
**Board of Adjustment
February 14, 2023
Staff Report**

Application Summary –

An appeal of Daniel Wagner III (attorney), on behalf of St. Peters Shopping Center, LLC (owner) and 7Brew Coffee (Lessor), seeking relief from various form-based design provisions applicable to the M-DT (Mixed-use Downtown) Urban General West zoning district, relief from the Urban Space Standards and street light placement within the public right of way, and authorization to exceed on-site parking limitations associated with the proposed construction of a new drive-thru coffee restaurant on property addressed as 209 S. Providence Road which are not permitted by Section 29-4.2 [M-DT Form-based Controls], Appendix A, Section A-10 [Street Standards], and Section 29-4.3 [Parking and Loading] of the Unified Development Code.

Site Characteristics

The subject property is located on the west side of Providence Road, approximately 150 feet south of Locust Street. The site is part of an existing lot within the University Centre Subdivision, with the north half having been developed with a Raising Cane's restaurant. To the south of the lot is Custom Complete Automotive. The intended use of the site is a drive-thru only retail coffee business, which is classified as a restaurant within the UDC, and it will also include a drive-thru facility. While restaurants are a permitted use in the M-DT district, drive-thru facilities are a conditional, accessory use (CA) requiring review and recommendation by the Planning and Zoning Commission and final approval by the Council. Such approval has not been provided at this time given the UDC requires that all variances associated with a future development site be acted upon prior to approval of any conditional use application (Section 29-6.4(m)(1)(v)).

The site plan reflects an approximately 550 sq.ft. building that will have no internal customer areas. The business is intended to be drive-thru only, servicing customers from the double drive-through lanes that circulate to the south of the building. 14 off-street parking spaces are provided onsite as indicated on the site plans.

Access to the site would be from the previously constructed shared access driveway that connects the lot to the signalized intersection at Providence and Locust, and then again to Providence just south of the proposed site. Pedestrian connectivity is being provided via an ADA-accessible approach from the Providence Road sidewalk up to the front of the store.

Overview

The requested variances relate to deviations from the requirements for the finished floor elevation of the building, minimum ground story fenestration, percentage of the building façade constructed adjacent to the required building line (RBL), placement of street trees and street lighting within the public right of way (ROW), installation of sidewalk in compliance with the adopted Downtown Sidewalk Detail, maximum parking requirement, and the requirement for a drive-thru bypass lane. There are a total of nine variances sought for this project.

Because the site is located within the M-DT district, it is subject to the UDC's form-based controls. When relief is sought from the provisions of the form-based controls, it requires a variance as is typical, but the UDC provides

different criteria against which the request should be evaluated. All variances identified as being within Section 29-4.2 (M-DT form-based controls) are referred to as adjustments to the form-based controls within the M-DT district and require approval by the Board, after a public hearing, following the procedure in section 29-6.4(d) (Specific regulatory procedures; Variance), but based on the criteria in section 29-6.4(e)(1)(i) and (ii).

Variances to all other zoning provisions are processed as standard variances and require approval by the Board, after a public hearing, following the procedure in section 29-6.4(d) (Specific regulatory procedures; Variance). These criteria are listed later in this report.

The intent of the M-DT District is to encourage a mixed-use, pedestrian-oriented district. “Form-Based Zoning” is the tool by which this is accomplished, with the understanding that the function or use of buildings is secondary in consideration to urban design practices encouraging a vibrant downtown district. The principal regulatory sections of the M-DT District are the Regulating Plan, the Building Form Standards, and the Urban Space Standards, as presented in Section 29-4.2 of the Unified Development Code (UDC). The design and integration of streets and sidewalk elements in the M- DT are described as “Urban Space Standards” and are presented in Appendix A.10 of the UDC.

Within the M-DT district there are four distinct frontage types –Urban General Storefront, Urban General, Urban General-West, and Townhouse-Small Apartment. Each of these frontage types has a unique set of building form standards that govern façade composition, building height, pedestrian scale considerations, architectural elements, site circulation and building arrangement, open space and civic areas, and the interaction between the public realm and private spaces. **The subject site is governed by the Urban General- West standards.**

Additionally, within all four frontage standards, a cohesive pedestrian realm (i.e. corridor) is promoted by the required building line (RBL). This RBL separates the sidewalk/street-space environment from the building environment and is further enhanced by visual and physical cues which indicate that pedestrians are safe and welcome to travel and congregate in this corridor. When buildings are built off-set from the RBL, the lack of cohesive building facades and designated pedestrian spaces (and the interaction between the two) quickly deteriorates the experience and functionality of this space for users.

Variance Analysis –

As stated above, the variances above fall into two categories. The first seven variances are considered adjustments to the form-based controls with 29-4.2, and the last two are subject to the standard variance criterion.

Relief from the form based controls are subject to the following two criteria within Section 29-6.4(e)(1)(i & ii):

- (i) The proposed adjustment will not result in development that is inconsistent with the intended character of the M-DT district or the regulating plan for the block face including the applicant's property or the block face(s) immediately across the street(s) from the applicant's property;
- (ii) The proposed adjustment will result in a building and site design of equal or superior quality and visual interest to that required by the application of the form-based controls in section 29-4.2

The review of the requested form-based code adjustment is viewed through the lens of the goals and objectives of the downtown realm. The regulations adopted by the City were meant to guide the development of the building form, more so than the actual uses of the buildings. Downtowns are desired to compact, urban,

pedestrian-oriented environments that provide a strong sense of place. The required building forms require that development adhere to a certain pattern – buildings constructed to the front of the lot, to the edge of the public sidewalk to create pedestrian-oriented interactions, with required fenestration to make the buildings interesting and engaging with doorways and windows.

As seen above, the criteria used to evaluate the requested adjustments focused less on whether a hardship exists (although it may be a factor in some cases), and instead focuses on whether the building form being constructed is still consistent with the City's visions for downtown.

Relief from the remainder of the zoning regulations are subject to the following five criteria within section 29-6.4(d)(2)(i)(A-E), which are listed later on this report.

Summary and Impacts –

The applicant is seeking variances from the following regulatory requirements of the Unified Development Code:

1. Chapter 29-4.2(e)(2)(ii)(B)(1)(a) – Waiver to allow the proposed building to be elevated above the average grade of the fronting sidewalk more than the maximum 18 inches permitted.

This provision is generally meant to require that buildings be built to the grade of the public sidewalk downtown, so as to be accessible directly from the sidewalk.

The site's grade slopes from an elevation of approximately 718 feet at the rear of the site to an elevation of 702 feet at the Providence Road sidewalk. Additionally, the existing driveway located on the site, which was previously constructed at that time the Raising Cane's was constructed, was designed and constructed to go with the slope, and to accommodate the Columbia Fire Department's requirement for the drive approach slope to not exceed a grade of 9.4%.

Additionally, the site is generally designed to connect access-wise to the existing driveway circling the site to the south and west, and to Providence, by way of the existing drive. While regrading of the site may be feasible to place the business at the same grade as the sidewalk, it would likely place the rear of the building significantly below grade, and would likely prevent the business from utilizing the existing drive, as it would then be at a much higher grade. In addition, while not considered a criterion for granting a variance, the existing buildings for Raising Cane's and EatWell to the north are also built without significantly altering the existing grade (although the EatWell structure has existed for some time).

It is also should be noted that request #3 (to allow the building to be setback further from the Required Building Line (RBL), is related to this request. Because of an existing 28-foot utility easement along Providence Road, the building cannot be built at the RBL as required. Moving the building back at least 28 feet also forces the building to be further up the hill's grade. Short of requiring significant exaction of the hillside, which would be inconsistent with surrounding development, the location of the building above the sidewalk grade may be necessary.

However, as is stated in review of variance #3, the extent of the request may be more than the minimum to achieve the necessary relief. Staff has not been presented with sufficient evidence that the building could not be built 28 feet from the back of the Providence right-of-way. Currently, the site plan places a drive aisle and underground stormwater detention in the area where the building could be located. There appears to be ample space to reconfigure the underground detention, and relocated the building with a 28-foot

setback, which rotating the building so that the drive-through lanes cross the back of the building instead of the front of building.

Staff finds that request is inconsistent with the intended character of the M-DT district, and results in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

2. Section 29-4.2(e)(2)(iv)(A)(2) – Waive requirement that ground story fenestration comprise between 33% and 80% of the ground story façade.

The applicant is requesting that 24% fenestration be permitted, with the reason being that they have a small façade with kitchen equipment that would interfere with the required fenestration.

Staff's findings are that the requested 24% is not consistent with the intended character of the M-DT. The fenestration is intended to provide visual interest for the general public, but most importantly, to allow the inside of the building to be viewed by pedestrians, which is essential in creating vibrant, active spaces in the downtown. Allowing this significant decrease would be detrimental to that goal. Staff finds that the resulting appearance will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

If the building were rotated as suggested in the request #1, it could possibly allow for more fenestration on that side of the building, although this is speculation and would require revised renderings for review.

It is important to note that many of the requested variances are related. This request is related to request #6, which is a request to lower the required height of the building. By constructing a building that is shorter than permitted, there is less opportunity for including fenestration.

3. Section 29-4.2(d)(6)(iii)(A) – Waive the requirement that the proposed building location result in at least 35% of the building façade being constructed to the required building line (RBL), with the remainder required to be built within 60 inches. The entire building is greater than the 60 inches allowed to accommodate building articulation as authorized by Section 29-4.2(d)(6)(3)(A)

Again, this request is related to #1. Because of the grades of the site and the already existing site driveway to the south and west of the building, the applicant is requesting to be allowed to construct the building above the grade of the sidewalk, which is understandable. However, since the grades increase as you move away from the RBL, this essentially requires that the building be constructed further back on the lot, further away from the RBL than is permitted. The UDC requires that at least 35% of the building be constructed to the RBL, with the rest being allowed to be up to 60 inches away from the RBL to accommodate changes in the building façade (articulation) for visual interest.

The requested variance is sought, per the applicant, given limitations imposed by an existing 28-foot utility easement running parallel to the Providence Road right-of-way (ROW). The setback is also required in order to accommodate their intent to construct a 25-foot wide driveway in front of the building to allow for the

circulation of traffic accessing the drive-through facility. The driveway is built up to the 28-foot easement, and the building itself is then setback another 15 feet from the driveway.

While allowing the building to be constructed outside of an existing easement is essentially required in this situation, allowing the building to be set back approximately 70 feet from the RBL is a much more significant deviation from the M-DT controls. Being that distance away from the public realm (the sidewalk) creates a dramatic separation between the building and the street-space of the M-DT, discouraging pedestrian activity and creating an empty space in the future building frontage that could be constructed along the Providence Road corridor.

Additionally, while the ADA-accessible pedestrian ramp to bring pedestrians up to the building from the Providence Road sidewalk is helpful for pedestrian safety and accommodation, pedestrians will have to cross the drive-thru area to access the building. This design introduces a potential safety hazard that could be avoided via a drive-thru which does not route between the sidewalk and the building. The intent of the M-DT is to support a safe, pedestrian environment. The code specifically states that where conflicts exist between pedestrians and cars, that priority is given to the safety of the pedestrian. As suggested previously, bringing the building forward as much as possible on the site, and placing the drive-through lanes to the rear, should be seriously considered.

The M-DT controls were not designed to easily accommodate vehicular-based uses, given the emphasis on a pedestrian-scaled and walkable building forms. Attempting to construct a site the focuses on vehicular movement more than pedestrian interaction will likely result in significant challenges, which is the case here. Staff finds that request is inconsistent with the intended character of the M-DT district, and results in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

4. Section 29-4.2(e)(2)(ii)(D) – Waive requirement that a street wall at the RBL is required to screen surface parking lots.

Generally in the M-DT, the expectation is that a building, where it has frontage along a public street, will be constructed at or near the property line, thereby creating a consistent building face along an entire block similar to what can be seen in many parts of downtown. However, in the event that an applicant wishes to provide, for example, an off-street parking lot on the property, the M-DT regulations require that the majority of the parking lot be screened by a street wall. Street walls are generally constructed at the property line, shall be between 4-8 feet in height, and are defined as follows:

“a wall or fence that is located at the required building line in the M-DT mixed-use downtown district that is either required to perform a screening function, such as defining the edge of a parking area or refuse storage area, or is proposed by a property owner to define the edge of the public and private space for security or aesthetic purposes.”

In this case, if requests #1 and #3 were granted, the building would be built at a higher grade, and at a greater distance away from the front property line than otherwise be permitted. If a street wall is constructed along the front property line near Providence, it is unlikely that it would be very effective at screening the parts of the lot that are not improved with a building.

The lot area that the applicant has control over covers an area roughly between the line labeled PL on the site plan, to the north of the site, to the edge of the existing circulation driveway on the south, which is about 140 feet of frontage. The principal building occupies approximately 15 feet of the frontage, and internal driveways occupy almost 40 feet, leaving around 85 feet of lot frontage that could be screened with a street wall. It could potentially extend outwards at the same depth as the existing building. However, building the street wall at the same distance away from the RBL as the building (70 feet) is itself not permitted by the M-DT, as the intended purpose of the street wall is to fill in the spaces of the RBL that are not occupied by the building.

The applicant is requesting a full waiver of the screening wall requirement at this time. Staff finds that there is ample room to install a street wall along the same building plane as shown on the site plan. If the variance requests are granted for the building site location, consideration should be given to requiring a street wall at the same setback as the building where it is feasible. It should be pointed out that the driveway that loops around the front of the building and would preclude the construction of the street wall in the same area, but had the building be constructed to the RBL as is required, then the driveway conflict would not exist. Staff finds that the request for a full waiver to the street wall requirement is inconsistent with the intended character of the M-DT district, and results in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

5. Section 29-4.2(d)(2)(iii) – Waiver of requirement that each façade composition, regardless of the number of bays such composition may have, shall include a functioning street entry door.

This request is related to request #2, as an entrance can be considered as fenestration. As stated by the applicant, the building will have no interior customer space, and therefore, there is no need for a public entrance. While staff agrees that requiring the installation of a doorway on a business that provides no indoor service is not necessary, it is this essential fact that is creating many of the design challenges that are the subject of the variance requests.

As stated above, the M-DT district is intended to be a pedestrian oriented area. Drive-thrus are not a use that is permitted as of right in the district, but rather they are considered a conditional use that must be approved by Council. Many drive-thru businesses are able to accommodate indoor customer areas while still providing drive-thru service. Given the emphasis on a walkable environment in the downtown, providing some sort of pedestrian facility within the building's interior should be considered an essential component, and that would require an entrance.

However, there could be circumstances in the downtown where a business may cater directly to pedestrians through a walk-up window, and wish not to provide a public entrance into the space. If the other building

form components were still able to be complied with, such as fenestration requirements, floor height, and the grade of the ground floor, then one could argue that the essential intent of the building form controls has been met. With that said, when all the requested variances are taken together, allowing a building without an entrance only adds to the inconsistent development pattern that the rest of the variances would permit.

Staff finds that request is inconsistent with the intended character of the M-DT district, and results in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

6. Section 29-4.2(e)(2)(ii)(B)(1)(b) – Waiver of requirement that the Ground Story clear height be 12 feet for the first 25 feet of building depth.

The M-DT dictates a minimum height of a building's ground story to ensure that new development is consistent with the existing built environment found throughout the downtown. Development should be at a consistent scale throughout the M-DT to provide a uniform appearance in the commercial spaces that would be expected to occupy the ground floor. The applicant is requesting a height of 8 feet 4 inches, as that is the height of their standard building model.

Similar to the other requests for relief from the M-DT standards, staff finds that request is inconsistent with the intended character of the M-DT district, and results in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls. Given that the M-DT form-based controls prioritize the building form that is constructed downtown, new construction should be expected to conform to the City's requirements as much as is practicable. The applicant is constructing a new building, and no evidence has been provided that the building is unable to be designed to meet this requirement.

7. Chapter 29-4.2(f) and Appendix A.10 as applicable – Relating to the Urban Space Standards:

- A)** Proposed waiver of street trees;
- B)** Request for alternate location of street lights within the Providence Road right of way; and
- C)** Request to build a 9.5 foot sidewalk instead of 10-foot on the Providence Road frontage.

Section A.10 is generally referred to as the urban space standards. As stated in Section A.10, the intent of the following urban space standards are as follows:

- (i) Establish an environment that encourages and facilitates pedestrian activity and "walkable" streets that are comfortable, efficient, safe, and interesting;
- (ii) Ensure the coherence of the street-space, serving to assist residents, building owners, and managers with understanding the relationship between the street-space and their own property; and
- (iii) Contribute to ultimate sustainability. Native trees and plants contribute to privacy, the reduction of noise and air pollution, shade, maintenance of the natural habitat, conservation of water, and rainwater management.

- a. **Section 29-4.2(f)(2)(i)(A) and Appendix A.10(c)(2)** - requires street tree to be planted in the centerline of the tree lawn or not less than three (3) feet from the back of the curb, within the public right of way. In addition, other standards, such as the requirement that street trees be at grade or not greater than six inches above the sidewalk may apply, but the need for relief cannot be determined from the submitted drawings.

Providence Road is a state highway, and all improvements within the ROW are subject to MoDOT jurisdiction. MoDOT has indicated that street trees will not be allowed in the ROW. Included in the supporting documentation is correspondence from MoDOT (T. Brooks, dated 2/27/20) pertaining to a similar development along Providence Road that outlines their requirements. Additionally, there is an existing 28-foot utility easement adjacent to the ROW, which does not permit tree planting.

Street trees are meant to provide shade for pedestrians along the sidewalk. They also present visual interest to the streetscape for pedestrians and motorists alike. The benefits of street trees are inherently diminished the further they are away from the street-space and sidewalk. However, there is still value in placing the trees at the edge of the 28-foot setback. No evidence has been presented that the street trees could not be planted in that general location, but a variance is required to allow them to be setback further than allowed.

The applicant has requested a full waiver to this requirement, but staff's findings are that this would not be consistent with the intent of the M-DT. However, staff finds that request to move the street trees to outside the 28-foot utility easement is not inconsistent with the intended character of the M-DT district, and does not result in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

- b. **Section 29-4.2(f)(2)(iii)(A) and Appendix A.10(c)(5)(i) and (ii)** - requires streetlight installation in the public right of way;

As stated above, Providence Road is under MoDOT's jurisdiction. In past correspondence related to a similar project along Providence Road, MoDOT staff has identified challenges to the installation of street lights within their ROW, and indicated lighting glare should not be a detriment to drivers. While a lighting analysis would be required, the addition of lighting in the street-space was not outright rejected.

The applicant has requested an alternative location, proposing to place the lights on their property just outside of the ROW. The light fixtures would extend into the ROW, while the poles would be located on the subject property. While some variation may be needed, the greatest benefit of street lighting on the pedestrian realm would be provided with lights within the ROW, as the benefits of street lights diminish as they are placed further away. The luminary effect of existing lights in the ROW corridor may mean MoDOT only approves some of the new lights that would otherwise be typically placed in the ROW, leading to incremental/uneven installation of matching facilities.

Staff finds that the request to move the street lighting outside the ROW as shown on the site plan is not inconsistent with the intended character of the M-DT district, and does not result in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

- c. **Section 29-4.2(f)(2)(iii)(A) and Appendix A.10(c)(5)(iii)** - requires sidewalk installation consistent with street type specifications. The existing City Public Works Downtown Sidewalk detail requires a minimum 10-foot sidewalk be installed.

The applicant proposes a 9-foot 6-inch foot sidewalk be built on the Providence frontage. The applicant cites, in their application letter, that the width of the street-space is typically wide enough to accommodate street furniture, tree wells, and ornamental lighting in addition to pedestrian circulation. They further assert that since they are proposing to relocate the street trees and ornamental lighting away from the street-space, the sidewalk width should accommodate pedestrians adequately. MoDOT has indicated in their correspondence that they would permit the entirety of their ROW (9'-6") to be paved as sidewalk. Use of ROW for an enlarged sidewalk to meet the intent of the Comprehensive Plan and the M-DT's intent, in terms of pedestrian safety and accommodation, is supported.

Staff finds that the request to allow a 9.5-foot sidewalk is not inconsistent with the intended character of the M-DT district, and does not results in an appearance that will not be of equal or superior quality and visual interest to that required by the application of the form-based controls.

The final two variances are seeking relief from the criteria for approval of a variance as outlined in Chapter 29-6.4(d)(2). The criterion are as follows:

- (A) The variance is required to address practical difficulties or unnecessary hardships related to the shape, size, terrain, location or other factors of the applicant's site, those difficulties or hardships are not generally applicable to property in the area, and the difficulties or hardships were not created by the actions of the applicant;
- (B) The variance will not have the effect of permitting a use of land that is not indicated as a permitted or conditional use in section 29-3.1 (permitted use table) in the zone district where the property is located, nor shall a variance be granted to modify a standard that operates as part of the definition of any use;
- (C) The variance will not permit a development that is inconsistent with the adopted comprehensive plan;
- (D) The variance is the least change from the requirements of this chapter necessary to relieve the difficulty or hardship; and
- (E) The variance will not harm the public health, safety, or welfare or be injurious to other property or improvements in the area where the property is located.

8. Section 29-4.3(i)(2)(vi) – Waiver of requirement that a bypass lane around the drive-thru facility stacking lanes be provided.

Drive-thru facilities are required to have a bypass lane alongside the drive-thru stacking lanes. This lane is required to provide the ability of a motorist to exit the drive-thru stacking lane in the case of an emergency, generally to the side, rather than having to wait on the cars queueing in front of them to exit the lane. If no bypass is provided, a motorist would be required to wait in the stacking lane until all cars in front of them have completed their business to exit.

The applicant has indicated that there are access easement that surround the building that function as the required by-pass. However, these access easements and drives do not provide the required function of a bypass lane. In addition, since off-street parking is not required in the M-DT district, some of the provided parking could be eliminated, thereby allowing the building to be moved to the north, making space for a bypass lane.

No other evidence has been presented to justify the waiver of a bypass lane. The variance does not appear to address any practical difficulties or hardships related to the applicant's site, other than the fact that the preferred site layout requires a wider lot in order to accommodate all required UDC elements, which is not evidence supportive of a variance. Furthermore, waiver of a bypass could negatively affect the health, safety, or welfare of the public, as the bypass allows for the exiting of the stacking queue in case of an emergency. And adding a bypass lane could be accomplished by eliminating one of the drive-thru lanes. Staff finds that the request is inconsistent with variance standards (A), (D), and (E).

9. Section 29-4.3(e)(1) – Waiver of requirement that the maximum amount of parking allowed on the site is 6 spaces. The requested amount of parking is 14.

In areas outside of the City's downtown, the UDC requires that a minimum amount of parking be provided on-site. The UDC also places a cap on the amount of parking that can be provided, which is the parking maximum. A parking maximum reduces unnecessary and excessive site paving in an effort to reduce environmental impacts and encourage the use of alternative transportation modes.

The M-DT district is unique in that it does not require *any* parking be provided for commercial businesses. However, even though there is no required parking minimum, in the event that parking is constructed, there is still a parking maximum. In the M-DT the parking maximum is calculated as 150% of the minimum required parking had the business not been located in the M-DT district. In the case of the coffee shop, the minimum for a restaurant with a drive-thru facility is 1 space/200 square feet of gross floor area. The maximum number of parking spaces allowed for the proposed building is 6 spaces. The minimum parking requirement is a function of the size of the building, and in this case, the building is extremely small due to the absence of any interior customer area.

The applicant has stated that the reason 14 spaces are needed for the site is because that is the maximum number of employees that will be working within the approximately 500 sq.ft. building during their busiest operating time.

In the downtown, long-term parking, such as that for employees, is generally expected to be accommodated within the City's structured parking, or in select on-street spaces designated for downtown employees. This is reflected in the more restrictive limits on the maximum number of parking spaces in the M-DT (150% of the minimum) versus the rest of the City (200%). The City's Parking Utility has indicated that there is employee parking available generally north of Broadway where the applicant's employees could park. While this is likely further away than the applicant would prefer, it is also likely that other businesses in the downtown are in the same situation. Furthermore, there may be an opportunity to explore an offsite parking arrangement to the north of this site. The EatWell location includes a large amount of parking spaces that may be available for lease, and could accommodate the needed additional parking for the applicant's site closer than the City's available parking.

The requested waiver of the parking maximum does not appear to address a difficulty or hardship related to the site. In this case, it is related to the type of business and its vehicular-centric business model. While the

case could be made that the City's parking requirements do not adequately address this type of business model, it is still the existing requirement. The applicant may choose to petition City Council to review the City's parking standards to see if they are properly calibrated for this type of land use.

Based upon the evidence presented, the variance does not appear to address any practical difficulties or hardships related to the applicant's site, other than the fact that there preference is to accommodate all of their employee parking onsite, which is not evidence supportive of a variance. The use of the site is also centered around vehicular use, and does not accommodate any interior customer area that would increase the size of the building, and thus increase the amount of parking. The M-DT is meant to discourage vehicular-oriented development while encouraging pedestrian-oriented development. And ultimately, the City provides consolidated parking areas that address this very need, and so there are other alternatives that could be sought in order to address this difficulty. Staff finds that the request is inconsistent with variance standards (A) and (D).

Potential Board Action –

Should the Board determine that compelling testimony has been provided and the standards of Section 29-4.2 [M-DT Form-based Controls], Appendix A, Section A-10 [Street Standards], and Section 29-4.3 [Parking and Loading] of the Unified Development Code have been met, it would then be appropriate to offer a recommendation of approval relating to the requested variances. If a determination is made that the requested variances are not supported by the testimony given or the standards of Section 29-4.2 [M-DT Form-based Controls], Appendix A, Section A-10 [Street Standards], and Section 29-4.3 [Parking and Loading] of the Unified Development Code, then a recommendation of denial is appropriate.

When making any recommendations for relief, such motion(s) shall specify that relief granted is applicable only to the subject site as shown within this application and reflected upon the site plan prepared by Kinetic Design + Development signed and sealed October 26, 2022.

For the purposes of establishing a "complete" public record, Board justification supporting approval or denial of the requested variances with the provision of Section 29-6.4(e)(1)(i & ii) and Section 29-6.4(d)(3)(i)(A-E) shall be stated within the public record prior to a final decision being rendered.