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LANDSCAPE ARCHITECTS ■ ENVIRONMENTAL SCIENTISTS

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C. 4
Kum & Go Appeal
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Kum & Go, L.C.

November 22, 2011

City of Fayetteville
City Council
113 W. Mountain Street
Fayetteville, AR 72701
Attn: Planning Department

**Re: Appeal of Planning Commission to deny proposed improvements
Kum & Go, #413
CEI Project No. 26728.0**

To Fayetteville City Council:

Kum & Go, L.C. respectfully request the appeal to be heard in the decision of Planning Commission's vote at the November 14th, 2011 meeting for approval in the Kum & Go Convenience Store Large Scale Development.

The property is located at the southwest corner of Martin Luther King Jr. Blvd and Hill Ave. The property is currently undeveloped and slopes significantly (Approximately 28-feet) from the north property line to the south property line.

Throughout the City approval process, revisions to the overall site layout were requested by two separate subdivision committee reviews in regards to the Large Scale Development plans.

Under the first Subdivision Committee review (October 13, 2011) and as requested by the committee; Kum & Go was to provide a shared access drive from Royal Oak and shift the Martin Luther King Jr. Blvd access east, approximately 25-feet closer to Hill Ave. This request was accepted by Kum & Go and tabled for the next subdivision committee review for approval to these changes.

Following the second Subdivision Committee review (November 3, 2011) and as requested by the committee; Kum & Go was then directed to remove the shared access drive along Royal Oak due to possible issues in traffic movements around the intersection and due to the geometric roadway configuration. As a result to the existing topography; the roadway became superelevated along the median and grades became steep along the access drive located within the site. Furthermore, the adjacent property owner's representative to Hill Place Apartments stated that they were not in favor of a shared access and would not allow for such access through the privately owned median. In addition, the committee

Providing Consolidated Land Development Services

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Kum & Go: 413
Project #: 26728.0

recommended a $\frac{3}{4}$ access drive with a median which would limit traffic movement to a right-in, left-in, and right-out access only from the Martin Luther King Jr. Blvd proposed access drive. This request was accepted by Kum & Go, revised, and moved forward to Planning Commission, dated November 14, 2011.

Certain restraints have been held to this site in regards to the existing grades, close proximity to the Royal Oak drive, and current City ordinances. Should the site's Finish Floor elevations be lowered to accommodate the shared access drive along Royal Oak, then the MLK Jr. Blvd access drive becomes too steep which in turn limits the access of the delivery trucks. In the case of a right-in only drive; if a potential customer traveling west along MLK Jr. Blvd. chooses not to turn onto Hill Ave. before approaching the site, then the only option left for the driver is a possible "illegal" U-turn or to carrying on further west until finding an appropriate turn-around point.

Following the Planning Commission meeting dated November 14, 2011, Kum and Go has made the following revisions to the site plan (See Exhibit – A).

- The MLK Jr. Blvd. access drive has been shifted to the west approximately 30'. This shift is to address the traffic stacking in the left turn lane along MLK Jr. Blvd. and for those vehicles wanting to proceed north onto Hill Ave.
- A pedestrian sidewalk connection has been included to extend from Royal Oak to the proposed convenience store.

This property is an ideal location for this type of development and is welcomed by the residents of the Hill Place Apartments and is sure to be a convenience to the Fayetteville community. Several business's along the Marin Luther King Jr. Blvd corridor has in the past and recently been provided the convenience of a $\frac{3}{4}$ or a full access drive. For Kum and Go to be denied a full access or even a $\frac{3}{4}$ access drive will only deprive them of the rights or privileges granted to other developments within recent time.

In conclusion, we believe the public health, safety, welfare, and morals would be better served if the Planning Commission's vote were reversed because the highest and best use for this property would be for what the Kum and Go stores represent and the services they provide to a community.

We appreciate your consideration in this matter, and if you have questions or concerns, please do not hesitate to contact me.

Respectfully submitted,



R. Erin Rushing, RLA
Department Leader
CEI Engineering Associates, Inc.

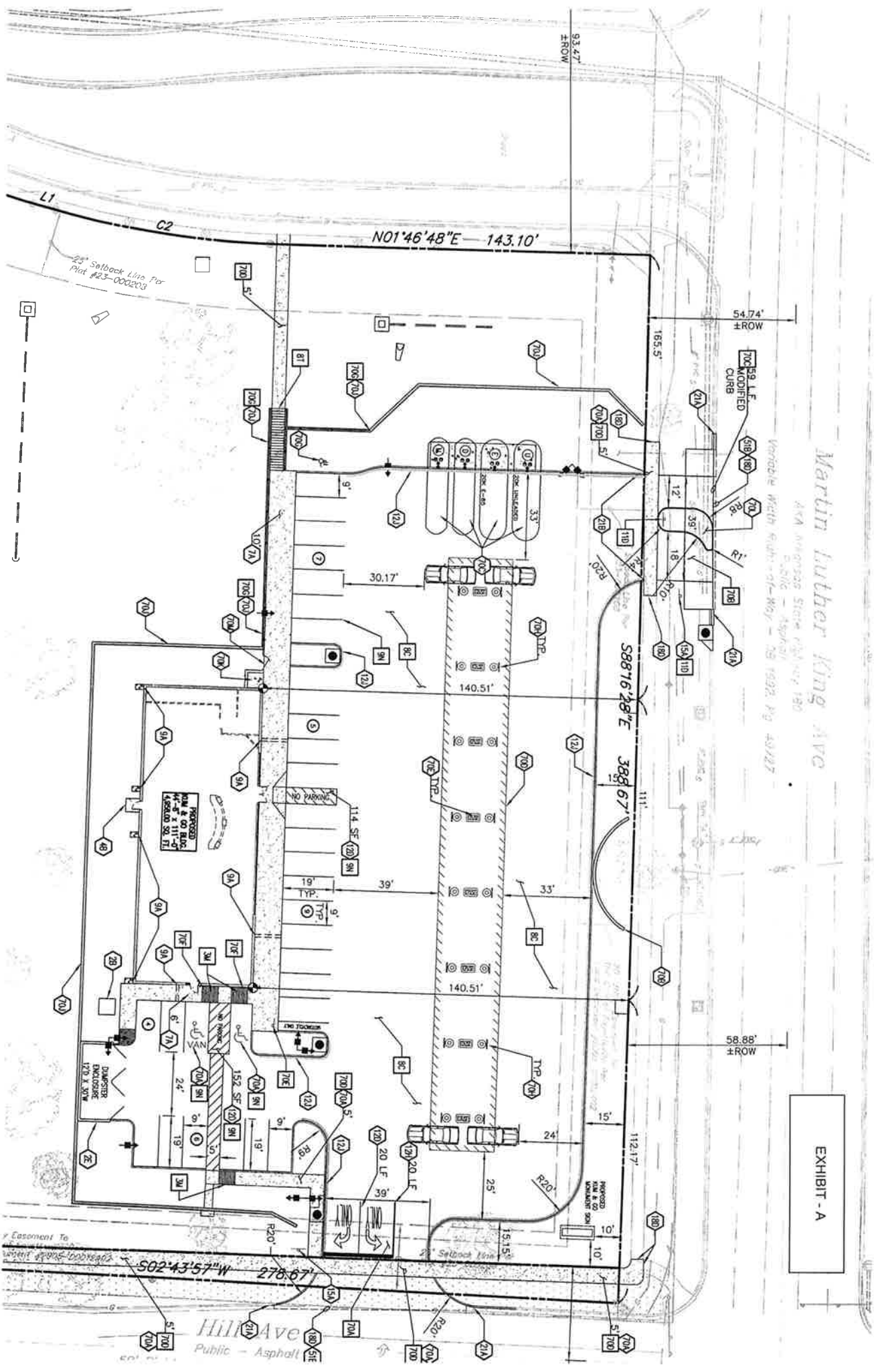


EXHIBIT - A

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director 

From: Andrew Garner, Senior Planner

Date: November 30, 2011

Subject: LSD 11-3966 (Kum and Go at Martin Luther King and Hill Avenue)

RECOMMENDATION

On November 14, 2011 The Planning Commission voted 8-1-0 to approve the subject large scale development for a new Kum and Go gas station at the southwest corner of Martin Luther King Boulevard and Hill Avenue (Commissioners Winston voted "no"). The Planning Commission approved the development including a variance to allow a curb cut onto Martin Luther King Boulevard, a Principal Arterial, when the code does not allow a curb cut, and requiring a connection to the adjacent street to the west, Royal Oak Parkway. The applicant has appealed the decision to allow a right-in, right-out only cut and requiring the connection to Royal Oak Parkway (conditions of approval #'s 1 and 2) to the City Council. The applicant proposes a full access in, right-out only curb cut onto Martin Luther King, and does not wish to provide a connection to Royal Oak Parkway.

Staff recommends in favor of the Planning Commission's decision. As discussed in the attached staff report and as discussed at the Planning Commission meeting (minutes attached), both staff and the Planning Commission found that a full access in driveway onto Martin Luther King Boulevard would result in a traffic safety hazard, and that the connection to Royal Oak Parkway is in line with the City's policies and ordinances for connectivity and cross access.

BACKGROUND

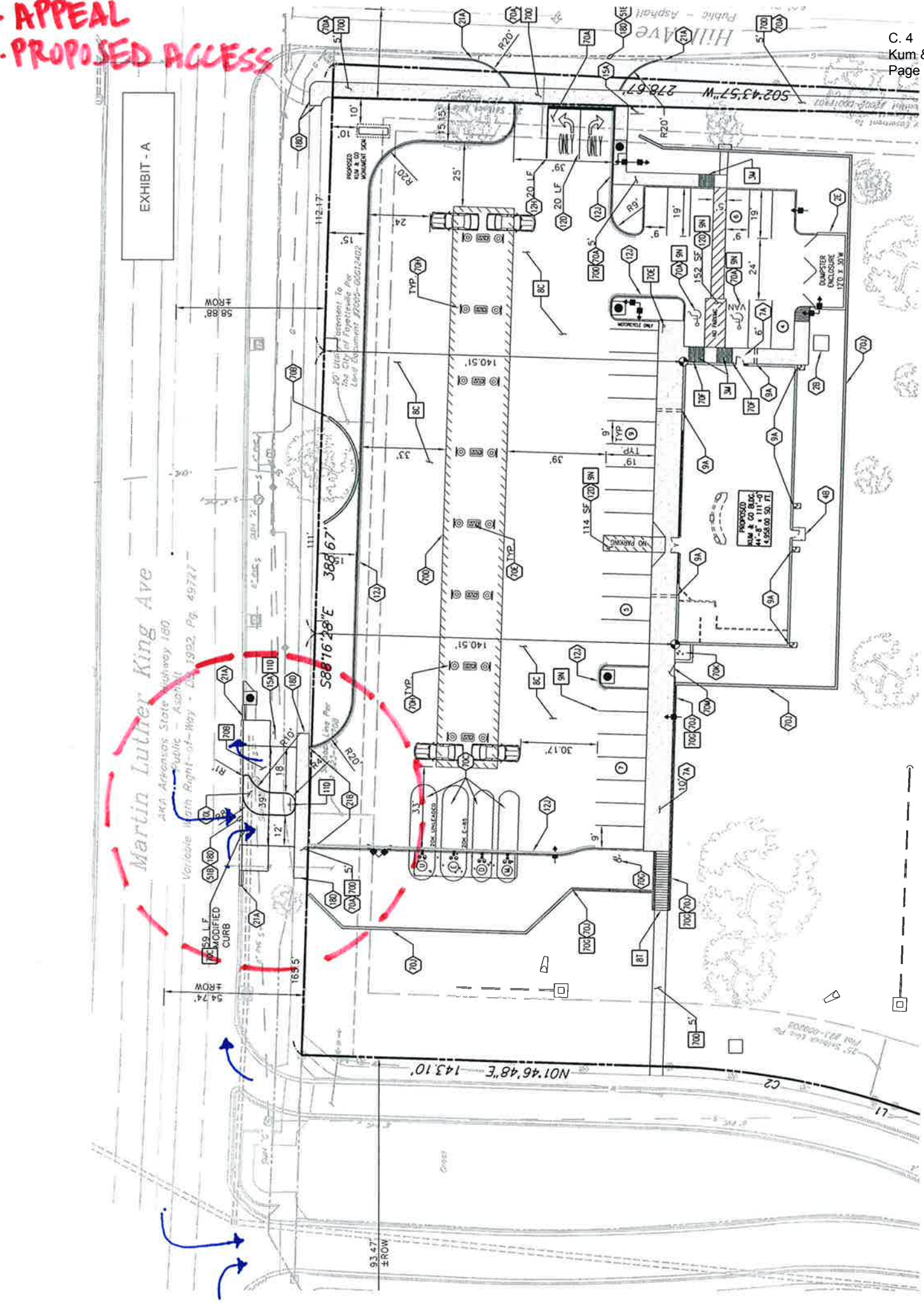
The subject property is located at the southwest corner of Martin Luther King Boulevard (Hwy 62) and Hill Avenue. The property is a disturbed and undeveloped site with 21.2% tree canopy. Adjacent land uses include the Hill Place multi-family complex to the west and south, Brenda's Burgers and the Coors Plant to the east, and a duplex and undeveloped land to the north across Martin Luther King Boulevard.

This site is adjacent to the signalized intersection of Martin Luther King (Hwy 62), a principal arterial street; Hill Avenue, a collector street, and Royal Oak Parkway, a local street. Royal Oak Parkway is a divided road adjacent to the site with the median under private ownership and not within the City right-of-way.

**APPEAL
PROPOSED ACCESS**

EXHIBIT - A

Martin Luther King Ave
AKA Arkansas State Highway 180
Public - Asphalt



Variable Right-of-Way - L.S. 1922, Pg. 49727

25' Street Use Per Plat #21-00039

93.47' ±ROW

54.74' ±ROW

58.88' ±ROW

112.17'

388.67'

25'

S88°16'28"E

140.51'

502.4357"W

278.67'

15.15'

140.51'

140.51'

30.17'

9'

163.5'

5'

143.10'

N01°46'48"E

10'

2.4'

11.1'

3.3'

3.3'

3.3'

3.3'

9'

19'

30.17'

107.00' L.F.

15.15'

19'

19'

17.0' X 30.0'

20' L.F.

20' L.F.

152 SF

114 SF

700

700

700

700

700

700

700

700

700

700

700

700

DISCUSSION

The adjacent property owner to the west and south, Hill Place, has stated in person and in writing that they do not recommend a curb cut for the gas station onto Royal Oak Parkway citing conflicts with the residents of their property. They do request a sidewalk connection from the gas station to Royal Oak Parkway.

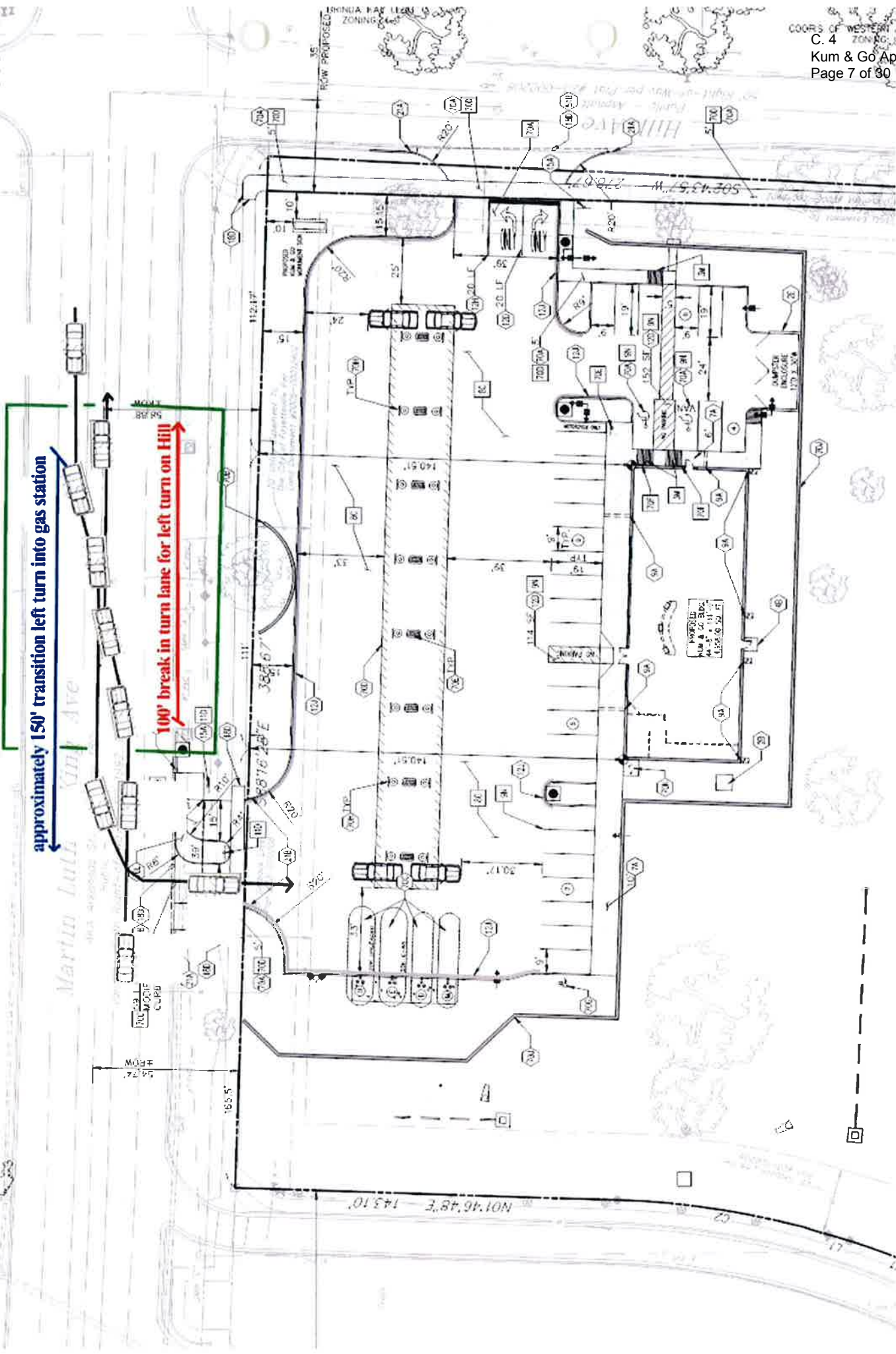
BUDGET IMPACT

None.

Area of vehicular conflict

approximately 150' transition left turn into gas station

100' break in turn lane for left turn on Hill



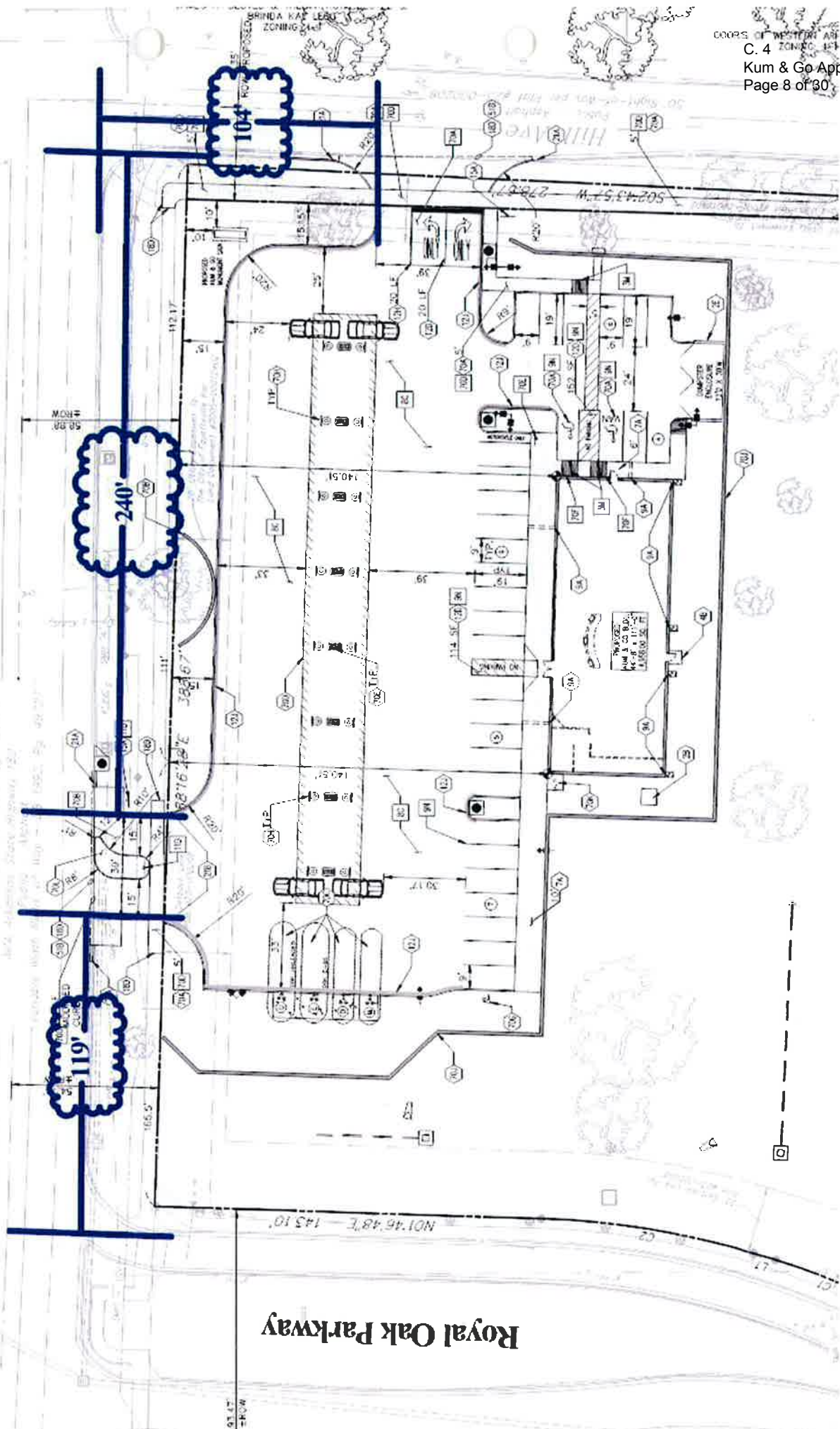
NORMAN M. BEATON & KAREN M. BEATON
ZONING C-1

NORMAN M. BEATON & KAREN M. BEATON
ZONING RWF-24

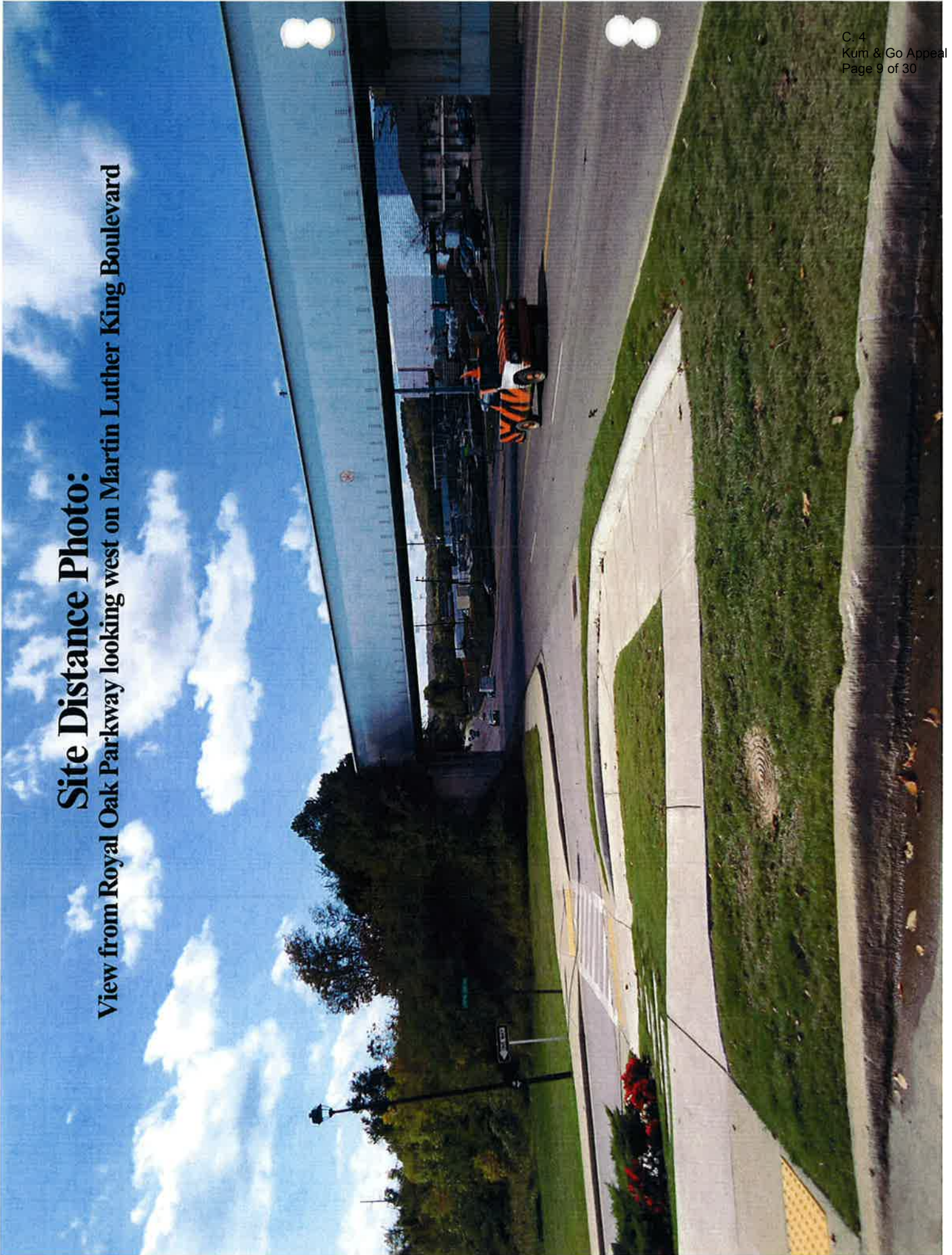
Curb Cut Distances

Marlin Luther King Ave

Royal Oak Parkway



**Site Distance Photo:
View from Royal Oak Parkway looking west on Martin Luther King Boulevard**



FAYETTEVILLE UNIFIED DEVELOPMENT CODE

166.08 Street Design And Access Management Standards

(F) Access Management. Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification, ex. Local and Collector.

(1) *Curb cut minimum distance from intersection or driveway.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb.

(a) Principal and Minor Arterial Streets. Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along arterial streets shall be shared between two or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.

Number of Curb Cuts Permitted	
Length of Street Frontage	Maximum Number of Curb Cuts
0-500 ft.	1
501-1000 ft.	2
1001-1500 ft.	3
More than 1500 ft.	4

(b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.

Number of Curb Cuts Permitted	
Length of Street Frontage	Maximum Number of Curb Cuts
0-100 ft.	1
101-250 ft.	2
251-500 ft.	3
More than 500 ft.	4

(c) Local and Residential Streets. Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection. Curb cuts shall be a minimum of fifteen (15') feet from the adjoining property line, unless shared.

Number of Curb Cuts Permitted	
Length of Street Frontage	Maximum Number of Curb Cuts
0-50 ft.	1
51-125 ft.	2
126-250 ft.	3
More than 250 ft.	4

- (d) Residential Subdivisions. In the case of residential subdivisions, curb cuts shall be discouraged along arterial and collector streets. When necessary, curb cuts along arterial and collector streets shall be shared between two or more lots. Curb cuts along all streets shall be located a minimum of five feet (5') from the adjoining property line, unless shared.
- (e) Variance. In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.

156.03 Development

Certain variances of the development regulations may be applied for as follows:

(A) *General requirements.*

- (1) *Undue hardship.* If the provisions of Development, Chapter 166, are shown by the developer to cause undue hardship as they apply to this proposed development (including, but not limited to financial, environmental, or regulatory) and that the situation is unique to the subject property, the city Planning Commission may grant a variance, on a temporary or permanent basis, to the development from such provision, so that substantial justice may be done and the public interest secured; provided that the variation will not have the effect of nullifying the intent and purpose of the development regulations. No variance shall be granted for any property which does not have access to an improved street.
- (2) *Conditions and safeguards.* In granting variances, the Planning Commission may prescribe appropriate conditions and safeguards to secure substantially the objectives of the standards or requirements so varied.

LSD 11-3966: Large Scale Development (SOUTHWEST CORNER MLK BLVD. & HILL AVE./KUM AND GO, 522): Submitted by CEI ENGINEERING. for property located at the SOUTHWEST CORNER OF MARTIN LUTHER KING BOULEVARD AND HILL AVENUE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.46 acres. The request is for the development of a gas station with sixteen fuel pumps.

Andrew Garner, Senior Planner, gave the staff report including videos and a diagram of traffic flow patterns and staff's concerns with left turn movements into the proposed gas station.

Erin Rushing, applicant, discussed access to Royal Oak Parkway and the background behind the current site plan. He discussed that the drive could be shifted further to the west to provide some additional distance away from the intersection.

Public Comment:

Aubrey Shepherd, discussed that this site has the only remaining trees left from this overall site. He hopes some of the existing soil will remain and that they will plan some steps to store water on the site. He expressed concern with construction traffic of this project combined with the development of the Washington County sale barn site. He discussed that if you are coming west from downtown it is very difficult to turn left onto Hill Avenue.

No more public comment was presented.

Commissioner Chesser asked about the left turn on Hill.

Garner discussed that the recommended condition of approval for dedicated left turn signals to be added to the existing signal should address that issue.

Commissioner Chesser discussed support for the recommendation for right-in, right-out only.

Commissioner Hoskins asked about the turn into the site off of Royal Oak. He discussed concerns with traffic patterns as shown on the video and also agreed with the right-in, right-out only and that full access has lots of issues.

Commissioner Griffin gave background for the second Subdivision Committee recommendation to remove the access on Royal Oak Parkway, including concerns with the median cut and vehicles stacking.

Commissioner Earnest discussed the first Subdivision Committee recommendation to include access on Royal Oak Parkway. He discussed moving the drive on Royal Oak further to the south but there are issues with grade and trees in that area of the site. He stated that we have an excellent access management ordinance that states that where a site has access to lesser classification streets curb cuts shall access those streets. This site has access to the two side streets and connectivity can be secured.

Commissioner Winston asked about access to the site for gas tanker trucks.

Rob Wadley, Kum and Go, discussed gas truck access into the site and the various options and grades for the different driveways. He discussed that the median in Royal Oak Parkway is privately owned and that the owner is not willing to allow a median cut. They are fine to push the driveway on MLK closer to Royal Oak Parkway if needed. They do need a three-quarter access for fuel trucks and food trucks.

Commissioner Winston discussed that he does not see a way to support a full access in for traffic safety reasons.

Commissioner Chesser discussed delivery trucks accessing the site. He sees a major safety concern.

Commissioner Honchell discussed that placement on the hill is a problem. As a planning commissioner safety is one of the things he has to look at. He expressed support for a right-in, right-out only driveway. He asked if an 8-10% slope on a driveway onto Royal Oak Parkway is functional. He also asked about making Royal Oak Parkway a left out.

Glenn Newman, staff engineer, discussed that yes 8-10% would be functional. He discussed that it may be possible to change Royal Oak Parkway to allow a left out, but that he was not sure of the reasons why it was made a right out only and would need to evaluate it. He discussed that we would like to encourage more use on Hill versus Royal Oak because Hill is signalized.

Commissioner Honchell asked about the time of delivery.

Rob Wadley, Kum and Go, discussed that they do not like to deliver during busy times.

Commissioner Winston asked about Aubrey Shepherd's question about the Campus Crest project on the Washington County Sale Barn site.

Garner stated that a development plan is currently under review but we're not sure when or if it will be built.

Erin Rushing, applicant, asked the commission if pedestrian access to Royal Oak Parkway were required would steps be allowed because there is a 10-foot retaining wall.

Commissioner Hoskins asked if the grades of the site could be changed to alter the slopes.

Newman answered 'yes'.

Commissioner Hoskins asked about a driveway connection being proposed between the two ponds.

Newman discussed it was not feasible as the grading plan is currently proposed.

Commissioner Chesser asked about stacking onto Hill Avenue.

Garner discussed stacking onto Hill Avenue and that it was a concern, but that the curb cut meets the minimum.

Motion #1:

Commissioner Winston made a motion to approve LSD 11-3966:

Condition of approval #1: finding in favor of the variance for the curb cut on Martin Luther King Boulevard as recommended by staff with a right-in, right-out only access.

Condition of approval #2.a: finding in favor of requiring sidewalk access from Royal Oak Parkway to the gas station, and that steps are acceptable as part of the sidewalk connection.

Condition of approval #2.b: finding that vehicular access from Royal Oak Parkway to the gas station is not

required.

Finding in favor of all other conditions of approval as recommended by staff in the report.

Commissioner Griffin seconded the motion. **Upon roll call the motion failed with a vote of 4-5-0 (Commissioners Chesser, Honchell, Hoskins, Earnest, and Cabe voting ‘no’).**

Motion #2:

Commissioner Chesser made a motion to approve LSD 11-3966, finding in favor of all conditions of approval and recommendations made by staff in the staff report including the following:

Condition of approval #1: finding in favor of the variance for the curb cut on Martin Luther King Boulevard as recommended by staff with a right-in, right-out only access.

Condition of approval #2.a: finding in favor of requiring sidewalk access from Royal Oak Parkway to the gas station.

Condition of approval #2.b: finding in favor of requiring vehicular access from Royal Oak Parkway to the gas station.

Finding in favor of all other conditions of approval and variances as recommended by staff in the report.

Commissioner Honchell seconded the motion. **Upon roll call the motion passed with a vote of 8-1-0 (Commissioner Winston voting ‘no’).**



PC Meeting of November 14, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
 Fayetteville, AR 72701
 Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
 FROM: Andrew Garner, Senior Planner
 Glenn Newman, Staff Engineer
 THRU: Jeremy Pate, Development Services Director
 DATE: ~~November 1, 2011~~ *Updated November 15, 2011*

LSD 11-3966: Large Scale Development (SOUTHWEST CORNER MLK BLVD. & HILL AVE./KUM AND GO, 522): Submitted by CEI, INC. for property located at the SOUTHWEST CORNER OF MARTIN LUTHER KING BOULEVARD AND HILL AVENUE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.46 acres. The request is for the development of a gas station with sixteen fuel pumps.

Planner: Andrew Garner

Findings:

Property and background: The subject property is located at the southwest corner of Martin Luther King Boulevard (Hwy 62) and Hill Avenue. The property is a disturbed and undeveloped site with 21.2% tree canopy. Surrounding land use and zoning is depicted on *Table 1*.

**Table 1
 Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Duplex; Undeveloped	C-1, Neighborhood Commercial; RMF-24, Residential Multi-family 24 Units Per Acre
East	Brenda's Burgers; Coors Plant	I-1, Heavy Commercial and Light Industrial
West and South	Multi-family residential (Hill Place complex)	R-PZD Hill Place

Request: The applicant requests large scale development approval to construct a gas station with 16 fuel pumps and a 4,958 sq. ft. convenience store.

Water and Sewer System: The property has access to existing public water and sewer services.

Adjacent streets and right-of-way: This site is adjacent to the signalized intersection of Martin Luther King (Hwy 62), a principal arterial street; Hill Avenue, a collector street, and Royal Oak Parkway, a local street. Adequate right-of-way exists in conformance with the Master Street Plan along Martin Luther King and Royal Oak Parkway. Royal Oak Parkway is a divided road adjacent to the site with the median under private ownership and not within the City right-of-way. Right-of-way dedication in the amount of 35 feet from centerline along Hill Avenue is required.

Street Improvements: Staff recommends the following street improvements: new sidewalk on

Hill Avenue at the Master Street Plan right-of-way line; street lights at intersections and spaced every 300 feet; any damaged or cracked sidewalk on Martin Luther King and Royal Oak Parkway will need to be replaced prior to final occupancy. Because of the high volume of existing traffic on adjacent roadways combined with increased turning movements anticipated with the proposed gas station, staff recommends a dedicated left-turn signal at the Hill/Martin Luther King intersection. Upgrades to the signal to provide dedicated left turns shall be required of the developer with this project, subject to approval by the Arkansas State Highway Department.

Tree Preservation:

Existing Canopy: 21.2%	*Preserved Canopy: 5.1%	Required Canopy: 20%
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*Mitigation Required: See attached memo from Urban Forester.

Access Management/Connectivity: The subject site is bounded by public streets on the north, west and east sides. The north side of the property is adjacent to Martin Luther King (Hwy 62, a principal arterial street), the east side is adjacent to Hill Avenue (a collector street), which is a signalized intersection, and the west side is adjacent to Royal Oak Parkway, which is a local street. The access management ordinance states that access shall be taken from the street with the lower functional classification, in this case Hill Avenue and Royal Oak Parkway. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from a driveway or intersection.

These standards were adopted so that new access to development would not create or contribute to unsafe or congested conditions, especially along arterial roadways. As new access points are created, the potential for vehicle conflicts between through traffic and traffic using the access increases. In addition to decreased safety, poorly designed access points increase congestion and traffic delays.

The applicant proposes a 39-foot wide full access in, right-out only, driveway on Martin Luther King, a principal arterial. This access requires a variance for the following reasons:

- The site has available access on two adjacent lower classification streets.
- The proposed curb cut is approximately 119 feet from the intersection of Royal Oak Parkway/Martin Luther King, and 240 feet from the intersection of Martin Luther King/Hill Avenue, when 250-foot separation is required.

At the technical plat review meeting City staff indicated to the applicant that they were not in favor of a full access curb cut onto Martin Luther King due to traffic safety concerns and available access on two adjacent side streets. Staff recommended some options instead a full access curb cut onto Martin Luther King to make the lower classification streets the priority for access consistent with ordinance. The options that were suggested by staff included a full access to Royal Oak Parkway and a right-in only curb cut onto Martin Luther King. Other options included a right-in only access on Martin Luther King and an exit/entrance from the gas station to Royal Oak Parkway.

The applicant has provided a letter (attached) that discusses their consideration of various access

options. The current proposal now includes a full access in and a right-out only curb cut onto Martin Luther King and a full access onto Hill Avenue. The main reasons stated by the applicant for the proposed access onto Martin Luther King include ease of transport truck delivering fuel to the store and concerns with site distance at the intersection of Royal Oak Parkway.

Access Management Variance Recommendation:

Staff does not support the applicant's variance request finding that the proposed curb cut does not meet the intent of the Access Management ordinance that states:

"Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification, ex. Local and Collector."

The applicant has not designed their site with this ordinance in mind. Rather, the applicant has designed the site by placing a higher priority on accessing the Principal Arterial, rather than the adjacent Local Street, Royal Oak Parkway, and the adjacent Collector Street, Hill Avenue. The primary entrance to this development is proposed off of the Principal Arterial. This is in direct conflict with the Access Management ordinance quoted above.

The ordinance also states:

"Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets."

The proposal does not provide connectivity to Royal Oak Parkway, in conflict with the ordinance quoted above.

Staff has conducted several site visits to observe traffic flow, site distance, and turning movements in the area. The site has adequate access on two adjacent side streets, including a signalized intersection at Hill Avenue. The proposed full access in and right-out only curb cut on Martin Luther King (MLK) may create a traffic safety hazard due to conflicting turning movements, especially with vehicles turning left into the development conflicting with vehicles turning right out of Royal Oak Parkway, and vehicles traveling at relatively high speed east and west on MLK. There is also a potential danger with westbound vehicles entering the turn lane on MLK to turn left into this development, and eastbound vehicles on MLK entering the turn lane to turn left at the signal on Hill Avenue and potential head-on conflict within the stacking of the intersection. This is depicted on a video clip shown at agenda session and planning commission and indicated on a diagram provided by staff. As observed by staff, vehicles stack in the left eastbound lane on MLK because the right lane is required to turn right at the next intersection. This stacking encourages vehicles to travel down the center turn lane of MLK which will be in direct conflict with vehicles heading westbound and turning left into the gas station.

Public Comment: Staff had two phone conversations and received an email from a representative of Hill Place (the adjacent apartment complex to the south). As indicated in the email and as discussed in person at the November 4th Subdivision Committee meeting, Hill Place does not recommend a curb cut for the gas station onto Royal Oak Parkway citing conflicts with the residents of their property. They do request a sidewalk connection.

Recommendation: Staff recommends approval of **LSD 11-3966** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance from Chapter 166.08(F), access management and curb-cut separation. As described above, the applicant proposes a full access in and right-out only curb cut onto Martin Luther King Boulevard 119 feet from the intersection of Royal Oak Parkway/Martin Luther King, and 240 feet from the intersection of Martin Luther King/Hill Avenue. *Staff recommends denial of the variance based on the findings discussed earlier in this report.*

Staff recognizes that Royal Oak Parkway is constrained for full commercial access to this property because of topography and the existing median. This is a somewhat unique situation and staff feels that a secondary point of access to Martin Luther King Boulevard is warranted based on the size of the parcel and length of street frontage(388 feet). However, in staff's observations any proposal with a curb cut that will allow left in or left out turning movements on MLK will create a dangerous traffic condition. Consistent with Chapter 166.08(F), staff recommends that the proposed curb cut be limited to a right-in and right-out only.

Should the Planning Commission recommend in favor of the proposed curb cut, the applicant may be required to provide a vehicular traffic safety and site distance study prior to construction permits to verify compliance with basic engineering standards, as determined by City Engineering staff. Additionally, upon construction and prior to occupancy, City staff shall be authorized to require the applicant to make minor changes to this driveway such as signage and painting to make the limited access design as functional as possible.

PLANNING COMMISSION DETERMINED IN FAVOR OF A VARIANCE AS RECOMMENDED BY STAFF FOR RIGHT-IN AND RIGHT-OUT ONLY (11-14-11).

2. Planning Commission determination to provide access (connectivity) to Royal Oak Parkway. The City's overall policies and ordinances, including UDC Section 166.08 and 166.14(C)(4), encourage connectivity within and between adjacent developments and local roadways.

According to the adjacent property owner to the south, Hill Place LLC, there are approximately 840 residents on 27 acres within the Hill Place development. Without access to Royal Oak Parkway, drivers or pedestrians that would like to access the proposed gas station from that development will all be forced to use Hill Avenue and potentially wait in a turn lane for a signalized intersection to turn into the gas station, or turn right onto Martin Luther King Boulevard (a principal arterial roadway and state highway) and travel approximately 100 feet then turn right into the gas station. This will unnecessarily result in more potentially dangerous turning movements onto MLK; increase congestion and decrease road capacity.

- a. Sidewalk connection. *Staff recommends that a direct sidewalk connection between Royal Oak Parkway and the gas station be provided, in addition to the sidewalk connection that is already shown from Hill Avenue. This recommendation is based on the volume of pedestrian activity in the vicinity and the proposed convenience store use, in addition to UDC Section 172.04.B. There are 840 University of Arkansas students adjacent to the south in Hill Place. These students are within walking distance of the proposed convenience store that will be selling food and groceries. Hill Place LLC has requested that a sidewalk be provided from Royal Oak Parkway to the gas station.*
- b. Vehicular connection. *Staff recommends that the proposed development provide vehicular access to Royal Oak Parkway consistent with the City's overall policies and ordinances to provide complete, compact, and connected communities, including UDC Section 166.08 and 166.14(C)(4). Staff does not recommend a median cut on Royal Oak Parkway, resulting in a right-in, right-out access on this northbound section of the boulevard street.*

PLANNING COMMISSION DETERMINED IN FAVOR OF A VEHICULAR AND SIDEWALK CONNECTION TO ROYAL OAK PARKWAY (11-14-11).

3. Planning Commission determination of a variance request from Chapter 172.04(E), Parking Lot Design Standards. The applicant has submitted a variance request from the maximum drive aisle width requirement of 24 feet and proposes to utilize a range of drive aisle widths from 30 feet to 33 feet to accommodate turning radius required for large truck parking lot circulation and access to the underground gasoline storage tanks. An Autoturn diagram has been added to the site plan on Sheet 5 of the submitted plat to indicate that the request is justified. *Staff recommends approval of the variance request to exceed the maximum drive aisle width of 24 feet to accommodate the turning radius of the large trucks, as indicated on the diagram.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE VARIANCE (11-14-11).

4. Planning Commission determination of Commercial Design Standards. *Staff recommends in favor of the proposed design finding that the building meets the minimum requirements of the Commercial Design Standards.*

PLANNING COMMISSION DETERMINED IN FAVOR (11-14-11).

5. Planning Commission determination of street improvements. *Staff recommends the following street improvements along this site's three street frontages:*
 - a. *New sidewalk on Hill Avenue at the Master Street Plan right-of-way line.*
 - b. *Street lights at intersections and spaced every 300 feet.*
 - c. *Damaged or cracked sidewalk on Martin Luther King and Royal Oak Parkway shall be replaced prior to final occupancy.*
 - d. *Because of the high volume of existing traffic on adjacent roadways combined with*

increased turning movements anticipated with the proposed gas station, staff recommends addition of signal heads to provide protected left-turns at the Hill/Martin Luther King intersection. Upgrades to the signal to provide protected left turns for northbound, eastbound, and westbound traffic shall be required of the developer with this project, subject to approval by the Arkansas State Highway Department.

PLANNING COMMISSION DETERMINED IN FAVOR (11-14-11).

6. Planning Commission determination of a variance from UDC Section 177.04(C)(1)(b) that requires a maximum run of 12 parking spaces without a tree island. The applicant has indicated that this requirement would place a tree in front of the convenience store blocking view of the gas pumps from the store clerk. *The Urban Forester recommends in favor of the variance finding agreement with the applicant's justification.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE VARIANCE (11-14-11).

7. Right-of-way dedication in the amount of 35 feet from centerline is required along the project's Hill Avenue Street frontage and shall be dedicated by easement plat or separate document prior to building permit.
8. The number of parking spaces on the large scale development plan exceeds the maximum allowed by City ordinance and is subject to review and approval by the Planning Commission as a Conditional Use Permit (CUP 11-3968). If the conditional use permit is denied the development plans will be required to be modified to meet City ordinance.
9. Denial of the requested access to Martin Luther King Boulevard may require significant revisions to the site plan and project layout. These changes may require a major modification approval from the Planning Commission at a future hearing date.
10. A vegetative screen, as indicated on the submitted landscape plan, shall be installed along the west and southern property line to screen the commercial use from the adjacent residential use.
11. Any fencing shall comply with commercial design and design overlay district standards.
12. All tree preservation, landscape, and fire department conditions included herein shall apply.

Standard conditions of approval:

13. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
14. If applicable, a business license shall be obtained prior to opening the business to the public.

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
17. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.
18. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
19. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
20. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
21. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the Design Overlay District.
22. Large scale development shall be valid for one calendar year.
23. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
24. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area

and all utility easements.

- d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
-

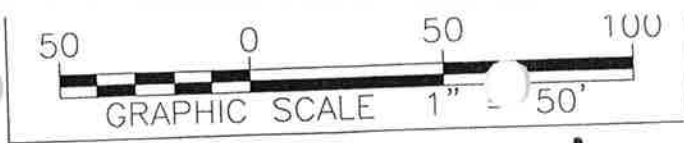
Planning Commission Action: **Approved** **Tabled** **Forwarded**

Meeting Date: November 14, 2011

Motion: Chesser

Second: Honchell

Vote: 8-1-0 (Commissioner Winston voted 'no')



C. 4
 Kum & Co. Appeal
 Page 23 of 30
 SECTION 16
 T16N, R30W

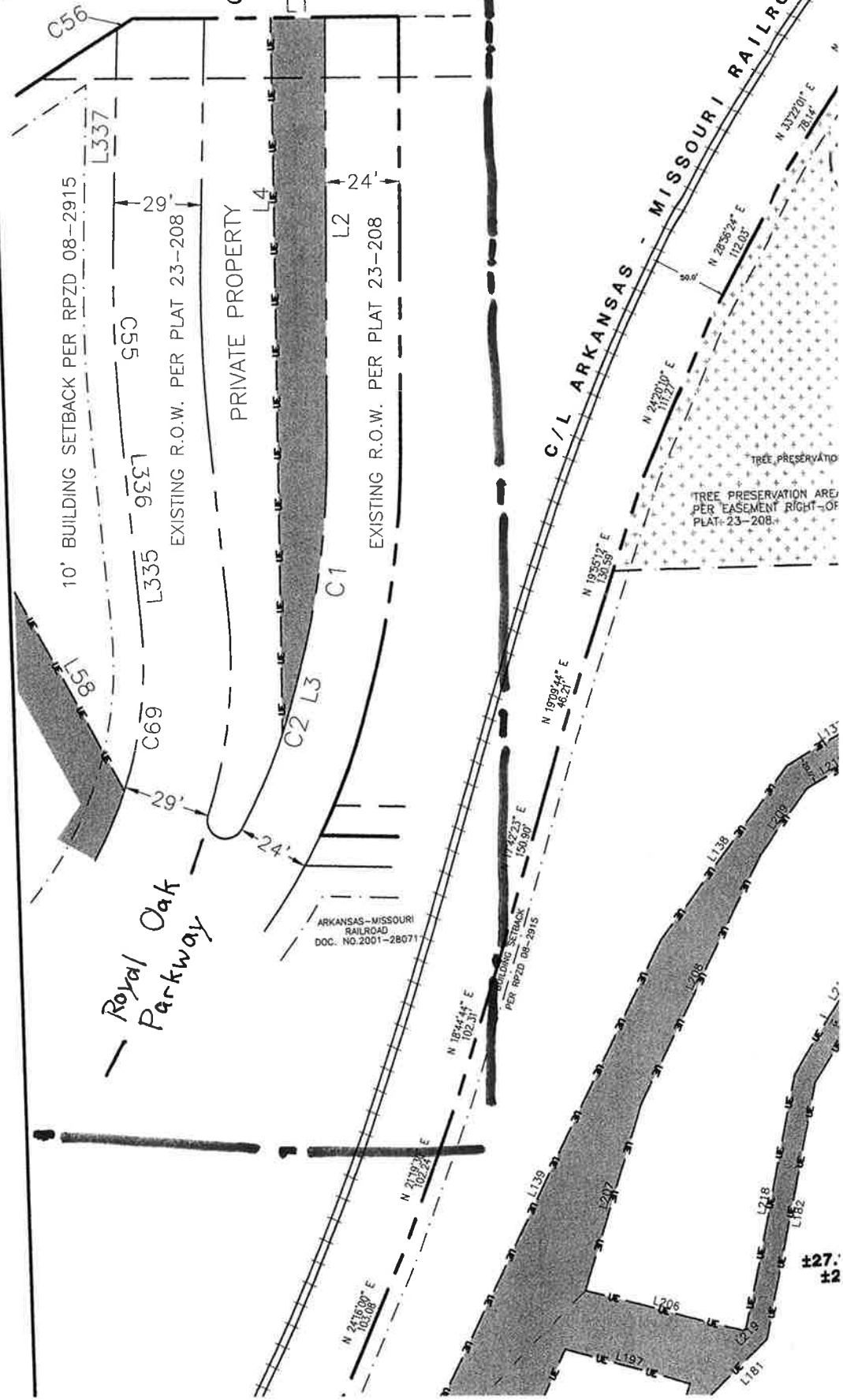
TRACT 3
±0.36 ACRES
CITY OF FAYETTEVILLE
 DOC. NO. 2006-8894
 785-14959-001

DETAIL 1



Martin Luther King Blvd -

Hill Place
 Easement Plat



±27'
 ±2'

From: Ron Koretz <rkoretz@bluevistallc.com>
To: Andrew Garner <agamer@ci.fayetteville.ar.us>
Date: 10/21/2011 1:21 PM
Subject: Gas Station in Fayetteville, AR

Andrew -

Thank you for taking time to discuss the proposed new Kum & Go development at the corner of MLK and Hill Avenue. On behalf of the owner of the adjacent Hill Place student housing project, BVP Hill Place, LLC, I would like to have our input placed on the record for the City of Fayetteville Planning Commission.

BVP Hill Place, LLC is not opposed to the Kum & Go development. However, we do strongly oppose an entrance to the new development on Royal Oak Parkway. Such an entrance would present a safety hazard to our 840 residents, many of whom walk to and from school on a daily basis. If such an entrance (a "right-in, right-out" on Royal Oak) to the Kum & Go were in place, many cars would enter south on Royal Oak and make a U-turn in what is our parking lot. The U-turns would take place between two of our residential buildings and our clubhouse, which is the source for heavy daily foot traffic. This is also in the middle of the route student walking to school take. The potential U-turn drivers would make - as an unconventional driving method - is typically unexpected, further putting our residents at risk. Further, this would make what is a quiet, residential side street with heavy foot traffic a highly driven street where cars are entering for commercial purposes.

Therefore, we are in favor of an entrance to the Kum & Go on MLK State Highway 62.

Finally, we would like to have a sidewalk entry from Royal Oak Parkway to the Kum & Go. This would increase safety for our residents when they walk to the gas station and convenience store.

Please let me know if you have any questions.

Ron Koretz,

on behalf of BVP Hill Place, LLC

Ronald W. Koretz | Vice President, Asset Manager

Blue Vista Capital Management, LLC | 111 South Wacker Drive, Suite 3300 | Chicago, Illinois 60606
direct 312.324.6082 | mobile 312.662.8520 | fax 312.578.0139
rkoretz@bluevistallc.com <mailto:rkoretz@bluevistallc.com> | www.bluevistallc.com <http://www.bluevistallc.com/>

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ENGINEERS ■ SURVEYORS ■ PLANNERS
LANDSCAPE ARCHITECTS ■ ENVIRONMENTAL SCIENTISTS

3108 S.W. Regency Parkway, Suite 2
Bentonville, AR 72712
479.273.9472 Fax 479.273.0844

DISTRIBUTION:
RER/File
Kum & Go, L.C.

October 6, 2011

City of Fayetteville
Planning Commission
113 W. Mountain Street
Fayetteville, AR 72701
Attn: Planning Department

**Re: Kum & Go #413 – Variance Request for Driveway Access
Martin Luther King Jr. Blvd & Hill Ave.
Fayetteville, Washington County, Arkansas
CEI Project No. 26728.0**

To Fayetteville Planning Commission:

This is a formal request for a variance from the City of Fayetteville's Unified Development Code (Street Design and Access Management, Ch. 166.08 (F)(1)(a)). This ordinance requires curb cuts or access points to be located where a street with a lower functional classification exists and that can be accessed, curb cuts shall access onto those streets. In this case being Hill Ave. Furthermore, when necessary, curb cuts along arterial streets shall be shared between two or more lots, in this case being Royal Oak.

This requirement cannot be achieved for a shared access point located at the intersection of Martin Luther King Jr. Blvd and Royal Oak. By doing so, it would create a steep grade at the point of ingress/egress to the Kum and Go site due to the existing grade of Royal Oak. In addition to, by providing a shared access at this location would create a challenge to drivers exiting onto Martin Luther King Jr. Blvd. Such a challenge would be the site distance to the west. Currently there is an existing train bridge crossing over Martin Luther King Jr. Blvd with an existing bridge abutment located at the sidewalk. For any one driver exiting from Royal Oak onto Martin Luther King Jr. Blvd, the location of the said abutment may hinder that driver's ability to see on-coming traffic traveling east along Martin Luther King Jr. Blvd.

Due to these existing conditions, we recommend providing a full access to and from the proposed Kum and Go site located along Martin Luther King Jr. Blvd. By providing a full access point at this location will increase the site distance to the west by increasing the distance between the existing train bridge abutment and the proposed access drive and will also improve the site distance to the east in regards to the crest of the roadway along Martin Luther King Jr. Blvd. Furthermore, by providing two access points for the proposed site would thereby create an ease in vehicular movement through the site while assisting in the access of the transport truck during deliveries to the proposed Kum and Go store.

Providing Consolidated Land Development Services

CALIFORNIA ■ ARIZONA ■ TEXAS ■ ARKANSAS ■ MINNESOTA ■ GEORGIA ■ PENNSYLVANIA


Special conditions exist which are unique to this site and which are not applicable to other sites in the same district. Literal interpretation of the provisions of these ordinances would deprive us of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

These special conditions do not result from any actions on our part and granting these variance requests will not confer on us any special privilege that is denied by this ordinance to other sites in the same district.

Large Scale Development (LSD) plans have been submitted to the City Planning Department and shall be considered inclusive of this request including any revisions made throughout the review process.

We appreciate your consideration in this matter, and if you have questions or concerns, please do not hesitate to call.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "R. Erin Rushing". The signature is written in dark ink and is positioned above the typed name.

R. Erin Rushing, RLA
Department Leader
CEI Engineering Associates, Inc.



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LANDSCAPE ARCHITECTS ■ ENVIRONMENTAL SCIENTISTS

3108 S.W. Regency Parkway, Suite 2
Bentonville, AR 72712
479.273.9472 Fax 479.273.0844

DISTRIBUTION:
RER/File

September 15, 2011

City of Fayetteville
Planning Commission
113 W. Mountain Street
Fayetteville, AR 72701
Attn: Alison Jumper, RLA

**Re: Kum & Go #413 – Site Analysis Report
SW Corner of MLK and Hill
Fayetteville, Arkansas
CEI Project No. 26728.0**

To Fayetteville Planning Commission:

The proposed project is at the southwest corner of Martin Luther King Jr. Blvd and Hill Avenue for the intended use of a convenience store and fueling station.

The proposed site is 2.46 acres in size.

The building size proposed is 4958 square feet with a detached fuel station with 8 fuel dispensers. The number of proposed parking spaces is 33.

Currently the site is undeveloped and has been primarily vacate since 2005.

The site is sloping from north to south approximately 25 feet in vertical change and is covered with either granular base rock from an old parking facility and/or un-maintained underbrush. There are numerous trees that are in the center of the site and scattered throughout the property. We are proposing to remove only the trees that are within the interior of the project and protect the trees that are along the exterior property boundaries.

The site layout consists of a convenience store in the middle of the project site, a fuel canopy in front of the convenience store and 3 drive cuts onto adjacent public streets. The primary driveway is at the northwest corner of the site onto MLK as far east as possible. This driveway is located as far west away from the signalized intersection to minimize conflict with the Hill Avenue north bound traffic turning movements. The two secondary drive cuts are on Hill Avenue, which the southern most drive lines up with the front of the store making it easy for the customer to enter and exit the site with as little turning movements as possible. The northern most drive cut is utilized for delivery of goods to the store, trash pick up, and secondary access to Hill.

Within Kum & Go's business model the front of the store always faces the primary access point or major street, which in this case is MLK with secondary access onto Hill. It is a requirement by Kum & Go that the fuel dispensers be located in line with the front of the store so the cashiers at the front counter have full visible access to the fuel dispensers at all times to reduce the potential

for drive-offs so the store can only be shifted minimally off of the centerline of the canopy before it affects this sight line.

In regards to vehicular circulation, again access to the primary street is required as well as a secondary access point required. Adequate vehicular circulation around the fuel dispensers is critical for the patrons utilizing the convenience store, as well as providing adequate buffering around the fuel dispensers themselves for safety purposes. At the main entrance to the store the preferred distance from canopy to the back of the parked cars is 39 feet in order to accommodate not only vehicular traffic entering the parking spaces from three different directions but this area needs to accommodate a 60' long fuel transport truck which will access the site 2-3 times per day.

There are numerous concessions Kum & Go has made to the overall site plan during the design and review process. For starters they pushed the development/impact area north as much as possible to save the trees along the south portion of the property. The site utilizes a dual stormwater detention pond system in order to utilize the areas outside of the limits of the tree canopy for detention storage and save the trees. Other accommodations include the construction of a 6-7 foot tall retaining wall 475 feet in length around the entire south and west side of the developed area to minimize the impact to the root zone of the trees to be saved and limit the area of disturbance.

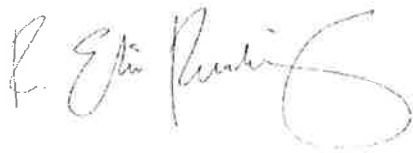
Along the eastern property line in the middle of the site exists a 42" Hackberry Tree that could not be saved due to its location relative to the front of the store and the need for the secondary driveway onto Hill in this location. Kum & Go looked at alternative locations for the drive, however as mentioned above vehicular circulation parallel to the front of the store is a necessity for the operations, ease of access and safety to the patrons.

Mitigation for trees to be removed include a combination of some additional on-site tree plantings as well as payment to the City tree fund for any additional trees that can not be accommodated within the confines of the site.

Large Scale Development (LSD) plans have been submitted to the City Planning Department and shall be considered inclusive of this request including any revisions made throughout the review process.

We appreciate your consideration in this matter, and if you have questions or concerns, please do not hesitate to call.

Respectfully submitted,



R. Erin Rushing, RLA
Department Leader – Local Development
CEI Engineering Associates, Inc.

LSD11-3966

KUM AND GO

Close Up View



P-1

DUNCAN AVE

RMF-40

C-2

PRIVATE 637

PRIVATE 421

SUBJECT PROPERTY

MARTIN LUTHER KING BLVD

C-1

I-1

RPZD

WYNSTONE DR

ALLEY 799

ROYAL OAK PKWY

HILL AVE

RMF-24

Legend

Multi-Use Trail (Existing)

Future Trails

Fayetteville City Limits

Overview LSD11-3966

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

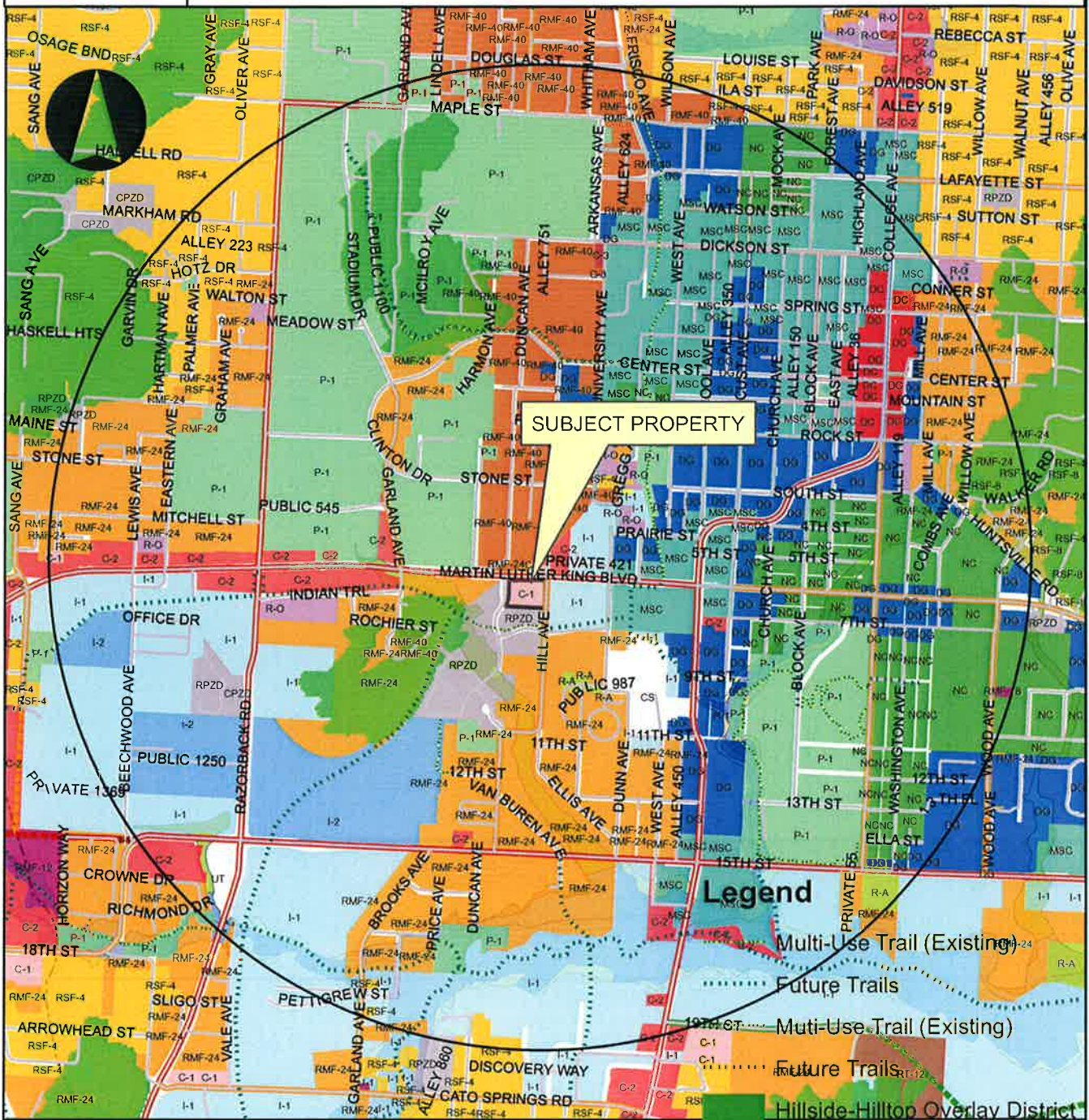
Planning Area



LSD11-3966

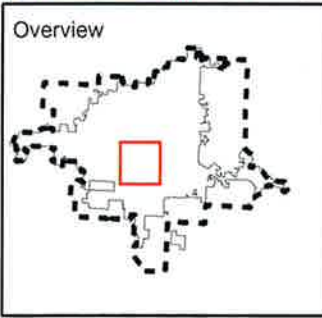
KUM AND GO

One Mile View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside-Hilltop Overlay District



Legend

- Subject Property
- LSD11-3966
- Boundary

0 0.25 0.5 1

Miles

- LSD11-3966
- Design Overlay District
- Planning Area
- Fayetteville