

Town of Lexington

**Board of Zoning Appeals
Minutes**

August 3, 2023

The Board of Zoning Appeals held their regular scheduled meeting on August 3, 2023 at 5:30 p.m. in the Council Chambers located in Town Hall, 111 Maiden Lane, Lexington, S.C. Those present for the meeting were Chair Mary Watts, Vice-Chair Troy Fite, Board Members Ronald Fisher and Justin Brown. Board Member Reve' Richardson was absent.

Staff Members present were: Director of Planning, Building and Technology John Hanson, Assistant Zoning Administrator Jessica Lybrand, Town Attorney Brad Cunningham, Digital Media Coordinator Michael Tolbert and Assistant Municipal Clerk Karen Hanner.

Two citizens were present and no one from the news media was present.

Chair Watts called the meeting to order at 5:30 p.m. and read an opening statement which explains the rules of procedure for a Board of Zoning Appeals meeting:

The Board of Zoning Appeals is comprised of volunteer Town Citizens. We are appointed by Town Council and we serve without pay.

We are a legal Board operating under the Comprehensive Planning Act of the State of South Carolina. Although this meeting may not seem as formal as a hearing in court, all statements must still be true, factual and not made in a manner to mislead us.

Board of Zoning meetings are not broadcast but may be filmed and minutes are taken and maintained as permanent records with the Town.

Under the Freedom of Information Act, public notification of this meeting was published, posted and mailed in compliance with the FOIA and the Town of Lexington requirements.

Please understand that we must make our decisions within the parameters of State law. State law requires us to grant a variance if and only if we find that each of the following four statements is true:

- 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.*
- 2. These conditions do not generally apply to other property in the vicinity.*
- 3. Because of these conditions, the application of the Ordinance to a particular piece of property would effectively prohibit or unreasonable restrict the utilization of the property.*
- 4. The authorization of a variance will not be of substantial detriment to adjacent property or the public good and the character of the district will not be harmed by granting of the variance.*

Moreover, State law prohibits us from granting a variance simply because the property could be used more profitably if the variance were granted.

We are not concerned with the use of the property. Use of the property is determined by others. We ask that you please confine your remarks to the issue at hand.

Should we make a decision that you believe is incorrect, you may appeal our decision to the Circuit Court within certain time limits provided by State law. In case that such an appeal is made, it is important the Circuit Court know who testified at this meeting.

Please sign the Sign-In Sheet, identify yourself and speak into the microphone.

ACTION ITEMS

1. Variance 2023-3 (V): Variance from the Buffer Requirement at Clutch Coffee Located at 308 Columbia Avenue

Director of Planning, Building and Technology John Hanson presented the application from Mr. Mark Kellenberger with Clutch Coffee who has requested a variance from the buffer requirement at a new facility being constructed at 308 Columbia Avenue. Due to the Preservation Special Overlay that covers this property, a 20-foot landscape buffer is required on the Columbia Avenue side of this property. Mr. Kellenberger is requesting to reduce the buffer to 10 feet to allow a better left turning movement for customers exiting the drive-thru. Mr. Hanson added the application in the packet states the buffer reduction as 6.8 feet and Mr. Kellenberger will provide a new site plan that they have worked on to show the requested 10-foot buffer which would be the standard without the Special Overlay and is consistent with what was granted for the Sonic property next to this one. Chair Watts asked about the Sonic variance. Director Hanson responded Sonic was granted a variance several years ago when they added an extension on the front of the restaurant and they worked with this applicant to get it consistent to 10 feet.

Mr. Mark Kellenberger of Eig14t Development introduced himself and distributed copies of a revised site plan (attached). He described the first page as the original site plan that was included with their application, the second page shows the 6.8-foot setback and the third page shows the 10-foot setback. He explained their planning process started a little over a year ago and they worked with staff and added upgraded elevations and landscaping islands on the south and east sides of the site. He continued that unfortunately neither their team nor the consulting engineers identified that vehicles leaving the drive through window would have a conflict with the proposed curb turning left and also any incoming vehicles coming from Columbia Avenue. Mr. Kellenberger stated it wasn't discovered until they were well into construction of the building with brick on the exterior. He said they looked at possibly modifying the interior to pull the drive-thru window back but they still wouldn't be able to make the left turn or avoid incoming traffic. He added the tenant was not accepting of the modified layout. He stated they looked at several modifications and they asked the engineer what they could get away with as far as the turning movements. He referred to the third page of the handout which shows the setback at 10-feet with the 9 foot of travel lane coming in which gives less room for error for vehicles but would work. He apologized and said it was not their intent to create a situation like this with a site that does not function but asked for consideration for the green belt.

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Board Member Fite asked Mr. Kellenberger who he represented. Mr. Kellenberger stated he is with Eig14t Development as the owner of the property and Clutch Coffee is their tenant and partner in several developments.

Board Member Fite asked if the initial plan was considered for ingress or egress. Director Hanson stated they don't look at internal traffic flow. He stated their primary concern is access to the site and traffic conflicts from the street. He added they look at buffers, setbacks and parking.

Board Member Fite asked if this is part of a chain. Mr. Kellenberger responded that this is a new chain of coffee shops starting in South Carolina with one in Columbia, one in Greenville County and this is the third with eight others in process. Board Member Fite asked if the first two that were built worked in the same way. Mr. Kellenberger said yes. Board Member Fite said he was not a civil engineer but it seemed this should have been caught a lot earlier. Mr. Kellenberger agreed and said it went through several hands. Board Member Fite asked when they became aware of the problem. Mr. Kellenberger replied the Clutch Coffee representative was on site sometime in mid-June and contacted him to say they had an issue. Board Member Fite asked when they came back to the Town to say there was an issue. Mr. Kellenberger said they revised plans, came up with some concepts and reached out to Director Hanson. He added they tried different adjustments to the floor plan and consulting with their engineer over about three weeks.

Board Member Fite asked about removal of the addition to the front of the former Sonic building and the closure of an entrance driveway. Mr. Kellenberger said yes and noted the former insurance office had access from East Butler Street. He said after discussions with the Town, they wouldn't use the western-most driveway at the former Sonic and planned to use the eastern drive for traffic.

Board Member Fite asked if they picked up any green space. Director Hanson stated the former Sonic had an extension on the front that has now been removed with a previously approved 10-foot setback which allows it to now be 20-foot. He noted it would essentially shift the 10-foot setback to the adjacent parcel and they are willing to relinquish the previously approved variance. He added Butler Street is compliant as it is not in the Special Overlay Corridor and the 10-foot setback applies. Director Hanson listed the site improvements that have been made as a sidewalk on Butler Street, an improved line of sight at the corner and the closing of one of the two driveways. Board Member Fite noted they also retained an existing large oak tree.

Chair Watts asked if this is just a drive-thru without a walk-up. Mr. Kellenberger stated yes and added there was not enough room for a walk-up window.

Board Member Fite asked about the Preservation Corridor. Director Hanson responded the Special Overlay is intended to preserve Right of Way to provide for potential future road widening with a required 10-foot buffer.

Board Member Fite commented they have gotten space back, lost a driveway, saved a tree and added a sidewalk but questioned why they are fixing the engineer's screw up.

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He continued this is not what they normally see for a variance but they do see the positives. Mr. Kellenberger responded they used a new local engineer to try to work with people in the community.

Board Member Fite made a motion to approve the variance 2023-3 for a 10-foot setback for Clutch Coffee with the increased 10-foot setback on the former Sonic property as demonstrated on the site plan submitted today for the following reasons:

- 1) as the developer has conceded to increase the green space on the adjacent property to reduce potential traffic concerns by eliminating an access point onto Columbia Avenue in addition to improving a line of sight concern on Butler Street;
- 2) because the two pieces of property are being developed, the ability to positively influence traffic flow is available onto Columbia Avenue and Butler Street;
- 3) without granting a variance, the intended utilization of the property would be significantly flawed creating potential traffic concerns and impact accessibility and safety;
- 4) the developer's willingness to increase green space on the adjacent property, preserve the trophy tree on the site and make necessary improvements on the end project will be a gain for the community overall. Board Member Brown seconded the motion.

Chair Watts called for a roll call vote. Roll call vote results: Board Member Brown, yes to the motion; Vice-Chair Fite, yes to the motion; Chair Watts, yes to the motion; Board Member Fisher, yes to the motion. The vote was unanimous in favor of approval of Variance 2023-3.

APPROVAL OF MINUTES

A motion was made by Board Member Brown and seconded by Board Member Fisher to approve the Board of Zoning Appeals minutes from the February 2, 2023 meeting as submitted. The motion was unanimous in favor of approval.


OTHER BUSINESS

Assistant Zoning Administrator Jessica Lybrand reported there are training dates in September, November and December. Board Member Fite requested a reminder email. Chair Watts stated she and Board Member Richardson are signed up for November.

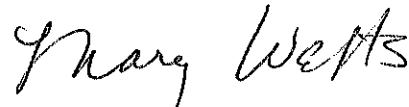
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ADJOURNMENT: There being no further business, Chair Watts made a motion without objection to adjourn. The Board of Zoning Appeals meeting adjourned at 6:00 PM.

Respectfully submitted by:


Karen Hanner
Assistant Municipal Clerk

APPROVED:


Mary Watts
Chair

FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirements.

handout 8/3/23

PROPERTY INFORMATION
308 COLUMBIA AVE, LEXINGTON, SC 29072
ZONING DISTRICT: GC - GENERAL COMMERCIAL
TOTAL BUILDING AREA: 850 SF
PARKING SPACES: 9 EA

- ZONING AND SETBACK REQUIREMENTS:
- SETBACKS:
 - COLUMBIA AVE - 30' SETBACK
 - W BUTLER ST - 10' SETBACK
 - ADJACENT PROPERTY LINES - 5' SETBACK
 - BUFFERS:
 - COLUMBIA AVE - 20' LANDSCAPING BUFFER
 - W BUTLER ST - 10' LANDSCAPING BUFFER

- PARKING:
- REQUIRED NUMBER OF SPACES - 8.5
AVAILABLE NUMBER OF SPACES - 8
- 1 PARKING SPACE PER 75 TOTAL SQUARE FEET OR 1 PARKING SPACE PER 3 PEOPLE OF THE MAX CAPACITY, WHICHEVER IS LESSER. RESTAURANTS CLASSIFIED AS "FAST FOOD" MAY REDUCE THIS PARKING STANDARD BY 25%.
 - (850SF/75SF)X0.75=8.5 MINIMUM PARKING SPACES

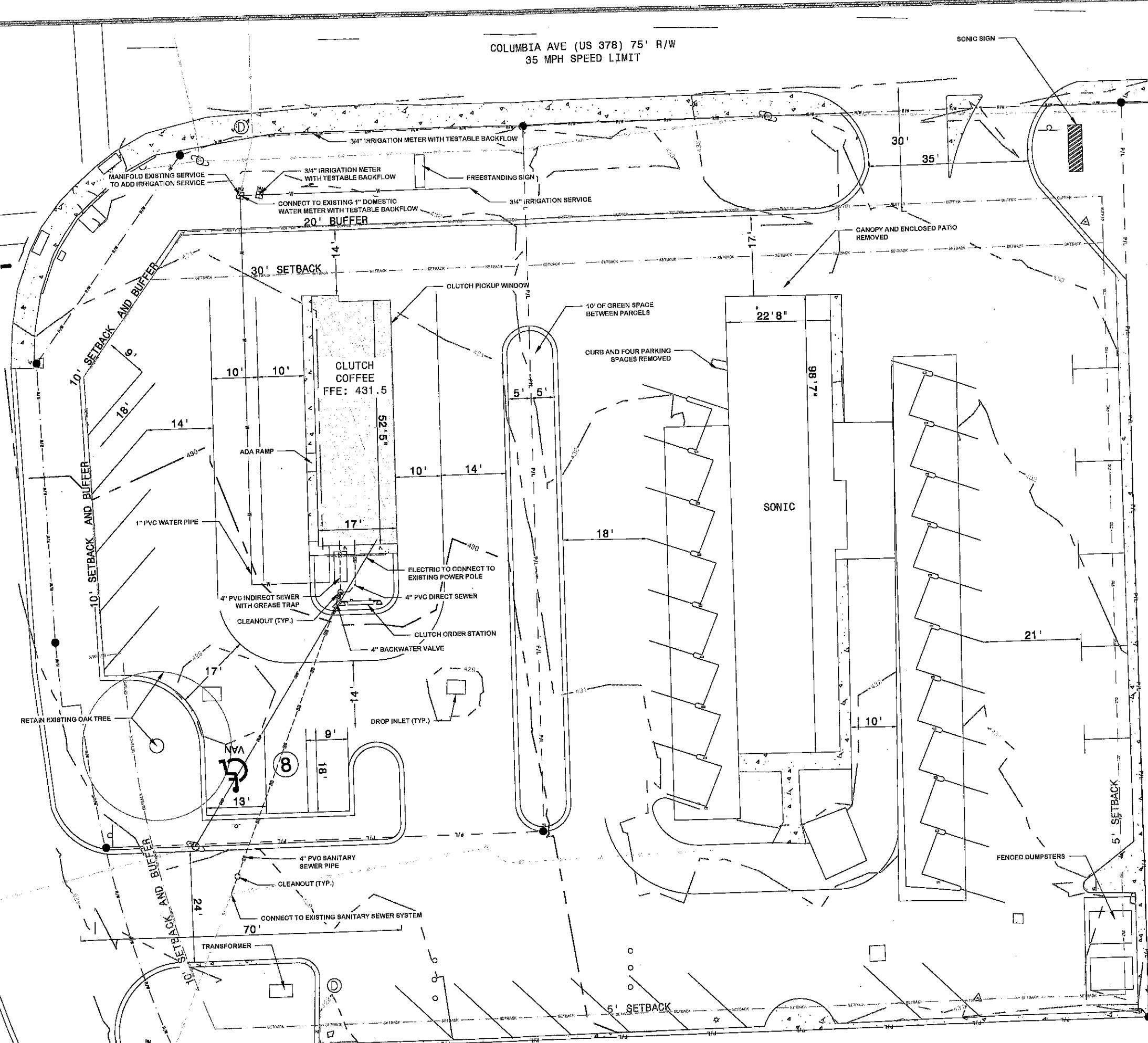
UTILITIES
WATER/SEWER: TOWN OF LEXINGTON
(803) 359-2434

ELECTRIC: DOMINION ENERGY
(678) 461-3900

GAS: DOMINION ENERGY
(678) 461-3900

COLUMBIA AVE (US 378) 75' R/W
35 MPH SPEED LIMIT

W BUTLER ST (S-131) R/W VARIES
30 MPH SPEED LIMIT



ISSUE DATE:	CONTR:	DESCRIPTION:
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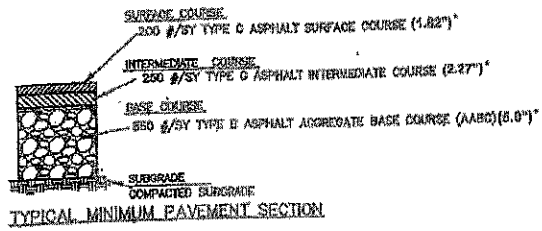


SITE PLAN
DENNIS
CORPORATION

CLUTCH COFFEE
FOR
814 CRE LLC
LEXINGTON COUNTY, SOUTH CAROLINA

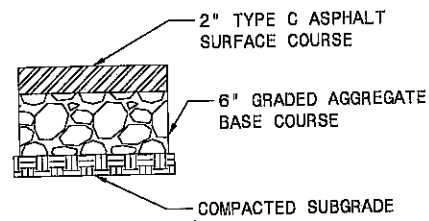
PROJECT ID
E0030.01
SCALE
1" = 10'
SHEET
C-101

SCDOT R/W
PAVEMENT SECTION
N.T.S.



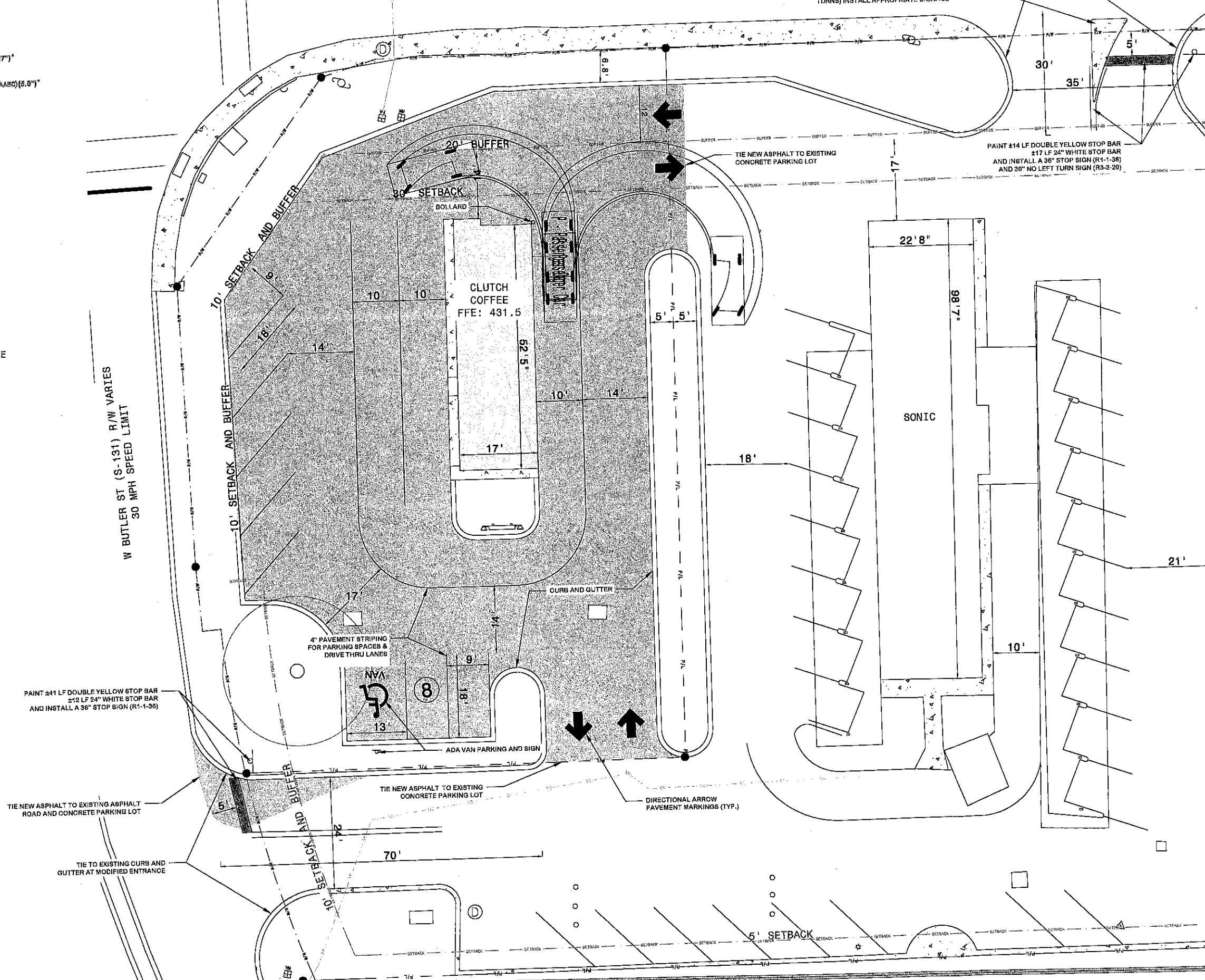
* Compacted thickness.

DRIVEWAY/PARKING
PAVEMENT SECTION
N.T.S.



COLUMBIA AVE (US 378) 75' R/W
35 MPH SPEED LIMIT

TIE TO EXISTING CURB AND GUTTER AT MODIFIED ENTRANCE
CONSTRUCT RAISED CONCRETE ISLAND TO ENFORCE 3/4 ACCESS (NO LEFT TURNS) INSTALL APPROPRIATE SIGNAGE



PAINT 341 LF DOUBLE YELLOW STOP BAR
±12 LF 24" WHITE STOP BAR
AND INSTALL A 36" STOP SIGN (R1-1-36)

TIE TO EXISTING ASPHALT ROAD AND CONCRETE PARKING LOT

TIE TO EXISTING CURBS AND GUTTER AT MODIFIED ENTRANCE

TIE NEW ASPHALT TO EXISTING CONCRETE PARKING LOT

DIRECTIONAL ARROW PAVEMENT MARKINGS (TYP.)

PERMITS:	
BIDS:	
CONSTR:	
ISSUE DATE:	
REV:	
1	
2	
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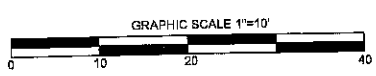


PERMIT:	
NO. HINES:	
NO. JAMES:	
CHECKED:	
DATE:	

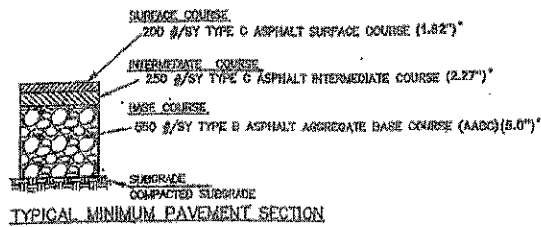
PAVING PLAN
DENNIS
CORPORATION

CLUTCH COFFEE
FOR
814 CRE LLC
LEXINGTON COUNTY, SOUTH CAROLINA

PROJECT ID
E0030.01
SCALE
1" = 10'
SHEET
C-104

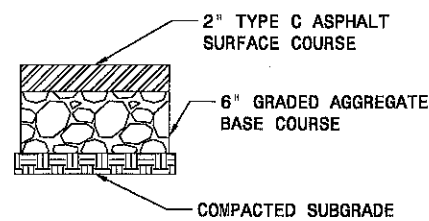


SCDOT R/W
PAVEMENT SECTION
N.T.S.



* Compacted thickness.

DRIVEWAY/PARKING
PAVEMENT SECTION
N.T.S.



COLUMBIA AVE (US 378) 75' R/W
35 MPH SPEED LIMIT

TIE TO EXISTING CURB AND
GUTTER AT MODIFIED ENTRANCE

CONSTRUCT RAISED CONCRETE ISLAND
TO ENFORCE 8/4 ACCESS (NO LEFT
TURNS) INSTALL APPROPRIATE SIGNAGE

PROPOSED CURB 10' BACK FROM SIDEWALK AND ROW

TIE NEW ASPHALT TO
EXISTING CONCRETE
PARKING LOT

PAINT ±14 LF DOUBLE YELLOW STOP BAR
±17 LF 24\"/>

PAINTED MEDIAN

W BUTLER ST (S-131) R/W VARIES
30 MPH SPEED LIMIT

PROPOSED NEW SIDEWALK ±105 LF
PAINT ±41 LF DOUBLE YELLOW STOP BAR
±12 LF 24\"/>

ADA RAMP
TIE TO EXISTING CURB AND
GUTTER AT MODIFIED ENTRANCE

TIE TO EXISTING ASPHALT
ROAD AND CONCRETE PARKING LOT
ADA RAMP

CLUTCH COFFEE
FFE: 431.5

SONIC

ISSUE DATE	REV	DATE	DESCRIPTION
	1		
	2		
	3		
	4		
	5		
	6		

REGISTERED PROFESSIONAL ENGINEER
No. 32702
MATTHEW THOMAS JONES

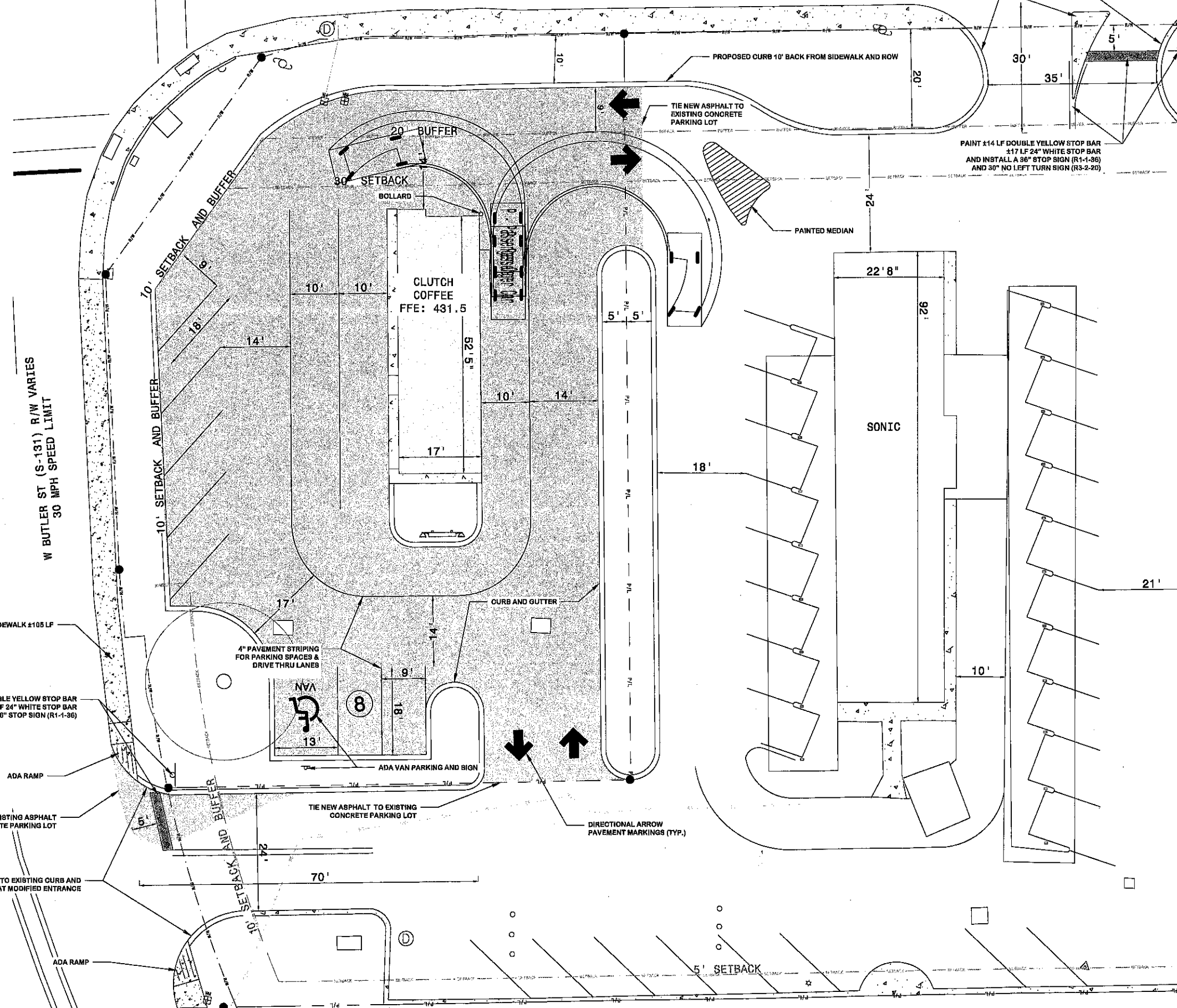
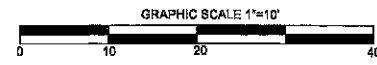
REGISTERED PROFESSIONAL ENGINEER
No. 3103
DENNIS CORPORATION
STATE OF SOUTH CAROLINA

OWNER	DESIGNER	CHECKED	DATE
M. JONES	W. JAMES		

PAVING PLAN
DENNIS
CORPORATION

CLUTCH COFFEE
FOR
814 CRE LLC
LEWISTON COUNTY, SOUTH CAROLINA

PROJECT ID
E0030.01
SCALE
1" = 10'
SHEET
C-104

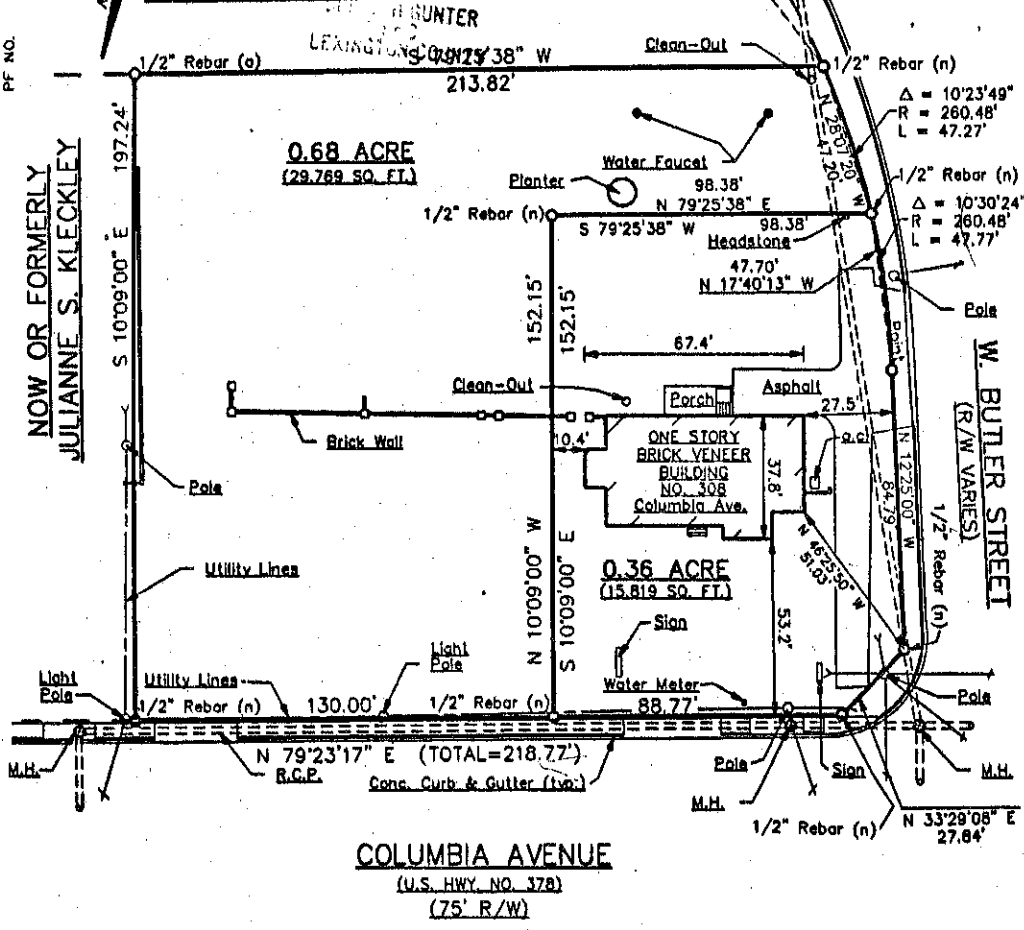


NO. PF NO.



**NOW OR FORMERLY
BGR ENTERPRISES, A PARTNERSHIP**

**NOW OR FORMERLY
JULIANNE S. KLECKLEY**



COLUMBIA AVENUE
(U.S. HWY. NO. 378)
(75' R/W)

**PLAT PREPARED FOR
HARRY LEE OSWALD & RUBY B. OSWALD**

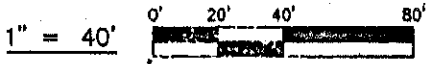
LEXINGTON COUNTY, LEXINGTON, S.C.

REFERENCES:

- 1) PLAT OF PROPERTY OF M. S. & EMILY RILEY, BY C. D. CAUGHMAN, DATED JANUARY 11, 1958, AND RECORDED IN THE OFFICE OF REGISTER OF MESNE CONVEYANCE FOR LEXINGTON COUNTY IN PLAT BOOK 45-G, PAGE 278.
- 2) LEXINGTON COUNTY DEED BOOK 801, PAGE 215.
- 3) SOUTH CAROLINA HIGHWAY DEPARTMENT PLAN & PROFILE MAP, FED. ROAD DIV. NO. 3, FILE NO. 32.737, F.A. PROJECT NO. F-052(102), ROUTE NO. 378, SHEET NO. 17 OF 70.

MAY 14, 1993

COX and DINKINS, INC.
ENGINEERS • SURVEYORS
614 HOLLY STREET ; COLUMBIA, S.C. - 29205



I hereby state that to the best of my knowledge, information, and belief, the survey shown herein was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than those shown.

I HEREBY CERTIFY THAT I HAVE CONSULTED THE FEDERAL INSURANCE ADMINISTRATION FLOOD INSURANCE RATE MAP; AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SUBJECT PROPERTY IS NOT LOCATED IN SPECIAL FLOOD HAZARD ZONE A OR B.

51976

J. Frank **BOOK 282 PAGE 279**
REG. LAND SURVEYOR
NO. 107808