

BOARD OF ADJUSTMENT MEETING
COLUMBIA CITY HALL COUNCIL CHAMBERS
701 EAST BROADWAY, COLUMBIA, MO
DECEMBER 12,2023

COMMISSIONERS PRESENT

COMMISSIONERS ABSENT

Mr. Peter Norgard
Ms. Janet Hammen
Mr. Jefferson Crew
Ms. Kittie Rogers
Mr. Randy Minchew

STAFF PRESENT

Mr. Pat Zenner
Ms. Rebecca Thompson

I. CALL TO ORDER

MR. NORGARD: The 20 -- December 12, 2023 Board of Adjustment Meeting will come to order.

II. INTRODUCTIONS

MR. NORGARD: Mr. Liaison, would you please call the roll.

MR. ZENNER: Yes. Mr. Norgard?

MR. NORGARD: I am here.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Yes, I'm here.

MR. ZENNER: MR. Minchew?

MR. MINCHEW: Here.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Here.

MR. ZENNER: And Mr. Crew?

MR. CREW: Here.

MR. ZENNER: You have five; you have a quorum, sir.

MR. NORGARD: Great.

III. APPROVAL OF AGENDA

MR. NORGARD: Is there a motion to approve the agenda?

MR. MINCHEW: I make a motion.

MR. NORGARD: Second?

MR. CREW: Seconded, yeah.

MR. NORGARD: Is there any discussion on the agenda, or any modifications or changes?

MS. HAMMEN: Should we have the application deadlines at the end of the --

MR. ZENNER: We can do that under staff comments.

MR. NORGARD: Okay. So we'll move that to staff comments. All right. All in favor of the agenda with moving the discussion points to the staff discussion section, say aye. Any against? Okay.

(Unanimous voice vote for approval.)

IV. APPROVAL OF MINUTES.

MR. NORGARD: All right. So the September 12, 2023 minutes were distributed to the Board Members beforehand. Are there any corrections or additions?

MS. HAMMEN: So on page 2, I think this --

MR. ZENNER: Can you talk into the mic, Ms. --

MS. HAMMEN: -- from the meeting before, and I probably misspoke. It says on page 2 something like Mr. Norgard -- okay. (Inaudible). Sorry.

MR. NORGARD: Okay.

MS. ROGERS: Never mind?

MS. HAMMEN: Never mind.

MR. NORGARD: Retract that. Okay.

MR. ZENNER: If I may. If I may, the minutes do reflect the incorrect date. They do need to be amended to provide for the September 12th. They refer to the September 10th minutes. So with that amendment, that is a line I identified as needing to be changed, I believe, unless there are other comments by the Board members. That will be one that we will obviously amend just to get the right meeting date.

MR. NORGARD: That would be good. Okay. Any further comments or -- okay.

MS. HAMMEN: (Inaudible).

MR. NORGARD: Okay. Is there a motion to approve the minutes?

MR. CREW: So motioned.

MR. MINCHEW: Second. Minchew.

MR. NORGARD: All in favor. None against.

(Unanimous voice vote for approval.)

MR. NORGARD: All right. Will the court reporter please swear in staff.

(Staff sworn.)

MR. NORGARD: Okay.

V. PUBLIC HEARINGS

Case Number 25-2024

An appeal of Robert Hollis (attorney), on behalf of TKG 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 Urban Space Standards, and elimination of the required drive-through "by-pass" lane 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.

MR. NORGARD: Are there any Board members who have anything to disclose about this case? If so, please speak now. Okay. Mr. Zenner, has the notice been properly advertised?

MR. ZENNER: Yes, it was.

MR. NORGARD: And has the property been posted with a notice of public hearing?

MR. ZENNER: Yes, it was.

MR. NORGARD: Have the parties in interest been notified?

MR. ZENNER: Yes, they were.

MR. NORGARD: And have there been any inquiries?

MR. ZENNER: No, there have not.

MR. NORGARD: All right.

PUBLIC HEARING OPENED

MR. NORGARD: Would the person making application, please come forward, state your name for the record and address, and be sworn in.

MR. HOLLIS: Robert Hollis with the Van Matre Law Firm at 1103 East Broadway.

(Witness sworn.)

MR. HOLLIS: Good evening. I'm here in my capacity as attorney for the applicant and the property owner, and would like to introduce Matt Kriete, engineer for the applicant.

MR. KRIETE: Good evening. First, I first want to say thank you for hearing this --

MR. NORGARD: Could you --

MR. KRIETE: Oh, sorry. Yes.

(Witness sworn.)

MR. KRIETE: Thank you.

MR. NORGARD: And for the record, are you -- what is your --

MR. KRIETE: My name is Matthew Kriete; I'm with Engineering Surveys and Services. I am the civil engineer for the project. All right. So again, thank you for letting us present this to you. I know this was back a while. You saw this a while back. We've made some pretty substantial changes to it, based on the comments that were heard, so -- so this evening, we've got a lot of ground to cover. I'm going to

try to get through this as quickly as I can. But again -- again, you have met Mr. Hollis already. We have Joe Rafferty, who is the COO, who is going to give the presentation, myself, and Brittany Hamilton is here representing the architect, as well. Specifically, you know -- you know, I want to talk about the commitment that 7Brew has to the community, and we'll get into that. Existing conditions, talk about the variance request, and then we'll summarize this. So with that, I'm going to let Joe present about 7Brew. Thank you.

MR. RAFFERTY: Joe Rafferty. I oversee operations for 7Brew Missouri, based out of 515 Great Oaks Meadow Drive.

(Witness sworn.)

MR. RAFFERTY: I appreciate everybody being here and kind of going through our presentation. I think we've talked about this before, so I'll just make it real quick. But our company, it started in northwest Arkansas. We were the first franchise group -- franchisee to come out of that, so we manage operations in Missouri. We have actually a 7Brew stand going up on Nifong Road that will be opening early January, so that will be our first stand in Columbia that we have. Our company is all about cultivating kindness. So, as mentioned, we're big in the community. A big piece of what we do is we will hire -- it's typically anywhere from 50 to 55 people out of the community. So our pay range is anywhere from \$16 to \$20 an hour. Our goal is to establish a fast-paced drive-through coffee shop. I think we may have talked about it the last time, but our ticket times in comparison to other competitors in the market, we have under four minutes average ticket time, so it's a super-fast service. People can get in and out really quickly. We do -- since we've come up here, we do have a partnership with Mizzou Athletics now, so that's something we're really excited about. And, honestly, we're just looking forward to becoming more and more part of this community, so -- and I'm happy to answer any questions on operations that you guys may have, but I try to keep it short and sweet, so --

MR. CREW: Looking forward to trying the location on Nifong. Drive -- Drive by it every day.

MR. RAFFERTY: Thank you.

MR. NORGARD: I want to ask you, do you have any -- a rough idea of the number of customers you expect -- or per hour?

MR. RAFFERTY: It varies. Our busy hours are in the morning, so during the week would be from probably 7:00 and 9:00 before work, and it could really vary. And then weekends are typically about 9:00 to 11:00, would be our busiest hours. Sometimes, again, depending on the area, it's all different. I see -- I oversee ten different stands directly. Each of those is slightly different, but you would have a little bit of an afternoon pop around lunch, like 12:00 to 1:00, and then sometimes you'll see a little bit of one around -- after work hours is typically --

MR. NORGARD: And it's just like, you know, 100 cars an hour or -- any rough estimates?

MR. KRIETE: It would be tough to -- I don't want to give you a guess and be totally wrong on that. We have the ability to -- with the way our stack is set up, I'd have to look again at this one, But

typically, we can fit anywhere from, like, 18 to 24 cars in the stack at a time. We're typically nowhere near that. I'd say max you would see is about ten to twelve, even during busy times. So it does flow pretty quickly or very quickly, rather.

MR. NORGARD: Further questions? All right.

MR. KRIETE: Thank you. I'll come back into the -- I'll get back into a little more of the details of the actual application now. To answer your question, I have one -- I recall from the traffic study that we did is that we're talking about a max of 16 cars stacked in the peak -- kind of the peak time. Two lanes, that's about eight deep. By the way, we have plenty of room for that, so -- but that kind of gets you an idea on turnover. I'm going to look up kind of what the hourly turnover rate was expected, from at least from a traffic engineering standpoint, certainly not specific to this shop, and give you an idea. So I want to again talk about conditions. So, first off, we'll talk about the existing conditions. A lot of this is driven by the -- what's there today. So you're probably all from Columbia, so you know where this is on Providence Road south of Raising Cane's, north of Custom Muffler. Access is limited to the private drive that was built from kind of the Eatwell that loops back around, goes past Raising Cane's to an intersection with Providence Road. And then there's a signal up at Locust and Providence that also provides access into this site. All of this has created kind of a set in the topography of the site, so the existing topography has about 16-foot average fall across the site, you know. It's up to 15 or as low as 15 and as much as 17 on the site. But averages out, falls west to east. And then, likewise, so you can see that -- that -- kind of that fall that occurs across the site. It also receives offsite stormwater, so we've got to factor that in here. And probably one of the biggest things you see as you highlighted in yellow there, so there's an existing 28-foot-wide utility easement in there. And it's full of all kinds of utilities -- gas, water, sewer, telecom, most structures allowed in that easement, so let's just kind of start there, and then we have MoDOT right-of-way. Again, we can't go putting utilities in MoDOT right-of-way. That varies from your typical downtown where the utilities are in the right-of-way. Can't do that here. So then surrounding conditions, just kind of get you an idea of what you have around the site. Again, to the north, you have Eatwell, and I don't know if I can -- I was thinking I could do a pointer here. Yeah. So there -- there is the -- the Eatwell here, Cane's -- Raising Cane's, you know, here's the 7Brew site, Custom Complete Automotive, and then we have a few other buildings down here to the south, and, of course, Hardee's and the Chamber across the street. Each of those has kind of their own unique situation, and what's -- what's interesting is of all of those buildings, none of them comply with the M-DT standards. Maybe a piece here and there, but none of them have full compliance. So Custom Complete Automotive, there's your picture of that. It's set back too far from the street. It's too high above the sidewalk, and building height, I went in and measured the lobby height. It's nine feet. So likewise, we go south, 309 South Providence, and the ground-story finished floor is above the average sidewalk elevation, the building is set back. A clear story height or clear height inside the building, nine feet. And I don't have building height measurements or exactly what those are. There's too much details for me to give you an exact

number on that. 401 South, we go a little further south. It's set back from the street, ground -- the finished floor is above the sidewalk. They do have the clear height. Just south of that, again, building is back from the street. Doesn't -- this one certainly doesn't have the height. We're confident on that one. Interestingly, it has 11 foot on the inside. It's pretty well opened on the inside. And that's the highest. It's actually pitched inside. It's a little shorter at the door. Eatwell is way back from the road. Across the ground, they finished floors way above the sidewalk. Interesting, when you come in the lobby, it's not even quite 12 feet. Once you get in the store, certainly it's well over 12 feet, but that lobby entry area is not. Hardee's, lovely looking building today. The -- again, building setback, you've got the drive-through in front. Again, about a nine-foot clear height. Couldn't get inside to really measure the actual height, but I can get a pretty good idea it's matching the entry outside. Chamber. So if you go in their lobby, they've got a vaulted ceiling, but otherwise, again, the front of the building, nine-foot clear height, it's set back from it, and now they're below the road. And the same thing with Hardee's; it's actually below the road. And then kind of go down the street a little bit more, Taco Bell. The same on -- that's still on the same block, still on the M-DT. You can see how far that is above the road. It's a little bit taller inside. Ceiling height, but again, still the same noncompliance issues. So the site itself is being driven by all of these existing conditions. So there's a highlight of the 28-foot utility easement. Building cannot be in that. Walls cannot be in that easement. The same thing with a 16-foot easement to the other side. So the building has to be set beyond that. The footings have to be set beyond that. Likewise, because of the circulation to access the Providence Road is important the traffic circulation not have an impact to Providence Road. So we've got all the drive-through access, entry and exit, coming in and out of the site to the west, so you're entering here and you're exiting here. This is an entrance only for the parking stalls. That's it. There's no exit there. And so this provides separation, so we don't have conflict points. Likewise, this is providing, say, pedestrian access to the site. It's unimpeded by a drive-through. You don't have to cross any vehicles to get there, so you've got your new sidewalk along Providence Road, and I lost my mouse here -- excuse me -- you've got a new pedestrian access that's ADA accessible, that's going to lead up to the patio area. Now we do have a patio in the easement. That's allowed. That's not a permanent structure. It's just temporary seats you can move, so if you ever need to work on a utility, they just have to tear it up, but it can be done. So that's new. And then we've also accommodated the stormwater runoff that's coming from the west, comes through the site, it's got green space to go through there, and really working with the topography. Now because of the topography again, though, there's so much fall, we have to keep save grades on the site and we have to keep ADA accessibility. No ifs, ands, or buts about that. So we've maximized the grades as much as practical to lower the building as we can, but it really can be no closer than the 5.2 feet you're going to see later. And likely, I talked about the stacking and circulation, so there you can see the entries and the pedestrian access. And the middle, by the way, is our stormwater management. That is our intent to be a bow retention basin and stormwater detention basin. And I do want to highlight again, this site does have

access to the signal, so, you know, we -- you know, there's two points of access back to Providence Road. With that, I was going to let Brittany talk a bit about the architecture of the building, and then I'll come back up and we'll talk about the specific variances.

MS. HAMILTON: Brittany Hamilton, 2215 West Chesterfield Boulevard, Suite 01.

(Witness sworn.)

MS. HAMILTON: So the building is a -- sorry. I'm going to read my notes, too. The building is a local prefabricated building that comes from Springfield, Missouri, and offers a low construction time, about eight weeks in total, which results in less city interruptions. The material used on the outside is called Nichiha, and it is a fiber cement material. It's going to look like brick, it's very durable, long-lasting. Because of the short construction -- construction time, there is a quick improvement the area will see with a quick open offering immediate employment opportunities for the local community. And then, lastly, just because we know that this area, it's important to be walkable and pedestrian friendly, biker friendly, we have added in the front an ordering area, so those can come in, actually walk into the front, order, there's no seating there, but on the outside, there will be patio seating just to help cultivate that and foster that for the community. Any questions?

MR. NORGARD: Are there any questions?

MR. CREW: I really like the Mizzou on the cooler, so we can -- yeah.

MS. HAMILTON: The cooler street wall?

MR. CREW: Yeah. If we can include that, that would look cool.

MS. HAMILTON: Yeah.

MR. MINCHEW: Is the same alignment that we looked at the original time, the buildings facing the same way?

MS. HAMILTON: I really don't know. I can -- if I come -- is it not. It's not.

MR. KRIETE: I probably should it off the record, but, no, it's not. The building has been turned. So before, you know, it really was a very vehicular focused layout. Everything has been turned, and we'll talk a little bit more about this, too, but the vehicles have been moved to the back of the site. So when you see the front of the building, you're seeing a pedestrian. You're seeing the -- you're seeing the patio area, it's direct walkway up, drive-through is behind the building. In fact, you know, it's coming and exiting all the way from Providence Road.

MS. HAMMEN: This view is not showing, it's angled. If we were looking at from Providence Road, that's what we would see?

MR. KRIETE: Yeah. So there's -- jumping ahead a little bit and a little faded there, but there's a view from Providence Road. So you're, you know, standing across the street maybe at the Hardee's right there looking at it.

MR. CREW: And I recall that was a significant discussion point before was, one, if they were crossing the street, and wanted to walk up, they would have to cross the lanes of traffic and then, two,

visually, I think I recall we were, like, well, that's not a great -- that's not a great view from the street. Yeah.

MR. MINCHEW: I think that's what I was asking before.

MR. CREW: Yeah.

MR. NORGARD: Any further questions? Thank you,

MS. HAMILTON: Thank you, guys.

MR. KRIETE: And I'll stress with that, that whole discussion, that this is a very unique -- 7Brew has gone back and made the unique the building to the site. I think they recognize that, you know, this isn't their typical site, and it needs to be catered to that, so they're trying to keep their look. It's important that the branding occurs, and it looks like there are other buildings, but they focused it now differently than they would there to the site. The pedestrian walk-up is a -- is a unique thing they don't have in many of their stores, so this is all new. And so, again, some additional parking you see to accommodate people to drive in and sit and have a coffee. You know, and I'm digressing, but I could imagine folks coming off the trail, let's stop and grab a coffee while we're done. So we're not far from MKT, so -- all right. So as you see, there's five requests we have here. They all kind of stand independently, but they're all kind of interrelated, too. So I want to -- I want to try to run through all those without taking too much time here, but they're in order based on how Mr. Zenner put them in his report. So if you saw in our packet, there was that summary table. They're a little different order because I wanted to be consistent with how he presented those, but -- but close. So the first one that was on there is the elevation versus the street. So Code is requiring that we measure off of the average sidewalk created in the frontage, 18 inches maximum. We're at 5.2 feet, so I want to talk about is why we're in that position again. So we talked about again the existing site conditions, so what's driving this? So because of the 16 foot of fall you have across the site, and needing now to stay out of the easement, so we know the building has to be set back from the easement, so that's -- we'll talk about that in a second. But let's -- that's set there, and now we have to provide ADA accessible grades for -- for the drive-through area for the parking, and, you know, access into the patio area for pedestrians, so that's creating a flat grade that's there. And then we have to provide vehicularly safe grades, as well. Generally, I don't like to see much of 5 percent on the parking lot. It gets icy, it gets a little haphazard. These we pushed a little bit knowing that, you know, we're in a unique situation. We want to try and keep this a little bit lower, so we're up to about six and a half percent, you know. That's really about the max you want to go from any sort of parking standpoint. And kind of the last thing that really is holding that grade is that existing driveway to Custom Complete Automotive. They've been there a long time, been there as long as I've been in Columbia. They're already elevated above it. We can't go from that driveway and drop our building down in any lower in an elevation -- (inaudible) -- helps fix our site and, again, provide proper storm runoff, you know, really kind of needs to be just a little bit higher in that area, just so we don't have water problems in the building. So all of that is driving this location, so you can see that. So in the site

when you look at that now, the -- yeah. We've got our easement out front here that we have to set back from, you know, a slope from that, then the building is set, and what you see on these darker lines with the contour, so there's quite a bit of fall coming off of here. So you can see on this -- this area, yeah. I think we say about 7 percent. I think it's about 6.7, and then you have to have a level area for ADA. All that has to be, you know, ADA accessible through there. So this area becomes flat, so we have to kind of create this plat -- platform that it sits on. And those grades here are set really by the driveway across the way. And keep in mind because of the traffic coming off Providence Road, you want to keep the driveways as far away. So that's an entry only, and there's really nothing that's going to cause a backup of any significance there, but we did want to leave a couple of car spaces in stacking just in case, you know, if a car backs up, we don't want to come into the Providence Road.

MR. CREW: Can I ask a question --

MR. KRIETE: That's going to be pretty --

MR. CREW: -- just to make sure I'm understanding.

MR. KRIETE: Yeah.

MR. CREW: So the 18 inches, that makes sense if you're downtown where it's fairly level and fairly flat, and you want uniformity in buildings, you think about mixed use downtown. This thing is on a bill hill --

MR. KRIETE: Yeah.

MR. CREW: -- and what you're saying is I can have no more, approximately, than say a 2 percent grade from seven to five or whatever was in your diagram there --

MR. KRIETE: Yeah.

MR. CREW: -- for all the reasons you've talked about, ADA, and ice, and everything, and the thing is on a big hill.

MR. KRIETE: Right.

MR. CREW: Is that fair? That's what we're talking about.

MR. KRIETE: That's fair.

MR. CREW: It's on a big hill.

MR. KRIETE: And many of these diagrams speak to that.

MR. CREW: Yeah.

MR. KRIETE: So to your upper left, that's the UDC. That's what's in our Code, so you can see the idealized situation where you've got a relatively flat site. You've got a building right up at your building line, you know. It's pretty easy to be with 18 inches -- the only reason that 18 inches is there is because you've got some -- you've got some slope on the road. There's always a little topography, but it's -- but it's been built around with that intent in mind. The upper right-hand corner is what we have, kind of taking that diagram, and let's modify it and say here's what we're dealing with. We've got a big red area -- that's the easement. The green, that's the slope we're fighting, so in reality, you have to lift

that building up. It has to be elevated to -- to work with that topography. And to the lower side, now we've got a cross-section, looking north through that site. So if you remember again, to the left is -- that's Providence Road here -- right here. There is a sidewalk on Providence Road. There's our slope between Providence Road and the site. Bear in mind again, we can't put a wall here. We can't put a wall in that easement. It has to be graded, so that's got to be a slope. There's our patio. That's got to be less than 2 percent. Of course, the building is flat. This has -- for stormwater drainage, has to drain away from the building. You can't drain back to the building. Again, this all has to be less than 2 percent, and then you can transition from your ADA stall here back up, so that dark line is our finished grade. The dash line you see there is the existing grade at the site. So you can see where really the topography fixes this, let this elevation. Now all that said, what's our M-DT standard for the variance? It's more about the form of what's around us and what else has happened there. So as you recall, I went through each of these businesses and where they were positioned on the site, and their elevation. Not a single one on the block meets the standard. Nothing across the street meets the standard. Across the street to below grade, the other side of the street, they're all above grade, and all of them well more than 18 inches. So we're meeting the requirement of that form standard to grant this variance. We're in the same condition of what's coming on around us. Any questions on the first variance?

MR. CREW: That's an important point. Right?

MR. KRIETE: Yeah.

MR. CREW: That it's a form standard, not a hazard? I remember reading that in the report --

MR. KRIETE: Yeah. Yeah.

MR. CREW: -- from staff --

MR. KRIETE: Yeah.

MR. CREW: -- which you'll probably go through.

MR. KRIETE: Yeah. Yeah. And again, I thought it was important to talk about the site conditions, because that's really what drives it, but again, that's not -- that's not what drives your decision, so it's important that we didn't look at what's around us, too. That's why I wanted to present that because it's important in this -- in this discussion. And it's up to you, if you want to ask any questions, I go each one, we can do that.

MR. MINCHEW: Is it just -- is it just coffee shops that can't go on a super-sloped lot?

MR. KRIETE: No. No. It's really any development is that way.

MR. MINCHEW: That lot characteristics -- are that lot's characteristics --

MR. KRIETE: Yeah.

MR. MINCHEW: -- that -- that carries on for that block or two blocks. Right?

MR. KRIETE: Right.

MR. MINCHEW: I mean that cemetery behind, all of that, that topography is what it is?

MR. KRIETE: Correct. Correct.

MR. MINCHEW: It's not just because it's a coffee shop?

MR. KRIETE: Correct.

MR. ZENNER: Mr. Minchew, if you'll pull your microphone down.

MR. MINCHEW: Huh?

MR. ZENNER: Pull your microphone down, please.

MR. MINCHEW: Oh. It-- it's not just because it's a coffee shop --

MR. KRIETE: No.

MR. MINCHEW: -- or a 7Brew. Right?

MR. KRIETE: No. No. This isn't specifically about this use, it's about this site.

MR. MINCHEW: Yeah.

MR. KRIETE: It's about the areas that's around it, you know. It's the condition of Providence Road. Providence Road is not the rest of downtown. It's not Broadway, it's not Cherry Street. It's a MoDOT controlled road. It's got easements on the sides. You're not putting utilities in there. It's just -- it's a little bit different.

MR. MINCHEW: And then the other question I had on the adjustments that you've made or changes that you've made since we saw you last time, are those based on what you learned through -- either through visiting with us or with Mr. Zenner and his staff?

MR. KRIETE: Absolutely. Absolutely, yeah.

MR. MINCHEW: I mean, you're adjusting this trying to make this work based on --

MR. KRIETE: Uh-huh.

MR. MINCHEW: -- what you felt like was important to this group or what was it in the Code.

MR. KRIETE: And what's important to Columbia.

MR. MINCHEW: In Columbia. Right.

MR. KRIETE: Yeah. Absolutely.

MR. MINCHEW: Right. I understand.

MR. KRIETE: Yeah. And understanding the uniqueness of that site. I mean, they've gone back to the drawing board, you know, making -- you know, not just bring a prototypical building forward, but bringing something that's unique and tailored for this location.

MR. MINCHEW: Thank you.

MR. KRIETE: All right. Well, thank you. And thanks for giving me a little break talking for a bit, too. Okay. So second request, again, very similar. Now, we talked -- I'm not going to drive through all these repeatedly again, but we got the required building line setback. Again, so the Code says you have to build at the right-of-way line. We have a 28-foot-wide easement in our way. We cannot build at the right-of-way line. We have footings on the building, we've got some overhangs. We can't overhang into the -- much into the easement. We've got footings that have to stay at that, so we're asking for 30 to 32 foot of setback. Difference -- it's not square. Nothing is quite square, so there's a little variation when

you measure one side to the other. So I brought these graphics up again. Let's remind -- just a reminder of what we just talked about on this -- on the conditions, rather than hammering on them repeatedly. I just want to highlight again; existing conditions have driven why we're here. The layout of the site, the configuration of the drive-throughs, the configuration of the traffic circulation and pedestrian access has driven why the site is the way it is. A reminder again, no walls, no building in the easement. So forms, though, can harken back again to all those discussions we had -- I mentioned about the block and across the street. None of the buildings are at the building line. And the same thing we just asked about, they're not at the building line because there's easements, because, you know, it's not possible in this corridor. You know, the most recent construction just to our north has a little narrower easement. They're a little bit closer, but they're as close as they can get, as well. They see -- you see walls on their side because they've got a little extra space available, because the easement is narrower there. But again, we're meeting the form of that block. We're, you know, actually a little more compliant. We don't have parking in front of the building. We have the auto oriented behind the building. Pedestrian access is directly to the front without the conflict. So I believe we're more compliant than the -- than the rest of the block. And again, unique building that's -- you know, got more -- got some character compared to some of the other buildings in the area, as well. So any questions on that?

MR. CREW: No. I'm just going to reiterate what Pat is probably going to say, which is staff finds that granting this waiver would result in site being permitted in an improved manner and superior manner to the surrounding area, so --

MR. NORGARD: So I have a question. You showed a setback from the easement of 28 feet, but in -- on your previous slide, you were asking for 30 to 32 feet beyond the right-of-way. Could you explain that difference?

MR. KRIETE: Yeah. I'm going to go to a little larger diagram to show that here. So a couple of things here. What this diagram doesn't show, the awning, but -- but there's your 28-foot easement. And below the building itself is a footing, so the footing itself has -- has a dimension outside of the face of the wall of the building. And then on the actual face of the building itself, is -- is this awning here. So, again, we've got to pull back a bit to keep that out of the easement, as well. I think we'd have probably a little bit of a managed overhang here, but that -- that cannot impede Water & Light's ability to manage a water line or an electric line or Public Works to maintain their sewer, or, you know, whatever else is in there, Ameren to come in with their gas line. So that's required that we do push back a little bit further, but that's that extra between the 28 and the 30 feet. And one kind of unique piece of this, as well, you know, that is probably worth highlighting, you know, when we talk about -- you know, the ADA accessibility, that does give us just a tad bit more room to keep a slope here compliant, as well. We're really kind of pushing our max to get up the grade here. So if we were 28 feet, we've lost, you know, two to four feet, and now we're starting to actually struggle with our ADA accessibility there. You know, now may be talking switchback ramps and other things that would, in fact, maybe push the building back

further, just because the switchbacks come into play like you see next door. Does that help answer your question?

MR. NORGARD: Yeah.

MR. KRIETE: Okay.

MS. HAMMEN: So I have a question. In the previous slide with the -- no, the one before even.

MR. KRIETE: Oh.

MS. HAMMEN: The -- showing the building and the fence.

MR. KRIETE: That one there?

MS. HAMMEN: A fence in the easement? You said the awning would be -- have to go back further so the awning is not in the easement. The fence and where that couple is walking, is that in the easement?

MR. KRIETE: That is in the easement, yes.

MS. HAMMEN: All right. So the fence is not considered a permanent structure?

MR. KRIETE: No. No. So if Public Works needs to come in and dig up the sewer line, they're going to take that fence out, and my client is responsible for replacing it.

MS. HAMMEN: And the -- the drive-through lane is where? And show in this picture.

MR. KRIETE: Oh, in this picture here? Okay. So it's back here, it's back behind the building. Again, if you are looking at this site from a -- I think this was a better picture here, so -- so that. The drive-through is behind the building. You can't even see it in this picture. It's behind there.

MS. HAMMEN: So it goes from the Eatwell lot or drive, behind the building, and then comes around?

MR. MINCHEW: Behind the chicken place.

MR. KRIETE: Yeah.

MR. MINCHEW: And then down the driveway.

MS. HAMMEN: Right. But I can't -- so here's the chicken. It comes down.

MR. MINCHEW: Uh-huh.

MS. HAMMEN: Yes. And then where do those cars go?

MR. KRIETE: Okay. So here -- this kind of gives you the big picture here. So here's your drive that goes up to Eatwell right there.

MS. HAMMEN: Yes.

MR. KRIETE: And that comes around the corner by Custom Complete.

MS. HAMMEN: That way.

MS. KRIETE: All right. So the driveway, so this shaded area, this is the -- the 7Brew here. So the entrance to the drive-through is right here.

MS. HAMMEN: Yes.

MR. KRIETE: So they come in this way.

MS. HAMMEN: Yes.

MR. KRIETE: And they pick up their order here, and they're going to exit out here.

MS. HAMMEN: So they're going in front of the building. The drive --

MR. KRIETE: They're going behind the building.

MR. MINCHEW: Behind the building.

MR. KRIETE: Staying completely behind the building. So right here -- so Providence is right here, the building, and then the drive-throughs.

MR. MINCHEW: The white -- the two white dots are the building and the door.

MR. CREW: The little white things are the building.

MS. HAMMEN: Oh.

MR. CREW: And that's why they need this because they brought the building forward to put the drive-through behind.

MS. HAMMEN: Sideways.

MR. CREW: Yeah.

MS. HAMMEN: It's turned. Okay. And so that other --

MR. NORGARD: That's a stormwater retention basin.

MS. HAMMEN: That's the open stormwater retention?

MR. KRIETE: Yes.

MS. HAMMEN: That does explain things. Thank you.

MR. KRIETE: Okay. Thank you. Thank you for asking. All right.

MR. NORGARD: One other question --

MR. KRIETE: Yeah.

MR. NORGARD: -- about that region in front of the building and the easement. Do you happen to know the depth of the utilities that are buried there?

MR. KRIETE: Yeah. Not every piece exactly. I mean, we have some assumptions like on water lines, but we know storm sewer, we know sanitary. We can measure those. And more or less, that's showing relatively accurately in what you see there. So that even the sanitary is not terribly deep right there. I think it may be a little deeper than that, but -- but the waterline is going to be roughly from existing grade, 36 to 42 inches deep, and I think the sewer is roughly five foot deep. Gas will vary between -- shallow is 24, but they should be at least 36 inches deep. Right now, electric is overhead, and I think that covers what we have in there, but there's, of course, the overhead power in there, as well. And it does pop in underground about halfway through the site. They're generally going to lay theirs about 48 inches deep, likely the conduit for the telecoms at the same elevation with them.

MR. NORGARD: All right. Any further? Carry on.

MR. KRIETE: All right. Back to -- I believe we're on Number 3. Again -- so again, kind of an independent request, but also very much tied into everything else here. So this is a building -- the

question on the building height. So again, you've got a unique building, so actually this doesn't fit well into the Code and how you would measure height. But -- and this is also -- just start with two. It's kind of a two-part request. We've got two things going on here; one, being the -- the building itself that you see right there. And you kind of look faded to the right is the cooler. So both of these we kind of have a request on. So the corridor would be an accessory building. It's required in this area to meet the same height standards with the rest of the building; however, it's a cooler. So we'll talk about that. So it ought to be clear, those are two -- two separate items and site conditions. Same -- same story here. Why is the building where it is? Because of site conditions. Why is the drive-through set up the way they are? Site conditions. Why have we got every position? Well, it's a site condition, so it's all positioned to circulate the pedestrians properly and -- and vehicles and minimize conflicts. And, again, why is the building set at the elevation of this? Again, it's the site topography that's driving all of this. Again, it's all the site layout. So, again, red arrows kind of again highlighting the important parts of all of this. I do note blue, again, it's kind of highlighting back. The cooler is that northern building, kind of looks like its own piece there. So one thing to stress and important here is the Code definition on building height is actually measured from the average sidewalk grade. So I do want to stress that. If you do measure from the average sidewalk grade here, we do meet it. Measure from the finished floor, that's where it gets a little complicated, a little gray. So on the building itself, so you can see kind of again, just more of the architectural elevation of it, the upper roof, it's kind of a unique building that's not defined in our Code with this curvature. This is over 18 feet here, but if you take the average of this curve, this, and this, we are under the 18-foot requirement. If you measure foot -- again, finish grade adjacent to the building to the building to the -- to the top, so our request, again, is that we look at it, we measure it just like the average sidewalk grade. The whole point, and I think intent of it, is how is it present off the road. And, you know, this -- this building would look awkward. You know, it's a relatively small building, you make this thing kind of tall, it's going to look kind of awkward. You know, we want a presence, we want something that looks nice, presentable, we don't want it looking too awkward. So -- but again, I think spirit of the Code, if you really look at it in detail, I think we're in compliance with it. The cooler, on the other hand, yes, certainly that's not. It's -- it's a cooler, you know. This is like a refrigerated space. The bigger the space, the more you've got to refrigerate. The more you've got to refrigerate, the more you've got to refrigerate, the more energy you need, the more you're wasting because you're not -- you're just refrigerating it for the sake of refrigerating if you make this big. So in this case, we want to be creative with this. Generally, this would have been hidden behind the building in the old configuration, but now that we've rotated it, it's -- it's front and center. Why don't we make some art out of it? Why don't we use it as a street wall. So we're asking that, hey, we waive this as a requirement on the height. We -- and say, hey, this is our street wall, because we have to have a street wall anyways, why don't we just use this building as it? And -- and then you can see from the -- we're committing to having some art on it. We're kind of seeing exactly what that may -- what that may look like. So again, red arrow, that's

pointing, that's the cooler right there. Again, it's not a terribly tall building because it's intended to be a refrigerated space.

MS. HAMMEN: What's the length of the cooler?

MR. KRIETE: That's a good question. Let me see if I can refresh my memory on that.

MR. ZENNER: I believe it's approximately 12 feet.

MS. HAMMEN: Did I read 23 feet somewhere?

MR. KRIETE: I see. Well, let me get back to you on that one and we'll make sure. Sorry. I don't have that one.

MS. HAMILTON: I'm looking that up. I'll get it to you.

MR. KRIETE: So -- yeah, we'll find out, but -- likewise, we, you know, talk about then the form of the area, because, again, that's really again our requirement here. You know -- you know, we've got variations of pitched roofs, flat roofs on -- on the site. I'd venture to say most of these are not 18 feet. I believe we've -- you know, we've got a couple that are. You know, obviously, Eatwell has certainly got the height, Hardee's, Taco Bell, probably not, you know, based on the structure of it, but again, I can't get up to measure that flat area of the roof. And then the pitch, you've really got to know the structure of it where everything is at to get an exact measurement, so I can't commit. But visually looking at this building, the character of it, the curvature of the roof, you know, it gives that presence and the height that I believe we're looking for. And likewise, again, I think it's consistent with the forms, provides something that I think is a little better than the area around it, again, meeting the standard of the variance to grant the variance.

MR. NORGARD: How would you respond to the notion that the current M-DT standards are intended for future development and not past development? I see you're comparing yourself to all these other noncompliant legacy development projects, and so as -- as this area develops and grows, how do you see -- I mean, do you see this as sort of anchoring development into a previous era?

MR. KRIETE: Not at all. And, in fact, all I'm looking at is what the UDC says. The standard of granting this variance is based on, you know, compliance with the M-DT standards, you know, or the block face that you're on, and I believe it says across the street, so that's what we've been looking at. So all I'm then trying to do is pull in what the standard is for granting the variance. And certainly, you know, to stress again, Providence Road is unique. Nothing along here is going to meet the M-DT standards.

MR. NORGARD: Questions? Carry on.

MR. KRIETE: All right.

MS. HAMILTON: (Inaudible.)

MR. KRIETE: So 10 by 26. Thank you, Brittany.

MR. KRIETE: All right. So fourth request, again, very similar to the building height request, similar to the same thing. So, again, this is a two-part one, as well. So we've got the cooler height, the internal height of the cooler, you know. So you're talking about the whole height of the building, now

we're talking about, you know, what's the height inside the building? Again, this now is supposed to be 12 feet for 25 feet back of the building, and that would be this entire building. And the same thing with the cooler. The whole inside of the cooler would have to be 12 feet. Again, just all kinds of space that would be refrigerated for no purpose. So, again, I want to look at this as a two-part request, and I'm putting this here as a reminder. Site conditions, this is a lot of what's driving this request. And like the building height, you know, when you read the definition of clear height, it does talk about measuring off of the average sidewalk grade. You know, granted, I think that was intended to be the original build -- at the building line, too, so a little bit different, but I think in the spirit of the Code, I believe we're there. So, again, look, I mean, we're set above the sidewalk as a topography where the site is configured because of existing conditions. I can just kind of keep repeating the same thing, but we don't want to be here forever, so -- so on here, I put a couple of red arrows. So let's look at -- we are measuring from the sidewalk grade to you can kind of see where that awning is. You know, we've got the 12 feet there, and do exceed that a bit. But, again, you measure finished floor to the awning, we're under that. What I ask is that we continue to measure that from the sidewalk grade. Then the cooler itself, again, like to see that exempted, and we treat that like a street wall. And to stress again, like, the building height, if you raise the interior height, this -- this is a small structure, you're raising the whole structure. So, you know, it's going to -- it's going to increase in height internally and, in fact, just going to start looking awkward, not that the portions are just going to be out of shape. I think -- I think it's going to tower a bit over the area. And internal to that building, just so you see above that, there actually is a mechanical space above that, as well. So all the mechanical units are kind of hidden behind those parapets, and then within a room above the building kind of right in this area. Yeah. So we talked again about the form of the area. I'm just going to stress it again. We went back through, I measured all of the heights, the building on the block and across the street. None of them are compliant with the clear height on the story -- well, clear story height. Chamber does have the vaulted area in their entry, but the rest of the building is not. Certainly the lobby in Eatwell is close, and the rest of the building is, and it's so far back off the street. And we do have -- I'll say we do have one that is compliant. I apologize. There is one that has open ceiling, I want to say there was 17 feet, just because, again, they didn't put a dropped ceiling in the building. Have you got any questions on this request?

MS. HAMMEN: And what your plans show is eight feet; is that right?

MR. KRIETE: Yes. And bear in mind, it's probably worth stressing again. We do have an internal area for customers. You know, again, this is a pickup. You know, a -- and most of this is kitchen. Most of this is the service facility, so it is -- it's not like your typical building that, you know, you've got people coming and going in all and in that presence of it. You know, most people are -- they're picking up their coffee, they're going out to the patio to sit and enjoy it. We've got plenty of height out there, so -- all right. Number 5. This is the drive-through bypass lane, so we're looking for a waiver on the strict compliance with this Code, and I know this recently came into play, and I want to talk about

intent of this. I think it's a well-intended Code. It's needed. This site doesn't need it to that strict adherence, so let me explain why. Again, site conditions, driving things a lot again. I do want to talk about that and how -- how we put ourselves in this position. So, again, we're elevated off the street because of the topography. We've got the easement. We've got the circulation pattern set up the way it is, and that's really the key is I think a lot of the circulation pattern is driven by existing conditions, given the layout of the site. So when you look at the drive-through, we have two lanes. This is the -- you know, and sure, we don't have stacking going out and clogging things up. You know, we've got room in the store, the vehicles. I mean, if you start talking about that 16 cars, we -- you know, I mentioned before, if I can find my mouse, that's, you know, roughly right in here.

MR. CREW: Can I just ask a question real quick to make sure?

MR. KRIETE: Yeah.

MR. CREW: So when I read this, drive-through, bypass lane, I think about I'm in the drive-through, but there's also a lane that allows you to literally circle the building. Right?

MR. KRIETE: Absolutely. That's exactly what it is.

MR. CREW: Like, and I just did this today. Right? I went through the drive-through, and then I pulled out and there's a circular lane. That's what we're talking about. Right?

MR. KRIETE: Correct. Correct.

MR. CREW: Yeah.

MR. KRIETE: And that's exactly what it's for, and why is it there? This is what our Code says. So it's an additional provision that was added -- oh, I'm sorry. This is actually from the Planning Commissioner report when this went through. Additional provision added to restrict the location of drive-through stacking lanes from interfering with internal circulation. And I would stress that internal circulation, you can tell I'm stressing it. This includes vehicle parking and, you know, the objective of improving vehicular circulation on site. Putting another lane, a third lane on our drive-through is not going to change anything about the circulation of this site. We separated what is that bypass lane into a separate parking lot, so we don't have this interference. And I'll tell you when this plan was originally -- one of the original renditions of it had the parking in with the drive-throughs, we separated that, and that's for this exact purpose. So then written in the Code, again, what's its purpose? And, again, that's kind of the purpose of the Code as a whole with the new drive-through codes, but reduce conflicts between queued vehicles, pedestrians, and traffic on the adjacent street. And you see, there's your circulation around the building. That's the image from the UDC. This isn't what we have. We're not circling the building. The original request circled the building, this one does not. And so in this case, again, you've got the drive-through coming in. You know, anyone that wants to circulate the site for parking, they come, they stop, they got some coffee, they went in, and they sat and enjoyed it for 20, 30 minutes, whatever, and they want to leave, they're not inhibited by someone coming through the drive-through. So that, in effect, while maybe not strict adherence to what the Code says, that's acting as our bypass

lane. And as mentioned before, the turn-around time on this, on 7Brew is very quick, so even if you're in the drive-through and you want to get out, you're going to be in and out of there pretty quick, even in a peak hour. But that wasn't what the Code talked about. It was talking about safety of traffic circulation, and, I mean, I know we can all think of many examples around town where the drive-through and the circulation is a mess. You know, we're trying to fix that problem with that Code. This is already designed with that in mind. So I think it's important also to say, if we don't -- if we have to strictly adhere with this drive-through lane, we have to raise the building. We have to move the building further back from the street. Again, we talked about all of the site conditions that drive this. If we are required to add a lane, we have to make this area wider. This area is flat. If we make this wider, we've got to push the ADA stall back. It makes this flatter, all of that takes this grade that's down here, raises it up to here, you know, it doesn't look like a lot, but that's -- that's a couple more feet of additional elevation we've got to raise the building. That's sacrificing ADA access directly off of Providence Road, as well, in this layout.

MS. HAMMEN: Which means more variance requests. Correct?

MR. KRIETE: More variance. So I want to be clear. If we don't get this, you know, our other variances, please amend those if you're okay with those, but I think this -- then this is why I say these are all tied together. I mean, they are separate request in this, but they interconnect themselves. If we lose one, it kind of tumbles into another. And this is important here that we have this, and I think, again, we've met the intent of the Code. I mean, maybe that real strict adherence to it, of course, it's a new Code. It really hasn't been real well tested, but I think we've intent -- we've met what the intent was. And I went back again and read through the Planning Commission meeting minutes and the Council minutes. I've looked at the reports, and what was the intent of that. So I went back to that and tried to understand why we -- why did we add the bypass lane. And I said I think we've got it. I believe we're there.

MS. HAMMEN: Would you go back to the slide before that shows. So you're saying if I'm one of the 16 cars, I'm car number 5 or 6 on one of the lanes, and the car in front of me blows up, I just kind of wait for the others to get through with their order, and then I can get through?

MR. KRIETE: Yeah. Yeah.

MS. HAMMEN: I mean, I see -- that's the reason I see having a drive-through lane, a bypass lane that I can get out if I need to.

MR. KRIETE: Right. Right. And you do have two lanes, so if a car breaks down in there, you know, it cycles through. And now imagine the average time, four minutes. Certainly the peak time, it's a little longer, but the average time, you're in and out of there in four minutes. If that were to happen, and you had two lanes, okay, it stretched out to a few more minutes, you know. Anything that needs an emergency faster than that, there's going to be an ambulance involved. Somebody is not going to be driving.

MS. HAMMEN: Right. How is an ambulance going to get in there?

MR. KRIETE: Well, you know, the ambulance comes right there at your bypass. They're going to set up right there where the parking stalls, and they're going to come take care of somebody. They're off the lane, they're not inhibiting circulation on the rest of the site. They're not bothering circulation out of the Cane's; they're not bothering circulation to Custom Muffler. You know, the fire truck needs to get through there for any reason, they're out of the way, so that's again the intent of that bypass lane has been met by providing this as a separate lane, even though it's not parallel to the -- to the drive-through itself. You know, if this were a single-lane drive-through, I think this would be a little more complicated than that, but the double lane solves the other issues, if something were to actually happen within that drive-through itself.

MR. MINCHEW: But I thought the bypass lane was for something else, not necessarily what she was just asking, so that you could get out of the drive-through. I thought the bypass was for something else.

MR. KRIETE: Yeah. And that's where I went back to the minutes. It was vehicular circulation and not affecting the rest of the site. And, you know, I don't want to pull too many examples up, but I can certainly say that there are a few sites in town when drive-through is in play, there's only one lane next to it to pull into your parking stall. It's backed up, it's blocking traffic, and it becomes a snarl. I have a picture in my head right now. I don't want to name it. But -- but that's what -- that's why it's there, is so that's there. It's not so you can, you know, jump out of your order.

MR. MINCHEW: I mean, like --

MR. KRIETE: Yeah.

MR. MINCHEW: -- just not that I've ever been to the drive-through for McDonald's for coffee --

MR. KRIETE: Uh-huh.

MR. MINCHEW: -- but if you get two lanes going through McDonald's, the inside lane can't get out if it's full of cars.

MR. KRIETE: And a lot of McDonald's are set up with -- they would -- they want to circulate traffic, so they --

MR. MINCHEW: I understand.

MR. KRIETE: -- have always intentionally had a bypass.

MR. MINCHEW: That might be, but I'm just saying if you're -- in the example that you're four cars deep, the car in front of you blows up, you can't get out, that's true in a lot of restaurants. Right?

MR. KRIETE: In a lot of restaurants.

MR. MINCHEW: Where if have two lanes, if you're in the inside lane, you can't get out.

MR. KRIETE: Yeah.

MR. MINCHEW: I mean, till the traffic moves.

MR. KRIETE: Until the traffic moves.

MR. MINCHEW: This would be the exact same thing. Right?

MR. KRIETE: It would be the exact same thing, but you've got another lane, so that car that broke down or blew up right in front of you, you just drive around it.

MR. MINCHEW: Okay.

MR. KRIETE: You've just got a way for the lane to clear next to you. You know, that happens in your single-lane drive-through, well, you know, now you've got to back out. That's a pretty extreme circumstance to have that happen, but yeah. A car breaking down, it could happen certainly. And certainly there's a medical emergency and you need an ambulance, so, you know, that's accommodated here.

MR. NORGARD: So is that hatched buffer zone between the two lanes, is that a painted surface or something like that, or is that --

MR. KRIETE: Well, this is --

MR. NORGARD: -- an original curb? Yeah, it is important topic about it. And it's just painted, so drive-through. This is -- this is unique. There's no menu board here. So when you -- when you come up to 7Brew, somebody is going to come to your car, I think, more or less an iPad, they're going to take your order, send it in, they're going to go out and get it, and they're going to walk back with your order. If anyone ends up a Chick-Fil-A, I mean, it's similar how they work. They have a menu board, and they never use it there, but it's that similar same idea. The order is taken. Andy's is kind of that way, if you go there and you still come to the window, but somebody comes out and takes your order. And that's -- that improves the circulation coming through. You are getting immediate service, and they're able to handle orders and do multiple cars at a time. So there's several people out there. So part of the reason you see this, and it's as wide as it is, there's people walking through here. Again, I talked about why does the drive-through need to be accessible, you know. It's -- it's a walking surface for the employees, and that needs to have a certain width and be safe in that area. That's all important into this. So, again, I want to stress that, as well, so, again, you know, it's a bit unique if you're -- of your other drive-throughs. It's not like Starbuck's where you go and you order from the window, you know, and you just kind of wait your turn as you come through. It's going to move a little quicker and faster than that.

MR. NORGARD: Any further questions? Do you have anything further, Mr. Kriete?

MR. KRIETE: Yeah. Again, I'll just come back and summarize just real quick -- briefly, and we talked about a lot of stuff, so I'm sorry I've droned on for so long, but, again, we have the five requests. You know, first, we've got the finished floor elevation above the sidewalk, right above the right-of-way line. Five-point-two feet is what we have presented here. The building setback, again the utility easement being the biggest driving factor of that, but we've got to -- we have to push back from that. We can't build into it, we can't have any structure into it, so we're looking for a relief on that piece. Building height, again, measured off average sidewalk grade and the Code. Of course, we're set back, we're higher. You measure the height, we're good. If you measure from the ground surface directly adjacent like you

would your typical building height definition in any other district, no, but I think M-DT, I think we meet the intent, you know, we're set back. But, again, we want to clarify that, and then there's the cooler. The cooler is a separate issue all together. We'd like that to be waived. Again, we want to street -- to add a street wall, like to use it as some art. It's double duty. Rather than a multiple structures or trying to hide this behind the building somewhere, let's utilize it as something more creative than that. And then the ground story clear height. You know, we talked quite a bit about that. If, again, if we're measuring from --

MS. HAMILTON: I did get the height? I just wanted to add that detail.

MR. KRIETE: Yeah.

MS. HAMILTON: The height of the wall would be nine feet, six inches, 96, thank you.

MR. NORGARD: Nine feet six.

MS. HAMILTON: Yeah. Nine feet, six inches.

MR. KRIETE: Yeah. And that's the cooler or the --

MS. HAMILTON: The cooler is eight feet, four inches tall.

MR. KRIETE: Okay.

MS. HAMILTON: And the street wall would be nine feet, six inches tall.

MR. NORGARD: Okay.

MR. KRIETE: Yeah. Exceeded again, that exceeds the requirements for the M-DT there, but again, it's just kind of a finding a creative way to use something else you would have there. Again -- again your typical measurement, again, we go finished floor to roof or to ceiling, you know, we're under the 12 feet, again measuring from the average sidewalk grade. We would ask that you measure from that. Again, exempt the cooler, treat the cooler like a street wall. Let's do something creative there. Last piece being the drive-through bypass. Again, we're asking now that we don't have the bypass so much, but we don't have that literal interpretation of it being parallel to the drive-through, but we can look at that as the other lane we provide is the bypass lane, in fact. If you recall, I believe you had this in your packet, you had kind of summary of all these little conditions. I did reorder them. One and four flipped, so that's from our presentation. Again, stress, this is an unique building. It's been created for the site, for Columbia, for this downtown area. It's not the typical prototype. Can -- of the -- and introduce some art in here. We have brought a lot of visual interest, and I think it's greater than our adjacent area. Again, for that standard of needing the block standard, we've got it. Again, just to stress again the existing conditions and how that's driving a lot of this. Again, I think we're superior form. I believe you quoted that earlier. That's our quote from the staff report. Again, we're consistent with the adjacent buildings, none of the existing buildings are near or at the elevation of the sidewalk. We've placed all of the auto -- automotive-oriented uses behind the building. We've focused on the pedestrian in the frontage, the height, and the clear story, again consistent with their forms that we have around us. Again, the cooler, street wall. I keep saying that. Drive-through bypass lane, really the way we've

provided the parking and circulating it. We met the intent of it even though it's not parallel, and it's not needed to improve circulation like the Code is asking, the intent of the Code, the intent of the minutes, and why it was added. Again, 7Brew is committed to your community. You'll get paying jobs. You do have some opportunity to even use Mizzou licensing, they're near campus. So with that, we have asked a lot of questions along the way. I would be happy to answer any more you might have.

MR. NORGDARD: Any further questions?

MS. HAMMEN: So I'd like to go back to the cooler.

MR. KRIETE: Okay.

MS. HAMMEN: So is the cooler a building or a wall?

MR. KRIETE: It's a building. In all technical purposes, it's a building. We want to treat it -- we have to build a wall there to screen it. We want to treat it like that wall. So it's been set up now to be just more than a cooler. It's set up now they can have a mural on it, and to act as the street wall, and that would be the cooler, so it would become more or less that mural and wall, that section hides the cooler behind it, you know, again --

MS. HAMMEN: So are you asking for a variance to consider that a wall rather than a cooler?

MR. KRIETE: I think that would be a good way to word that, yeah.

MS. HAMMEN: So there's two variances being asked for in number four?

MR. KRIETE: Yeah. Yeah. And that's why I ask, I mean, if there's concerns with one or the other, I mean, let's see if we can separate those out, that would be greatly appreciated. I think trying to say no to the height would really be a negative impact on that cooler.

MS. HAMMEN: Because actually the cooler also doesn't mean -- meet the clear height, and it's also a building, and not a wall, but you want it to be a wall that doesn't meet the clear height?

MR. KRIETE: Right. Yeah. Yeah. I'd be hesitant to say it's not a building because it still has codes it needs to meet, so -- and so that's not why we're asking for it that way. We just want to treat it like that and have it act as that way, you know. So it still technically needs the exemption.

MS. HAMMEN: And just on the -- I'll just ask you about the art. That's an admirable idea, spelling out Mizzou. Is that a sign or art?

MR. ZENNER: A mural would not be considered a sign.

MS. HAMMEN: But as big of letters as you want?

MR. ZENNER: It's a mural. It's artwork.

MR. KRIETE: It's not related to the business. I think that -- if that may be a good way to say it. It's not the logo of the business, it's not selling the business.

MR. CREW: I don't mean to belabor the point, but just to say it one more time. Moving the cooler where it is was to meet the request that the committee had before about not having the drive-through in the front of the building, and putting it behind the building, so just to say that one more time.

MR. KRIETE: Yeah.

MR. NORGARD: Further questions? Thank you, Mr. Kriete.

MR. KRIETE: Thank you.

MR. NORGARD: Is there anybody else wishing to speak in favor of this application, please come forward and state your name and address for the record. Seeing none. Are there anybody here to speak in opposition to this hearing or to this proposal? I see none. All right. Staff, Mr. Zenner, would you like to give your report?

MR. ZENNER: I will, and I'll try to keep it a little bit more condensed. Last time you saw this was in February of this year. Conditions associated with the site have not changed any since that period of time. The design, however, as was just presented to you, has drastically been improved as it relates to general compliance issues associated with the M-DT standards. While that is the case, there are still several items that staff is concerned about. We are sharing the same site as a building that is compliant with the form-based code standards subject to variances that were granted by this body for Raising Cane's, so building height, clear story height are being met. They are being met on the same property. So as is denoted within the staff report, and with no disrespect to Mr. Kriete and his desire to request that you approve measurement of building height from the average grade elevation of the sidewalk, the adjoining property to the north, which is immediately -- which is fully compliant with our building heights, sought the same variances for being elevated above the average fronting elevation, but still were able to architecturally accommodate meeting the structure height plus the clear story height. Now some of that is defined based upon how that building, however, is situated on the property. It is perpendicular with its long access heading from east to west. The proposed improvement that 7Brew is desiring to install on this runs north to south, and therefore, its short section of the building is actually running north to south. Its depth is different. The profile of the building is significantly different. The construction associated with the building as was indicated by 7Brew's architect is a prefabricated building. Raising Cane's was not a prefabricated building. Raising Cane's was a stick-built building built on site, and there is where -- therein lies where the significant difference in meeting the M-DT requirements comes into play. We're dealing with our manufactured structure. We're not building it on site to meet our design requirements. That being said, when we look at the overall building height measured from the elevated position, and Mr. Kriete touched on this, the southern end of the building, due to the barrel roof design that it has, which is atypical of downtown complies. That's measured from the grade of the new site. And if we average, as I pointed out in the staff report, if you average the height of the parapets plus the highest elevation, the main building itself is within three feet of compliance. To me, the opportunity for a superior structure, as the staff report identifies, is possible, and, architecturally, the building does gain more interest as a result of its variations and as its closeness to the corridor as effectively as it can be. The 32 feet, which would be the maximum distance that the structure could be behind the property line, which is 27 feet behind the required RBL, which actually has an offset of five feet from the property line, is not unreasonable in staff's opinion. It is necessary, as Mr. Kriete pointed out, to accommodate footing and foundation work that is

necessary to support the main structure and any of the associated footings that may need to be set for the cooler. To discuss the cooler and the variances that want to divide the cooler and what we refer to as the main building, i.e., the restaurant, or the main coffee preparation space, it is reasonable to be seeking that. I think as Mr. Kriete pointed out, from an energy consumption perspective, and from a utility perspective, the cooler, while, yes, it is a structure, it is not a habitable structure. It was never intended to be open to the public, and the use of the building as a screening wall is actually far more effective than putting a screening wall there and then putting the building behind the screening wall. It's a better use of the space. It allows us an opportunity, in staff's opinion, to be able to create a more engaging street front, and that's exactly what we are trying to do. If we were on the opposite side of Providence Road in the middle of downtown where we had street frontage and we had glass adjoining the street sidewalk, you'd be looking for interaction between the building and the pedestrian on the sidewalk. Here, we are in a suburban environment, and that's probably putting it mildly. There have been questions asked as to, well, why is this particular area within the M-DT? It's because it's a transition between our true downtown and it's setting the tone for what one should expect as you're coming into the true downtown that that is east, basically, of Providence Road. It has lesser standards than our downtown. It allows less amount of the building to be along the required building line. It allows less stories in height. It does have variations in some of its other attributes, and I think it is important to recognize that if the Board is interested in considering the adjustments, they are not wildly out of proportion with what is there. And to Mr. Norgard's point, are we establishing through approval of this particular project with these variances a legacy building form? I would suggest no. We are requiring that the elevation of -- we are elevating the design principles associated with this building. While we may not be fully meeting the regulatory requirements to the letter of the law, Mr. Kriete has pointed out correctly, it is are we creating equal or superior quality and visual interest, or how do you blend into the block? And that or is there when Mr. Kriete identified or I'm like -- I don't think or is there, but the or is in the standard that you are to review as it relates to these design related elements. It's or the block, and I think when we look at what's along the block, as he jokingly referred to, the Hardee's building is a prime example of really what we would like, boarded-up buildings and decay. And I think what we don't want to prohibit is the ability to create a more active environment. And what the proposed layout does do is it defocuses the auto-oriented nature of this, and that is a very, very positive aspect. The applicants have worked hard. They have talked with us repeatedly. We have browbeat them into certain particular aspects of this development because we said if you want it here, you're going to do this because this is what it has to be to be a community member. They have come back, and this is the last pieces. The site, regardless of its user, has an elevation issue. And as we did with the prior application, we took and we addressed three criteria that would affect any user of this site as it related to street tree placement, as it related to lighting, and street improvements, and those are done with now. And as I point out in the staff report, we asked for a landscaping plan. I was provided that landscaping plan, but I was also

reminded that we've already gone through those variances, Mr. Zenner. We don't need to be providing you something. That will be part of the site plan process should we receive approval. We got that information after we had advertised. And so all of the street standards that are in Appendix A-A10 are not relevant here. They all were addressed and the sidewalk width was addressed in the last hearing, so we don't have to deal with those; otherwise, we would have had instead of five, eight variances. So what I would tell you is what we're looking at here is street -- the elevation of the site is probably no less than the 5.2 feet, as Mr. Kriete has pointed out, for all of the reasons that Mr. Kriete has pointed out, and he is a civil engineer. And therefore, you can take his word for gospel, if you would like, but I would rely on it because the elevation here is the elevation that any future development is going to have to meet in order to meet all of the criterion. It is midpoint, as I pointed out in the staff report, as well. We have seven feet on the north, with Raising Cane's. We have anywhere between three to four and a half feet above the average fronting sidewalk elevation for Custom Complete. They're proposing a 5.2 foot variance in the height above the fronting sidewalk. That, I believe, is reasonable, and I believe if anything, if the Board were to decide on that, that is another variance that we don't have to deal with should this project not be successful in getting built. And I will tell you that getting this project approved requires going through the Planning and Zoning Commission and City Council. It's no different than what we previously discussed in February. The conditional use permit that is necessary for the site as a drive-through goes through that public hearing process, but it can only go through that public hearing process after we have addressed the variances needed to grant particular relief to the M-DT standards. Raising Cane's was built out of sequence, and as we have said previously in other meetings, staff made an error. We apologize for that error, and the Board was handed a basically approved project, and you were told to figure out how to make it work. So your hands were somewhat tied in that respect, and that, I think, goes to the point that what was presented initially in February was objected to -- by you greatly because of what is to the north, and the fact that it was carcentric oriented towards the corridor. This is far superior in that all of the carcentric uses are to the rear. So that is -- that's critical there. I would suggest that while Mr. Kriete's interpretation of why the changes to the bypass lane were made, there were a number -- the bypass lane provisions existed before we took an amendment through City Council on our Planning and Zoning Commission. And the bypass lane requirements may have been described within the most recent amendment we made to our Code for the purposes of providing an option for relief. That is not how the original Code read. The original Code required a bypass lane, period. We didn't require somebody to build a two-lane drive-through continuous from beginning to end. And as the staff report points out, it is not uncommon that we have dual drive-through lanes now, but those dual drive-through lanes often merge into a single pickup lane, and that is a significantly unique element associated with this project. This is not like anything we've had in town, and it'll be very interesting to see how our project off of Nifong works. I don't expect it not to work properly. I've passed many and I was just in St. Louis over the weekend and passed three of their standard prototypical projects, and I will tell you that this project

definitely will not look anything like that should the Board and the Planning and Zoning Commission and Council approve it. This is a far superior design unique to our community. The walk-in area for customer service isn't to be found anywhere else generally, and that was something we worked long and hard with the applicant about here. Acknowledging the fact that we have made those strides along with acknowledging that the design associated with the building and how it plays into the site is also something that's critical, as you evaluate what they've asked for. Architecturally, the building probably can be compliant. The question is what does that compliance truly achieve in the end of the day. The building height itself overall is fine. I -- a three-foot variance, or within three feet, and I think the architectural character to ensure that branding, as well, is maintained allows us that creativity -- architectural creativity and creating a diverse road frontage which is something that will create engagement, and that's what we would like to create. Raising Cane's has got architectural features and seating areas that allow for pedestrian engagement further back than this particular site will have. This site is more front and center, and therefore, it has the opportunity. As we develop further to the south, Smoker's Choice and some of the other buildings further to the south, we have other limitations that we're going to have to deal with there, and the type of development that occurs on those lots, due to their shallow nature in comparison to this particular parcel will dictate what goes in, as well as the current access arrangements that they have to the corridor. This particular parcel has no opportunity for access, period. It has access from the rearage road only, and that rearage road does provide an access back out to a signalized intersection and then, of course, the southern entry that is next to Custom Complete. Mr. Kriete referred to a traffic study. Traffic study has been evaluated by both our City staff and by MoDOT. Both have expressed concern about a full access at the southern entry point. That will be a matter that will be decided as a part of the conditional use application, but it is more likely than not that that access will be restricted in some form, very likely be restricted to a right-in/right-out only which will reduce the potential impacts which will help to further cite circulation benefits based on this new design. There are some queuing concerns at the Elm Street intersection as you get to the -- to the southern access road that if the queue -- if that queuing space is occupied, it conflicts with turning movements at the Elm Street intersection. And so it's MoDOT's road. MoDOT gets to control how that intersection is maintained. We've expressed that to the applicant. They are aware of that and were still in final review of how MoDOT will like to deal with that, but that's not really the relevant issue for this body. This body needs to decide on the four design element changes that are being sought, three of which I believe are -- two of which I believe are essential. You have the height and then you have the required building line. Those are two out of the gate that I would tell you that we can decide tonight and have them apply to any future site. And I would suggest to you that the 5.2 feet above is probably an appropriate number. I would suggest to you that 32 feet behind the property line is an appropriate number for anyone that will use this property in the future. Those two are gone, what are we left with? You're left with your building height and how would we want to measure building height? Do you want to measure it from the

sidewalk? The Zoning Code, the UDC, defines height as being measured from the average grade elevation. Average grade elevation is determined based on measuring six feet out from the building on the average grade plane. I don't have an average grade plane calculation here with me at this point, but that definitely would potentially have an impact. But again, the building diagrams that have been shown by Mr. Kriete and the elevations show that we can be compliant from the new finished grade 5.2 feet above for the southern end of the building. And when you set it at that, at the grade 5.2 feet above, and you average out the parapets plus the highest peak, you're within three feet. The cooler is an accessory structure. It's really not a building. It's serving a function, and I think what they're proposing to do with it does it better. And if we measure that from the grade that will be established, the 5.2 feet above the sidewalk, that actually is going to -- the cooler itself, then meets the street wall maximum, which is an eight-foot wall height. And that, of course, will screen your entire parking lot and it provides opportunity for us to have street art or wall art that will allow us to basically draw people into this site because of its visual interest. It is a benefit and that height is not of a concern to staff. We don't believe that it does any damage to meeting the overall intent. The main building itself is what really we need to focus on. It has functional doors. It has a functional door to the actual street frontage, which is different from what we had in our original February proposal. It's got the outside seating area. It's got compliant glass, glazing, facing the corridor. All of those architectural features and textures that are provided there are Code compliant. The only thing that it does not have then is it's not 12 feet tall. And as Mr. Kriete pointed out, and as I think I've identified in the staff report, the building is only 15 feet deep. It's the whole building from front to rear, south to north, that would have to be increased in ceiling height because it is an open space. Again, I ask the question when you talk about what's to the rear of that space, what value does that really serve? Do we want to have the bathroom have a high ceiling in it, because that's where the bathroom is located in some of the other service area. I just don't see it. And again, the usage of the building versus the usage of Raising Cane's significantly different. Raising Cane's is a traditional walk-up, sit-down restaurant with a drive-through. They have a seating area, and they have a seating area that is part of their business model, and therefore, when they placed the building perpendicular to their corridor, their seating area is at the front of the building, and therefore, you can go into the building and go back 25 feet and maintain that height. Here, we have a long building with its long axis, not its short axis, along the corridor to create that street wall, to create a continuous frontage of building and engagement with glass, with the mural, with the seating area. It is a much better design in our humble opinion, and I think it does meet the intent of the Code. It's better than what we've got out on the corridor right now, big parking lot, an ATM machine up at Eatwell. That's all we see from that parcel. Then we go down to Custom Complete, well, they've got a great parking lot and a bunch of bay doors to get into their service area. And then we go down to the shopping center where Allen's is and the high peaked roofs. Again, all of the parking sitting in front of it. The autocentric nature of what this corridor is today. This is the odd man out in addition to the Raising Cane's. I think we set the tone when we look

at what the architecture is here, how it varies a little bit, I think, is indicative of how the corridor varies, as well. The drive-through lane itself, again, I'll go back to that. Mr. Kriete did not point out or did not refute what was in the staff report about alternatives related to the site. And I believe what Mr. Kriete's point was in indicating to you all that raising, if we require the true nature of why the drive-through bypass lane is supposed to exist, we require the site to be graded and they have to ask for greater variances. I don't believe anything was pointed out to us directly that would suggest that you can't put underground detention in. We see that often in tight sites where we have to basically create circulation. We already have a great change in the property as we go from the rear to the front, and incorporating in an extra drive-lane may or may not create a significant issue. It does, of course, constrain how much of the open space is available for above-grade retention. I don't know fully what all of the impacts of the stormwater that run through this property are and if underground storage is actually prohibited from a cost perspective or a volume storage perspective, and that is why the above ground exists. You may want to recall Mr. Kriete and ask those questions for further clarification. We also don't have to have a dual drive-through. That is an applicant's choice, and that is a business model choice. Our Code says we have bypass lanes. And we have a bypass lane so you can get out of the drive-through lane if you're tired of waiting. Not, albeit, their wait times may be very, very short, but if their wait times are very short, why do we not have to -- why do we have to have two drive-through lanes? If you're going to be moving that volume of vehicles through in that short a period of time, if your drive-through lane is moving, I realize we want to get people out of the rearage road because we don't want to create a backup situation, but if you're moving your customer through your queue that quickly, you can either accommodate a break point at the -- well, even if you accommodate it to break in front, it doesn't solve the problem, but it may reduce an issue. Again, we have development that does have dual drive-through lanes. They merge into a single pickup lane, and we have always circulated around. The circulation and bypass lane can be part of the actual drive-aisle. And, yes, Mr. Kriete is correct, we didn't want to be blocking vehicles parking to utilize a restaurant by backed up traffic, and that is definitely a reason why we wanted a bypass lane, but it is also a reason why we allowed the drive aisle that serves the parking to serve that same function. Here, we are drive-through centric, and they do have -- they have segregated parking for their drive-up customer, which is different from the drive-through lane. So if you look at it from that perspective, the exit lane for the drive-through traffic is the same as the drive aisle for the parked traffic that may be walking up to this facility or maybe driving to this the facility to take advantage of the patio space. So if you look at it from that aspect, I could -- could buy the idea that that lane is acting as the bypass. However, the way that the Code is truly written is it needs to be parallel to your stacking lanes, and here again, two stacking lanes, only one is required for a drive-through to be classified a drive-through, and the applicant chooses to use two. There is a choice that you all have to make. We can only tell you what the Code says it says, and it says that you have to have a bypass lane parallel to your stacking. Yes, I will grant that there is no customer parking coming off of the drive-through lanes, because all of that is

relegated to a different portion of the site, but the Code really doesn't make that differentiation. It says that we have to have a bypass lane. So I would -- I would contend that Mr. Kriete's argument, depending on how you want to view that, based on what the Code is, is plausible, that the drive-through traffic is the drive-through traffic, and it can come in the lane associated with the parking does meet the intent of the Code, but not the regulatory written rule. So with those five variances in mind, if you all feel that compelling testimony has been given this evening, the appropriate action to take would be to recommend approval and, if you will, make sure that we state what criteria you are making that recommendation on. If you do not believe that there has been significant compelling testimony provided, recommendation of denial would be appropriate. And I again will advise that the two variances, the one that deals with height above the average fronting sidewalk is probably an appropriate variance to grant regardless if you believe that there -- hopefully, you believe that there has been adequate testimony made to support that, but it is a variance that will be needed for anyone as well as allowing an RBL adjustment to be granted in the space that is proposed here at 32 feet is not, in staff's mind, unreasonable, and that would also be required of any future applicant. With that, if you have any questions of me, I'll be more than happy to try to answer them.

MR. NORGARD: Are there any questions for staff?

MS. HAMMEN: Would you address the clear height situation?

MR. ZENNER: So we have building height. We have two factors associated with height. You have building height, the actual height of the structure, and then you have clear height. And clear height is what is between floors. It's what's established between floors. So height in the M-DT is measured by stories and in feet. And so if you were to walk along Broadway, just as an example, we have buildings that have multiple stories. And the purpose behind clear height is to create a repetitive or a uniform and predictable experience as one's walking along the sidewalk level. And therefore what was identified as one of the features with our downtown and others where you use form-based codes is there is a particular ceiling height or clear height from -- or to first floor -- to ceiling and first floor in the first story. That, in this particular area, was identified as 18 feet. Now that may not have been calibrated directly to the existing conditions and, if it had been, I think what Mr. Kriete has pointed out in his analysis of the buildings along this block face, would probably support a much lower clear height. So obviously our consultants when they prepared this particular provision, they were utilizing either averages from what we have seen elsewhere, because that clear height is basically established throughout all of our downtown, all of the M-DT. It's 18 feet across the board. And then our ceiling heights, clear heights on floor levels, two and above, are nine feet. And that's, again, consistent. So they're asking for the eight-foot clear height because of the way that the building is manufactured. And again, Raising Cane's and other buildings that are non-premanufactured, they're site built. You know, your lumber comes in eight, ten, twelve, fourteen, sixteen feet in length. You know, put a bunch of two-by-fours together, and you get a wall system built, and you can build that in varying heights. And I would suggest that when Raising

Cane's was built, Raising Cane's knew that that's what the expectation was, and therefore, they built it that way. They built that building site. I watched it go up. And so, yes, there are maybe more inspections associated with that because it does require framing inspection, and it does require a variety of other things, but it yields an outcome that's demanded by the Code. What I will tell you is, in working with the applicant, the prefabricated building that they are proposing to have constructed for this site is different from any other prefabricated building that they have in their fleet because it has the front customer service area, so they have made modifications to that standard format that they use. That standard format, however, must not come in a height greater than eight to maybe eight and a half or nine feet tall, and that's a manufacturing related issue.

MS. HAMMEN: So the -- the facility going in down on Nifong or Grindstone or where --

MR. ZENNER: Uh-huh.

MS. HAMMEN: -- is it -- is it nine feet tall?

MR. ZENNER: It is not required in that particular location. It's not required to meet the additional design details that the M-DT is. So the M-DT is unique in that respect, and I think, as Mr. Kriete has pointed out, you know, this is a unique site. It's a unique corridor. And so when you embellish the rest of the building with other improvements, one has to ask themselves does that outweigh from a visual quality perspective from superior equal quality and visual interest, and I think it's the visual interest component maybe that you focus on as you try to evaluate maybe clear height because clear height is how do you get into the building, how do you visually take access of what's inside the building. Well, it's how much glass do you have. How much transparency exists. And the building definitely complies with transparency standards, so that's not -- that was a different problem we had earlier in the earlier proposal, as well. There was a transparency concern which I believe we did overcome before we got to the Board. But here you do have a lot of transparency along the corridor. While you may not have the clear height, the ceiling height from finished floor to ceiling, you still have a lot of visual access into the building. And so quality of the building, one, how does it compare to the rest of the corridor. I think architecturally, the building has more interest. Visually then, it's also providing that opportunity for engagement. And I think that, again, this is why they're before the Board. This is a decision that you all have to evaluate against that metric quality and visual interest.

MR. MINCHEW: Let me ask. So earlier you said that the corridor was sort of an introduction into the M-DT. So it's introducing you to what's going to be full regulatory requirement when you're at Broadway and Ninth or whatever?

MR. ZENNER: Exactly. That is correct.

MR. MINCHEW: So would this be something then that we, because it's not at the one on Grindstone, and we're introducing people to the idea of what it's going to look like when you get into full M-DT, would this be something we would consider as not necessarily having to require because it's part of this introductory idea of --

MR. ZENNER: I mean, the Board has the full authority to waive everything here --

MR. MINCHEW: I'm asking your opinion.

MR. ZENNER: -- and I'm sure that would make the applicant ecstatic.

MR. MINCHEW: I'm asking your -- yeah. I'm asking your opinion because you made that statement.

MR. ZENNER: And I mean, I don't think you -- yeah. You do not want to do that especially when the site shares a building that is compliant architecturally. And I think that that is -- that's clearly where we as a staff have some concern that from an architectural perspective, we're not meeting architectural standards and we're seeking a site-related feature, i.e., the fact that the site has to be elevated above the average fronting sidewalk so much. As to the defining factor of why the architectural component cannot be met, the site immediately to the north sharing the same general lot meets the standard, and it's meeting that standard because the construction technology used to build that building -- and I don't want to speak words for the applicant, but I will nonetheless, maybe considered inferior because they used stick built construction, and they're doing something more modern and futuristic, and this is a modular building and it's more efficient. It uses less energy maybe to produce the structure. But in so doing, it also does not meet the design element requirements of the M-DT like their neighbor did. The Board needs to make that decision, if that's an acceptable alternative. What I'm telling you is is the building that isn't there today that could be built there by this proposal is a heck of a lot better than the one that exists along the corridor. It'll be a lot more compliant than what exists along the corridor --

MR. MINCHEW: So the one building --

MR. ZENNER: -- with the exception to the building to the north.

MR. MINCHEW: The one building to the north, is it -- is it the only one that meets the requirement?

MR. ZENNER: That is correct.

MR. MINCHEW: So in comparing the one --

MR. ZENNER: -- to the many.

MR. MINCHEW: -- to the -- yeah. Well, in your example, we're comparing the one to the only one --

MR. ZENNER: Uh-huh.

MR. MINCHEW: -- and not to the many. So the standard is not there if you compare it to the -- to the many.

MR. ZENNER: To the many, yeah. To the many. And that goes to Mr. Norgard's point that I think are you setting the standard of continuing what's been in the past with approval of this. I would tell you no, because I think we will have an opportunity as buildings do turn out, they do get redeveloped. You're going to be able to bring buildings closer to the RBL as the easement changes along the corridor. We're going to be able to increase the elements of design along the rest of the corridor as buildings

redevelop. I mean, Walgreen's is likely going nowhere. I doubt we're going to see Eatwell go anywhere in the near future. However -- and I doubt we'll see our Convention and Visitors' Bureau building go anywhere in the near future. Hardee's, on the other hand, that may be dropped, and if it is dropped, it will be reconstructed and it will be reconstructed compliant. If we look at the gas station that is to the north of our Convention -- or to the north of Hardee's, the gas station includes far more elements of the M-DT than I think most people may notice. It's architecturally designed and treated in a way that no gas station normally would be treated, and that is solely because of the M-DT, so it's incremental. The change is incremental. We can't -- we can wish that we have cataclysmic change all at once --

MR. MINCHEW: Well --

MR. ZENNER: -- but there are restrictions in being a part of that.

MR. MINCHEW: -- we don't own the properties, so --

MR. ZENNER: Yeah.

MR. MINCHEW: Yeah.

MR. ZENNER: So --

MS. HAMMEN: So does the M-DT say that the clear height inside in the first level is twelve feet or nine feet?

MR. ZENNER: It must be 12 -- 12 for the first 25 feet is what the Code says.

MS. HAMMEN: Right. For this urban west or whatever that --

MR. ZENNER: Yeah. For the urban general west, that, and it is 25 feet for all building forms. And so regardless of where you are or within the downtown, in the M-DT, whatever street frontage you are on, that is a standard.

MS. HAMMEN: So does the gas station meet that?

MR. ZENNER: The gas station has an exemption because it's a gas station. But the -- so there's certain exemptions that it got provided to it because we didn't want really --

MR. MINCHEW: Do they serve coffee at the gas station because --

MR. ZENNER: They do, but it's not nearly as good.

MR. MINCHEW: Okay.

MR. ZENNER: So I think we -- we -- there were certain things that were negotiated solutions when we adopted the M-DT, and the gas station -- we had two gas stations at the time when the UDC was adopted in 2017. One now is a donut shop that did an interior renovation and no exterior work, therefore, it didn't really change its overall exterior appearance except there's no gas pumps there anymore. And then, of course, we had the gas station that exists, Midwest Petroleum's gas station. And that gas station, trust me, when we took it through the design process to get it to where it is today being redesigned, it was a challenge, but it was allowed to be built the way it's built because of the exception to have that auto dominated feature along this corridor.

MS. HAMMEN: So if this were somewhere else in the City, because the new one going in on --

is it Grindstone or Nifong?

MR. MINCHEW: Grindstone.

MR. ZENNER: Nifong. It would be Nifong.

MR. MINCHEW: Nifong.

MS. HAMMEN: Nifong. Thank you. Eight feet is no problem at all?

MR. ZENNER: No.

MS. HAMMEN: And there's many buildings in the rest of the City that are eight feet interior first-floor height?

MR. ZENNER: I would suggest -- I would suggest most probably range between eight to ten feet on the commercial side. The design criteria, though, you know, there is no compelling design criteria. The only design criteria we have for anything outside of the M-DT has to deal with transparency standards related to different types of business operations, and how you're treating basically entries to those buildings. Those are general design standards that apply everywhere, and then there are some higher design requirements as the scale of the building grows in order to break down its perceived mass.

MS. HAMMEN: Thank you.

MR. CREW: Just to summarize, I think what I heard you, sorry, is, on the one hand, it's prefab, so it's not meeting the standard. On the other hand, unless we tore down all those other buildings that exist around it, in which case they would need to meet the new standard, they don't meet the new standard, and architecturally this is very favorable to what we would expect to see. Is that -- is that a fair, simple summary?

MR. ZENNER: It was a fair, simple summary.

MR. CREW: All right.

MR. ZENNER: I mean, I think we would still prefer greater height, but we also acknowledge the fact of the construction that is being proposed here varies greatly, and there is nothing to say that you could not reconstruct all of the preexisting buildings using prefabricated construction, as well, yielding potentially the same results.

MR. CREW: Okay.

MR. NORGARD: Any further questions for staff? Would the applicant like to return to the podium and address --

MR. KRIETE: Yes. First, I want to address the bypass lane question and the detention. So, yes, that was in the report. Yes. Stormwater management certainly is a fact here. That opportunity in how to use that green space and keep it green rather than pave over it and put it underground, you know. It's a better system, better treatment. That's not why we are asking for not having the bypass lane. Again, I think the intent is there and it's met. Certainly, underground detention is more expensive. We'd rather not spend that money on it, but that's not the compelling reason that's why. It's why we didn't discuss that in here. I think that the idea is that having that lane there, having the circulation separated,

having that ability to have the -- you know, an emergency vehicle off the main line of the private drive is there. We -- we think the intent was met, even though strict adherence and parallels not there. He did -- Mr. Zenner did bring up a good question to me, and I said how often is the -- both lanes open for use in peak hours. Just standard business talk, it's actually just one lane that's just going to be open, so why do you have the extra? Well, again, it's the business model. We want to -- we know that 7Brew wants to turn the -- turn that over. That's -- that's the customer service they want to provide. So when the -- when the peak is there, they're going to open up the second lane. So more often than not, they're actually will be a bypass lane, and I think it's probably the -- not the norm to have that second lane blocked off. So if that helps weigh into the consideration, I mean, really it's there, even though it is designated as a -- as a drive-through. You know, I think you're talking about a few hours a day where it really is being -- both lanes being utilized. Regarding the clear height, Mr. Zenner talks about predictability along the corridor, and I think that, again, that's -- that's that visual aspect of how do you see it as you're standing on the Providence Road frontage. And as those variations change, we have a lot of topography in that area that we have to deal with. If every building was based on the topography, you're going to start seeing buildings jumping around in height because of that clear story height, whereas the Code does measure, granted expecting to be at the building line, it does say measure the clear story height from the average sidewalk grade from the building line. So -- so that predictability is going to be brought more by maintaining some consistency from the sidewalk grade or so than jumping that around based on the changes in the topography. So I think from an intent of the Code, I believe -- I believe the shorter elevation may actually produce a more predictable area, and architecturally speaking, again, this is a small interior area. This room is big. This had a short height; it's going to be a really awkward space. You know, when we talk about the average building in downtown, you're walking into a fairly large space. You're walking now into a small space here with a massively tall ceiling at 12 feet, it's going to feel awkward. It's going to make that building look out of scale because of the magnitude. You know, where Cane's has a different architectural style, where that height can be left there and matched, but if you look at the glazing in the windows, pretty predictable for those. You can see that line is coming across pretty even. You know, if we raise that -- that clear story height, it's going to -- it's going to stretch this building out. It's not going to look nearly as predictable off the sidewalk, in my opinion. I believe with that, I would be happy to answer any other questions you might have for me.

MR. MINCHEW: If you did put in the two lanes with a -- with a bypass lane, could you still meet the parking standard that you need? Because you would lose parking.

MR. KRIETE: We would lose some parking. And the need for the parking is there. I mean, certainly, because you want to serve the customers, and you don't have enough parking, you don't have enough for the customers. So would it meet City standards? Yeah. Would it meet the client's needs? No. We're really at the bottom end of that. So no, I think it would be -- again, I believe that what we presented really is meeting the intent, and then providing the better scenario to keep us most in

compliance with all of the other standards and Codes in place.

MR. MINCHEW: I guess I was thinking that we're -- we always like to see more parking where we can, and if we make certain changes, then we would see less parking, so -- but that was just my thought.

MR. KRIETE: Yeah. Yeah.

MR. NORGARD: So is there any technical reason why the clear height requirement could not be met, from your perspective?

MR. KRIETE: Mr. Zenner is correct. I mean, it is the construction style of the building that -- that restricts that. Yeah. It's manufactured, and you've got to put it on a truck and bring it, and I think that kind of drives a lot of it. The height becomes then an issue. And again, because of the small nature of the building, if you raise one area, I mean, and you just raise that frontage area, you raise the whole building, so do we need a 12-foot ceiling in the rest room? Do you need one, you know, in the kitchen areas? It becomes complicated, so you just imagine that whole building just stretching. But, yeah, again, the reasoning for it is not because you would certainly want to use the building construction style we have, but, you know, we're looking at a justification based on how that presents off the -- off the frontage of the road and where we're measuring it from. That's our -- ultimately where we're looking at our justification for that request.

MR. NORGARD: So I'm not an architect, so this notion that we --

MR. MINCHEW: So you're not George from Seinfeld?

MR. NORGARD: No. So we have to -- we're at -- we're supposed to produce these decisions that result in superior design. So from your perspective, what makes your -- what makes the whole package superior to do what the Code --

MR. KRIETE: I'll say I live in the world. I may see if Brittany has anything to add. So I'm not an architect, either. But, you know, the building itself, it's all -- it's all how it presents, the scale of the building drives that. The bigger the building, the higher the building, the more it looks in scale. So if you take the small footprint and again, it's a very narrow footprint. It's 15-foot footprint, and looking at it from that dimension, you add four more feet to the height of that building, it's going to -- it's going to look more awkward, and I think you're losing some of the unique and visual aspects of it that it's presenting now. You know, and then again, you look at even with the compliant building next door, what's that going to do, and I'll translate that across to Custom Muffler and where they're at, and again, you start to set that standard. It's going to create, I think, a lack of predictability along the corridor and I think some flexibility in that, because of the topographic difference. Again, that's why the site is a reason for it. The topographic differences are what drive it. If we were at the -- at the sidewalk grade, I think the 18 feet -- or, excuse me -- the 12 feet absolutely should be a point of discussion, but we're not.

MR. NORGARD: So from your perspective, this is actually a matter of perspective?

MR. KRIETE: I think so. I think it is. It is, you know, do we -- and Mr. Zenner pointed that out

well. Are you -- are you gaining a more visually unique with more visual character? Would you be sacrificing that by adding, you know, to the clear story height? In my opinion, you would.

MR. NORGARD: Okay. So one other question. This has to do with the traffic patterns -- the preexisting traffic patterns on that rearage street, as it's being called. You're looking for better circulation back there. It's my perception that, currently, it's paralysis during peak time hours because of the neighboring lot, so again I'll ask, what kind of traffic are we expecting here? I'm just curious.

MR. KRIETE: All right. So a traffic study predicted 45 trips in in the peak hour. That's your maximum peak hour. Of that, seven are new trips. So the vast majority of people here are traveling to come to 7Brew. They're already on the corridor, and they're just, hey, I'm going to stop and get some coffee. So you're going to get a lot. And then the new -- this is kind of going to follow the peak hours. You're going to get a lot of southbound traffic making rights into the site, circulating out, making a right back out and leaving. Likewise, in the evening, afternoon is probably a little more on the left turn pattern. Good thing with coffee is its peak time is actually offset a bit from your dinner time, and you're not getting coffee at the same time you're getting chicken. So, likely, those -- those interactions are going to be limited. From my own perspective, Cane's -- Cane's does good -- Raising Cane's does good business. It is better than it used to be. When they first opened, it was a -- (inaudible). I rarely see a row back up where you can't still circulate. You know, it does back up into there in the peak hours, but it's not as bad as it was, thankfully, you know. And the nice thing with this site, again with those two lanes, all that stacking traffic, even the peak hour, doesn't even come close to using up the entire available storage we have. There's still some buffer in there and some room. So it's -- if there is some interaction in there, you know, this won't hamper that circulation. Another nice thing, again, you do have the two points of access, so if somebody does get snarled, there's still another way out. You know, you don't have to get back to the signal, you still can use it even at a right-in/right-out, somebody could still make a right back onto Providence.

MR. NORGARD: So I heard you say before that you would tend to use one lane or -- not restrict, but focus on using one lane, and that the second lane would generally be open as a bail-out lane, but during the peak-time hours, that's when the bail-out lane would be most appropriate. So how do you respond to that? Just that the response you've already given us is that the clearance time for that queue is so short that it wouldn't make a difference.

MR. KRIETE: It wouldn't make a big difference. I think you're right about the timing, and, I mean, you're in and out of there in a matter of minutes anyways. It's not like you're stuck in there for 20 minutes. I don't think a lot of people are going to try to bail and venture to say it may actually be a little longer in some of the non-peak times because it's just -- just, you know, you're stacked up for those peak times, that's why you've opened the other one up is to help keep that circulation moving in a -- in a more expedient fashion.

MS. HAMMEN: So you've mentioned a couple of times one lane would be open all the time and

in use, and the other lane would be opened up at peak times. So does that mean it's blocked off so it really actually would not be a -- a bypass lane, because you are making both points is what I'm hearing you --

MR. KRIETE: You're correct. I mean, you may be talking -- I mean, somebody drops a cone out, but it's probably up near the entrance area, so you know don't pull into this lane.

MS. HAMMEN: Uh-huh.

MR. KRIETE: I don't think they're blocking the whole thing off, say, hey, this lane is close, come and grab that cone. If anyone were to bail, they'd still have room to get out of there.

MR. MINCHEW: So can I ask Mr. Zenner a question? No statement on your tastes, but I'm sure you've been to Andy's by Lowe's over there. Was that built after the UDC Code, because you can't get out of that lane, if you're in that lane, and I don't know why you would ever want to because the ice cream is really good, but you can't get out of that. So I wonder is it the -- is it the downtown standard that we require that you be able to get out of a -- because I'm just sitting here thinking about all of the -- and I've been to a lot of them, the drive-throughs. I mean, a lot of them block you in. You can't get out. Right? You're -- there's grass, curb, something on both sides of you and you can't get free. So is that a new thing, because I'm thinking Andy's went in after we passed the UDC Code or the --

MR. NORGARD: Raising Cane's went in after the Code, too, and there's no bypass lane there.

MR. MINCHEW: Yeah.

MR. ZENNER: And that was -- and, again, part of that has to deal with how that site plan was approved.

MR. MINCHEW: So Raising Cane's had a variance, or they had -- I thought they built just right to our standard and they -- we didn't -- (inaudible).

MR. ZENNER: I will have to -- I'm not going to -- I'm not going to answer that question, lest it incriminate me. We will -- I'd have to look at the actual record associated with did the Planning and Zoning Commission and Council grant relief through the site plan process. That is a possibility. I cannot recall if when we bought before the Board, if that was actually an identified variance that needed to be approved for Raising Cane's.

MR. MINCHEW: Okay. I think what I was thinking is that, you know, there's -- there's this idea of 100 percent compliance on everything you build, and everyone must meet 100 percent compliance. And, I mean, I own a lot of real estate, and I've built a lot of things. I've never met that standard, and I don't -- and as I'm thinking through this, I'm thinking what building you -- of course, you -- you're in Planning and Zoning, whoever meets 100 percent of the standard. Right?

MR. ZENNER: What I would tell you is is the majority of what is constructed is compliant, and this Board exists for the sole purpose of granting relief when that type of compliance cannot be achieved. The City of Columbia has an excellent set of plan reviewers and problem solvers. And so this Board does not receive but a pittance of what is permanent annually and resolved internally.

MR. MINCHEW: Right.

MR. ZENNER: There is a lot of development within this community that is non-compliant. There is a lot of development that has been reconstructed that has become compliant. And it is dependent upon the site and that operator's site circulation characteristics. I actually anecdotally got stuck in a drive-through last night. Why, I don't know. The individual in front of me got handed their food and then sat there for ten minutes, and I couldn't get around them. It is a very, very frustrating experience for some motorists. I wanted to go home and eat, but I couldn't. I finally got out of the drive-through without backing up. I honked my horn, and they pulled forward. But nonetheless, certain things get built, and I -- I don't recall when Andy's off of Brickton was constructed. I believe it was somewhat similar to the time frame of when Academy Sports was built. They -- Andy's that is actually off of Stadium Boulevard that's part of Crossroads does not have a bypass within the drive-through lane, it has a delivery aisle that comes in that's parallel to the building. It actually is not open during regular business hours. And, again, there is a multitude of projects that we have, and I believe many of them have been constructed prior to 2017. And so in 2017 is when the bypass lane provision, if I'm not incorrect, was created initially, and then it was, as Mr. Kriete pointed out, amended because there were architectural standards associated with it. There were a lot of different things that needed to be addressed with our bypass rules and our drive-through standards in general. So at this point, I would tell you if we evaluated all of our drive-throughs we have within the City of Columbia, full compliance is probably not going to be seen but maybe ten to fifteen percent, and that would be with the bypass lane criteria. You will not find full compliance with the architectural treatment standards that now exist for probably close to 95 percent of them. And so the way our codes are set up, is they're set up that improvements are made over time. If we all had a magic wand and we could be king for a day, and we wanted to resolve that issue, we probably could, but that's not how the real world works.

MR. MINCHEW: Improvement is a subjective word in that.

MR. ZENNER: Yeah. So what I would tell you is this particular case is unique. This particular case has a lot of positive elements associated with it, but it also requires some relief to be granted by this body.

MR. NORGARD: Anything further for Mr. Zenner? Mr. Kriete, would you like to respond?

MR. KRIETE: I think I like what Mr. Zenner says in terms of the compliance. I would venture to say the vast majority are not, and it's just anecdotally speaking, particularly the architectural standards that are there are really few. Certainly there are some with bypass, some that just organically had them. You know, again, I look -- I look back at the Code, and it talks about circulation. I mean, that's really what's written in there. That's what's written in the staff report. That was not the discussion -- the discussion that came along about why the bypass lane is there. I have been stuck in a drive-through before, you know. I know the frustration of it. I don't believe that's why we -- why we passed this Code. I think it was to make sure the site was functioning properly, to make sure that people could get in and out

of their cars. Now, that's frustrating. I bet all of you have been stuck in a parking spot because the drive-through lane was backed up on it. That's frustrating. We don't have that issue. You've -- you've willingly entered that drive-through at this point. It's not like you're surprised that you've been stuck in a drive-through. And -- and, again, for the unique nature of this business, they turn people over. Frankly, it's not a kind of cooked order. A lot of even fast food now, is a little more cook to order. You know, it doesn't -- it takes a lot longer than to do what I remembered 15 years ago because it's not under a hot light like it used to be. But, you know, I think the intent is met here. I think the -- it's a rarity probably more often when you don't have the extra lane. If you're stuck, you're going to get out pretty quick here. So, you know, I believe the intent is met, and I think I'll just continue to stress that in my opinion. Ultimately, your all's decision agrees -- see if you agree, but I believe that we're -- we're there.

MR. NORGARD: Any further questions? Public hearing closed.

MR. KRIETE: Thank you.

PUBLIC HEARING CLOSED

MR. NORGARD: Do I have any comments from the legal department?

MS. THOMPSON: You do. Thank you, Mr. Norgard. I will, at this time, move to admit some ordinances and other exhibits that we have a complete record. And as the City's Exhibit 1, I will move to admit the following sections from the City Code, Section 29-4.2, 29-4.3, Section A10 to Appendix A of Chapter 29, Sections 29-6.1, 29-6.3, and 29-6.4, subsections D and E.

MR. NORGARD: So moved.

MS. THOMPSON: Thank you. As City's Exhibit 2, the locator map.

MR. NORGARD: Yeah. So moved.

MS. THOMPSON: As City's Exhibit 3, the public notice inclusive of the public hearing advertisement, the parties in interest notice, and the parties of interest list.

MR. NORGARD: So moved.

MS. THOMPSON: Thank you. As City's Exhibit 4, the applicant's applications, appointing documents, and exhibits, and the City's denial letter.

MR. NORGARD: So moved.

MS. THOMPSON: As City's Exhibit 5, the staff report to the Board of Adjustment.

MR. NORGARD: So moved.

MS. THOMPSON: And as City's Exhibit 6, if the applicant has no objection, the applicant's presentation tonight if they can provide that to us and keep the record open until it's been provided.

MR. NORGARD: By nod of the applicant, so moved.

MS. THOMPSON: Thank you. Those are all the exhibits that I have. I will state that you all have five variance requests before you today. My recommendation to you would be to take each variance on its own and make a decision as to that variance. If you need to open up the public hearing again and get more comments, you're welcome to do so. The first four variance requests are for

adjustments to the M-DT form-based controls in Section 29-4.2. As Mr. Kriete and Mr. Zenner has mentioned today, a variance to a form-based control is different than a traditional variance, and there's different criteria that you are to consider. For a variance to a form-based control, you are to consider two criteria. I'm going to go ahead and read those to you now because those are unique and different than the criteria you're used to considering.

MR. NORGARD: Please do.

MS. THOMPSON: The first criteria, and these are found in Section 29-6.4(e), is that 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 faces immediately across the street from the applicant's property. And then the second criteria is that 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. And then the fifth variance that is before you today relating to the bypass lane, you will consider the traditional five criteria that you must find true in order to grant that variance. I'm happy to read those to you, but these should be before you on the highlighted white sheet.

MR. NORGARD: I believe those are entered into evidence already.

MS. THOMPSON: They are.

MR. NORGARD: So unless there's anybody on the Board that wants to hear those. I see none, so no need to read them in.

MS. THOMPSON: Okay. I have no other comments for you, but I'm happy to answer any questions if you have any.

MR. NORGARD: All right. So do we have any comments?

MS. HAMMEN: I have a question.

MS. THOMPSON: Yes?

MS. HAMMEN: So considering two buildings and one variance is being asked for and one building will be considered a wall, is there anything about that that doesn't -- (inaudible) -- that can just be done? Does that make any sense? The cooler and the building, you know, on the height thing that the approval to prevent all buildings will be constructed without meeting minimum building -- building line? Can we just consider one building a wall?

MS. THOMPSON: And Mr. Zenner can hop in here also. My recommendation to you would be to -- to look at the variances specifically as they're worded, and only consider that.

MS. HAMMEN: That's the wording I read, the first sentence of three.

MS. THOMPSON: And so that would be -- the variance for that would be both to the structure for the actual 7Brew Coffee House, and then also to the cooler structure.

MS. HAMMEN: Well, right.

MS. THOMPSON: Are you asking if you should separate those out into two -- into two distinct

variances?

MS. HAMMEN: Well, maybe that. And then -- and then if a wall would be required, I've heard several times a wall would be required? Maybe not? Maybe they're just putting that as a wall to shield the parking -- the drive-through, and that's a nice design feature. I'm --

MR. ZENNER: Let me -- let me -- the -- so the requirements of the urban general west require that 35 percent -- that the proposed structure must occupy 35 percent of the required building line. So the prior two requests, before we get to item number 3, are to address the height of the site and where the RBL effectively can be. So once you have decided that, we then move to the building. The building itself needs to be within -- 35 percent of the building as -- as required by the M-DT urban general west, must be built to the RBL. Where you do not have a building built to the RBL, you need a street wall. The idea being that you have to have continuation of -- of a building form of some nature. So a cooler is an accessory structure to the primary building on this site. And while it is a structure, it is not -- it's not considered the same in -- it's not considered the same as the building, the restaurant itself. It is required to meet particular building code requirements, but it is -- it's not an occupiable space for the public, and which is what the building, the coffee house itself is. And so the way that three is worded is they're requesting that both -- they are required to have a minimum height of 18 feet. An accessory structure can't be -- by definition, can't be any greater than the principal building. And so if you think of the cooler as an accessory structure in most instances, it would not have to be 18 feet tall. It -- and I mean, it could be eight feet. And so what the applicant is asking for here is is that if we -- if you consider these both structures, both buildings, allow the height to be reduced from the 18 feet, and consider the cooler to be excluded from that height and to be used as a street wall. That's what they're asking for, and then a street wall has very particular requirements associated with it. That's what the applicant's correspondence indicates and that's what the second half of three is. The applicant requests that the height of the main structure, i.e., the restaurant, be measured from the average fronting sidewalk elevation with the cooler structure being excluded from this requirement and considered a street wall. So the cooler is to be excluded from the 18 feet and considered the street wall to be used to screen the drive-through.

MS. HAMMEN: I don't believe I have a problem with that, but I -- I cannot see anything about a street wall mentioned in here. And so it seems to me if we're going to be perfectly clear --

MR. ZENNER: Uh-huh.

MS. HAMMEN: -- we must be transparent --

MR. ZENNER: Separate it.

MS. HAMMEN: -- and state it because it's not stated anywhere.

MR. ZENNER: And I think that one route to be able to do that in making a motion as it relates to this variance is to make that as part of the motion, that the Board is considering the cooler a street wall and not required to meet the standard 18 feet of building height.

MS. HAMMEN: And as an accessory unit, it can be put on the building line?

MR. ZENNER: Yes. It can't be forward of the main structure, so applying all accessory requirements, which are it can't be forward of the primary structure, it can't be greater than the height of the primary structure. And so what they're proposing pursuant to the site plan is they meet both of those standards, and they're asking instead of it being considered a building, which I think is the issue that you've identified, they want it to be considered a street wall. We would view this as an accessory structure which is technically a building, but we don't have a problem from a staff perspective of saying allow it to function as the street wall and meet the street wall standards which requires a minimum height in order to serve the purpose of screening. I see completely, and I do not disagree that the motion needs to take these considerations into account, so the record is clear, and we know that we're approving the cooler as a street wall with street wall height only, and that it is detached or decoupled from the general requirement of a building of 18 feet tall.

MR. NORGARD: It seems like we're wrapping ourselves in circles to accommodate two variances in one.

MS. HAMMEN: Right. Yes. I completely agree.

MR. ZENNER: And I don't know necessarily, unless Ms. Thompson has a different take, that you couldn't break three into a 3A and a 3B.

MS. THOMPSON: If the Board finds that clearer, I think that's certainly an acceptable way to go.

MR. NORGARD: Well, I think if the Board agrees, then we'll probably pursue that direction. Was that technically a public hearing, or should I invite the applicant back up?

MS. THOMPSON: If you want to open it back up for a public hearing to offer the applicant a chance to respond, I think that would be advisable.

MR. NORGARD: I'll go ahead and reopen the hearing.

PUBLIC HEARING REOPENED

MR. KRIETE: I'll make it short. Please. I think I like the idea of it being broken up. I think that's a great way to approach it, and help -- helping the clarity of this long term, so thank you for your consideration on that.

MR. NORGARD: Okay. Thank you.

PUBLIC HEARING CLOSED.

MR. NORGARD: All right. Any further discussion among the Board before we jump into the specific variances? All right. I see none. I will go ahead and make a motion that we approve of a variance to waive the allowed proposed building height to be elevated above the average grade of the frontage sidewalk more than the maximum 18 inches permitted to a maximum elevation of 5.2 feet above the average elevation of the fronting sidewalk which is not permitted by Section 29-4.2(e)(2)(ii)(B)(1)(b).

MS. HAMMEN: Second. Hammen.

MR. NORGARD: All right. We have a motion and a second. Is there any discussion on this?

MR. CREW: Just to reiterate -- Crew -- just to reiterate that staff has said that both the first and second variances are required pretty much any development we would ever put on this site.

MR. NORGARD: I think I'm in agreement with that. Any further discussion? Mr. Zenner, would you like to call the roll, please?

MR. ZENNER: Yes. Motion has been and a second to consider a variance to Section 29-4.2(e)(2)(ii)(B)(1)(b) relating to building height above the average grade of the fronting sidewalk to permit a 5.2-foot variance to be granted. Mr. Norgard?

MR. NORGARD: Yes.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Yes.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Yes.

MR. ZENNER: Mr. Crew?

MR. CREW: Yes.

MR. ZENNER: Five votes, motion passes.

MR. NORGARD: Thank you. So I will make a motion to approve a variance to waive the requirement that the proposed building have no less than -- at least 35 percent of the building facade constructed at the required building line, and that the variance allows structures to be no greater than 32 feet from the property line or 27 feet from the maximum required building line location, which is not permitted by Section 29-4.2(d)(6)(iii)(A).

MR. MINCHEW: Second.

MR. NORGARD: Seconded by Minchew.

MR. MINCHEW: Minchew.

MR. NORGARD: Is there any discussion on this particular variance? And I kind of feel like this is one that it's been pretty well made clear that we won't be able to do anything here without it, so I intend to support it. No further?

MR. NORGARD: Mr. Zenner, would you call the roll?

MR. ZENNER: And the second on that was Mr. Minchew; is that correct?

MR. MINCHEW: Yes.

MR. ZENNER: Okay. Thank you. The motion has been made and seconded to grant a waiver from Section 29-4.2(d)(6)(iii)(A) whereby the placement of the future structures on the property will be permitted to be less than 35 feet from the required building line, and such that they shall be permitted to be no greater than 32 feet maximum from the property line or 27 feet from the required building line. Mr. Norgard?

MR. NORGARD: Yes.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Yes.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Yes.

MR. ZENNER: Mr. Crew?

MR. CREW: Yes.

MR. ZENNER: The motion passes with five votes.

MR. NORGARD: Thank you. All right. I'll make a motion that we approve a variance to Section 29-4.2(e)(2)(ii)(a) to waive the requirement that the proposed building, a single-story within a minimum building height of 18 feet at the required building line, and that this be -- that this be an accessory structure; is that right?

MS. THOMPSON: No.

MR. NORGARD: No. I'm reading the wrong one.

MS. HAMMEN: Well, three, yeah.

MR. ZENNER: You want the cooler to be an accessory structure; is that correct, sir?

MS. HAMMEN: The cooler.

MR. NORGARD: Yeah. The cooler to be an accessory structure. Sorry. And we're going to make that Part A.

MS. HAMMEN: Say that again then.

MR. NORGARD: This is the variance where we're going to create an accessory structure out of the cooler.

MS. HAMMEN: Why don't you make that B -- (inaudible).

MR. MINCHEW: So read 3.A for us or --

MS. HAMMEN: Oh, who cares. Okay.

MR. NORGARD: Well, see, I thought the -- okay. So let's have a little discussion --

MR. MINCHEW: So we're going to do this --

MR. NORGARD: -- let's have a little pre-bar discussion. So I thought the desire here was to separate out the street wall from the accessory use structure. Am I misunderstanding your intent?

MS. HAMMEN: Well, I think it's to separate the cooler from the main building and allowing the cooler to be a street wall.

MR. NORGARD: Right. So the --

MS. HAMMEN: So the main building is the 18-foot height or a variance three feet thereof, and any others excepted from it.

MR. NORGARD: So we want to do the street wall first?

MS. HAMMEN: No. I think the other --

MR. MINCHEW: Is there a requirement on the cooler to be 18 feet tall?

MS. HAMMEN: No.

MR. NORGARD: No.

MS. HAMMEN: That's what we're accepting.

MR. NORGARD: I hadn't gotten to the part where we say --

MR. MINCHEW: But there's no variance request for that.

MS. HAMMEN: That was that whole discussion.

MR. MINCHEW: I understand. I was sleeping through part of it, but --

MS. HAMMEN: Okay.

MR. MINCHEW: That's why I was asking you to -- to clarify --

MR. CREW: Why don't you help us out here?

MR. NORGARD: Yeah, Pat, why don't you help us out?

MR. MINCHEW: What's the -- what's the two part -- what's the first part of the two part?

MR. ZENNER: So item 3, variance number 3 will be 3A and 3B. Part 3A will be approving a variance to allow the main building; i.e., the restaurant, to be constructed with a building height measured from the required building line to be less than 18 feet tall, such that it shall be on average no less than 15 feet, period.

MR. MINCHEW: That sounds good.

MR. NORGARD: So is there -- is there a motion to approve that variance.

MS. HAMMEN: So moved.

MR. CREW: Seconded. Crew.

MR. NORGARD: Any discussion? Get that? Got it that time?

MR. MINCHEW: I got it. I didn't sleep through that part.

MR. CREW: Just to reemphasize what staff has written in the report about the architectural visual qualities being greater than all of the other surrounding buildings, and the barrel-style design elevated on the southern end of the structure complying with the M-DT height requirements as noted in staff report.

MR. NORGARD: Yeah. I also would -- I look at all the other changes they've made to their plans, and I see a considerable effort to try and comply as much as possible. And again, they have made a pretty good case that the site is driving a lot of this. I think I support it. Anything else? Mr. Zenner, would you call the roll?

MR. ZENNER: So we have a motion made and seconded to grant a waiver to Section 29-4.2(e)(2)(ii)(a), and this variance 3A to allow -- to grant relief from the requirement that the main building; i.e., the restaurant, to be constructed upon the subject site be permitted to be less than 18 feet at the

RBL, and that such construction shall be no less than 15 feet as measured from the adjusted RBL.

Mr. Norgard?

MR. NORGARD: Yes.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Yes.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Yes.

MR. ZENNER: And Mr. Crew?

MR. CREW: Yes.

MR. ZENNER: The motion passes five-zero. Would you like me to continue with 3B?

MR. NORGARD: 3B, I believe that's the one where we make it a street wall -- make the cooler a street wall.

MR. ZENNER: All right.

MR. NORGARD: Is there a motion to make the cooler a street wall?

MS. HAMMEN: So moved.

MR. CREW: Seconded. Crew.

MR. NORGARD: Any discussion?

MS. HAMMEN: Do you want to read a motion, please?

MR. ZENNER: I will -- I will craft a motion to go with just not making the cooler a street wall. All right. So a motion has been made and a second to modify again building or structure height as required by Section 29-4.2(e)(2)(ii)(A) with respect to the cooler proposed to be located upon the subject site, that it be excluded from being considered a building, be identified as being an accessory use, and permitted to be considered a street wall and required to be constructed at the required street wall height, which is a maximum of eight feet. Mr. Norgard? No. Hold on. Ms. Hammen?

MS. HAMMEN: Do we want to say something as per site plans or anything like that?

MR. ZENNER: As located on the submitted site plan utilized during this evening's hearing.

We'll add that on to the end of the motion.

MR. NORGARD: And do we have any discussion on this motion?

MR. MINCHEW: So I know we can't say that they have to put art on it.

MR. CREW: I wondered that.

MR. MINCHEW: Or what art they do put on it. Right? Or can we?

MS. HAMMEN: I'd like to say not have great big letters that distract from the rest of everything and add to confusion.

MS. ROGERS: I agree.

MR. CREW: Can we do that if it's not a sign?

MR. MINCHEW: We don't -- I don't think we get to vote on that, at least somebody gave their opinion.

MR. NORGARD: That falls under the arts commission purview.

MS. HAMMEN: But --

MR. ZENNER: Well, probably, but I -- I think the intent is we want the wall, the street wall to be engaging.

MR. CREW: Okay. Right. Not a gray blank façade.

MR. ZENNER: Yeah. And I think what we -- if what the intent of the Board is is to not -- to have it engaging, not necessarily a distraction, we need to leave that to the design acumen of the applicant. We cannot regulate the content of the sign, so you have to be very, very careful, least I don't want to see you all in court.

MR. MINCHEW: There's no ties to KU in any of the 7Brew, is there?

MR. CREW: That's a good point. That's a good rule.

MR. MINCHEW: I'm not buying any of that coffee if you put the KU up there.

MR. ZENNER: That has to be -- so the artwork has to be -- I mean, I think we could stipulate that the artwork must be representative of Columbia.

MS. HAMMEN: Oh, no.

MS. THOMPSON: I would advise against any subjective criteria as far as a condition to the --

MR. MINCHEW: I know. I know. I know.

MS. HAMMEN: We could say that it be in good taste, but then that's really subjective.

MR. ZENNER: That's all right. Everything we do is subjective.

MS. HAMMEN: Right. Okay.

MR. ZENNER: So are we -- based on the legal advice --

MS. HAMMEN: Okay.

MR. NORGARD: Is there any further discussion on this motion?

MR. MINCHEW: No.

MR. NORGARD: Okay. Seeing none. Mr. Zenner, would you call the roll, please?

MR. ZENNER: I will be more than happy to call the roll. We have a motion made, seconded, and again this is dealing with item 3B, which is a waiver to Section 29-4.2(e)(2)(ii)(A) specific to the cooler proposed on the site in the location on the site plan to be excluded from maximum structure height permitted to be used as a street wall in compliance with street wall height which is a maximum of eight feet. Mr. Norgard?

MR. NORGARD: Yes.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Yes.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Yes.

MR. ZENNER: And Mr. Crew?

MR. CREW: Yes.

MR. ZENNER: The motion passes five-zero.

MR. NORGARD: Thank you, Mr. Zenner. All right. I'll make a motion to approve a variance to Section 29-4.2(e)(2)(ii)(B)(1)(b) to waive the requirement that the ground story clear height be 12 feet for the first 25 feet of the building depth, and that the applicant have that clear height measure from the average front street sidewalk elevation.

MS. HAMMEN: I'll just say that I'm glad --

MR. NORGARD: Is there a second?

MS. HAMMEN: Oh, I'll second it. Hammen. I am glad we do have these other evaluation criteria and thank you for putting them out to read and mull over.

MR. NORGARD: Is there any discussion on this point? I think the applicant has presented a pretty compelling case, once again, that the perspective from the street satisfies the intent and height requirement.

MR. MINCHEW: And I think the size of the building, the depth and the width is probably --

MR. NORGARD: And in this final closing shot, they have projected on the screen you can't really -- I mean, you could get out a ruler and see the difference, but you can't really tell the difference between the rendered heights. It's pretty consistent. I think it meets the intent. Mr. Zenner, would you call the roll?

MR. ZENNER: The motion has been made and seconded to grant a waiver to Section 29-4.2(e)(2)(ii)(B)(1)(b) related to the ground story clear height being required to be 12 feet for the first 25 feet of building depth, to be waived in its entirety, and to have height measured from the average fronting sidewalk elevation, not grade elevation as adjusted. Mr. Norgard?

MR. NORGARD: Yes.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: Yes.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Yes.

MR. ZENNER: And Mr. Crew?

MR. CREW: Yes.

MR. ZENNER: The motion passes five-zero.

MR. NORGARD: Thank you, Mr. Zenner. All right. And we come to our final variance, which is a variance to the actual Code and not a design adjustment, to Section 29-4.3(i)(2)(vi) to waive the requirement of a bypass lane around the drive-through facility stacking lanes. Is there a motion to approve this variance?

MR. CREW: So motioned. Crew.

MR. NORGARD: Second. Was there any discussion on this, because this -- this now falls under a different set of criteria.

MS. HAMMEN: So I will go back to -- well, I intend to oppose this because I believe there should be a bypass lane as required by the M-DT.

MR. NORGARD: I feel a little torn on this one because I see the need for a bypass lane. I also see that they do have two lanes there. By requiring another -- well, so if we require a bypass lane, and they could opt to use that second lane as their bypass lane, which then puts their 16 cars an hour, or 45 cars an hour out onto their rearage street, which is already paralyzed during peak-time hours at some times of the day, because of the neighbor, I feel like -- and I also don't like the idea of taking away some green space just --

MS. HAMMEN: To add a third lane. Right.

MR. NORGARD: Right. So if they add a third lane, then we have to deal with green space and additional variances, so I -- I don't feel that that's going to resolve itself.

MS. HAMMEN: Well, how many cars did we -- how many cars does each lane accommodate? Did we look at that? Were we told that?

MR. NORGARD: It was eight, is what I believe I heard.

MS. ROGERS: Yeah.

MR. NORGARD: So a total of 16 stacked cars.

MS. HAMMEN: It shows nine in this diagram, and one in the ordering area or the -- well, I count nine in -- in the one lane. I don't know.

MR. MINCHEW: Well, 16 to 18 cars.

MS. HAMMEN: In two lanes.

MR. MINCHEW: In two lanes.

MS. HAMMEN: But in one lane, and then there's still the -- you know, where does the Raising Cane's drive-through lane start? How far is that?'

MR. NORGARD: It starts out -- it starts out on Elm Street.

MS. HAMMEN: Right. Well, but there's two lanes. But there's two lanes going into it.

MR. NORGARD: There's -- there's two -- if you look at the Goggle Maps, there's only two lanes in the last back half of the parking lot.

MS. HAMMEN: Right.

MR. NORGARD: They can only accommodate about four cars in there. I don't -- I don't know.

MR. CREW: I tend to support it. You know, one of the points that was made was about, you know, once you enter this drive-through, you've made the decision to be in the drive-through. It's atypical from other layouts where you're in a parking space, you back out of the parking space, and then the bypass lane is what you use to exit the facility. Right? That's not the structure and design of the way that this is working. There's parking --

MR. NORGARD: You've committed to sitting in a lane.

MR. CREW: That's right. And -- and if you create a bypass lane that can no longer be used for business purposes, you're aggravating the very problem that you're suggesting the bypass lane potentially solves. Right? It sort of seems counterintuitive to --

MS. HAMMEN: Well, I'm not suggesting -- (inaudible) -- I'm not suggesting it solves that problem, but you are. But looking at this diagram from Raising Cane's drive-through lanes, there is at least, what, we don't know how much room, four more cars could go in? So nine and four, you know, we have that many cars in one lane. You know, I don't know.

MR. CREW: I'm sorry. I don't -- I don't understand --

MR. MINCHEW: Well, the distance -- the distance of a driveway is the distance of a driveway, so, I mean, you can't make it longer than --

MS. HAMMEN: No.

MR. CREW: But what -- what -- I apologize. I don't understand that.

MS. HAMMEN: See, look at this diagram. So if you talk about the Raising Cane's cars go into their drive, and there's between their drive and the coffee shop drive, there's room for cars, and then there's cars in their lane --

MR. MINCHEW: Can you get out of that drive-through once you're in it? Once you're in the Raising Cane's drive-through, once you're committed, isn't that the conversation we having --

MR. CREW: Not if you're already inside.

MS. ROGERS: No.

MR. NORGARD: No. You're committed.

MR. MINCHEW: We're not -- so we're just talking about having a bypass lane, we're not talking about being able to get out of the lane?

MS. HAMMEN: The bypass lane, but not Raising Cane's. We're not talking about their lane -- a bypass lane.

MR. MINCHEW: Well, I understand, but I guess my question is if we -- if we're not going to make a bypass lane, and we're saying that you're -- we're -- we're, basically, making a lot, like, about 90 percent of the restaurants in town where you -- once you're in the drive-through, you're in the drive-through. You are committed. That's about 90 percent of the restaurants in town, and that's what we're -- that's what we're talking about making this. Right?

MS. HAMMEN: We're talking about making a drive -- a bypass lane here instead of two -- well, they could do it how they want, but they show two drive-through lanes.

MR. MINCHEW: Okay. And what's the bypass lane for?

MS. HAMMEN: So somebody could get out of line if there's --

MR. MINCHEW: I understand, and 90 percent of the restaurants in town don't have a backup.

MS. HAMMEN: It doesn't matter to me about 90 percent of the others.

MR. MINCHEW: I understand. Well, and that's fine. It does to me, the fact that we're going to -- that the variance has been made or -- or that most restaurants in town have not been held to that standard tells us something about what the norm is, what the standard is. And the standard is that most restaurants don't have a bypass lane. That's my only point.

MS. HAMMEN: So I would like -- I don't go through drive-through lanes often, but the ones I can think of, do have a bypass lane. Scooters off of Old 63, they've got a bypass lane. All of the Taco Bells do.

MR. MINCHEW: Uh-huh.

MS. HAMMEN: I can't -- you know, so --

MR. MINCHEW: I was only asking on Raising Cane's because we pulled it up on Google Maps to use it as an example --

MS. HAMMEN: Yeah.

MR. MINCHEW: -- and therein lies the run that does not have a bypass lane. So that's the only reason I was raising -- saying Raising Cane's. I didn't bring it up. I didn't pull it up on Google Maps.

MS. HAMMEN: Yeah.

MR. MINCHEW: We used it as an example. There's an example of one that doesn't have a bypass lane.

MS. HAMMEN: No.

MR. MINCHEW: So we could -- we could pull other ones up and show ones that do, and I go to Scooter's and they have the whole parking lot you can pull around. That works for them.

MS. HAMMEN: So I thought the reason I -- I thought we brought this up is because we were discussing whether one drive-through lane could accommodate their business.

MR. MINCHEW: Yeah. And I wouldn't -- they have a design -- that's part of their whole business flow plan because they don't have an order window, they don't have all of that stuff. So, to me, that's like saying their sign ought to be different. It's part of their whole business -- you know.

MS. HAMMEN: And that came up when Andy's was up for Board of Adjustment for both locations, so those are topics sometimes.

MR. MINCHEW: Yeah. Okay.

MR. CREW: Just to sort of add some points here, there is some uniqueness to the site given the significant portion allocated for stormwater management, and that this particular setup is unique in that

the drive-through lanes are continuous all the way through the pickup window, which is atypical from pretty much every other setup, whether that matters or not. But I think that was one of the original points made. So there's some uniqueness to -- despite the fact that it is a part of their business model, there is some uniqueness to the site specific and the design in this case of dual drive-through lanes running continuously all the way through the pickup window is not a sort of standard dual drive-through, as I think we talked about, that generally would coalesce to one to the window where you would --

MR. MINCHEW: It goes to one, yeah.

MR. CREW: Where two goes to one. Right.

MR. NORGARD: Okay. But here's another wrench in the works. This is an undeveloped site. So they have the option to build to Code. Therefore, they're arguing that grading is driving a lot of this, but there's also some flexibility in terms of where a bail-out lane could potentially go, so does this now rise to the level of meeting the first criteria of --

MR. MINCHEW: What's the -- what's the -- where else could the bail-out lane go? It's not a bail-out lane, it's a bypass lane.

MR. NORGARD: Oh. Call it what you will.

MR. MINCHEW: Because we already said we didn't need a bypass. I thought that's what we said.

MR. NORGARD: Well, it's -- it's a lane to allow you to exit.

MR. MINCHEW: Oh, okay.

MR. NORGARD: So, I mean, is it -- they do have green space in the middle, and so the question now is to balance the green space for --

MR. MINCHEW: I understand but --

MR. NORGARD: -- a lane that many of us --

MR. MINCHEW: -- it has to go near the drive-through. Right? So you don't -- you can't just run it through the middle of the -- of the -- through the middle of the green space because now it's not a bail out, unless you make access to it from the drive-through. So if it's truly a bypass, it needs to run parallel to the drive-through.

MR. NORGARD: Well, so then the next question would be, are we going to grant variances to accommodate business plans?

MR. MINCHEW: Well, I think the main reason I was planning to do it is because if they -- if they put the -- if they put the bypass there, they have to raise the building height because of the slope in the back, in order to get the fall from the driveway so that it's not pitching the water towards them. They have to raise the building in order to widen to put the bypass in.

MS. HAMMEN: Is that if they add a third lane?

MR. MINCHEW: That's if they add a third lane.

MS. HAMMEN: Third lane.

MS. HAMMEN: But they have an option to take out their second lane?

MR. MINCHEW: Yeah. I mean, sure.

MR. NORGARD: Okay. And is this going to be the least variance required to meet their lot requirement, and I -- what we're hearing is regrading will be necessary. Redesigning the parking lot is going to be necessary. There will be more variances because they'll have to raise the grade lane, so we're talking about two or more variances if we deny --

MR. MINCHEW: The one.

MR. NORGARD: -- the bypass lane.

MR. MINCHEW: Yeah.

MR. NORGARD: So now we're talking -- we have conflicting requirements here.

MS. HAMMEN: Well, but if they take out the second drive-through lane, they don't need a variance.

MR. NORGARD: Well, if their business model depends on it, then they will come to seek --

MS. HAMMEN: The business model. Well, that's their choice.

MR. NORGARD: Well, they will need to seek another variance.

MS. HAMMEN: That's their choice. That's their choice.

(Multiple people taking simultaneously.)

MR. CREW: That will raise other concerns that have been brought up around traffic and backup cars --

MR. MINCHEW: Parking spaces and -- yeah.

MS. HAMMEN: But -- yeah.

MR. NORGARD: I don't know. If you take that second lane away now, we're going to really have cars in that outer -- rearage lane, and so now you're creating safety issues. That road is chocked full of cars.

MS. HAMMEN: Well, you told me that they started Locus Street.

MR. NORGARD: Elm Street. Yeah.

MS. HAMMEN: Elm Street. So, you know, what's a few more cars here?

MR. MINCHEW: Well, now what he's saying is if you make the bypass right by the drive-through, now you've truly made a bypass where people could just drive straight through by those parked cars. Right? Now it becomes a trafficway, whereas if you've got cars in there getting coffee, it's not necessarily a trafficway. So the potential for --

MR. NORGARD: I'm not -- that's not what I'm saying because I think the internal flow of the traffic on their lot would have them come back out on the back of the rearage lane. But what I am saying is that by taking away that second bypass -- the bypass lane, and converting their second lane into a bypass lane, now you are causing traffic to back out onto the street which is contributing to general congestion in the area, which is not helpful for a state of mind for the customer.

MS. HAMMEN: Well, he said -- so I heard that -- let's see. Okay. Peak of 16 cars.

MR. MINCHEW: Well, then I'll add in my concern that if you made that part of the trafficway, you've got parked cars there with the -- with creating -- and it's not just their customer that would use that. It might be somebody that's going from Raising Cane's to Custom Complete who got in that drive-through there. So -- I'm sorry. I don't laugh at your suggestions, why do you laugh at mine?

MS. HAMMEN: Well, okay. I'm sorry. I thought -- I didn't know if you were being facetious or not.

MR. MINCHEW: No. I wasn't being facetious. This is -- this becomes trafficway instead of being a drive-through. And you've got parked cars there and now it's going to become trafficway. Just a thought. It's not the top concern of the evening, but it -- but it is just a thought. I thought that's the point he was making. It wasn't, so now I'm making it. So it's one of the reasons I plan to support the variance.

MR. NORGARD: All right. Any further discussion? All right. Mr. Zenner, I think we're ready to call the roll.

MR. ZENNER: I believe we had a motion, so we have a motion and a second related to Section 29-4.3(i)(2)(vi) seeking to waive the requirement that the required bypass lane be installed on this site, which would parallel the stacking lanes for the drive-through. Mr. Norgard?

MR. NORGARD: Well, for the reasons I've stated, I'm going to support this with a yes.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: No.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Rogers?

MS. ROGERS: Yes.

MR. ZENNER: And Mr. Crew?

MR. CREW: Yes.

MR. ZENNER: The motion passes with a vote of four to one. That completes the five motions or the five variance requests proposed variances before the Board all approved. Thank you.

MR. KRIETE: Thank you.

MR. NORGARD: Well, don't go anywhere. We have some business.

MR. CREW: Forgive me. I've got to go to St. Louis. We're done.

MR. NORGARD: Are we adjourned? Pat had some reports he wanted to give.

VI. REPORTS

MR. ZENNER: Just -- just provided you -- we only wanted to provide you, and we provided this with the agenda. The 2024 application deadlines for all of our meetings are in the packet for you. We will provide them to you via email so you have them to mark on your personal calendars. We are also

updating our application forms to reflect the hearing dates that are scheduled. At this point, we do not -- we have not passed our -- we have passed our January submission deadline, so we will not have a meeting in January. However, we are anticipating an application for February.

MR. NORGARD: The 14th?

MR. ZENNER: No, I don't believe it's the 14th. I don't have a calendar in front of me. So we will have a meeting in February. I think it may be the 13th this year. And I wish you all a Merry Christmas and thank you very much for working with us this evening, and we will see you in the new year.

VII. PUBLIC COMMENTS

MR. NORGARD: Okay. Before we go, is there any comments from the public? Seeing none. Okay.

VIII. STAFF COMMENTS

MR. NORGARD: Is there a motion -- any further comments from staff?

MR. ZENNER: No, there are not.

MS. THOMPSON: No.

XIIV. ADJOURNMENT

MR. NORGARD: Okay. Thank you. Is there a motion to adjourn.

MR. MINCHEW: I make a motion we adjourn.

MR. CREW: Seconded. Crew.

MR. NORGARD: So moved.

(The meeting adjourned at 9:47 p.m.)

(Off the record.)