,300 SQ.FT.
BUILDING GFA		346,680 SQ.FT.
LEASING OFFICE		5,250 SQ.FT.
DWELLING UNITS		
1 BED/1 BATH (612 SQ.FT.)		149
2 BED/1 BATH (792 SQ.FT.)		20
2 BED/2 BATH (895 SQ.FT.)		41
2 BED/2 BATH (1,013 SQ.FT.)		23
3 BED/2 BATH (1,139 SQ.FT.)		12
3 BED/2 BATH (1,211 SQ.FT.)		11
3 BED/2 BATH (1,208 SQ.FT.)		4
TOTAL		260

PROJECT CONTACTS

OWNER:
BREW LAB, LLC
4433 W 29TH AVENUE
DENVER, CO 80212
PHONE: 720-935-9500
CONTACT: ILAN SALZBERG

DEVELOPER/APPLICANT:
LINCOLN AVENUE CAPITAL
401 WILSHIRE BOULEVARD
SUITE 1070
SANTA MONICA, CA 90401
CONTACT: BEN TAYLOR

PLANNER:
NORRIS DESIGN
1101 BANNOCK STREET
DENVER, COLORADO 80204
PHONE: 303-892-1166
CONTACT: KRISTIN DEAN

ARCHITECT:
KEPHART
2555 WALNUT STREET
DENVER, COLORADO 80205
PHONE: 303-832-4474
CONTACT: JESSE GARLAND

CIVIL ENGINEER:
HKS
1120 LINCOLN STREET, SUITE 100
DENVER, COLORADO 80203
PHONE: 303-623-6300
CONTACT: JOHN O'ROURKE

LANDSCAPE ARCHITECT:
NORRIS DESIGN
1101 BANNOCK STREET
DENVER, COLORADO 80204
PHONE: 303-892-1166
CONTACT: JARED CARLON

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO:

SHEET 2 OF 18

LEGEND:

EXISTING PROPERTY BOUNDARY	---
EXISTING FIRE HYDRANT	⊙
EXISTING ELECTRIC POLE	⊙
PROPOSED SANITARY SEWER W/ MANHOLE	⊙
PROPOSED FDC	⊙
PROPOSED FIRE HYDRANT	⊙
PROPOSED FENCE	---
PARKING COUNT	①
PROPOSED ADA ACCESSIBLE PATH	⋯
PROPOSED ENTRY DOOR	⊙
PROPOSED ACCESSIBLE PARKING/ENTRY	⊙

ABBREVIATIONS

BOP	BOTTOM OF PIPE
BS	BOTTOM OF STEP
BW	BOTTOM OF WALL (FG)
C	CENTERLINE
CONC	CONCRETE
DIA	DIAMETER
DIP	DUCTILE IRON PIPE
DR	DOOR
DS	DOWNSPOUT
E	EAST, EASTING
EGL	ENERGY GRADE LINE
EL	ELEVATION
EOA	EDGE OF ASPHALT
EOC	EDGE OF CONCRETE
EOP	EDGE OF PAVEMENT
ESMT	EASEMENT
EX	EXISTING
FES	FLARED END SECTION
FF	FINISHED FLOOR
FG	FINISHED GRADE
FH	FIRE HYDRANT
FL	FLOW LINE
GB	GRADE BREAK
GV	GATE VALVE
HERCP	HORIZONTAL ELLIPTICAL REINFORCED CONCRETE PIPE
HC	HANDICAP
HGL	HYDRAULIC GRADE LINE
HORZ	HORIZONTAL
HP	HIGH POINT
INV	INVERT
LP	LOW POINT
LSD	LANDSCAPE DRAIN
MAX	MAXIMUM
MH	MANHOLE
MIN	MINIMUM
MJ	MECHANICAL JOINT
N	NORTH, NORTHING
PR	PROPOSED
PVC	POLYVINYL CHLORIDE
RCP	REINFORCED CONCRETE PIPE
ROW	RIGHT OF WAY
SAN	SANITARY
SS	SANITARY SEWER
STA	STATION
STM	STORM
TB	THRUST BLOCK
TBC	TOP/BACK OF CURB
TOP	TOP OF PIPE
TRANS	TRANSPORTATION
TS	TOP OF STEP
TW	TOP OF WALL (FG)
TYP	TYPICAL
UTIL	UTILITY
VERT	VERTICAL
WAT	WATER

NOTE:
SNOW STORAGE LOCATIONS WILL BE DETERMINED AT A LATER DATE AFTER THE CU IS APPROVED.

MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

OWNER:
BREW LAB, LLC
4433 W 29TH AVENUE
DENVER, CO 80212

NOT FOR
CONSTRUCTION

DATE:
08/12/2022 SUBMITTAL
11/17/2022 SUBMITTAL 02
01/19/2023 SUBMITTAL 03

SHEET TITLE:

SITE PLAN

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO:

SHEET 3 OF 18

LEGEND:

EXISTING PROPERTY BOUNDARY	---
EXISTING SANITARY SEWER	SS
EXISTING WATER LINE	W
EXISTING GAS LINE	G
EXISTING OVERHEAD ELECTRIC	OE
EXISTING FIBER OPTIC	FO
EXISTING UNDERGROUND TELEPHONE	T
EXISTING STORM LINE	ST
EXISTING FIRE HYDRANT	⊗
EXISTING ELECTRIC POLE	⊙
PROPOSED SANITARY SEWER W/ MANHOLE	SS-⊙
PROPOSED WATER LINE	SW
PROPOSED WATER SERVICE	---
PROPOSED SANITARY SERVICE	---
PROPOSED STORM LINE	---
PROPOSED GAS LINE	---
PROPOSED FDC	⊗
PROPOSED GATE VALVE	⊗
PROPOSED FIRE HYDRANT	⊗
PROPOSED FENCE	⊗
EXISTING STORM MANHOLE	⊗
EXISTING SANITARY MANHOLE	⊗
EXISTING STORM INLET	⊗
PROPOSED SANITARY MANHOLE	⊗
PROPOSED SANITARY CLEANOUT	⊗
PROPOSED ENTRY DOOR	⊗
PROPOSED ACCESSIBLE PARKING/ENTRY	⊗

FIRE FLOW DATA:

TOTAL FIRE FLOW REQUIRED FOR THIS SITE IS 4,000 GPM MINIMUM @ 20 PSI RESIDUAL PRESSURE. THIS FLOW MUST BE PROVIDED FROM A MINIMUM OF 4 FIRE HYDRANTS. EACH FIRE HYDRANT MUST SUPPLY A MINIMUM OF 1500 GPM @ 20 PSI RESIDUAL PRESSURE AT THE HYDRANT OUTLET TO BE ACCEPTABLE.

CODE USED FOR ANALYSIS: 2018 IFC

OCCUPANCY GROUP: RESIDENTIAL
CONSTRUCTION TYPES: TYPE V-A

FIRE FLOW CALCULATION AREA: 201,513 SF (TYPE V-A)

THIS BUILDING IS FULLY PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM.

*NOTE: THE FIRE FLOW CALCULATION AREA APPLIES TO BUILDING CONSTRUCTIONS TYPES V-A PER IFC SECTION B104

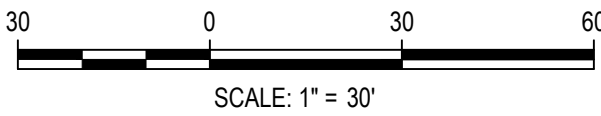
**FOUR (4) HYDRANTS ARE BEING PROPOSED WITH THIS DEVELOPMENT. THERE IS AN EXISTING HYDRANT LOCATED AT THE NORTHEAST CORNER OF THE MARSHALL ST & W 52ND AVE INTERSECTION.

CONCEPTUAL DRAINAGE PLAN:

ALL STORM WATER ON-SITE IS ROUTED TO AN INLET THAT CONNECTS TO A PROPOSED UNDERGROUND DETENTION SYSTEM. ON-SITE UNDERGROUND DETENTION IS PROVIDED VIA STORMTECH CHAMBERS WITH WATER QUALITY PROVIDED WITHIN THE ISOLATOR ROW. THE STORMTECH CHAMBERS ARE LOCATED UNDER THE PARKING LOT AND ROUTED THROUGH PROPOSED STORM SEWER WITHIN 52ND AVENUE TO AN EXISTING MANHOLE CONNECTION AT THE INTERSECTION OF 52ND AVENUE AND MARSHALL STREET. THE EXISTING STORM SEWER AND INLETS WITHIN 52ND AVENUE WILL BE REMOVED AND REPLACED AS NECESSARY TO ACCOMMODATE THE PROPOSED STREET IMPROVEMENTS. EXISTING DRAINAGE DITCHES WILL BE UTILIZED AND IMPROVED UPON ALONG THE EAST AND SOUTH BOUNDARIES OF THE SITE.

ABBREVIATIONS

BOP	BOTTOM OF PIPE	HGL	HYDRAULIC GRADE LINE
BS	BOTTOM OF STEP	HORZ	HORIZONTAL
BP	BOTTOM OF WALL (FG)	HP	HIGH POINT
BW	BOTTOM OF WALL (FG)	INV	INVERT
C	CENTERLINE	LP	LOW POINT
CONC	CONCRETE	LSD	LANDSCAPE DRAIN
DIA	DIAMETER	MAX	MAXIMUM
DIP	DUCTILE IRON PIPE	MH	MANHOLE
DR	DOOR	MIN	MINIMUM
DS	DOWNSPOUT	MJ	MECHANICAL JOINT
E	EAST, EASTING	N	NORTH, NORTHING
EGL	ENERGY GRADE LINE	PR	PROPOSED
EL	ELEVATION	PVC	POLYVINYL CHLORIDE
EOA	EDGE OF ASPHALT	RCP	REINFORCED CONCRETE PIPE
EOC	EDGE OF CONCRETE	ROW	RIGHT OF WAY
EOP	EDGE OF PAVEMENT	SAN	SANITARY
ESMT	EASEMENT	SS	SANITARY SEWER
EX	EXISTING	STA	STATION
FES	FLARED END SECTION	STM	STORM
FF	FINISHED FLOOR	TB	THRUST BLOCK
FG	FINISHED GRADE	TBC	TOP/BACK OF CURB
FH	FIRE HYDRANT	TOP	TOP OF PIPE
FL	FLOW LINE	TRANS	TRANSPORTATION
GB	GRADE BREAK	TS	TOP OF STEP
GV	GATE VALVE	TW	TOP OF WALL (FG)
HERCP	HORIZONTAL ELLIPTICAL REINFORCED CONCRETE PIPE	TYP	TYPICAL
HC	HANDICAP	UTIL	UTILITY
		VERT	VERTICAL
		WAT	WATER



MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

OWNER:
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DENVER, CO 80212

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08/12/2022 SUBMITTAL
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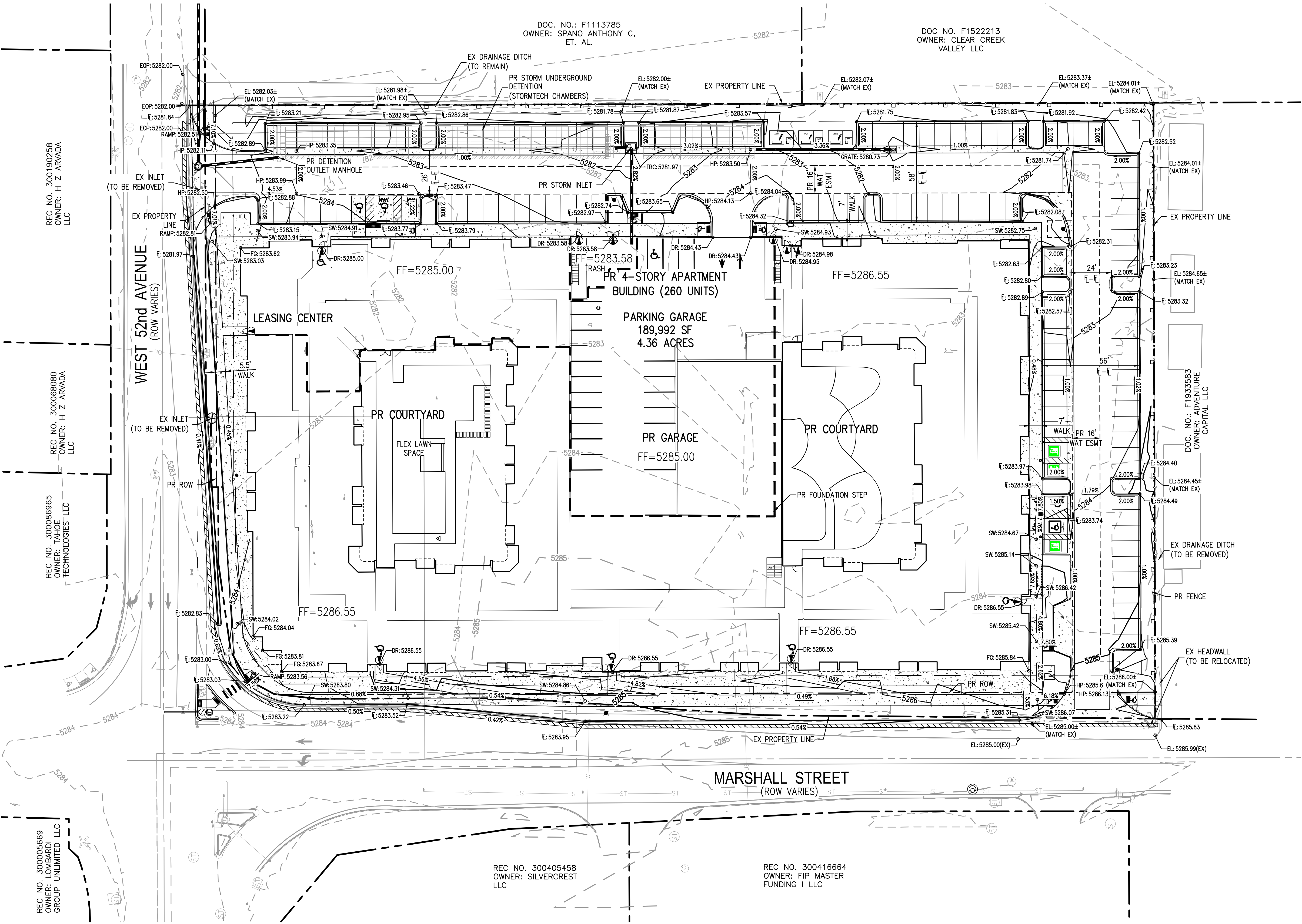
SHEET TITLE:

OVERALL UTILITY PLAN

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO:

SHEET 4 OF 18



MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

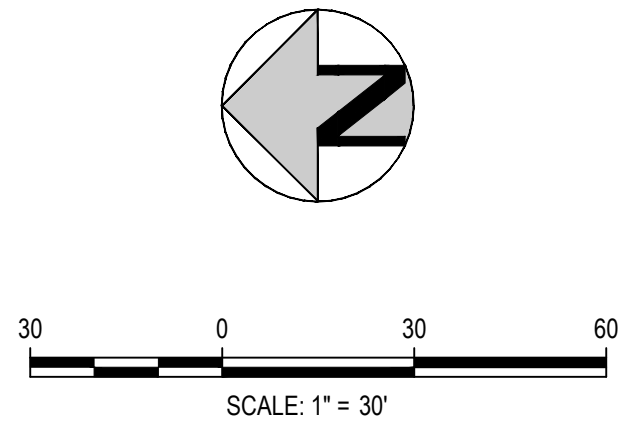
OWNER:
BREW LAB, LLC
4433 W 29TH AVENUE
DENVER, CO 80212

NOT FOR
CONSTRUCTION

DATE:
08/12/2022 SUBMITTAL
11/17/2022 SUBMITTAL 02
01/18/2023 SUBMITTAL 03

SHEET TITLE:

OVERALL GRADING PLAN



CHECKED BY:
DRAWN BY:

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO:

SHEET 5 OF 18



MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

OWNER:
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DENVER, CO 80212

NOT FOR
CONSTRUCTION

DATE:
08/12/2022 SUBMITTAL 01
11/17/2022 SUBMITTAL 02
01/19/2023 SUBMITTAL 03

SHEET TITLE:

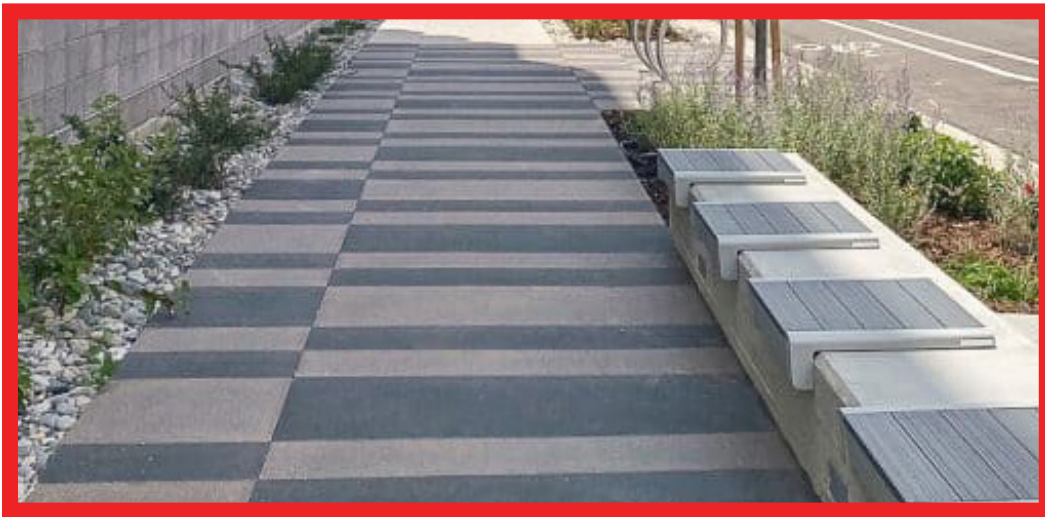


MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO:

SHEET 6 OF 18

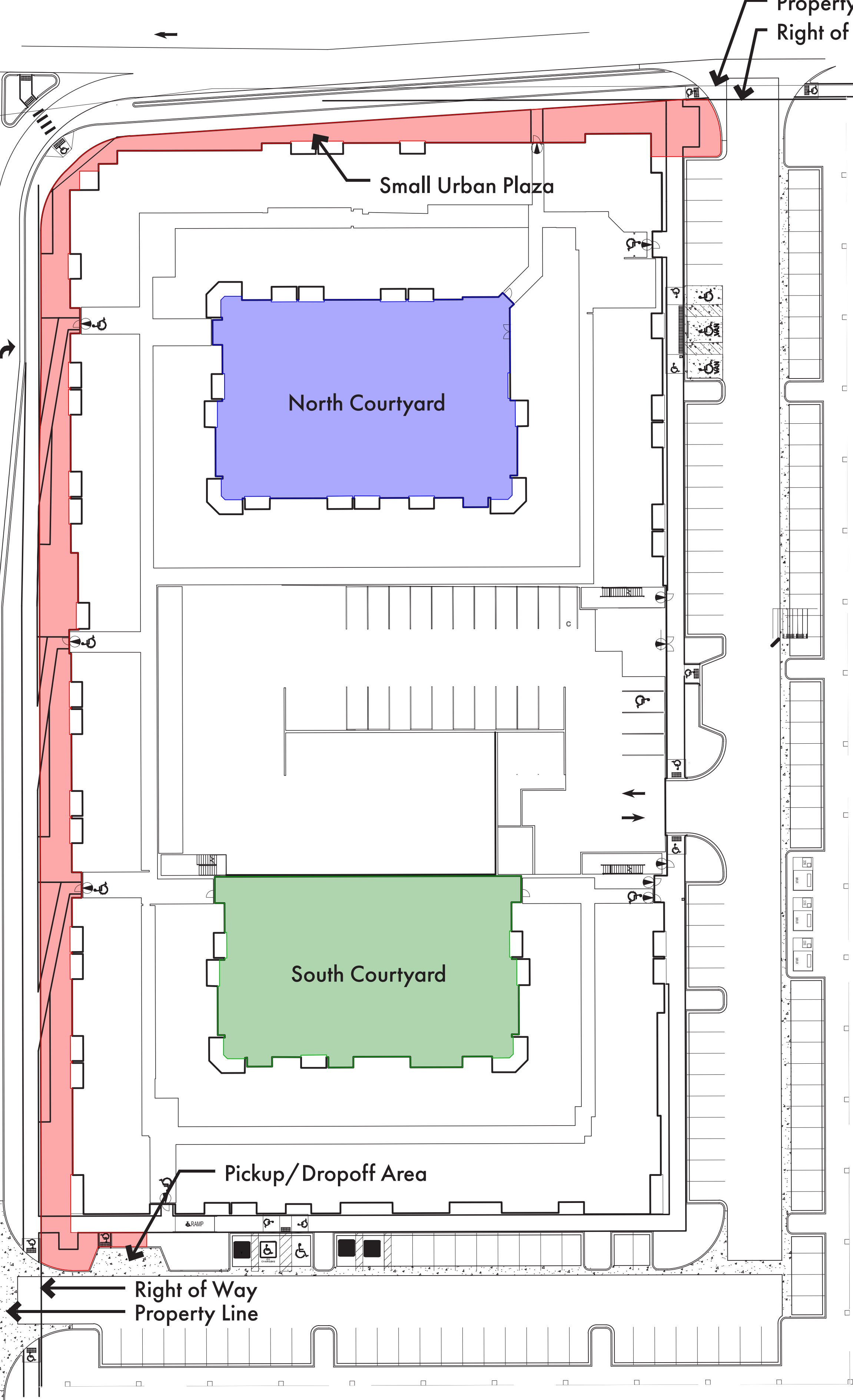
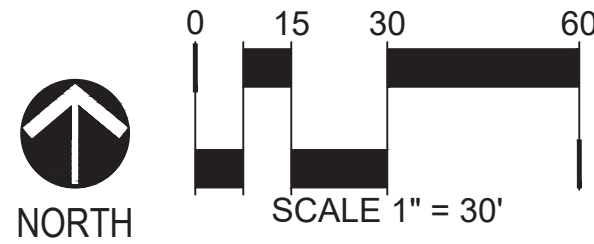
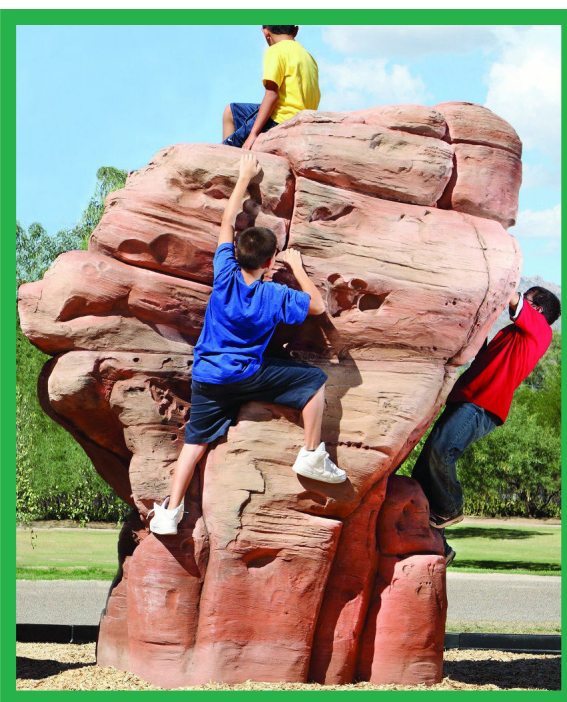
Small Urban Plaza - 9,452 SF



North Courtyard - 10,375 SF



South Courtyard - 9,654 SF



MARSHALL POINTE
CONDITIONAL USE

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CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 7 OF 18

CU GENERAL NOTES:

- 5-1-2-3(A) + 5-1-2-5(B)(1) - FRONT ENTRANCE FACES INTERNAL STREET/PARKING WITH ENTRY SEQUENCE WRAPPING CORNER OF 52ND AVE.
- 5-1-2-3(C)(6)(D)(i) - WINDOWS APPEAR ON ALL BUILDING FACADES MEETING OR EXCEEDING 20% OF THE FACADE
- 5-1-2-5(G)(1) - BUILDING ELEVATIONS SHOW BALCONIES AT MORE THAN 75% OF TOTAL UNITS
- 5-1-2-5(H)(1) - VERTICAL ELEVATION CHANGE AT PARAPET HEIGHTS ACROSS ALL FACADES
- 5-1-4-5(A)(3) - GARAGE INTENDED TO HAVE CRASH BARRIERS OF 42" MIN AT EACH LEVEL.

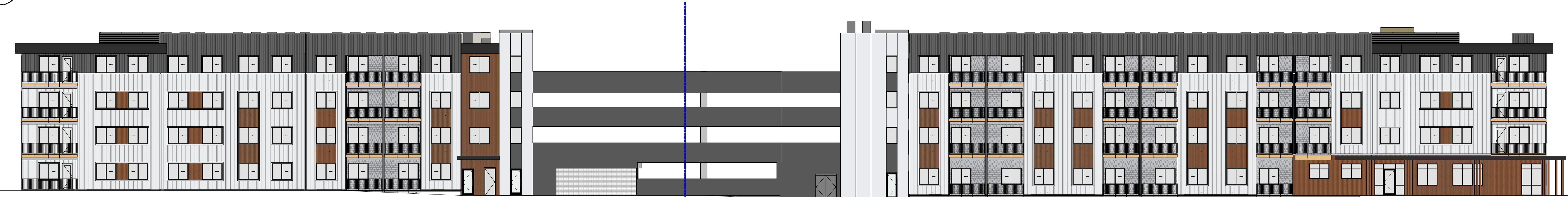
MATERIAL LEGEND

A		CEMENTITIOUS PANEL - SW 6258 TRICORN BLACK
B		CEMENTITIOUS B&B 6" SPACING SW 7674 PEPPERCORN
C		CEMENTITIOUS B&B 16" SPACING SW 7138 LAVENDER WISP
D		CEMENTITIOUS SHAKE SIDING - SW 6254 LAZY GRAY
E		"WOOD" LOOK PANEL - SAGIPER - CHERRY ZEBRAWOOD OR SIM.
F		CMU - BASALITE 635WR - GROUND FACE



4 NORTH ELEVATION

1/16" = 1'-0"



3 EAST ELEVATION

1/16" = 1'-0"



2 SOUTH ELEVATION

1/16" = 1'-0"



1 WEST ELEVATION

1/16" = 1'-0"

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 8 OF 18



MATERIAL LEGEND		
A		CEMENTITIOUS PANEL - SW 6258 TRICORN BLACK
B		CEMENTITIOUS B&B 8" SPACING SW 7674 PEPPERCORN
C		CEMENTITIOUS B&B 16" SPACING SW 7138 LAVENDER WISP
D		CEMENTITIOUS SHAKE SIDING - SW 6254 LAZY GRAY
E		"WOOD" LOOK PANEL - SAGIPER - CHERRY ZEBRAWOOD OR SIM.
F		CMU - BASALITE 635WR - GROUND FACE

3 EAST ELEVATION 01
3/32" = 1'-0"



2 EAST ELEVATION 02
3/32" = 1'-0"



1 NORTH ELEVATION
3/32" = 1'-0"

MARSHALL POINTE
CONDITIONAL USE
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DENVER CO 80212

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SHEET TITLE:
ELEVATIONS

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 9 OF 18

MATERIAL LEGEND		
A		CEMENTITIOUS PANEL - SW 6258 TRICORN BLACK
B		CEMENTITIOUS B&B 8" SPACING SW 7674 PEPPERCORN
C		CEMENTITIOUS B&B 16" SPACING SW 7138 LAVENDER WISP
D		CEMENTITIOUS SHAKE SIDING - SW 6254 LAZY GRAY
E		"WOOD" LOOK PANEL - SAGIPER - CHERRY ZEBRAWOOD OR SIM.
F		CMU - BASALITE 635WR - GROUND FACE



3 WEST ELEVATION 01
3/32" = 1'-0"



2 WEST ELEVATION 02
3/32" = 1'-0"



1 SOUTH ELEVATION
3/32" = 1'-0"

MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

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CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 10 OF 18



4 COURTYARD 01 WEST ELEVATION
3/32" = 1'-0"



3 COURTYARD 01 SOUTH ELEVATION
3/32" = 1'-0"



2 COURTYARD 01 NORTH ELEVATION
3/32" = 1'-0"



1 COURTYARD 01 EAST ELEVATION
3/32" = 1'-0"

MATERIAL LEGEND		
A		CEMENTITIOUS PANEL - SW 6258 TRICORN BLACK
B		CEMENTITIOUS B&B 8" SPACING SW 7674 PEPPERCORN
C		CEMENTITIOUS B&B 16" SPACING SW 7138 LAVENDER WISP
D		CEMENTITIOUS SHAKE SIDING - SW 6254 LAZY GRAY
E		"WOOD" LOOK PANEL - SAGIPER - CHERRY ZEBRAWOOD OR SIM.
F		CMU - BASALITE 635WR - GROUND FACE

MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

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SHEET TITLE:
ELEVATIONS

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 11 OF 18

MATERIAL LEGEND		
A		CEMENTITIOUS PANEL - SW 6258 TRICORN BLACK
B		CEMENTITIOUS B&B 8" SPACING SW 7674 PEPPERCORN
C		CEMENTITIOUS B&B 16" SPACING SW 7138 LAVENDER WISP
D		CEMENTITIOUS SHAKE SIDING - SW 6254 LAZY GRAY
E		"WOOD" LOOK PANEL - SAGIPER - CHERRY ZEBRAWOOD OR SIM.
F		CMU - BASALITE 635WR - GROUND FACE



3 COURTYARD 02 WEST ELEVATION
3/32" = 1'-0"



2 COURTYARD 02 EAST ELEVATION
3/32" = 1'-0"



1 COURTYARD 02 SOUTH ELEVATION
3/32" = 1'-0"

MARSHALL POINTE
CONDITIONAL USE
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SHEET TITLE:
ELEVATIONS

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 12 OF 18



NORTH EAST CORNER

LEASING AND AMENITY ENTRY



MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

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SHEET TITLE:
**EXTERIOR
VIEWS**

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 13 OF 18



EAST ELEVATION



SOUTH ELEVATION

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CONDITIONAL USE
ARVADA, CO

OWNER:
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SHEET TITLE:
**EXTERIOR
VIEWS**

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 14 OF 18



WEST ELEVATION



NORTH ELEVATION

MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

OWNER:
BREW LAB, LLC
4433 W 29TH AVE 007
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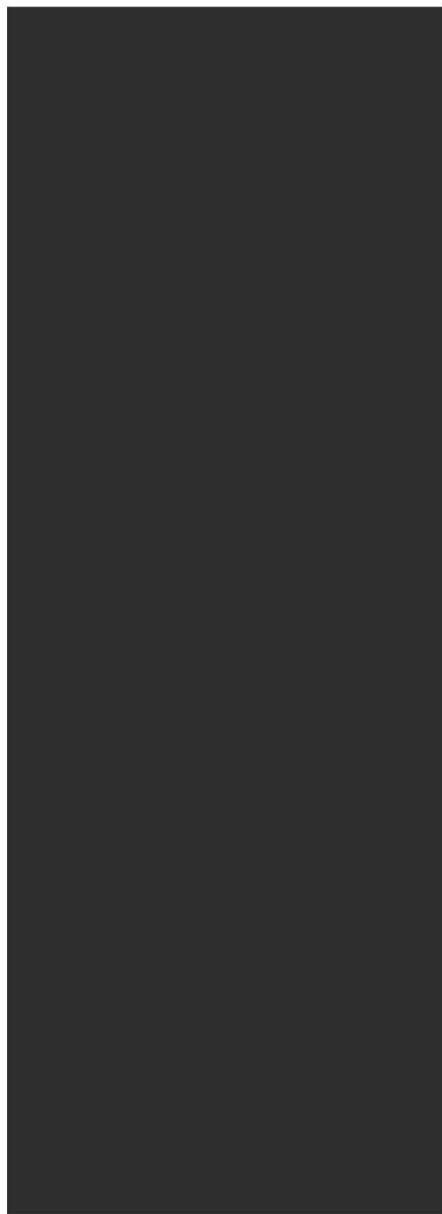
DATE:
08/12/2022 SUBMITTAL
11/17/2022 SUBMITTAL 02
01/19/2023 SUBMITTAL 03

SHEET TITLE:
**EXTERIOR
VIEWS**

MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

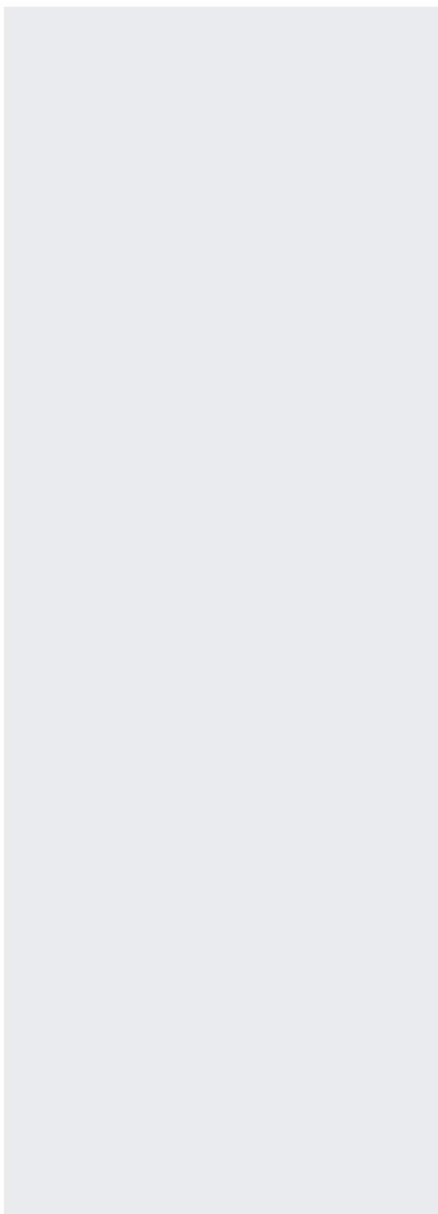
SHEET 15 OF 18



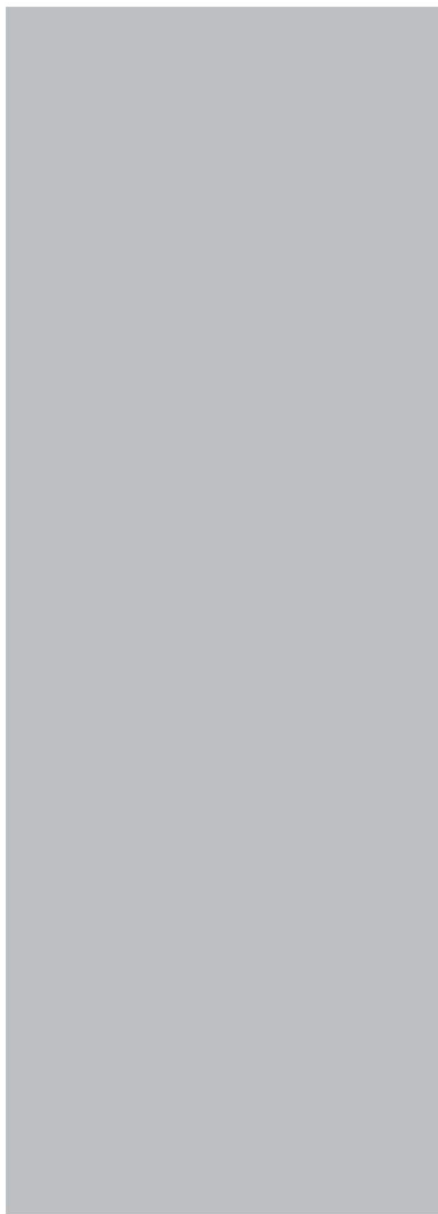
FIBER CEMENT PANEL -
SW 6258 TRICORN BLACK



CEMENTITIOUS BOARD & BATTEN 8” SPACING -
SW 7674 PEPPERCORN



CEMENTITIOUS BOARD & BATTEN 16” SPACING -
SW 7138 LAVENDER WISP



CEMENTITIOUS SHAKE SIDING -
SW 6254 LAZY GRAY



“WOOD” LOOK PANEL-
SAGIPER - CHERRY ZEBRAWOOD OR SIM.



CMU BLOCK-
BASALITE - 635 WR GROUND FACE OR SIM.



HORIZONTAL SLIDING WINDOWS & PATIO DOORS -
WHITE VINYL



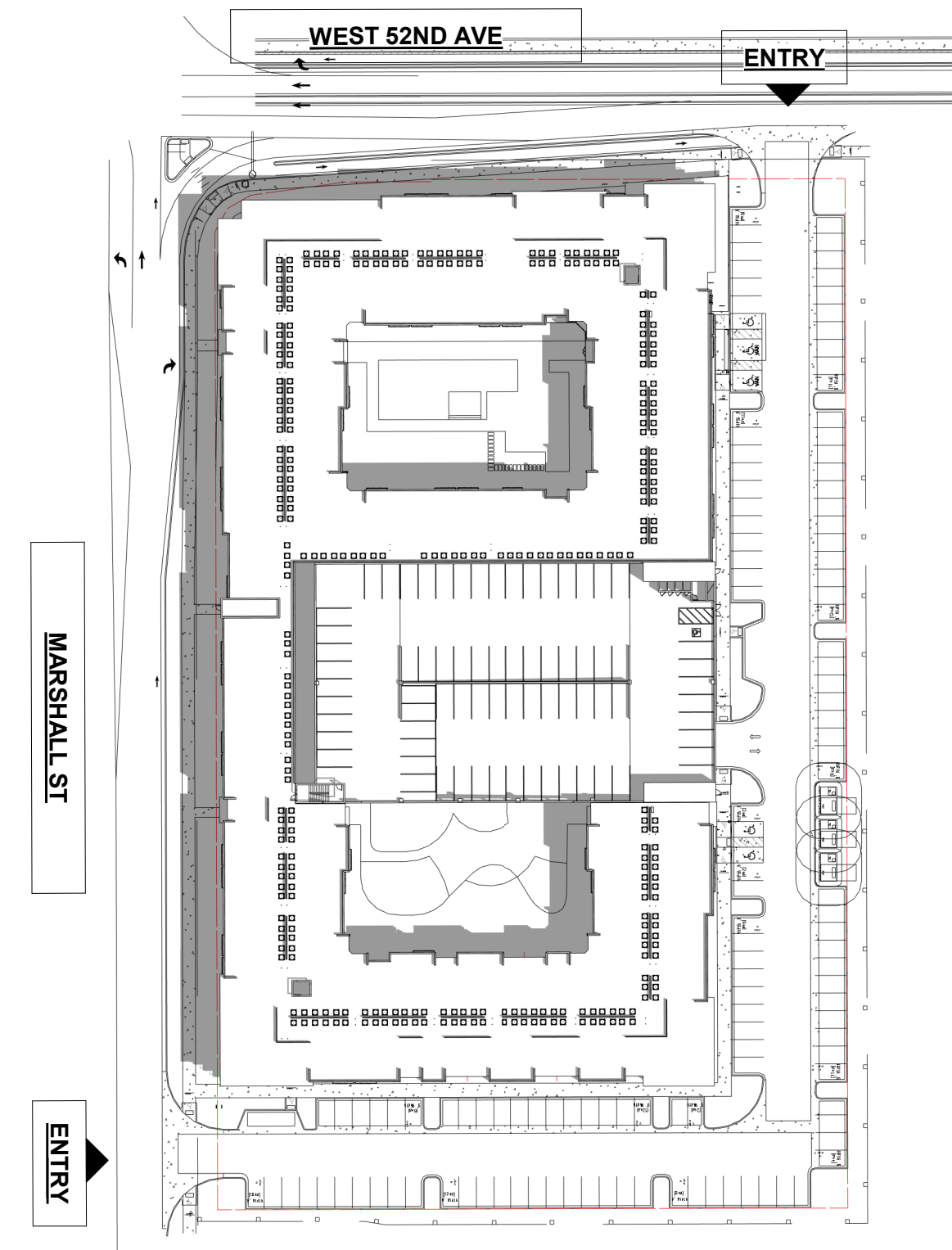
STOREFRONT -
BLACK

MARSHALL POINTE
CONDITIONAL USE

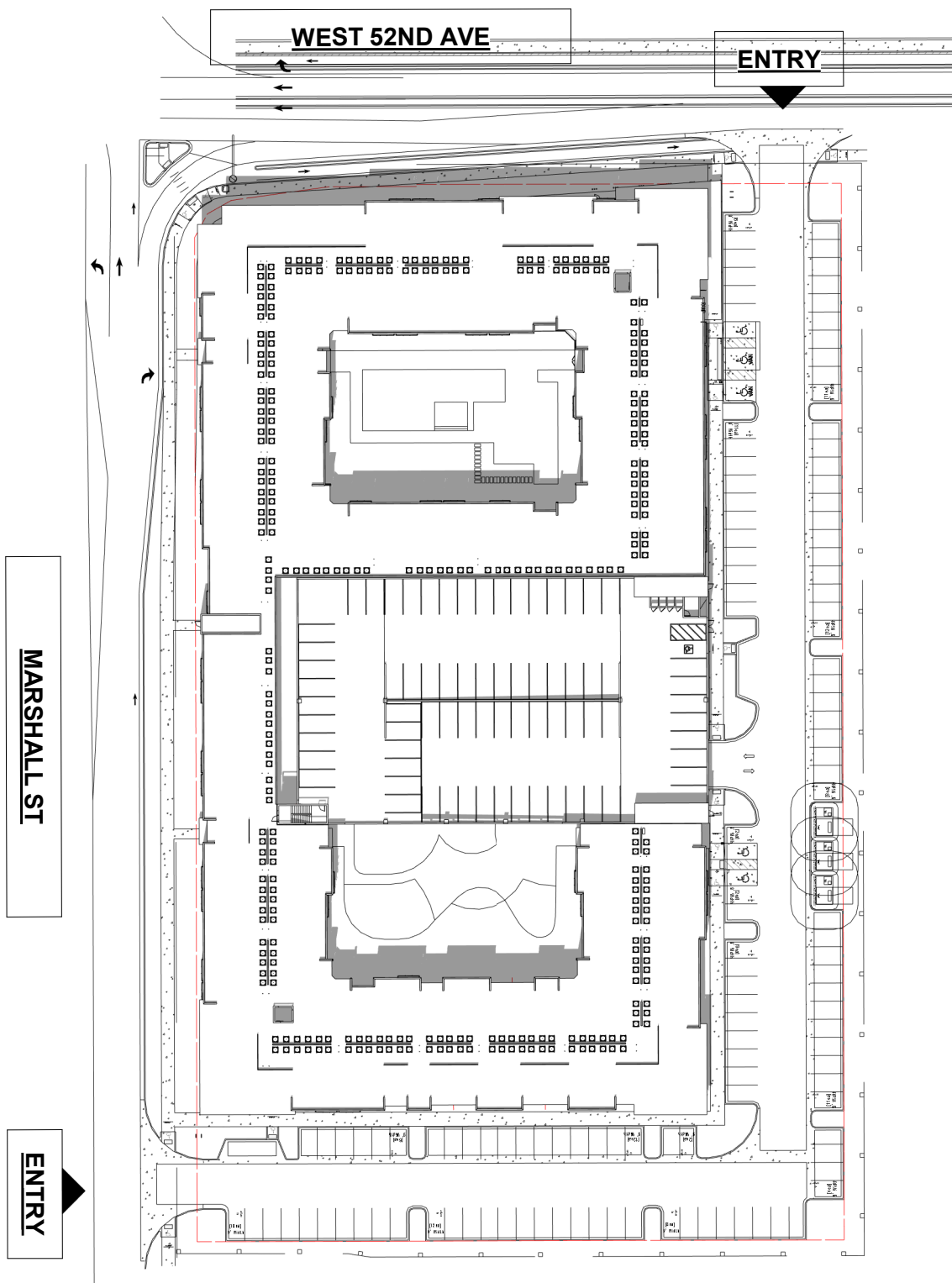
A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 16 OF 18

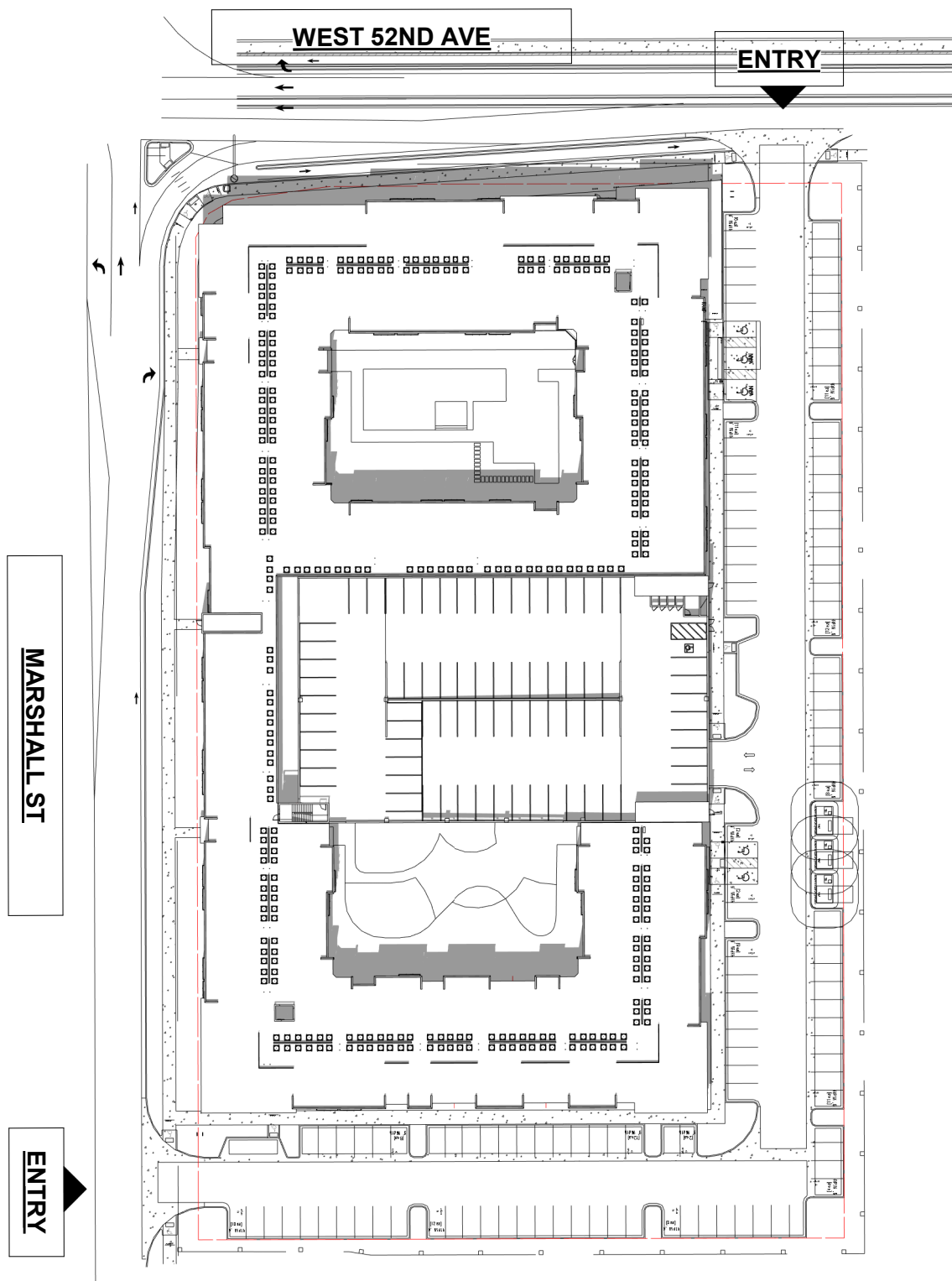
NOTE: SOLAR STUDIES ARE BASED ON
SUMMER SOLSTICE, JUNE 21ST OF 2022



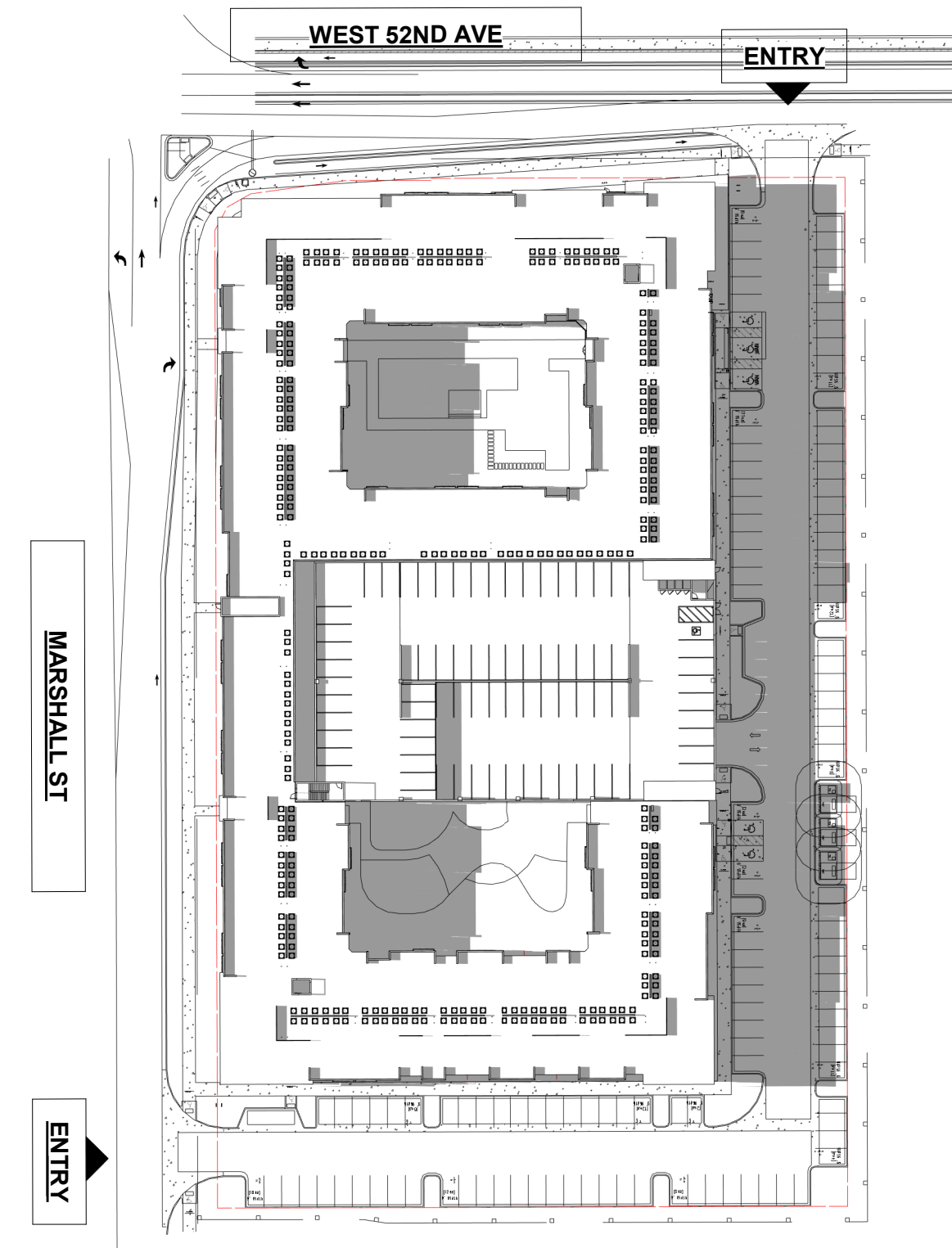
1 SOLAR STUDY - JUNE 21ST 8AM
1" = 80'-0"



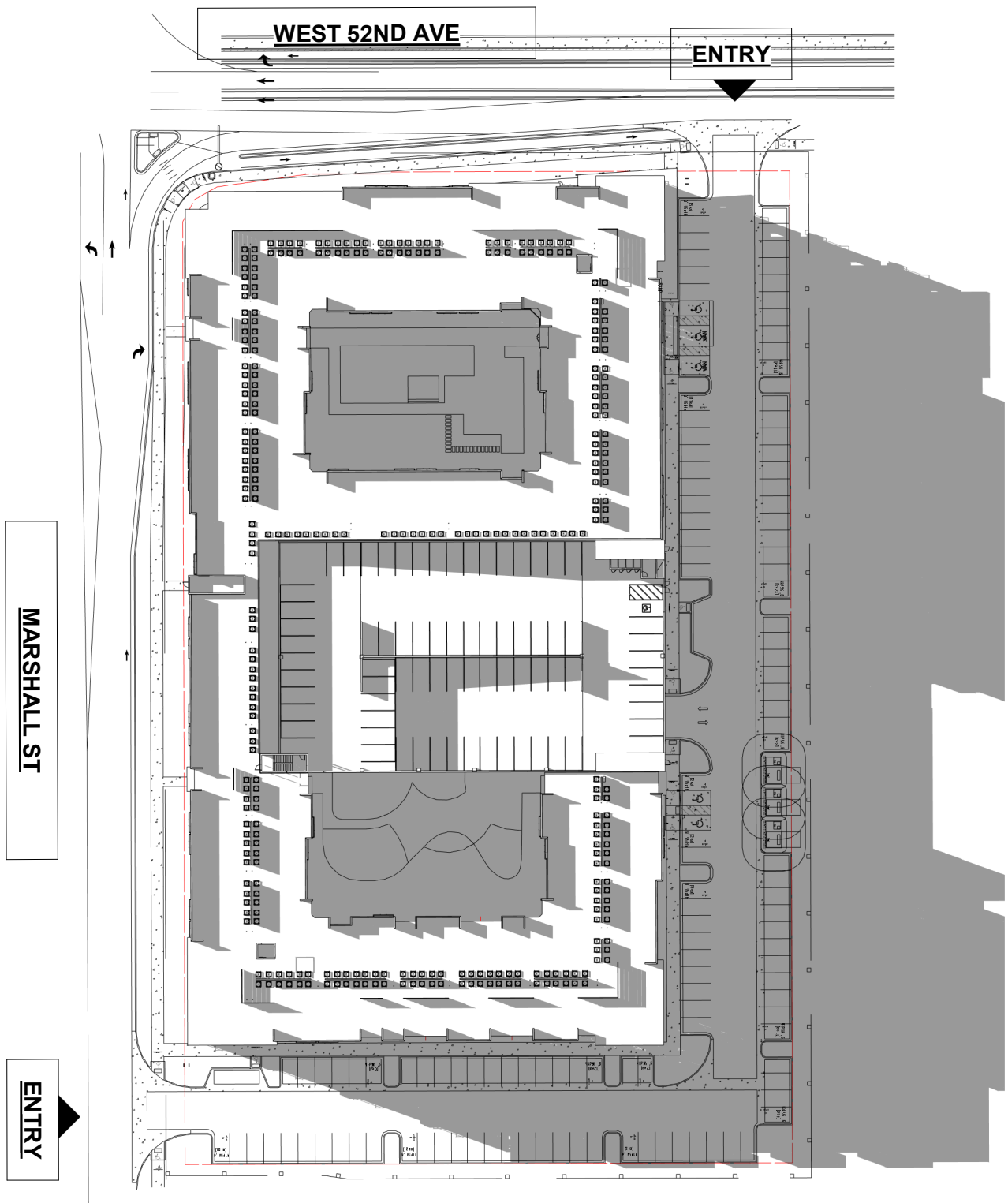
2 SOLAR STUDY - JUNE 21ST 10AM
1" = 80'-0"



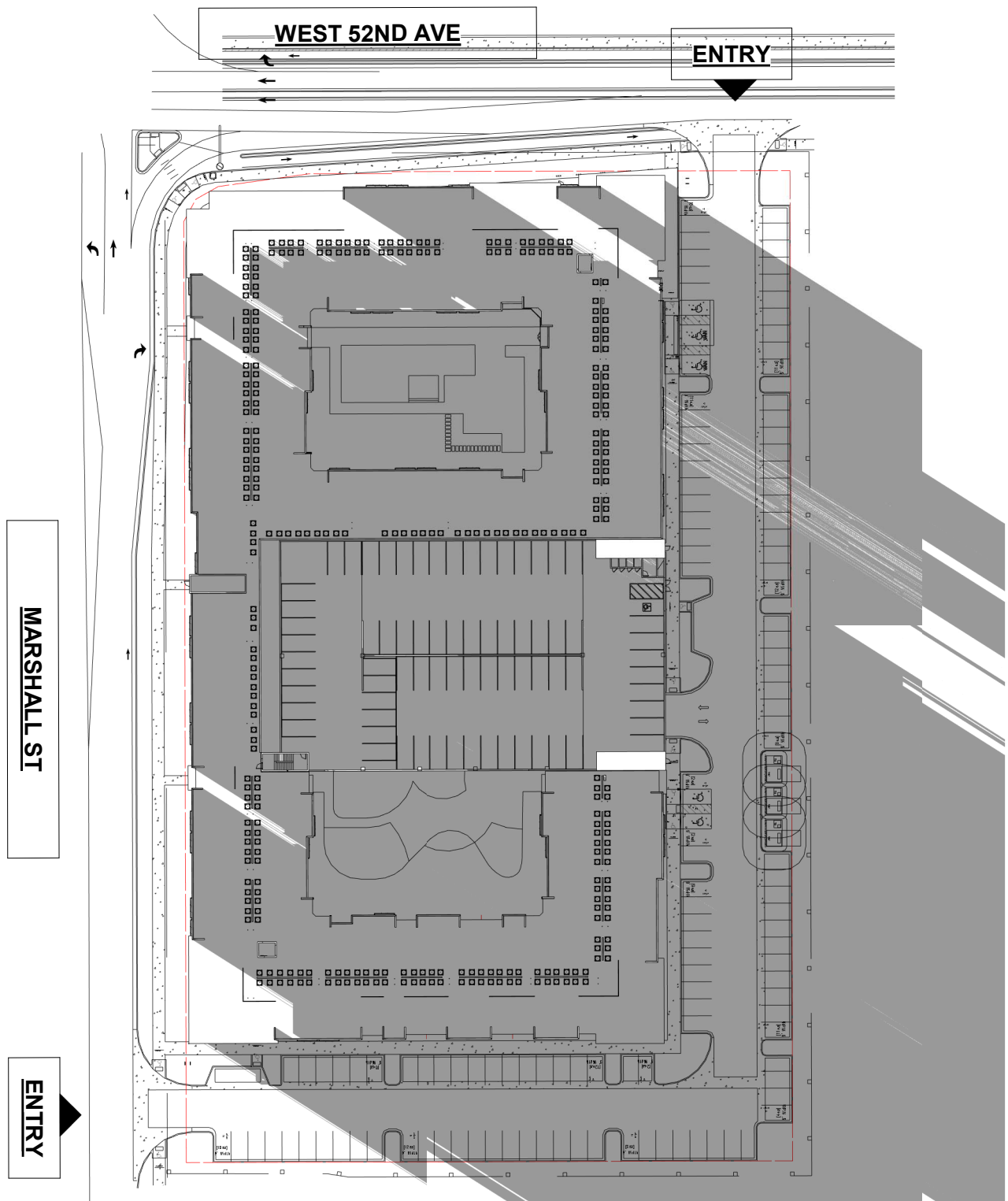
3 SOLAR STUDY - JUNE 21ST 12PM
1" = 80'-0"



4 SOLAR STUDY - JUNE 21ST 2PM
1" = 80'-0"



5 SOLAR STUDY - JUNE 21ST 4PM
1" = 80'-0"



6 SOLAR STUDY - JUNE 21ST 6PM
1" = 80'-0"

MARSHALL POINTE
CONDITIONAL USE
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SHEET TITLE:
SOLAR STUDY



1" = 80'-0"

MARSHALL POINTE
CONDITIONAL USE

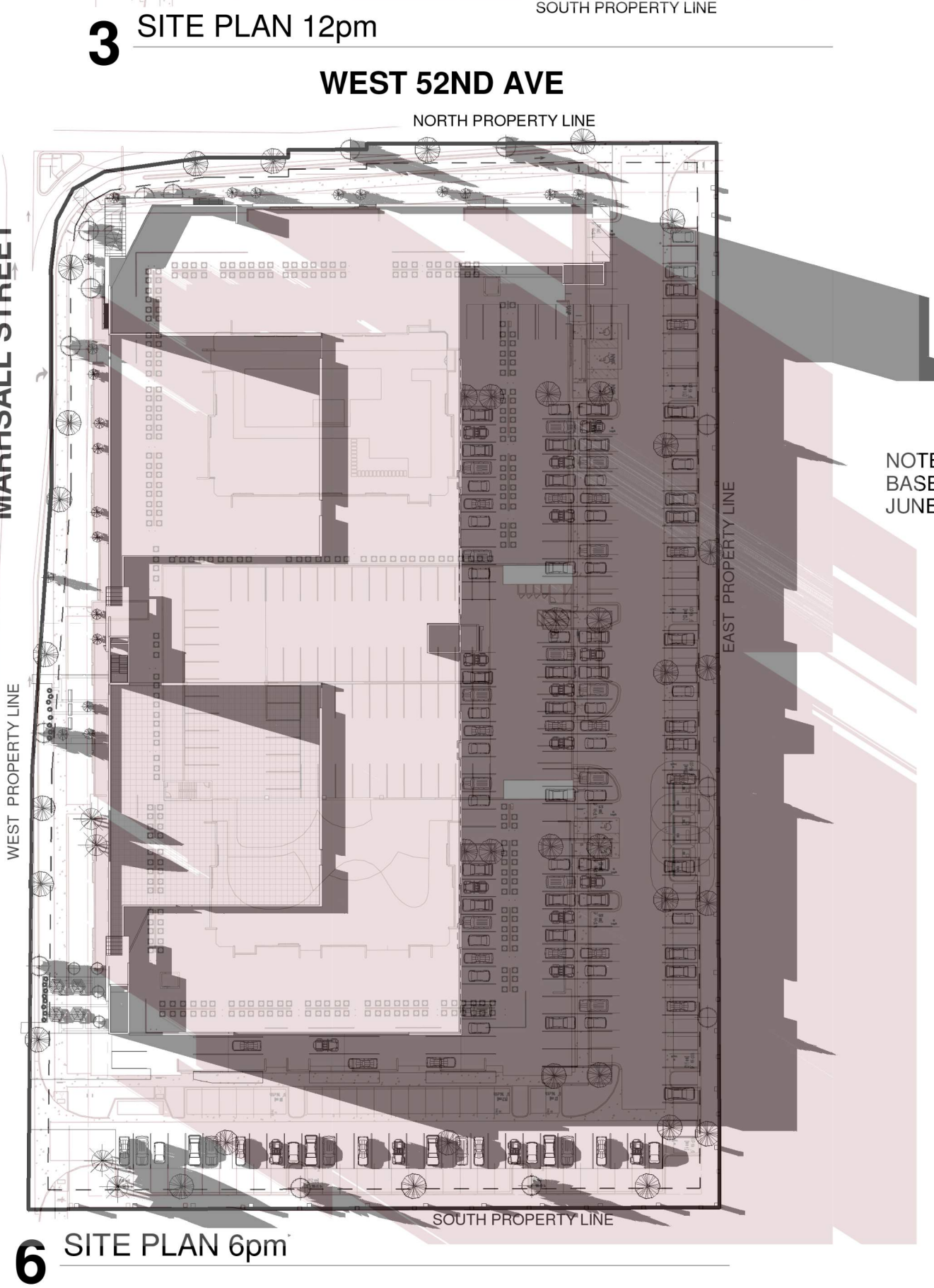
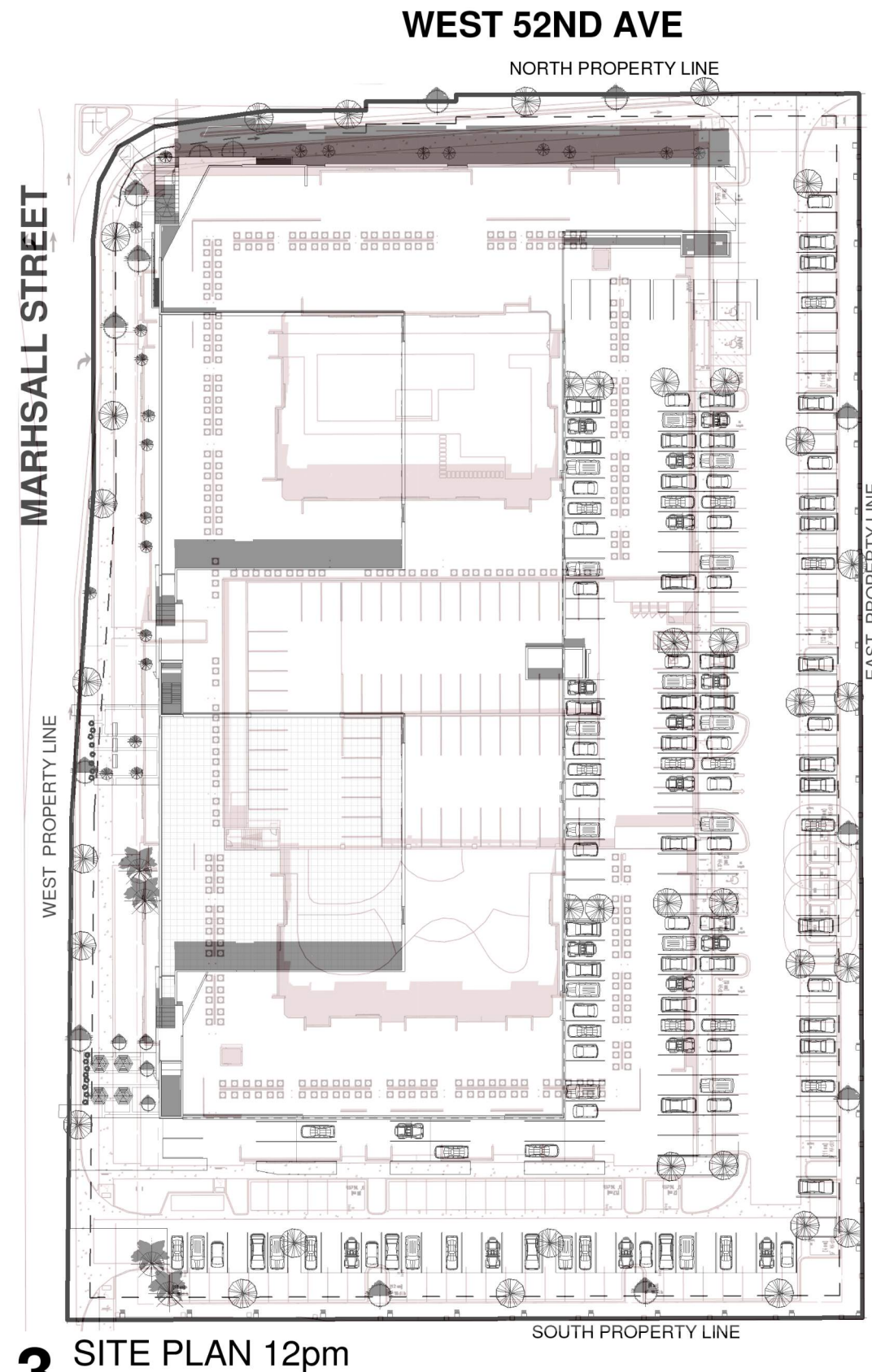
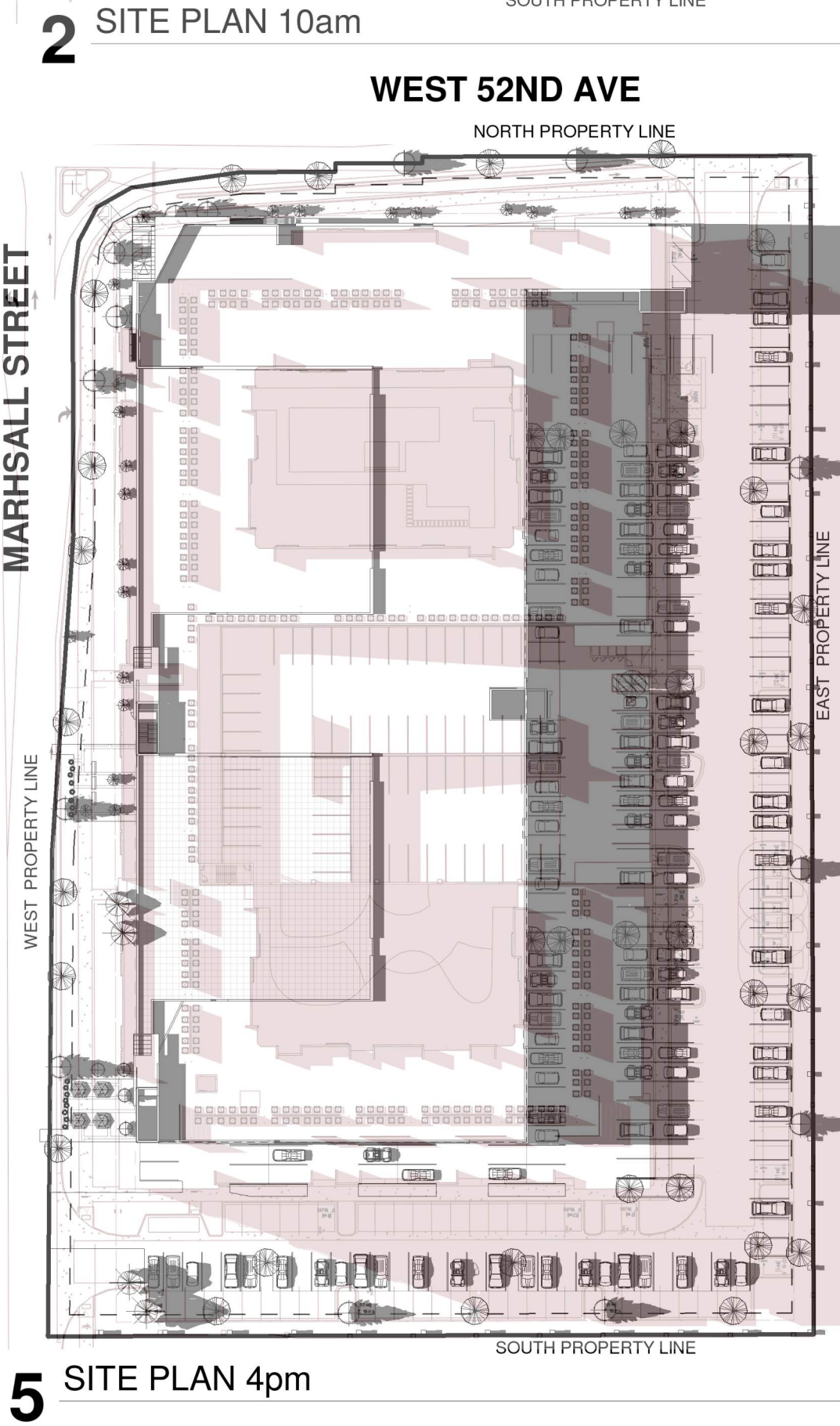
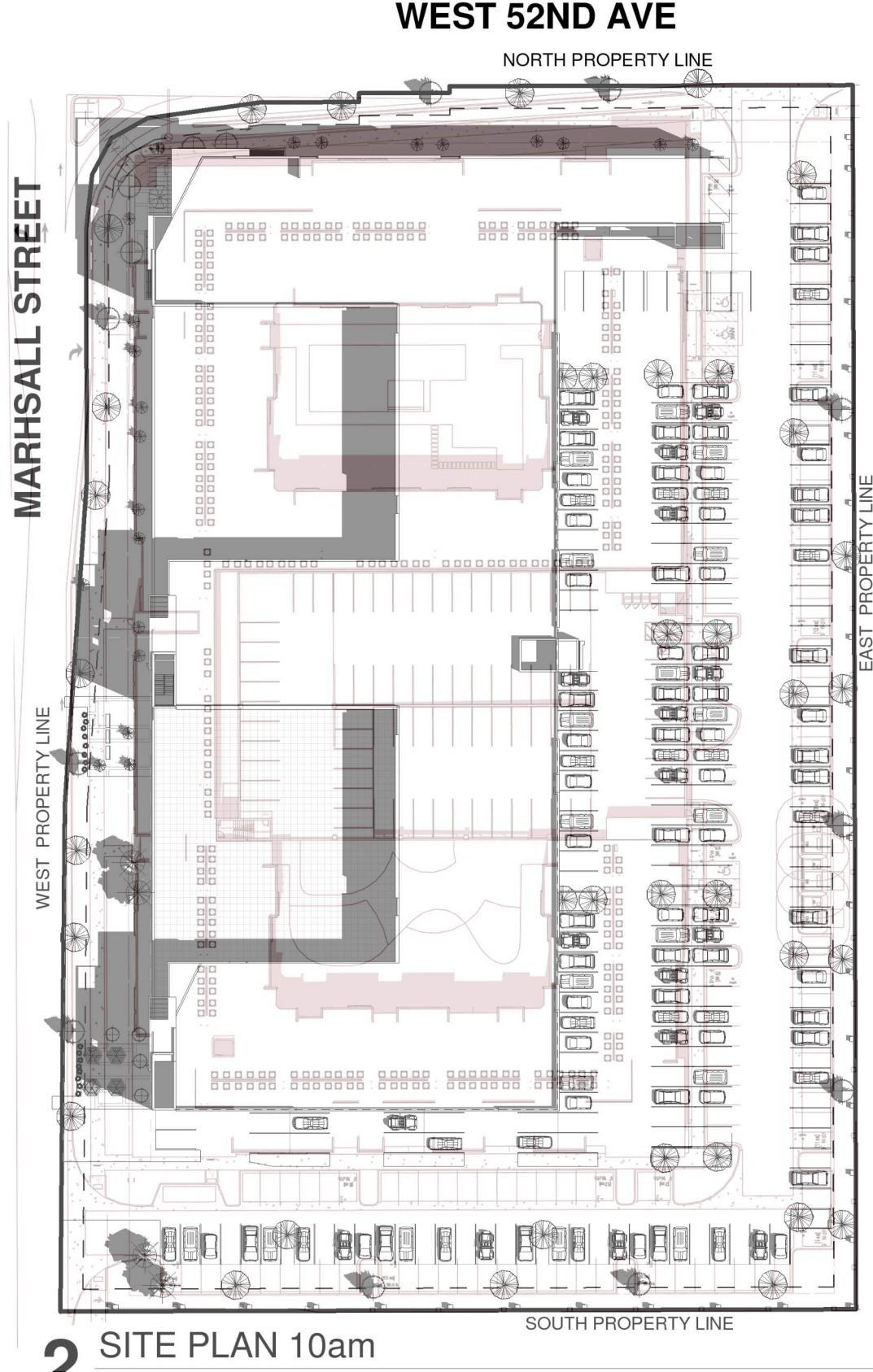
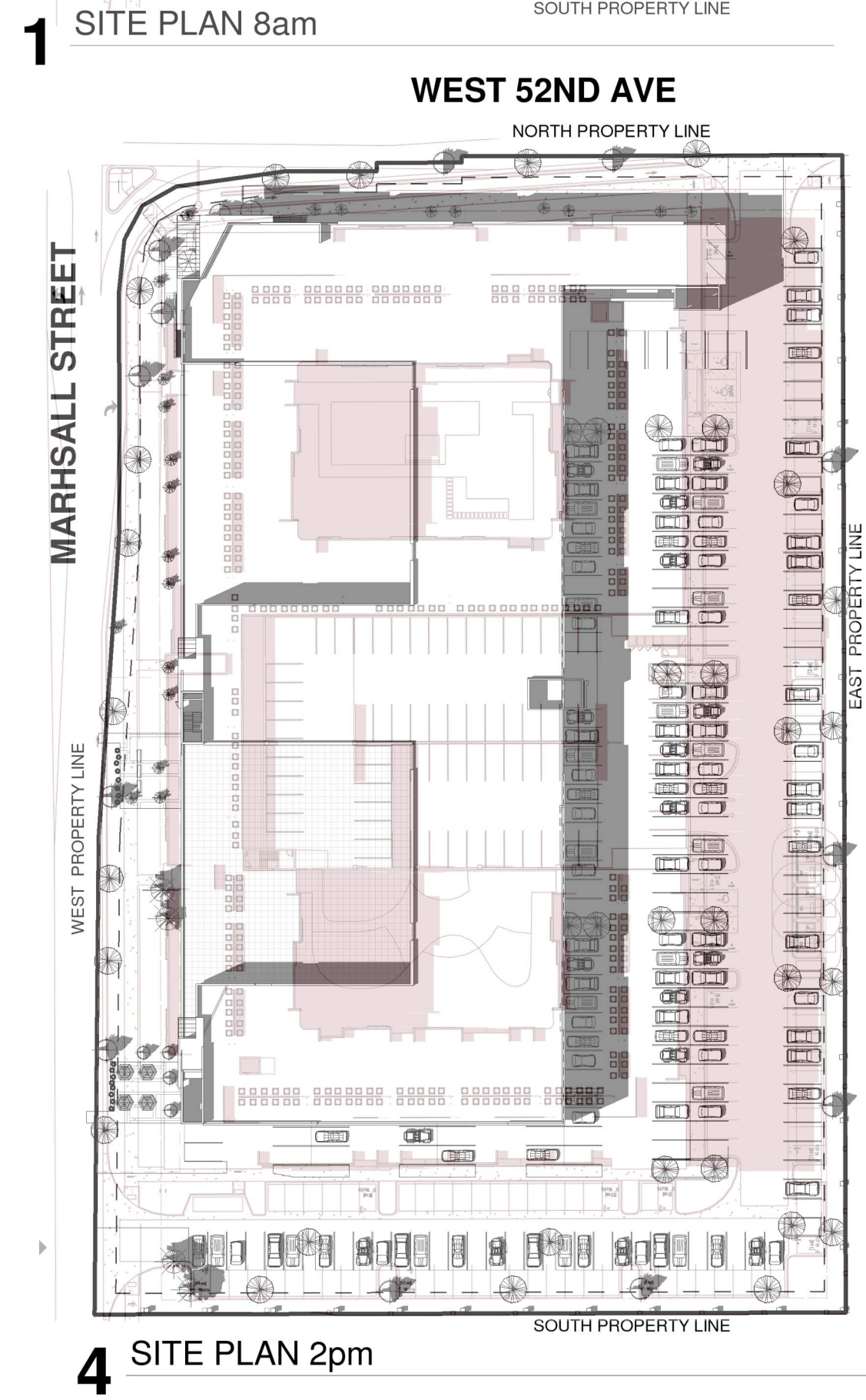
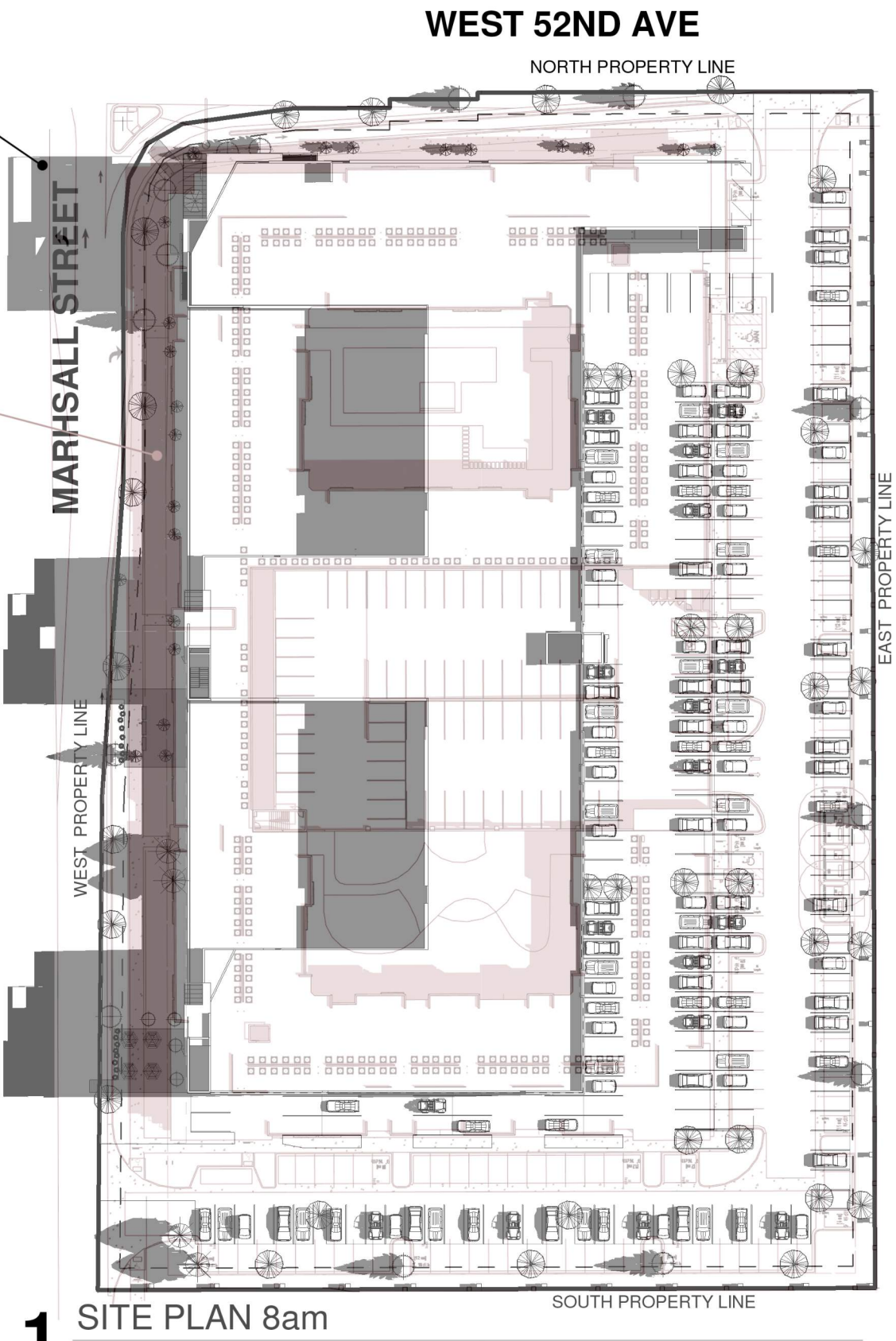
A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

SHEET 17 OF 18

NOTE: SOLAR STUDIES ARE BASED ON
SUMMER SOLSTICE, JUNE 21ST OF 2022

PREVIOUS PROPOSAL SHADOW

NEW PROPOSAL SHADOW



NOTE: SOLAR STUDIES ARE
BASED ON SUMMER SOLSTICE,
JUNE 21ST OF 2021

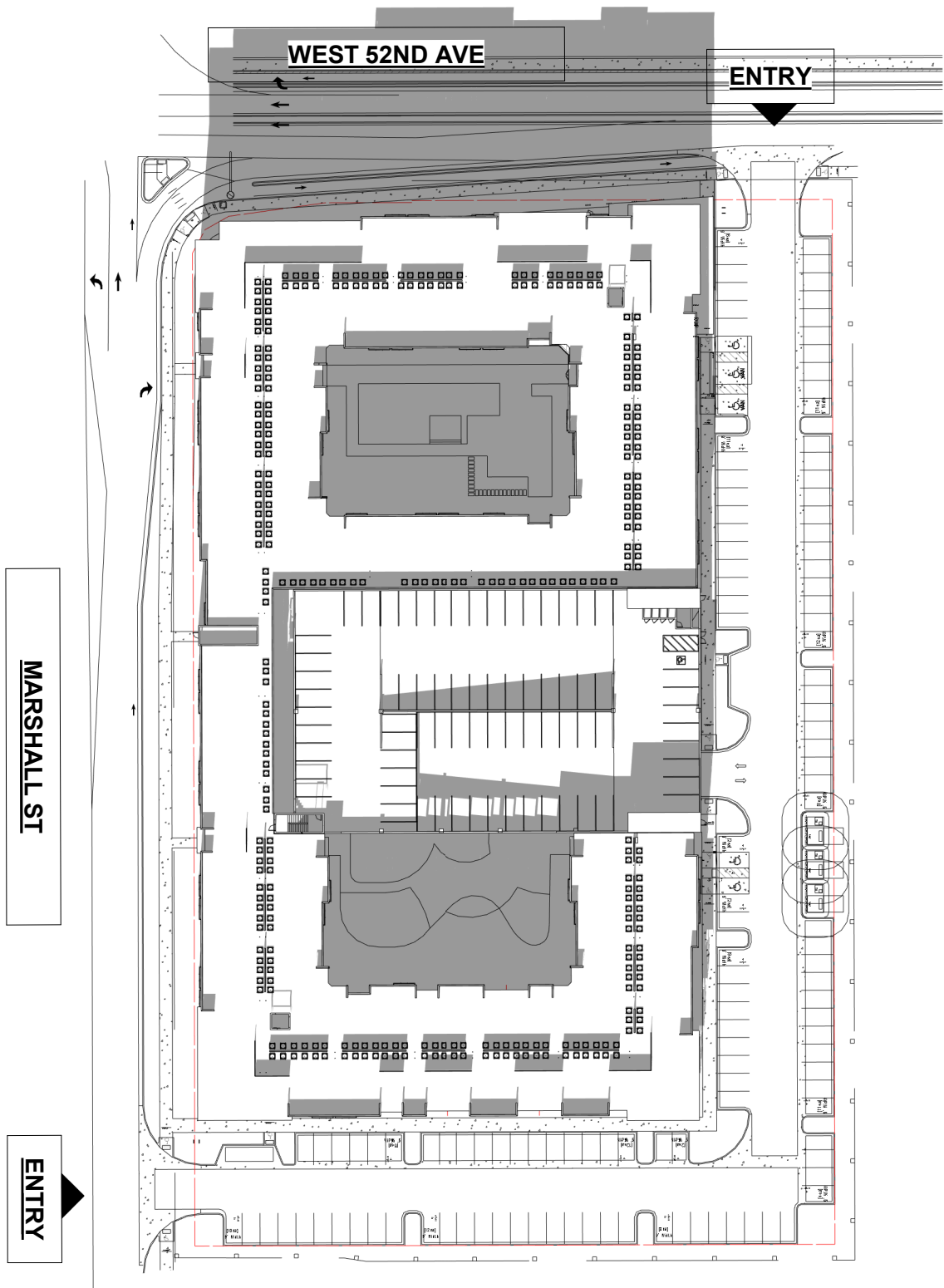
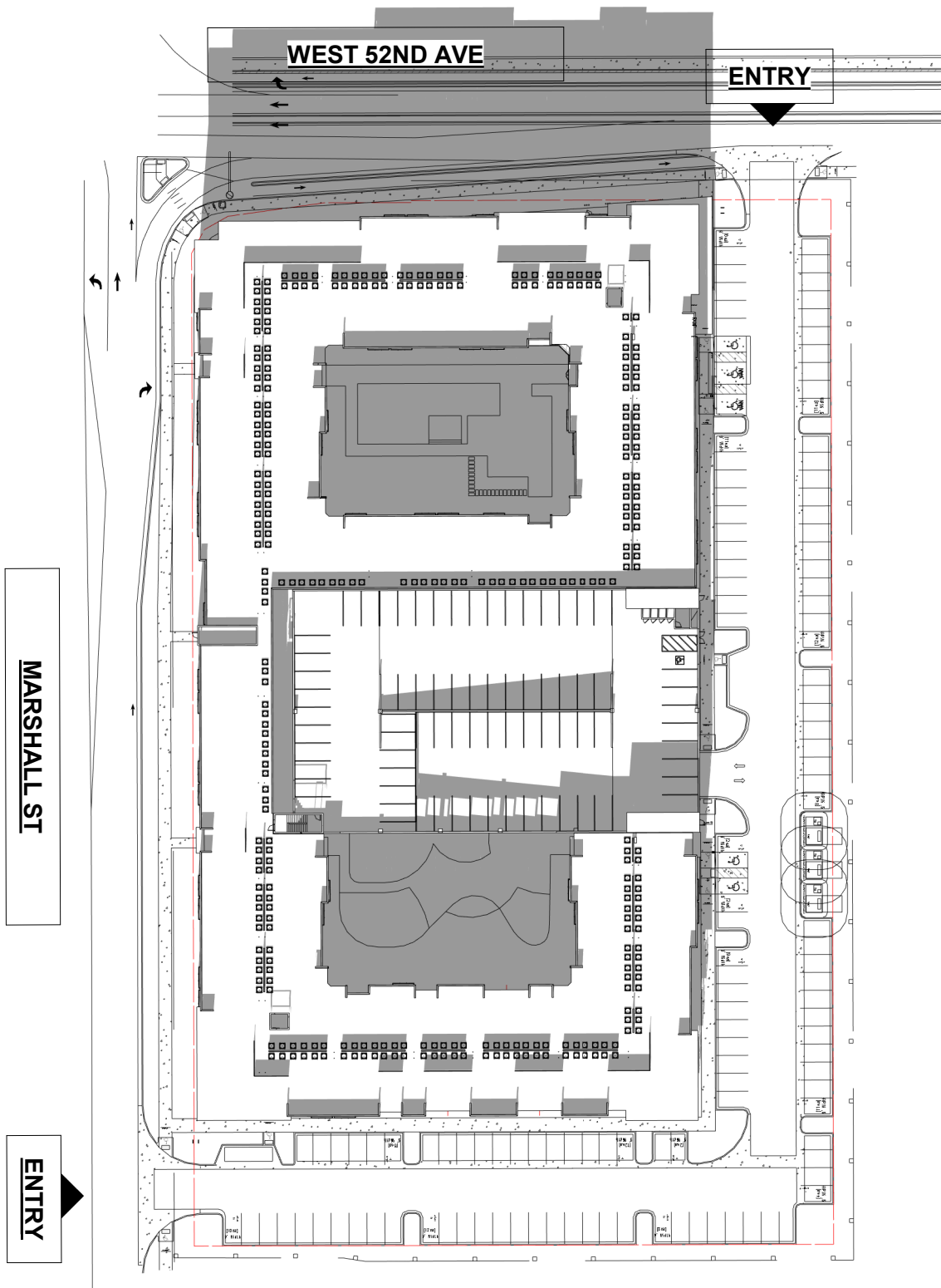


MARSHALL POINTE
CONDITIONAL USE

A PORTION OF THE SW 1 / 4 OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.
CITY OF ARVADA, JEFFERSON COUNTY, COLORADO

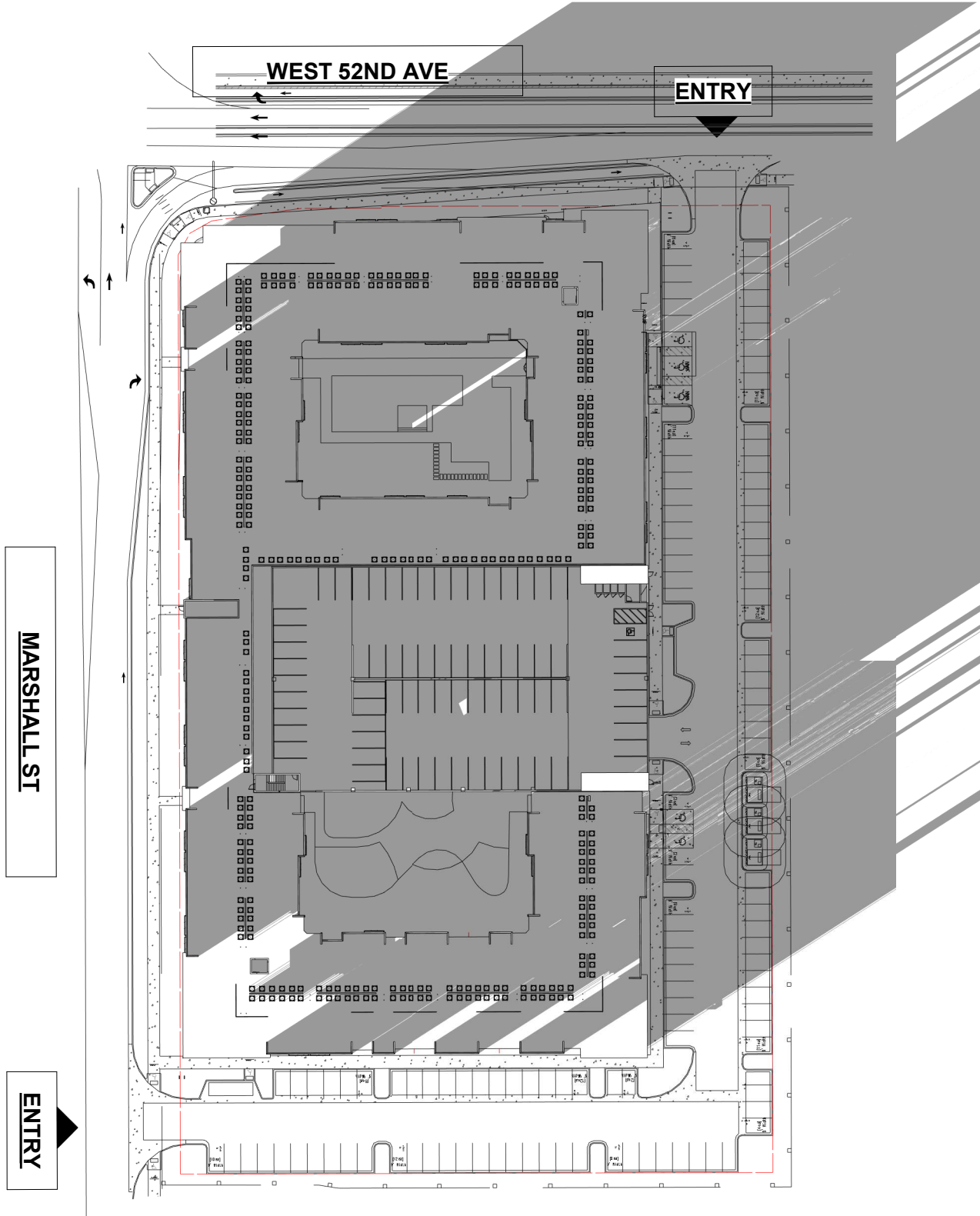
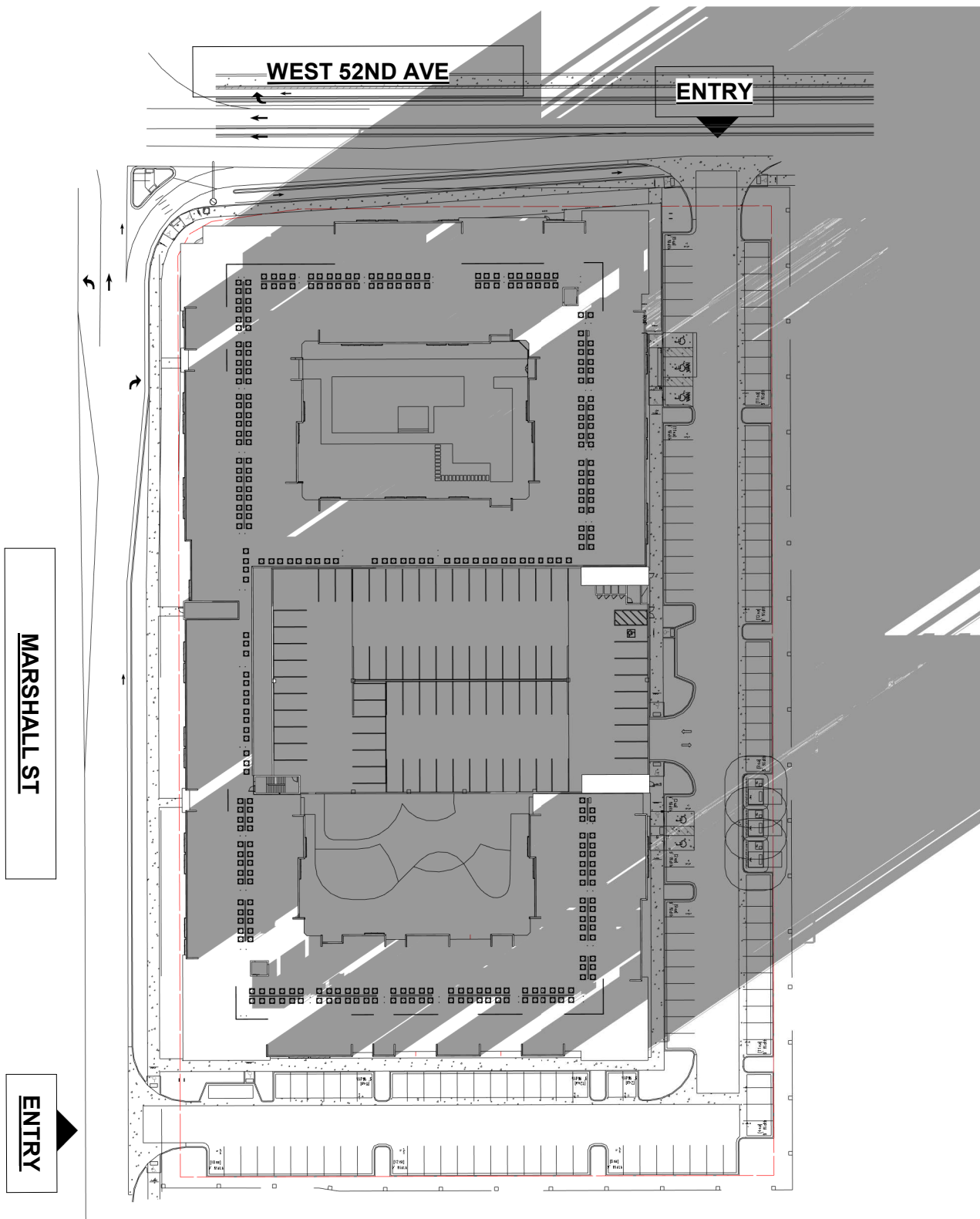
SHEET 18 OF 18

NOTE: SOLAR STUDIES ARE BASED ON
SUMMER SOLSTICE, JUNE 21ST OF 2022



1 SOLAR STUDY - DECEMBER 21ST 10AM
1" = 80'-0"

2 SOLAR STUDY - DECEMBER 21ST 12PM
1" = 80'-0"



3 SOLAR STUDY - DECEMBER 21ST 2PM
1" = 80'-0"

4 SOLAR STUDY - DECEMBER 21ST 4PM
1" = 80'-0"

MARSHALL POINTE
CONDITIONAL USE
ARVADA, CO

OWNER:
BREW LAB, LLC
4433 W 29TH AVE 007
DENVER CO 80212

NOT FOR
CONSTRUCTION

DATE:
08/12/2022 SUBMITTAL
11/17/2022 SUBMITTAL 02
01/19/2023 SUBMITTAL 03

SHEET TITLE:

SOLAR STUDY

**SYNOPSIS OF PLANNING COMMISSION ACTION ON CONDITIONAL USE AND MAJOR
MODIFICATION FOR MARSHALL POINTE A 4.36 ACRE PARCEL OF LAND
APPROXIMATELY LOCATED AT THE SOUTHEAST CORNER OF MARSHALL ST. AND W.
52ND AVE.
FEBRUARY 7, 2023**

Conditional Use for Marshall Pointe DA2022-0070 to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district.

Major Modification to waive the requirement in table 2-1-4-2(A) of the LDC that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe DA2022-0070 – a 4.36 - acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.

Mr. Griffith opened the public hearing.

Mr. Griffith asked staff to confirm that the required documents and notices were in order.

Mr. Nitchals confirmed that the published notices, affidavit of mailing and posting log were in order.

Mr. Nitchals made clarification about the staff report and that there was a previous project that was approved in March of 2021 for a conditional use by council, he wanted the Planning Commission to understand that approval only applies to that 5 story design. This is a different design and not the same 5 story design or unit count and that is why this case is before the commission. Mr. Nitchals also wanted clarification of the height of the building, on page 7 of the staff report. He states that the 45 feet maximum height is true and an additional 15 foot height bonus is available. This project is right around the 45 feet maximum height and has the option of the additional 15 feet.

Mr. Griffith asked if there are any additional items received that need to be made a part of the permanent record?

Ms. Grogg stated there are emails received that are public record and are part of the packet and permanent record.

Mr. Griffith stated communications received from the public are included in the permanent record.

Mr. Griffith entered into the record the staff report for DA2022-0070 posting of signs, affidavit of mailing, posting log and emailed public comment.

Mr. Nitchals introduced the project to the Planning Commission. Mr. Nitchals explained that the applicant is requesting a Conditional Use in order to construct a residential structure within the MX-S zone district and they are also requesting a major modification to the small urban park requirement to reduce the size of that by approximately 50%. The proposed development will contain 260 units in one 4-story building on a 4.36 acre site. Staff presents this with a recommendation of approval. Mr. Nitchals identified that the letters from the public were concerned about the park reductions and wanted to clarify that the small urban park is not the same as park land dedication. Reduction to park land

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

dedication is not allowed by code but the small urban park is a privately owned and maintained space that can be open to the public and it is counted towards their park land dedication. A vast majority of developments give us a fee in lieu of parkland dedication so that we can build larger parks. In this situation, by building a smaller urban park, they will get less of a credit and the City will get a larger parkland dedication fee.

Ben Taylor - Developer - 1746 N. Williams St. Denver 80216 , This project is what is considered true affordable housing, this means that it is financed by Federal tax credits known as LIHTC (Low Income Housing Tax Credit). For these credits they must restrict rent for 30 years based on AML(area Median Incomes)restriction. With restricted rent they will be able to charge an affordable rate for these units. This project 1-bed rent will be \$1,243 compared to 1-bed \$1,700 in a market rate project. This allows residents to live in a community they could not normally afford, and lets them not have to choose between rent and everyday goods that they need.

Kristin Dean, Norris Design - 1101 Bannock St, Denver, 80204 - Ms. Dean states that the East side of Arvada is a great opportunity for housing because of the close proximity of transportation, highway systems and Olde Town. The site currently has one single family home and a landscape management company on site. The property is zone MX-S and residential is a conditional use. She noted that there is no maximum density required for that zoning designation. The max height is 60 feet and she recognized the City's incentives to development to allow for projects like this to come forward. Ms. Dean gave an overview of the proposal, she stated that this project has 260 affordable multi-family units with two internal courtyards. Public plazas along Marshall Street and 52nd Ave. This project includes both garage and surface parking being proposed with a total of 367 parking spaces. There are two points of access, one on Marshall and one on 52nd St. Future dedication of ROW will be provided to accommodate a future round-about being built by the City. Bike lanes and sidewalks will also be added, Ms. Dean says this is a major win for the City.

Carl Rung, Landscape Architect, 1101 Bannock St., Denver, 80204 - Mr. Rung explains that the landscape on the property complies with all standard requirements of the Land Development Code. The project includes landscape buffers, 6" fence along the eastern and southern property line, 2 interior courtyards - the North courtyard would include an individual's flex land use, covered outdoor grills and seating area, flower garden for residents. The South courtyard is geared towards families including 2 playgrounds. The North courtyard will have covered seating, a cut flower garden, hammock grove and Bocce Court. The South courtyard will have a turf playground hill, a natural playground, and a climbing wall that can also be a movie wall. It will also include a discovery path, tot playground, more outdoor seating and covered seating.

Ms. Dean spoke about the small urban park major modification request. The code requires 10% of the site and the request is to reduce it to 5% of the site. If they met the requirements of the code that would require the project to lose 15 units. She explained that they met frequently with City staff to make sure they meet City standards to the greatest extent possible. With the major modification the project would be offering 2 small internal urban parks for residents plus plaza space and enhanced seating/landscape areas. This ends up being about 20,000 sf of park space.

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

Adam Kantor 2555 Walnut St. Denver, 80205 - Mr. Kantor explained that they designed this building for this site specifically. Main entry distinct design focusing the warmth. Falling in under height restriction, even though it is a large structure.

Ms. Dean closed her presentation by stating that they have carefully worked with staff to meet criteria for both the Conditional use and the major modification.

PUBLIC COMMENT

Mr. Griffith opened the hearing for comments from the public.

Dean Schulze 13556 W 68th Ave, Arvada, 80004. He has studied diagrams and does not see a small urban park on plans. Looks like a sidewalk not a park. He does not feel like it works. Not enough space for the amount of people that this building will house. 600 new residences, feels this is not enough space. You cannot call sidewalks an urban park. Also offers an idea of land that the applicant can purchase to put in a park.

Mr. Griffith calls up Rebecca Martin, Ms. Martin passes on her public comment.

Mr. Griffith calls up Linda McGivern, Ms. McGivern passes on her public comment.

Andrew Anthony 6700 W. 54th Ave Arvada 80002- What is the typical residence for these type of places/projects? 2nd question is about are animals allowed? Where are the animals going to use the bathroom?

Janet Spelman 6693 W. 53rd Ave, Arvada, 80002 - Question is about parking. For the amount of units and people proposed, where are they going to park? Traffic in this area is bad. This many new residents will just add to the big problem with traffic right now. Not real good access. She is worried that her property will be devalued and is concerned with the number of units.

APPLICANT REBUTTAL

Ms. Dean first addressed the comment about the small urban park/plaza being all sidewalk, she states that this is allowed by code. She also stated that it can be used by the public. In terms of the vacant land she said that it was not their opportunity to build a park but that it was something that the City could consider.

Ms. Dean stated that the parking and traffic are their concerns as well and did a traffic study for plan development. Traffic study was done for the present state of the area and future state; not a short term analysis. Parking study was done for this site; she reminded the commission that the ROW dedication for a round-about is planned for the future and will be an improvement to traffic. She also discussed the site's proximity to transit which provides residents with options. In closing, Ms. Dean explained that the proposed parking is more than what was determined from the parking study for the number of units on the site.

Mr. Taylor replied to the question of who lives here. A majority are single moms and first year school teachers. Residents who make about \$25.00 an hour. These are the people

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

who qualify to live here. Yes animals are allowed and size and breed restrictions apply. Lease addendum for pets.

Mr. Griffith closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Hannan asked staff to go over the urban park issue on this site.

Mr. Nitchals stated the change in LDC to create smaller parks is part of the Parks Master Plan. These are privately owned and privately maintained but open to the public. These are only required in the MX-U and MX-T zoning districts. These requirements are completely separate to the fees associated with park land.

Mr. Hannan asked staff to expand on the area traffic.

Mr. Nitchals states both streets (Marshall and 52nd Ave) are arterial streets and categories are existing levels of service, almost all A's and B's with a few C's.

Mr. Hannan asked what is the deal with the roundabout?

Mr. Nitchals stated this area has more than one jurisdiction in this area. Jefferson county, City of Arvada and Denver jurisdiction. Working together - cross jurisdictional to fix this area, if they pivot they can do a more traditional intersection.

Mr. Hannan asked about parking for this project and if they are going to meet our numbers?

Mr. Nitchals stated the developer will comply with LDC but can request a 20% reduction for parking. Parking study they have shows the developer will satisfy the parking for the site.

Mr. Hannan states he recalls City Council's strategic goal is to increase more affordable housing in the City of Arvada?

Mr. Nitchals has the CED director speak on this.

Mr Stachelski explains that the Council has specific strategic goals that have not been updated, specifically for an affordable housing count. The minimum goal was set a few years ago was 50 affordable housing units. Currently we have 686 in different phases of development including this project. The City Council is requesting more effort to be made on this and there is a new housing committee that will start meeting in May to work with the City to create a strategic plan on affordable housing.

Mr. Hannan asked about EV chargers in the parking garage or surface parking?

Mr Taylor states yes 10% of parking stalls are for future use of EV chargers.

Mr. Figliolino asked the applicant if they are a new applicant as to the project on this site then what was approved last year.

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

Ms. Dean states yes, and she is not sure what the previous applicant was wanting or thinking on this project. This is a well thought out project to meet development standards and fit for the area.

Mr. Figliolino asked will the project offer secure bike parking and will the project offer transit passes?

Ms. Dean states there will be secured bike parking on site. In terms of eco passes, not sure if they are on or off the table, could be something in the future.

Mr. Figliolino asked staff for more information about the park fees in lieu, will the money go to projects in the neighborhood or general fund to any area in the City?

Mr. Stachelski states by policy the fees will go to the area but can't speak on the Parks department behalf. In general fees will go to that area but Parks going through changes and not sure if this is how it will be handled or what the best practices are. The parks department is trying to understand what is best for not only the quality of the parks as well as the engagement in the parks. The parks plan was to have a 10 min walk to a park in every neighborhood, now the next evolution is to the quality of them. The east side of the City has not seen parks updated as much as the West side and they may see more updates happening in this area and the City wants to ensure inclusivity to the City as a whole.

Mr. Aljinovich asked about the parking garage, how many levels and where is it located?

Mr. Taylor states it will be a 4 level garage with one entrance and one exit.

Mr. Aljinovich asked about the landscaping plant material and who will maintain it to include sidewalks?

Mr. Taylor states that the owner will have a property management onsite that will maintain the property.

Mr. Magee asked about the rent and how is it maintained at a fixed rate or updated with new median income?

Mr. Taylor states new rents for that area from HUD every year.

Mr. Magee asked how much does it increase 3% - 5%?

Mr. Taylor states average increase from data on average from 2012 to 2022 - 1.7 - 2 % annual increase.

Mr. Magee asked what happens after 30 years. Can the property be changed to what the developer wants to do. Increase rents etc?.

Mr. Taylor explains that renewing about 15 to 20 years and that they apply to get new tax credits, do major renovations to the property and keep it affordable housing.

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

Mr. Magee asked about the parking study that was completed and it mentioned 30 sites. Where are those other sites that were used as a comparison in the study? In the West, Mid West or in the East.

Ms. Dean stated the parking study used National data. She read a portion of the report based out of Los Angeles. This was a study specifically focused on affordable housing, this found that .2 and .85 spaces per unit were sufficient for this type of housing.

Mr. Magee explained that he believed that it was sufficient and that he just wanted to ensure that there wouldn't be parking issues in the area.

Mr. Nitchals states he went over the parking study, and the study did look at Denver and sub areas around Denver. He disregarded the study in LA and focused on local areas. Those suburban studies showed a utilization rate of .86 spots per each unit. This was done around 5am which would show most cars in the lot. This project meets parking.

Mr. Knapp asked about the validity of the study.

Mr. Nitchals stated there will need to be additional work on parking study. ITE (Institute of Transportation Engineers) usually provides a pretty conservative number. They overestimate trips and parking and the city will be looking in more detail during the site plan approval process.

Mr. Knapp asked about small urban parks to help understand the city's purpose?

Mr. Nitchals stated the goal is more parks in more intensely developed areas, this is a newer requirement for parks of this type for the City. The intent is to make space that looks like it is for the public and so they should be closer to the pedestrian corridor and not shoved back into the corner of the property.

Mr. Knapp asks where is the closest park to this site?

Mr. Nitchals stated Columbine Park is near this site.

Mr. Knapp asked about parking control, how many vehicles one can have?

Mr. Taylor states best they will do is project and if parking becomes an issue the property manager will get involved and address the issue.

Mr. Aljinovich asked a neighborhood question, if a problem with a dog or if a neighbor gets out of hand will the property manager help get involved?

Mr. Taylor states the community/property manager will take care of issues on the property and concerns that come up.

Mr. Aljinovich asked do the community managers hold community meetings with the residents?

Mr. Taylor stated yes they do hold community meetings.

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

Ms. Grogg stated everyone in Avarada is bound by the code of ordinances that City council has passed.

Mr. Griffith asked if the previous plan on this site was taller and one unit type?

Mr. Nitchals stated yes he does believe to make the parking work for that project.

13. MOTION: Agenda Item 8.D

It was moved by Mr. Knapp, DA2022-0070 – Conditional Use for Marshall Pointe, to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district, on a 4.36 - acre parcel of land approximately located at the southeast corner of Marshall St. and W 52nd Ave., be recommended to City Council for approval.

This motion is based on the finding of fact and approval criteria on Pages 8,9 & 10 of the Staff Report.

DISCUSSION OF MOTION

Mr. Griffith stated affordable housing is a concern, he thinks this is a better plan than the previous project for this site. With a bike facility, park and parking is a big win. He definitely supports this motion.

Mr. Hannan noted that the building design does not look like affordable housing, and that he liked the design.

Mr. Figliolino wants to thank the applicant and thankful for the residents that came out, supports this project

Mr. Knapp thanked the residents for coming out and the applicant's well done presentation. Stated that this was a needed project in this area and supports this project.

Mr. Magee supports this project and thanked the applicant. Very well thought out plan for this site. With 2 courtyards and enough parks in the area.

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Figliolino

Those voting No:

Those absent: Gay

The motion carried: 6-0 (1 absent)

14. MOTION: Agenda Item 8.E

It was moved by Mr. Knapp, DA2022-0070 – Major Modification for Marshall Pointe, to waive the requirement in table 2-1-4-2(A) of the LDC that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe – a 4.36 - acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave be recommended to City Council for approval.

SYNOPSIS OF MINUTES FEBRUARY 7, 2023 MARSHALL POINTE

This motion is based on the finding of fact and approval criteria on Page 10 & 11 of the Staff Report.

DISCUSSION OF MOTION

Mr Griffith stated thinks the wording is confusing about urban park requirements and will support the motion.

Mr. Hannan states he supports it because it is an affordable housing approach and not full cost rentals.

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Figliolino

Those voting No:

Those absent: Gay

The motion carried: 6-0 (1 absent)



REPORT TO CITY COUNCIL PUBLIC HEARING

**AGENDA ITEM
10.E.**

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Major Modification to waive the requirement in table 2-1-4-2(A) of the Land Development Code (LDC) that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, a 4.36 acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.

Report in Brief

PRESENTER: Robert Smetana

Norris Design, on behalf of Lincoln Avenue Capital (LAC), is requesting approval of a Conditional Use and a Major Modification to allow for the construction of an affordable multifamily project within the MX-S (Mixed-Use Suburban) zone district. The applicant has stated that the project will be funded through an issuance of Tax-Exempt Bonds from the Colorado Housing and Finance Authority (CHFA) along with an equity investment from a low income housing tax credit (LIHTC) investor. Additionally, the Colorado Department of Local Affairs (DOLA) is providing a \$5,000,000 soft loan through their Operation Turn-Key (OTK) program to assist in the acquisition of the land.

The proposed multifamily development will contain 260 units in one four-story building on the 4.36 acre site. Of the 260 units, 149 are planned to be one-bedroom units, 84 are planned to be two-bedroom units, and the remaining 27 units will be three-bedroom units. The applicant anticipates that rents will be restricted between 30 and 60 percent of the area median income (AMI).

The Arvada Team recommends that City Council approve a Major Modification to waive the requirement in table 2-1-4-2(A) of the Land Development Code (LDC) that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, DA2022-0070, a 4.36 acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.

Financial Impact

There is no fiscal impact to the city.

Background

The subject property consists of two parcels located at the southeast corner of W 52nd Avenue and Marshall Street, also known as 5190 Marshall Street. Currently, there is a single-family detached structure, numerous accessory buildings, and a variety of outdoor storage on the property. According to Jefferson County Assessor records, most of the buildings on site were built between 1957 and 1960. The property was annexed into the City of Arvada in 2016 as the Spano Corner Annexation. With annexation, the property was zoned CC-A (Clear Creek Zoning District – Industrial and Commercial Sub-District). The current MX-S zoning was adopted in May of 2020 as part of the remapping associated with the adoption of the Land Development Code (LDC). In March of 2021, a Conditional Use for a five-story, 275-unit, affordable multifamily building was approved by City Council (Case No. DA2020-0077).

Discussion

SUBJECT: Major Modification to waive the requirement in table 2-1-4-2(A) of the Land Development Code (LDC) that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, a 4.36 acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.

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Div. 8-3-11 Major Modification Approval Criteria	Finding	Rationale
1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.	Complies	The requested modification allows the Marshall Pointe project to be approved as proposed. The Marshall Pointe project is consistent with numerous Comprehensive Plan goals and the MX-S zone district.
2. The requested modification addresses a unique situation or incorporates creative site design.	Complies	The Marshall Pointe project is a unique project in that it is a truly affordable project that provides units for those making between 30 and 60 percent of AMI. The requested modification allows the project to move forward with approximately 15 additional units, while also providing the residents with two amenitized courtyards that exceed code requirements.
3. The requested modification will not result in incompatible development.	Complies	The proposed modification only eliminates a portion of the Small Urban Park, a feature that has only recently been included in the LDC and is not currently found in the area.
4. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.	Complies	The proposed modification only eliminates a portion of the Small Urban Park and therefore, will have no impact on the health, safety or welfare of the community or surrounding properties.
5. Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.	Complies	The elimination of a portion of the Small Urban Park will not result in adverse impacts.

Public Contact

The required neighborhood meeting for this project took place on September 21, 2022. The applicant's team, staff, and six members of the public were in attendance.

A range of topics were raised by attendees during the meeting. These included: concern over traffic impacts and questions about the potential future roundabout; concerns about solar access, especially during the winter months; a desire to see additional sidewalks in the area; questions about how the project will be funded; positive comments regarding the aesthetics of the building; and questions regarding the construction timeline. The applicant prepared a summary of the meeting, which is

SUBJECT: Major Modification to waive the requirement in table 2-1-4-2(A) of the Land Development Coder (LDC) that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, a 4.36 acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.

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attached to the staff report.

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 1,000 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

Commission Recommendation

On February 7, 2023 the Planning Commission voted 6 to 0 (1 absent) to recommend it for approval to the City Council.

Strategic Alignment

This project aligns with the Community and Economic Development strategic goals.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends that the City Council approve a Major Modification to waive the requirement in table 2-1-4-2(A) of the LDC that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe - 4.36 - acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave., in the City of Arvada, CO.

Suggested Motion:

I move that the Major Modification to waive the requirement in table 2-1-4-2(A) of the LDC that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, DA2022-0070, a 4.36 - acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave., in the City of Arvada, CO, be (approved)(denied).

This motion is based on the findings of fact and any conditions, if applicable, adopted by Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:
Dixielee Rodriguez, Administrative Specialist

Reviewed by:

SUBJECT: Major Modification to waive the requirement in table 2-1-4-2(A) of the Land Development Coder (LDC) that requires at least 10 percent of the net parcel area be developed as a Small Urban Park for Marshall Pointe, a 4.36 acre parcel of land approximately located at the southeast corner of Marshall St and W 52nd Ave.

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Approved by:

Jacob Nitchals, Senior Planner	2/14/2023
Josie Suk, Development Systems and Administrative Manager	2/15/2023
Robert Smetana, Manager of City Planning and Development	2/15/2023
Ryan Stachelski, Director of Community and Economic Development	2/16/2023
Gail Walker, Legal Specialist-Contracts	2/16/2023
Emily Grogg, Senior Assistant City Attorney	2/17/2023
Rachel Morris, City Attorney	2/21/2023
Linda Haley, Deputy City Manager	2/21/2023
Lorie Gillis, City Manager	2/22/2023

Enclosure, exhibits & attachments required to support the report

Josie Suk <jsuk@arvada.org>

Fwd: Marshall Pointe Apartments

Kristen Rush <kristen@arvada.org>

Wed, Feb 22, 2023 at 1:50 PM

To: Dixielee Rodriguez <drodriguez@arvada.org>, Chris Koch <chrisk@arvada.org>, Josie Suk <jsuk@arvada.org>

----- Forwarded m

From: **Juliet Mullen** [REDACTED]

Date: Wed, Feb 22, 2023 at 12:46 PM

Subject: Marshall Pointe Apartments

To: kristen@arvada.org <kristen@arvada.org>

Hi Kristen,

I will be unable to attend the city council meeting on March 6th but would like to submit the following comment for the record.

I feel that it is very important to provide a sufficient outdoor space/park for a 260 unit building and do not support the modification to reduce the size of the proposed urban park. A community this size needs to have access to a safe and proportionate outdoor space to meet the needs of the residents. Columbine park is not large enough to proficiently serve the existing neighborhoods, as well as the new community of Marshall Pointe Apartments. It is important to prioritize outdoor space for mental health and reducing the small urban park would be a mistake and a disservice to future residents of the apartments and surrounding community.

Thank you,
Juliet Mullen

--

Kristen Rush

City Clerk

720-898-7546 (Work)

303-915-5246 (Cell)

kristen@arvada.org

MARSHALL POINTE APARTMENTS CONDITIONAL USE ARVADA CITY COUNCIL

W 52nd Avenue and Marshall
Street
Arvada, Colorado
March 6, 2023

TEAM



Chad Gleason



John O' Rourke



Eli Farney



Ben Taylor & Etai Bernstein



Kristin Dean & Carl Runge



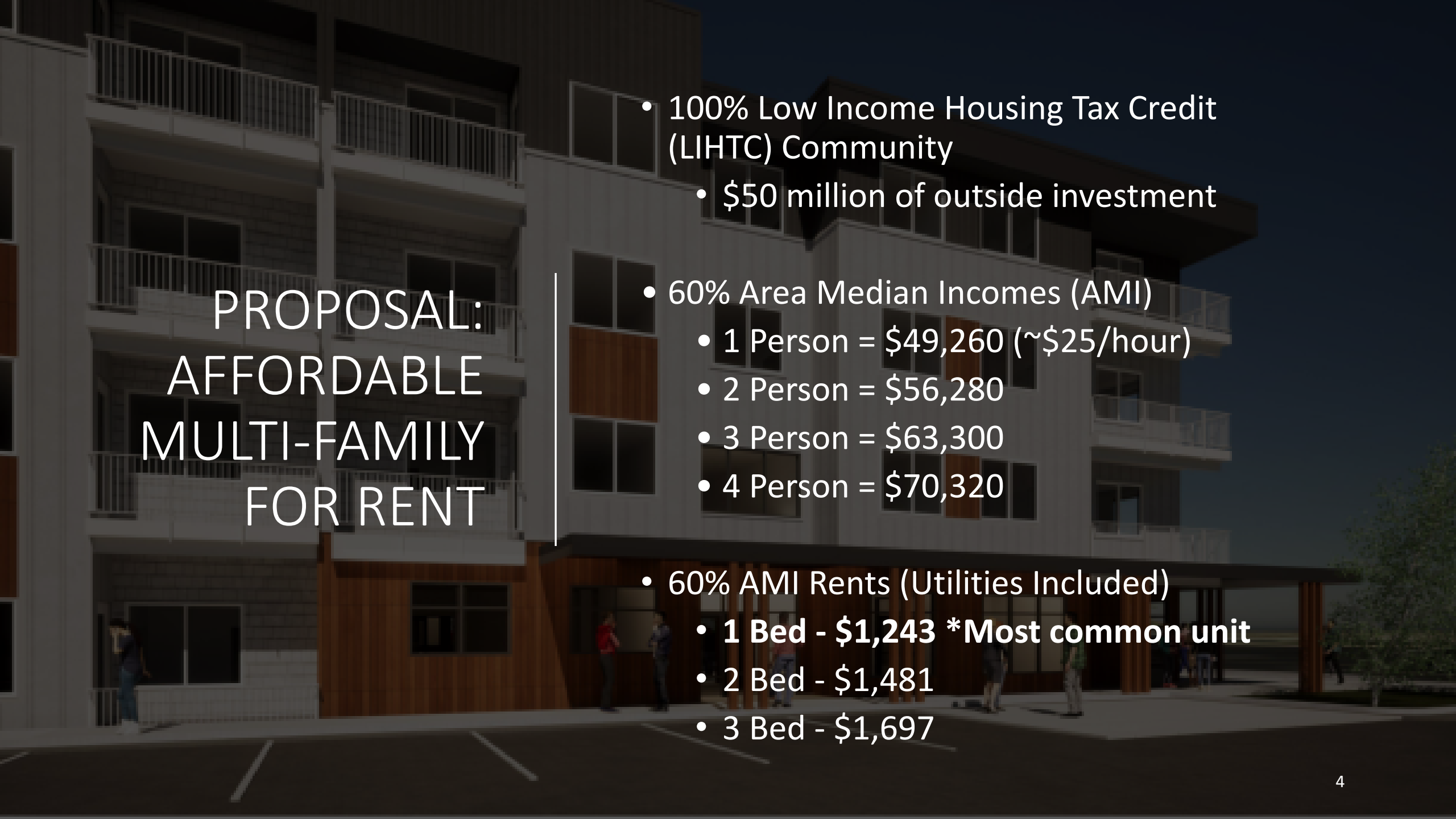
Cassie Slade

LINCOLN AVENUE CAPITAL

Founded in 2016 with a mission driven goal of making a positive impact through the acquisition, rehabilitation, and development of affordable rental properties.

Since its inception in 2016, LAC has grown to over 22,000+ units and 100+ properties across 20+ states





PROPOSAL: AFFORDABLE MULTI-FAMILY FOR RENT

- 100% Low Income Housing Tax Credit (LIHTC) Community
 - \$50 million of outside investment
- 60% Area Median Incomes (AMI)
 - 1 Person = \$49,260 (~\$25/hour)
 - 2 Person = \$56,280
 - 3 Person = \$63,300
 - 4 Person = \$70,320
- 60% AMI Rents (Utilities Included)
 - **1 Bed - \$1,243 *Most common unit**
 - 2 Bed - \$1,481
 - 3 Bed - \$1,697



WHO LIVES HERE?

Approx. Hourly Starting Wages in Arvada:

- Safeway - \$16
- Starbucks - \$15
- Costco - \$18
- Home Depot - \$16
- Sam's Club - \$15
- Chipotle - \$16
- Lowes - \$18
- Walmart - \$14

City of Arvada Starting Jobs that Qualify:

- Parks Workers
- Utility System Technicians
- Building Maintenance Workers
- Streets and Traffic Technicians
- Custodians



ARVADA RESIDENT RENT SAVINGS:

- Marshall Pointe 1-Bed Rent: \$1,243
- Comparable 1-Bed Rent: \$1,700
- For EACH Unit We Provide:
 - Monthly Savings: \$457
 - Annual Savings: \$5,484
 - Lifetime Savings (30 year): \$164,520
- With 260 units...
 - Annual Savings: \$1,425,840
 - **Lifetime Savings (30 year): \$42,775,200**

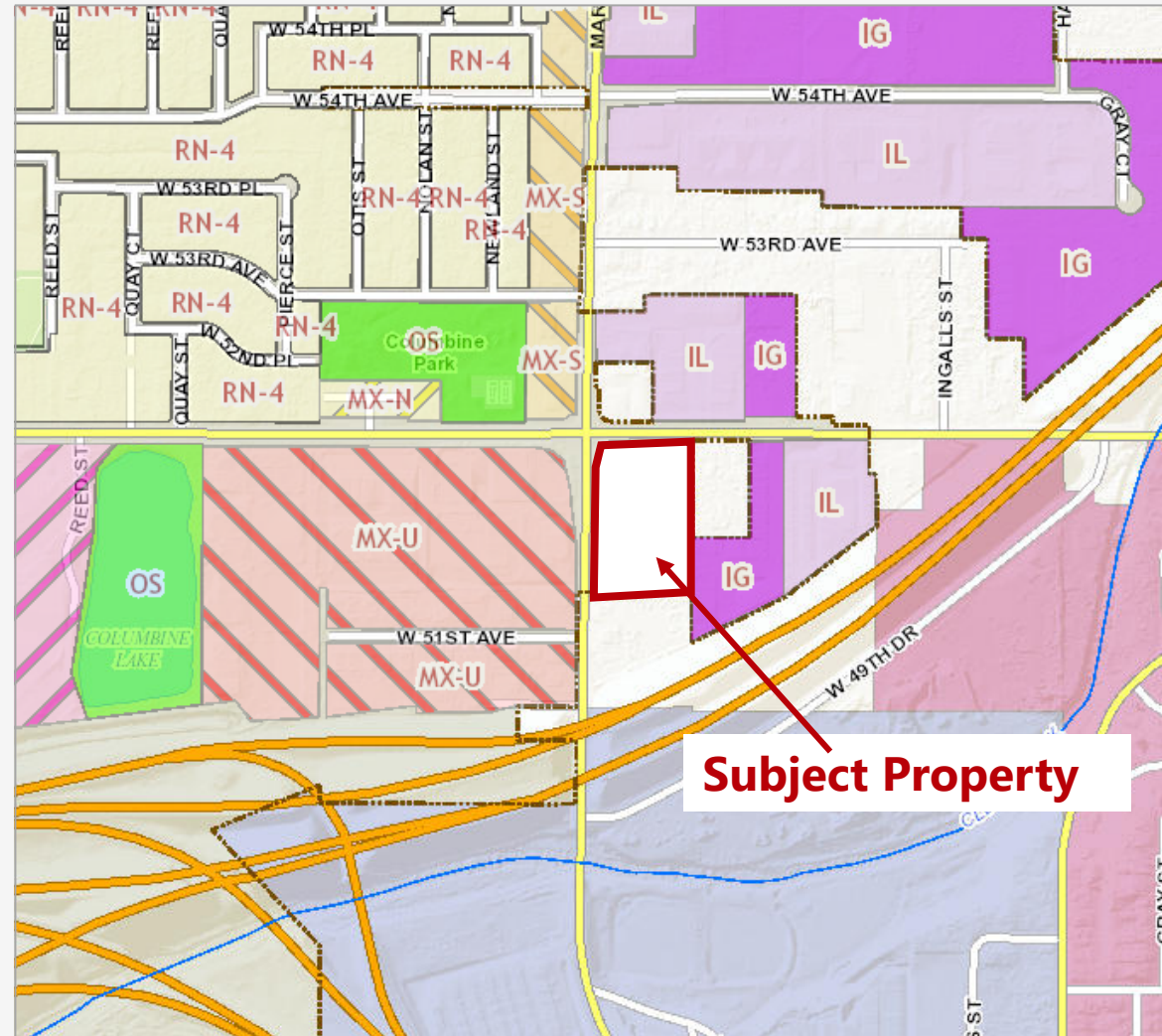
SITE LOCATION & EXISTING CONDITIONS

- Location: 52nd Avenue and N. Marshall St. (4.36 ac)
- Existing Conditions: One single-family home and a landscape management company



ZONING

- Mixed-Use Suburban (MX-S)
 - Multi-family is a Conditional Use
 - No Maximum Density
 - Max Height Allowed: 60'
- Setbacks:
 - Front: 10'
 - Street Side: 10'
 - Side Interior (east): 10'
 - Rear: 10'





PROPOSAL

- 260 affordable MF units
- Two amenitized courtyards
- Public plaza spaces along Marshall and W. 52nd Ave.
- Surface and structured parking

DEVELOPMENT STANDARDS

DEVELOPMENT STANDARD	REQUIRED	PROPOSED
SETBACKS		
FRONT SETBACK	10' MIN	12.5'-17.4'
SIDE SETBACK (STREET)	10' MIN	13.95'-19.96'
SIDE SETBACK (INTERIOR)	10' MIN	72.2'-77.43'
REAR SETBACK	10' MIN	76.58'-82.01'
FRONT PARKING SETBACK	20' MIN	24.11'
SIDE PARKING SETBACK	20' MIN	24'
HEIGHT	60' MAX	51' (4 STORIES)



ACCESS & ROAD IMPROVEMENTS

TRAFFIC STUDY RECOMMENDATIONS

- The traffic impacts of Marshall Pointe can be accommodated by the adjacent roadway network without major modifications. A southbound left (SBL) turn lane is proposed at the site access on Marshall.
- LOS for the signalized intersection at Marshall and 52nd are “C” or better in the Opening Day 2024 and Future 2040 scenarios.
- The future 2-lane roundabout is also expected to function at an LOS A or B in the Future 2040 scenario.

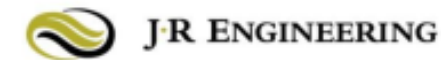
Traffic Impact Analysis

Prepared For:

Lincoln Avenue Capital
1001 Bannock Street, Suite 210
Denver, CO 80204

City of Arvada
Public Works Department
8101 Ralston Road
Arvada, CO 80002

Prepared By:



JR Engineering, LLC
7200 S. Alton Way, C400
Centennial, CO 80112

Contact: Eli Farney, PE, PTOE

ACCESS & ROAD IMPROVEMENTS

Two points of access: Marshall = Full Movement / W. 52nd = RIRO

26' private drive/24' private drive

Dedicated additional ROW to accommodate a future roundabout at the intersection of 52nd Ave and Marshall St

Updated street sections include bike lanes and proposed walks along the street frontage

Existing walks and ramps within ROW will be removed and updated to current standards and be accessible



ACCESS & ROAD IMPROVEMENTS

Two points of access

24' - 26' private drive through the site

Dedicated additional ROW to accommodate a future roundabout at the intersection of 52nd Ave and Marshall St

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Two points of access

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Existing walks and ramps within ROW will be removed and updated to current standards and be accessible



PARKING

- Parking
 - 367 total spaces Structured + surface parking



PARKING STUDY



2020 Fox Tuttle Parking Study Data

- Colorado Low-Income Housing (30-60% AMI)
 - Broomfield, Arvada, Lakewood, Pueblo, & Greeley
 - Overall Supply Average: 1.37 spaces/ unit
 - Overall Demand Average: 0.86 spaces/unit
 - Denver
 - Overall Supply Average: 1.09 spaces / unit
 - Overall Demand Average: 0.69 spaces / unit
- Marshall Pointe Proposed:
 - 1.5 spaces / unit

PARKING

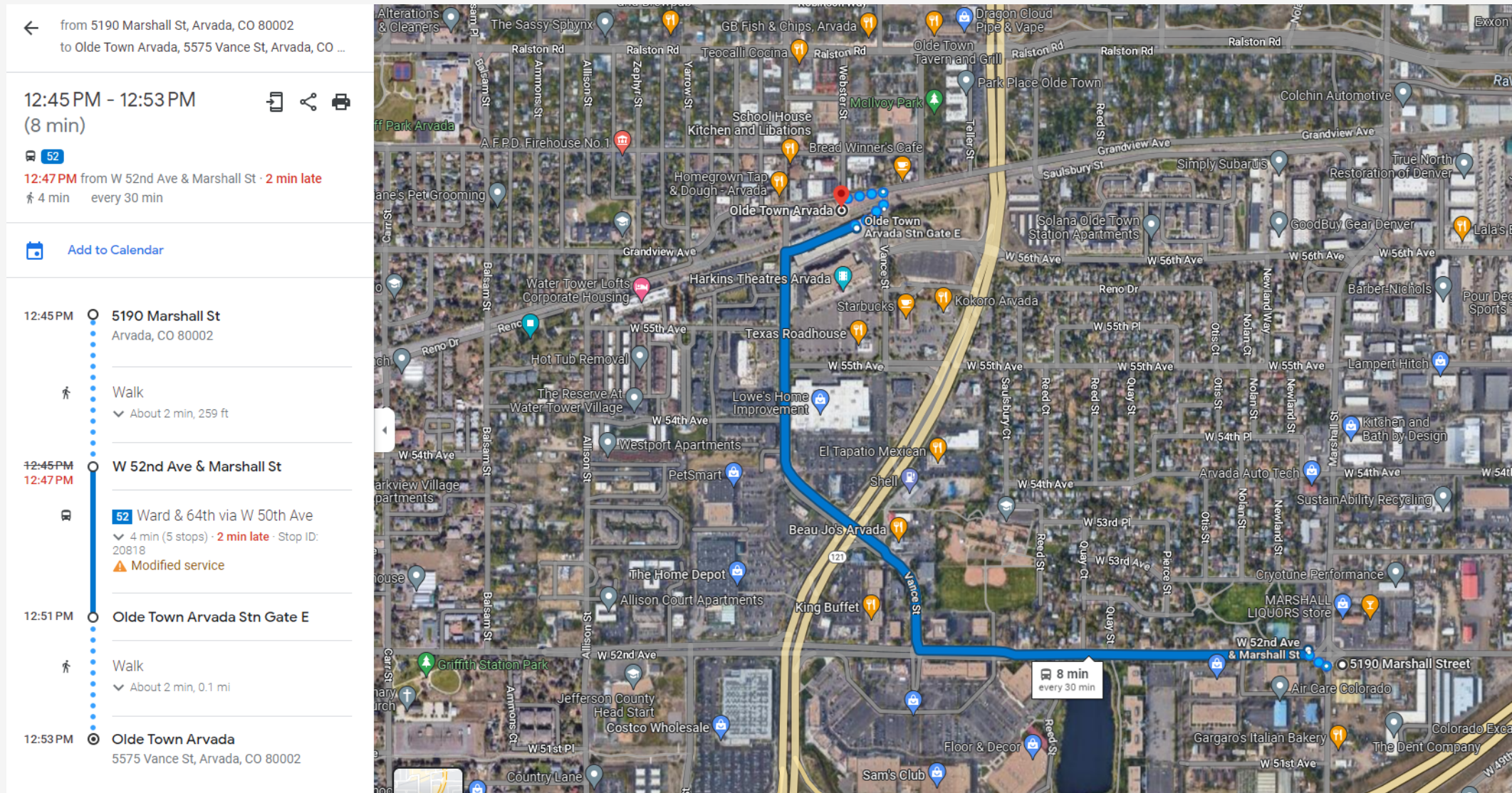
Fox Tuttle Parking Study

- 15% parking reduction requested
- Low-income & supportive housing is found to have a parking demand between 0.2 -0.85 / unit
- RTD bus stops within 1/10 mile. 8 min ride to Arvada Station.
- Site is 1.2 miles from Arvada Station



PARKING SPACES	REQUIRED	PROVIDED
STANDARD	422	343
ACCESSIBLE	9	10 (Garage=7 / Surface =3)
COMPACT		36 (Garage) (9.25%)
ACCESSIBLE VAN	2	3
TOTAL	431 (Avg. 1.65 spaces / unit)	392 (1.51 spaces / unit = 9% Reduction)
EV READY SPACES	36 (10%)	41 (Garage = 25/ Surface = 6)
BICYCLE	65	66 (26 Long Term + 40 Surface)
LOADING	2	2

BUS ROUTE 52: MARSHALL ST. TO OLDE TOWN ARVADA STATION





- Landscape buffers are provided along the south/east sides of property
- 6' solid fence along the eastern and southern property line.
- Amenitized urban plaza at corner and along Marshall and W. 52nd
- Two interior courtyards with amenities geared towards individuals and families
- On-site manager and maintenance staff

LANDSCAPING & AMENITIES



NORTH COURTYARD

- Programmed for Individuals (10,375 sf)
 - Outdoor Seating (8)
 - Covered Outdoor Dining (13)
 - Flex Lawn Space (12)
 - Covered Outdoor Grills (13)
 - Concrete Seat Walls (14)
 - Cut Flower Garden (15)
 - Hammock Grove (16)
 - Bocce Court (17)



SOUTH COURTYARD

- Geared towards Workforce Families and offers varied amenities (9,654 sf)
 - Turf Playground Hill (5)
 - Natural Playground (6)
 - Climbing/Movie Wall (7)
 - Discovery Path (10)
 - Tot Playground (11)
 - Outdoor Seating (8)
 - Covered seating (9)



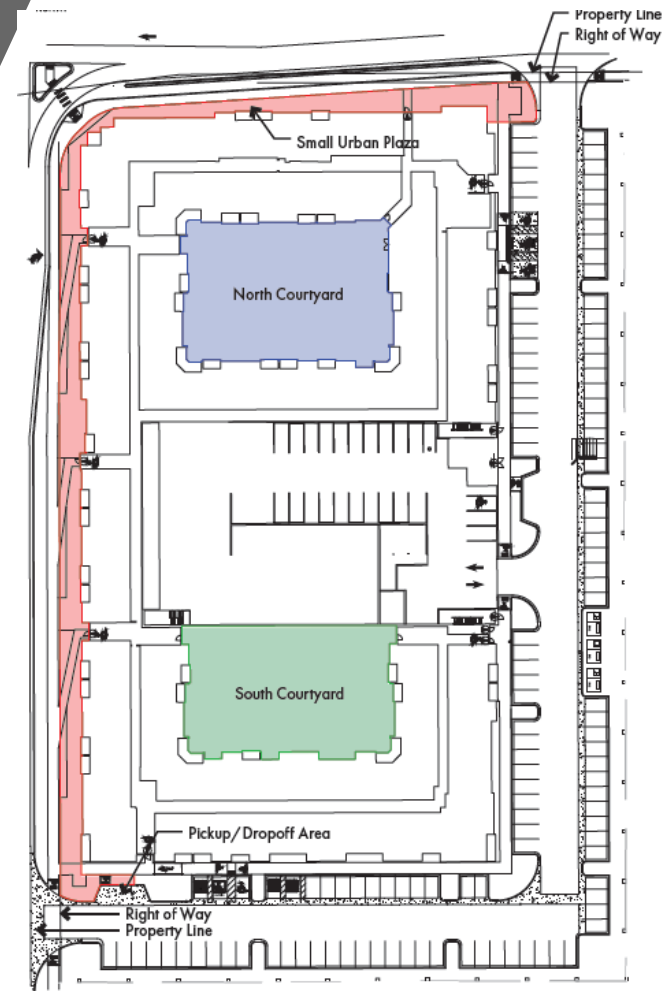
SMALL URBAN PARK

Small Urban Park

- 9,452 square feet
- Enhanced public plaza
- Plantings
- Seating area

MAJOR MODIFICATION REQUEST – SMALL URBAN PARKS

- Meeting the 10% min requirement would result in a loss of 15 residential units
- Designed to include pedestrian walks, plaza space, and enhanced seating/landscape areas
- Community will include 29,481 SF of outdoor amenity area (SUP area (9,452 SF) and two, interior private courtyards (20,029 SF))
- Meeting the intent of public park area in a private setting on-site for the residents



REQUIRED (10% MIN LOT)

0.42 AC (18,419 SF)

PROPOSED

0.21 AC (9,452 SF) OR
5.1% OF TOTAL SITE

ELEVATIONS



ELEVATIONS



CRITERIA FOR DECISION – CONDITIONAL USE

- ✓ The use is consistent with the Comprehensive Plan.
- ✓ The use is consistent with the purpose and intent of the zoning district in which it is located.
- ✓ The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- ✓ Any significant adverse impacts resulting from the use will be mitigated or offset to the extent reasonably feasible.
- ✓ Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will, prior to development, be available to serve the subject property while maintaining adequate levels of service for existing development.
- ✓ Any significant adverse impacts on the natural environment will be mitigated to the extent reasonably feasible.
- ✓ The use complies with all other applicable federal, state, or county laws and regulations.

CRITERIA FOR DECISION – MAJOR MODIFICATION

- ✓ The requested modification is consistent with the Comprehensive Plan and the stated purpose of the applicable zoning district.
- ✓ The requested modification addresses a unique situation or incorporates creative site design.
- ✓ The requested modification will not result in incompatible development.
- ✓ The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public.
- ✓ Any adverse impacts resulting from the modification will be mitigated to the extent reasonably feasible.

PROCESSES

- Previous CUP Application (different applicant) approved by City Council – 3/15/21
 - 5 stories
- Pre-Application Conference – 3/22/22
- CUP Formal Submittal – 8/11/22
- Neighborhood Meeting – 9/21/22
- Planning Commission – 2/7/23
- City Council – 3/6/23
- Site Plan + Civil CDs submittal - TBD

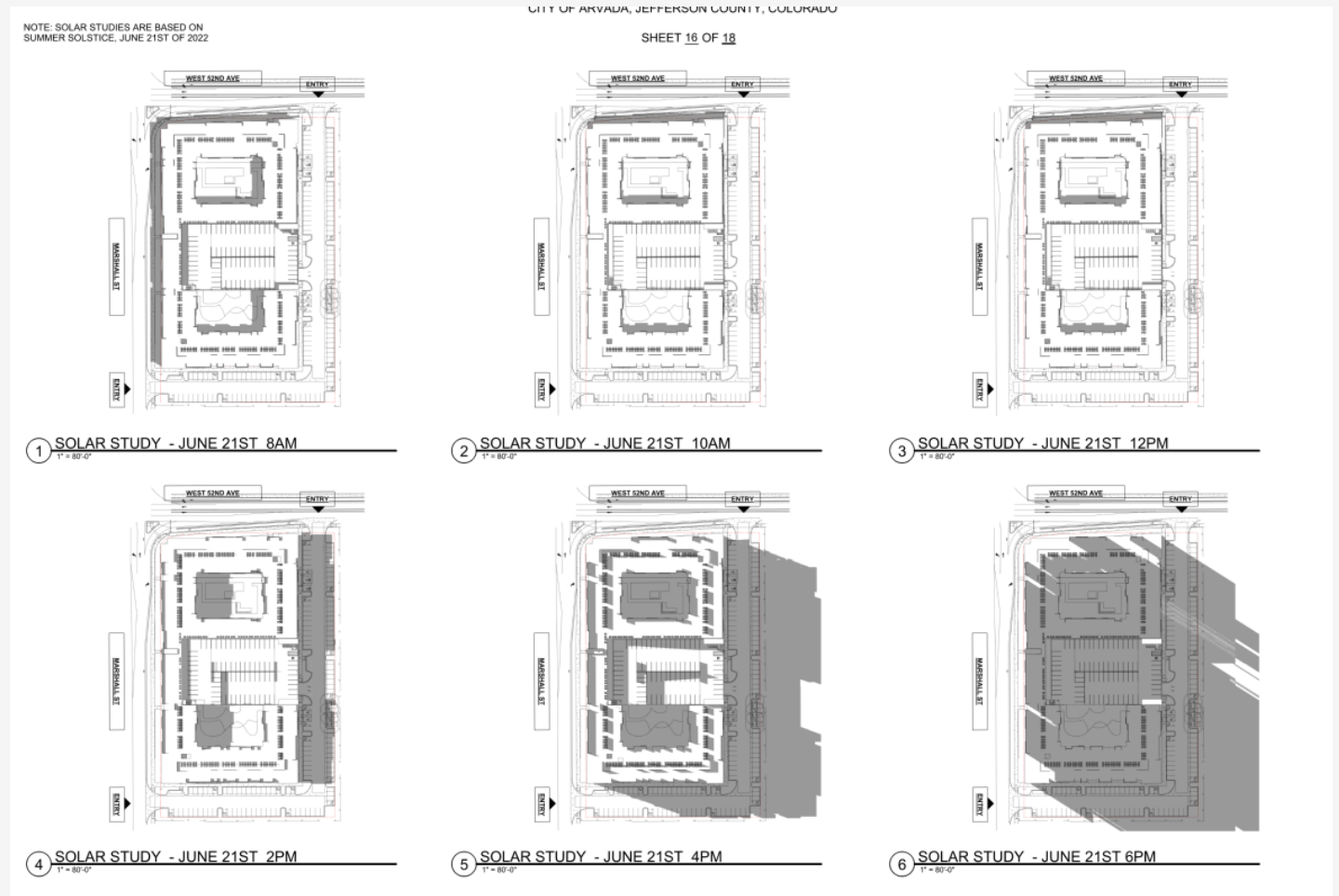
ARVADA



QUESTIONS?

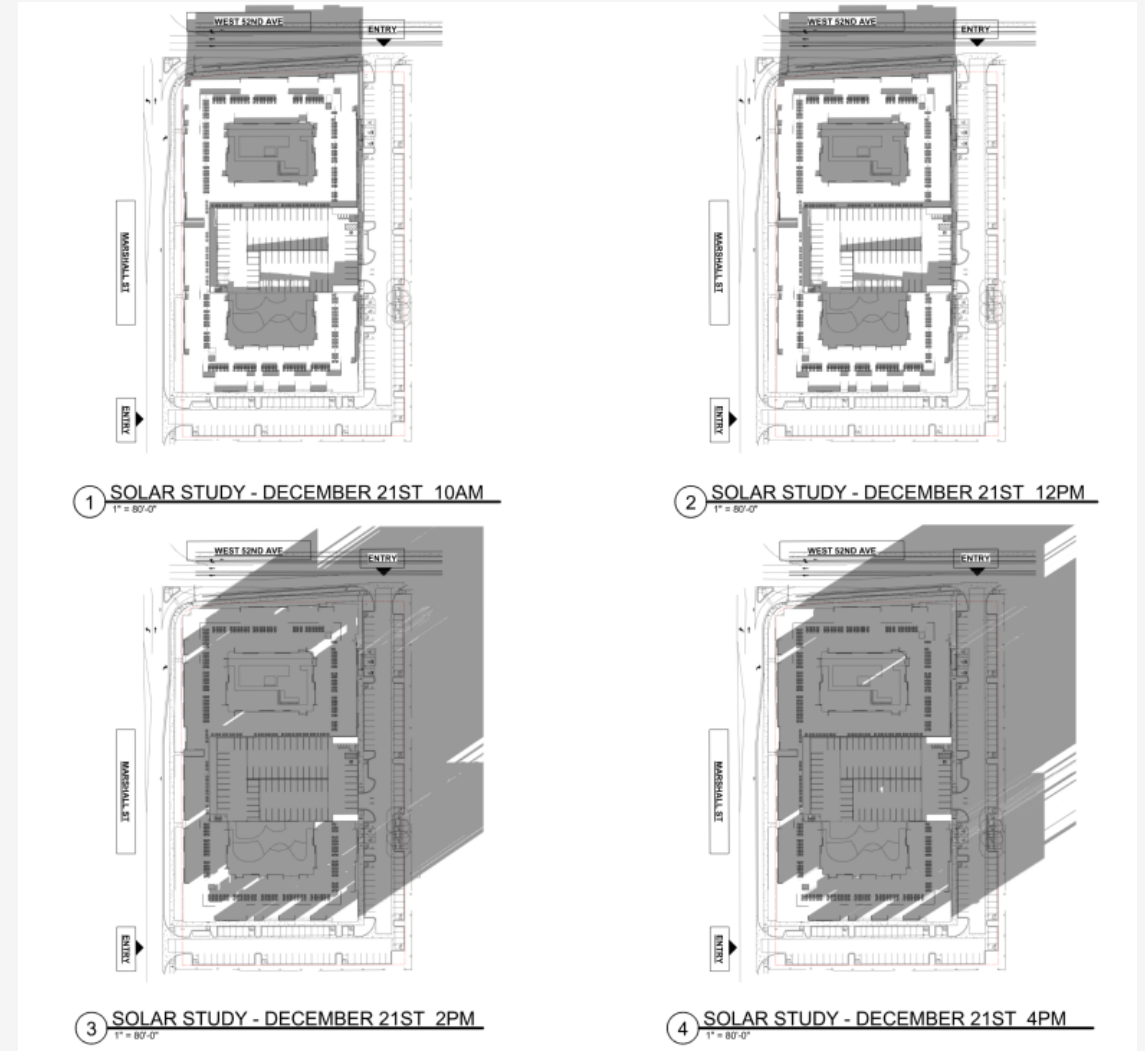
SOLAR / SHADE STUDY – JUNE 21

- 2021 CUP = 5 stories
- 2022 = 4 stories
- Height proposed is under the allowable height under current zoning (Max 60' allowed / 51' proposed)
- Building location:
 - South Property Line = 75'
 - East Property Line = 77'
- Only impact to eastern property around 6 pm at night



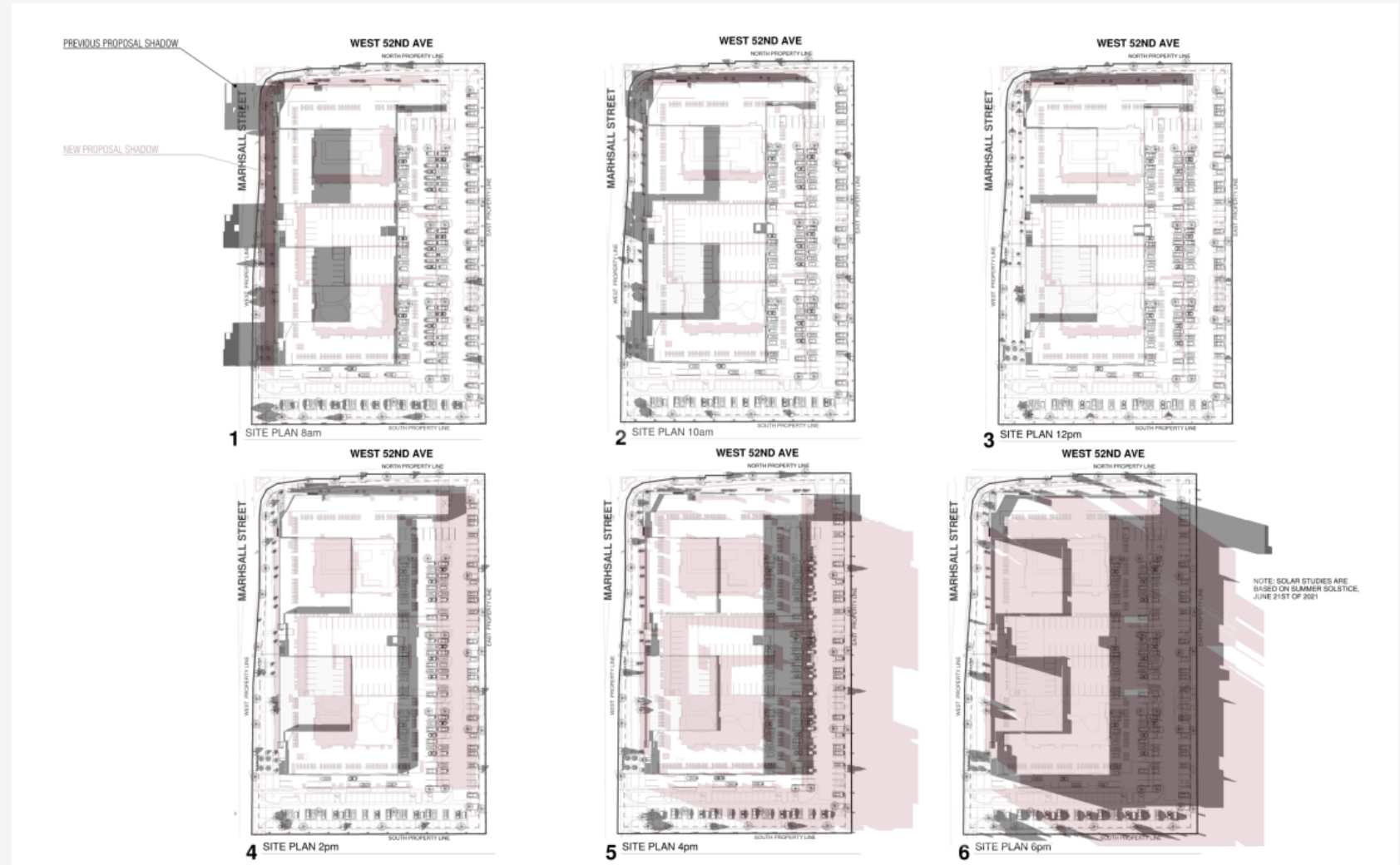
SOLAR / SHADE STUDY – DECEMBER 21ST

- 2021 CUP = 5 stories
- 2022 = 4 stories
- Height proposed is under the allowable height under current zoning (Max 60' allowed / 51' proposed)
- Building location:
 - South Property Line = 75'
 - East Property Line = 77'
- Only impact to eastern property around 6 pm at night



SOLAR / SHADE STUDY – COMPARISON TO PREVIOUSLY APPROVED CU – JUNE 21ST

- 2021 CUP = 5 stories
- 2022 = 4 stories
- Height proposed is under the allowable height under current zoning (Max 60' allowed / 51' proposed)
- Building location:
 - South Property Line = 75'
 - East Property Line = 77'
- Only impact to eastern property around 6 pm at night





E		"WOOD" LOOK PANEL - SAGIPER - CHERRY ZEBRAWOOD OR SIM.
F		CMU - BASALITE 635WR - GROUND FACE

3 EAST ELEVATION 01
3/32" = 1'-0"



2 EAST ELEVATION 02
3/32" = 1'-0"



1 NORTH ELEVATION
3/32" = 1'-0"



REPORT FROM CITY COUNCIL

AGENDA ITEM
12.A.

DATE: March 6, 2023

SUBJECT: Council Committee Reports

Report in Brief

City Council members are appointed to various committees and boards as set out on the attached listing. As meetings are held, individual council members will report back to the full City Council any relevant discussions and issues that occurred.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report

Council Member	Committee
Marc Williams	Arvada Municipal Court/Judicial Committee Arvada City Attorney Committee Arvada Urban Renewal Authority E-470 Authority (alternate) Jefferson Parkway Public Highway Authority Northwest Parkway Authority (Associate Member) (alternate) Urban Drainage and Flood Control District West Connect Coalition *Metro Mayors Caucus
Bob Fifer	Adams County Regional Economic Partnership (ACREP) Apex Coordinating Committee Arvada City Attorney Committee Arvada Transportation Committee Denver Regional Council of Governments (Alternate) Jefferson County R-1 Schools Coordinating Committee Jeffco Transportation Action & Advisory Group (JEFFTAAG) Smart City Advisory Committee
David Jones	E-470 Authority (alternate) Jefferson County Community Corrections Board Jefferson County R-1 Schools Coordinating Committee Jefferson Economic Development Council (JEDC) Jefferson Parkway Public Highway Authority Northwest Parkway Authority (Associate Member) (alternate) West Connect Coalition (alternate)
John Marriott	Adams County Regional Economic Partnership (ACREP) (alternate) Apex Coordinating Committee Arvada Economic Development Association Board Arvada Municipal Court/Judicial Committee Arvada Parks Advisory Committee Arvada Visitors Center Committee (alternate) CML Policy Committee Olde Town Business Improvement (BID) District Rocky Mountain Metropolitan Airport Community Noise Roundtable
Randy Moorman	Arvada Audit Committee Arvada Sustainability Advisory Committee CML Policy Committee Rocky Flats Stewardship Council
Lauren Simpson	Arvada Audit Committee Arvada Center for the Arts and Humanities Arvada Fire Protection District Coordinating Committee Arvada Visitors Center Committee Olde Town Business Improvement (BID) District (alternate)
Lisa Smith	Arvada Chamber of Commerce Government Affairs Committee Arvada Fire Protection District Coordinating Committee Denver Regional Council of Governments Jefferson County Community Corrections Board (alternate) Jeffco Transportation Action & Advisory Group (JEFFTAAG) (alternate) Smart City Advisory Committee

*Asterisked committees are not appointed by Council

City Clerk Team Drive: Council appointed committees



REPORT TO CITY COUNCIL

AGENDA ITEM
13.A.

TO: THE HONORABLE CITY COUNCIL

DATE: March 6, 2023

SUBJECT: Review of Future Workshops and Presentations

Report in Brief

The City Manager's Office maintains a list of upcoming workshops and presentations to be scheduled for City Council meetings. During City Manager Reports, at the end of City Council business meetings, City Manager, Lorie Gillis, will review with City Council the tentative schedule and make any adjustments necessary.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Rachel Morris, City Attorney 2/15/2023

Lorie Gillis, City Manager 2/22/2023

Enclosure, exhibits & attachments required to support the report

2022/2023 CITY COUNCIL WORKSHOPS, STUDY SESSIONS, PRESENTATIONS AND RETREATS (TENTATIVE)

WORKSHOPS	Date	Lead
No meeting – Board and Commission Interviews	Feb 27	
Bond Project Update	Mar 13	PW
Communication and Engagement Update	Mar 13	CMO
APAC – SaBell Park Naming @ Business Meeting	March 20	VCN
Cancelled - NLC	Mar 27	
Sub-area Plans As part of the implementation of the Land Development Code (LDC), the City team has begun to create a series of "Sub-Area Plans" which will focus on targeted areas around the City. The primary areas of interest are places that could see infill or redevelopment over the next five to ten years. These areas include Northwest Arvada, the New Town area to name a few. These plans will help the Development Review team incorporate the community's vision into development that happens within the plan areas. Next Steps: Pending feedback received during the workshop, the New Town and Northwest Sub-Area Plans will be scheduled for Planning Commission and City Council consideration and approval.	April 10	CED
Pocket Neighborhoods During the 2021 City Council retreat, the City Council developed a concept for a "pocket neighborhood". A pocket neighborhood is a local commercial use embedded in a residential neighborhood. Tonight, the City team will discuss a draft ordinance that creates the opportunity to have pocket neighborhoods within the City. Next Steps: Pending feedback received during the workshop, the Pocket Neighborhood ordinance will be scheduled for Planning Commission and City Council consideration and approval.	April 10	CED
	April 24	
Olde Town Strategic Reinvestment Plan Over the past year the City team has been engaged with DIG Studio to work with the community to create a strategic vision for Olde Town. The community has been heavily engaged in this process, which has led to a draft plan. The draft plan, with recommendations will be presented at the workshop. Next Steps: Following the presentation the City team will update the draft plan with the City Council's input. The plan will then be placed online for a 30 day public comment period. Following that period the plan will be brought back to City Council, along with the public comment, for the City Council to consider adoption of the plan.	May 8	
	May 22	
Bond Project Update	Jun 12	PW
Budget Presentation to Council – 10-year models	June 12	Fin
Budget Presentation to Council – 10-year CIP	June 12	Fin
Smart Meters Update	July 24	Utilities
Bond Project Update	Sept 25	PW
Budget Workshop – Work System Changes	Sept 25	Fin
Water Infrastructure for Fire Protection	Oct 9	Utilities
Budget Workshop – Pay Plan	Oct 9	Fin
Bond Project Update	Dec 11	PW
Infrastructure Annual Report	Dec 11	Utilities/PW
STUDY SESSIONS		
Sustainability	TBD	
Workshop TBD's		

Budget and Fiscal Policy Update	TBD	
Tour of Pavement Operations	TBD	
Pavement Programs	TBD	
Financial resiliency recommendations Provide City Council an update on the OSE's SR9: By 12/2024 based on long-term financial projections and updated master plans, develop financial resiliency recommendations to ensure adequate and ongoing investment in city infrastructure and core services. This workshop will present the summary of long range unfunded needs by work systems. Next Steps will be [M9B] By 12/2023 develop a city-wide consolidated level of service summary. [M9C] By 12/2023 prepare an exhaustive list of funding source opportunities for closing identified infrastructure and core service funding gaps.	TBD	Fin
Athletic Field Programming	TBD-2023	VCN
Regional Homelessness	TBD	CMO
Fleet Electrification	TBD	Utilities
Council Retreat Update	TBD	CMO
Pre-Sentencing/One Small Step	TBD	Courts
Meyers Pool Provide City Council an update on the VCN's SR3: By 12/2025 develop a maintenance and reinvestment plan to ensure a sustainable, resilient and beautiful community of parks, trails, open space and medians in alignment with our diverse, changing and growing community and VCN's SR3 Milestone [M3H] By 7/2024 replace Meyer's Pool with a new 50 meter natatorium.	TBD	CMO
City Marketing Plan	TBD	CMO
Financial Scenarios for Street Maintenance Deficit/Options for Increasing Maintenance Funds Engage City Council in a discussion around the current street maintenance needs and how the City might fund them. This will include revenue enhancements, future allocations and expenditure realignments.	TBD	PW/Fin/CMO
Fiber Master Plan The Fiber Master Plan which is also called Arvada Fiber Optic Network (AFON), was first presented to City Council 4/10/2017. City Councils had set a strategic goal to build a fiber network to enable high speed/real-time connectivity to city facilities and assets in order to enhance city operations. This workshop is intended to brief City Council as to the progress of the AFON build out. Updates are intended to cover conduit installation progress, fiber installation progress, current co-locate opportunities, IGA member updates, and connections to current assets (city buildings, traffic, signals, utilities, radio, etc.).	TBD	PW
Problem Properties	TBD	P.D.
Activation of Historical Assets	TBD	VCN
Customer Service Philosophy	TBD	CMO
Ask Arvada Update	TBD	CMO
COUNCIL JOINT MEETINGS/DINNERS:		
Denver Water Board Apex Board AURA Board Arvada Center Board–Per Coop Agreement - Annually after October 1 of each year Jefferson Parkway Meeting with Jeffco and Broomfield Council Annual Retreat		