

ORDINANCE NO. 7910-23

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2023-0005 FOR THE HERINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE OPERATION OF AN AUTOMOBILE GASOLINE SUPPLY STATION ON A SITE ZONED C1 RETAIL COMMERCIAL DISTRICT.

WHEREAS, application number CU-2023-0005 has been made by **CNU 12396 WARWICK, LLC, and GRIFFITHS ASSOCIATES, owners and applicants**, for a conditional use permit for the hereinafter described property for the purpose of permitting the operation of an automobile gasoline supply station on a site zoned C1 Retail Commercial District; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-2023-0005 is hereby granted for the property described in paragraph (b) hereof for the purpose of permitting the construction of an automobile gasoline supply station on a site zoned C1 Retail Commercial District; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

Beginning at a concrete monument at a point on Warwick Blvd; thence with a curve turning to the right with an arc length of 50.30', with a radius of 2506.11', with a chord bearing of N 17°18'58" W, with a chord length of 50.30', to a CMS; thence N 73°19'03" E a distance of 10.00' to an IRF; thence with a curve turning to the right with an arc length of 23.72', with a radius of 2517.06', with a chord bearing of N 16°22'11" W, with a chord length of 23.72', to a IRF; thence with a compound curve turning to the right with an arc length of 6.09', with a radius of 4561.68', with a chord bearing of N 16°03'42" W, with a chord length of 6.09'; thence with a compound curve turning to the right with an arc length of 31.34', with a radius of 4561.82', with a chord bearing of N 15°49'35" W, with a chord length of 31.34'; thence N 55°04'01" E a distance of 211.53' to a NS; thence S 35°18'28" E a distance of 4.37' to a NS; thence N 65°26'59" E a distance of 168.22' to a NS; thence S 35°18'52" E a distance of 65.18' to a NS; thence S 54°41'08" W a distance of 91.23' to a IPF; thence S 54°40'36" W a distance of 136.91 to a CMS; thence S 54°41'32" W a distance of 193.83' to a CMS; which is the point of beginning, having an area of 37179.6 Square Feet, 0.854 Acres

The Property has a common street address of 12394, 12396 & portion of 12404 Warwick Boulevard and a portion of 429 University Place and Real Estate Assessor's Tax I.D. # 221.00-02-38, # 221.00-02-37, # 221.00-02-83, and # 221.00-02-40, respectively. The conditional use permit shall apply only to that 0.854 acre portion of the aforementioned addresses as described in the above referenced legal description of the Property.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. Building elevations and canopy design shall be consistent with the elevation illustrations as provided in Appendix A-10, which is attached hereto and made a part hereof, and shall be reviewed and approved by the Director of Planning prior to issuance of a building permit.
2. Prior to final approval of the class 1 site plan, a boundary line adjustment plat with cross access ingress and egress easements shall be submitted for review and approval by the Director of Planning.
3. A class 1 site plan shall be submitted to and reviewed by the Site Plan Review Committee and approved by the Director of Planning. The site plan shall be in substantial conformance with the conceptual layout plan prepared by Kimley-Horn, Inc. dated May 17, 2023 as found in Appendix A-4, which is attached hereto and made a part hereof. The class 1 site plan shall conform to this conditional use permit, the city's site regulations and the Zoning Ordinance.
4. A landscape plan in conformance with the requirements of the site regulations and Zoning Ordinance shall be submitted to and approved by the Director of Planning. All landscaping shall be installed in accordance with the approved landscape plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
5. A site lighting plan meeting all applicable city standards shall be provided for the review and approval of the Director of Planning.
6. No vacuum, air supply equipment and/or fuel tank ventilation apparatus shall be installed adjacent to any public right-of-way, and all of such equipment shall be appropriately screened with materials approved by the Director of Planning prior to site plan approval.
7. One freestanding sign shall be permitted on the Property. The sign shall be a monument sign installed in accordance with the drawings prepared by Casco Signs, Inc. dated May 16, 2023 as found in Appendix A-8, which is attached hereto and made a part hereof, and shall be no taller than eight (8) feet measured from the top of the curb to the highest point of the sign structure. The sign area shall be no more than fifty (50) square feet. The sign placement,

design and materials shall be reviewed and approved by the Director of Planning prior to the issuance of a sign permit.

8. No temporary or portable signs shall be permitted on the Property. Signage placed in or on any window of the building shall be limited to no more than twenty-five (25) percent of each window. The location, design and materials of all signs shall be reviewed and approved by the Director of Planning.
9. There shall be no signage on the fueling stations other than that required by law for safety.
10. Signage on the canopy shall be in accordance with the drawings prepared by Casco Signs, Inc. as found in Appendix A-10, which is attached hereto and made a part hereof, and subject to the review and approval of the Director of Planning. The canopy signage shall be limited to fifty (50) square feet along the north-facing canopy and no more than ten (10) square feet for the west-facing canopy.
11. All outdoor storage and displays of saleable items shall be prohibited. All outdoor merchandising shall be stored in brick enclosed structures that match the exterior brick on the kiosk building and such structures shall be closed and locked during hours when the manned kiosk is closed.
12. The playing of music on any outdoor speakers shall be prohibited.
13. The entire site shall be regularly cleared of all debris, litter and graffiti.
14. The applicant shall provide written notice to the Director of Planning in the event of the cessation of fuel dispensing activity at the automobile gasoline supply station or the convenience store. Such notice shall be provided no later than seven (7) days after such fuel dispensing activity ceases, as each event occurs.
15. In the event a fuel dispensing activity ceases at the automobile gasoline supply station for a period in excess of twelve (12) months:
  - a. The tanks and fueling equipment (including the gas pumps and fueling islands) shall be removed;
  - b. The canopy shall be removed; and
  - c. The real property in or on which the improvements listed in subsection (a) and (b) above are placed or constructed shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for the site has been approved by the city.

16. Prior to operating the use permitted by this conditional use permit, a bond in an amount deemed appropriate by the Director of Planning and in a form deemed appropriate by the City Attorney shall be posted by the applicant with the city and maintained for one (1) year after the conditional use permit expires to ensure that the applicant will restore the real property as required in condition 15 (a), (b), and (c) above.
17. The Property shall be wired so that it is ready to connect to an auxiliary generator sufficient in size and capacity to operate all fueling stations during electrical system outages.
18. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time that recording is made. The Equipment shall provide surveillance coverage encompassing both the front, side and rear exteriors of the business. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty (30) days.
19. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
20. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
21. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
22. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and

fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.

23. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
24. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
25. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the Property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of June 27, 2023, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twenty-four (24) months.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JUNE 27, 2023

Mabel Washington Jenkins, MMC  
City Clerk

Phillip D. Jones  
Mayor

A true copy, teste:

City Clerk





**Customer:** Harris Teeter #06  
Fuel Center  
12404 Warwick Blvd.  
Newport News, VA 23606

**Drawing #:** 301856

**Date:** 03/03/2023

**Revision:** 05/16/23DD

**Customer Approval:**

**Date:**

**Sales:** D. Martin

**Design:** D. Doerflinger

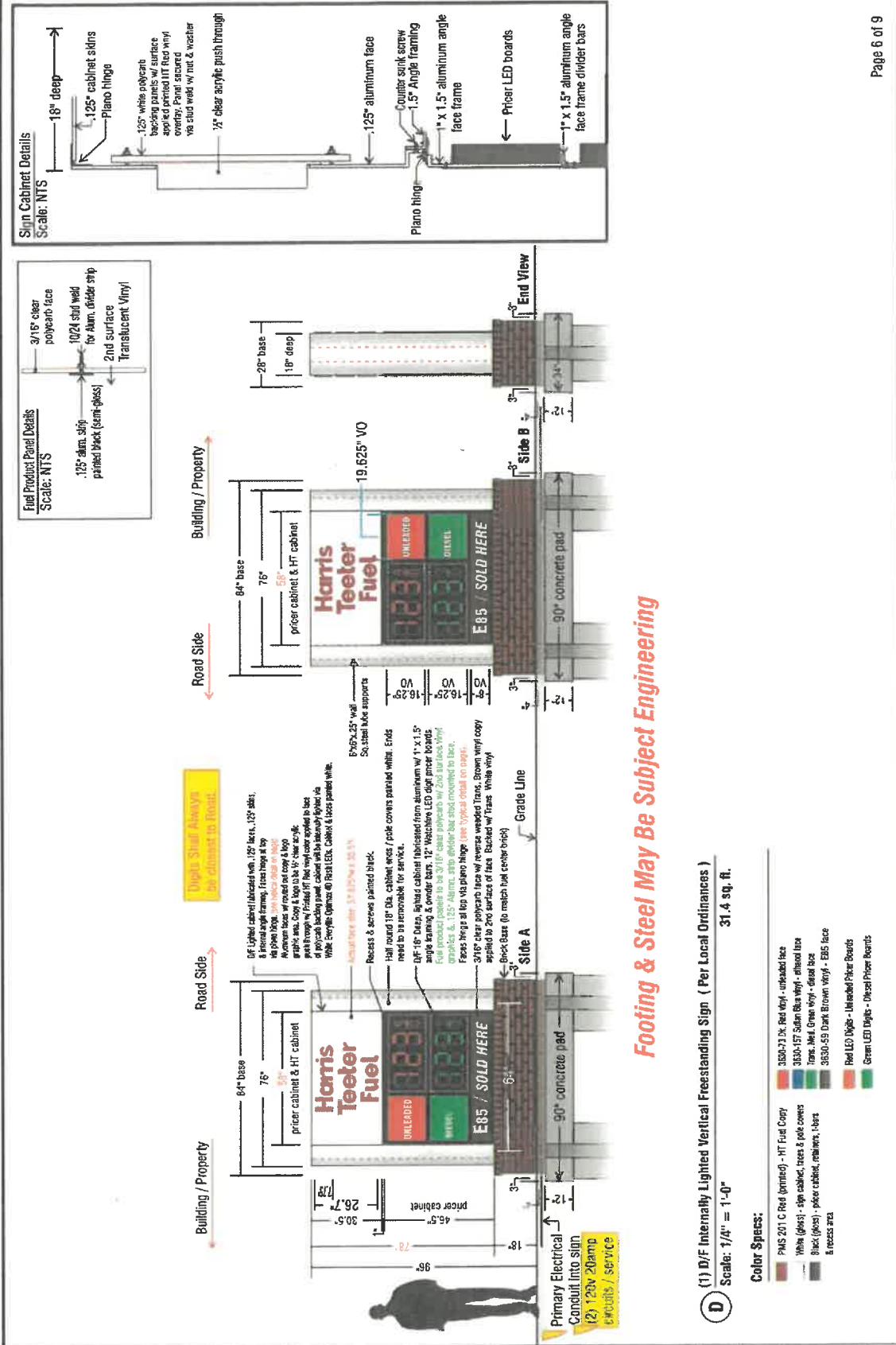
**Check by:**

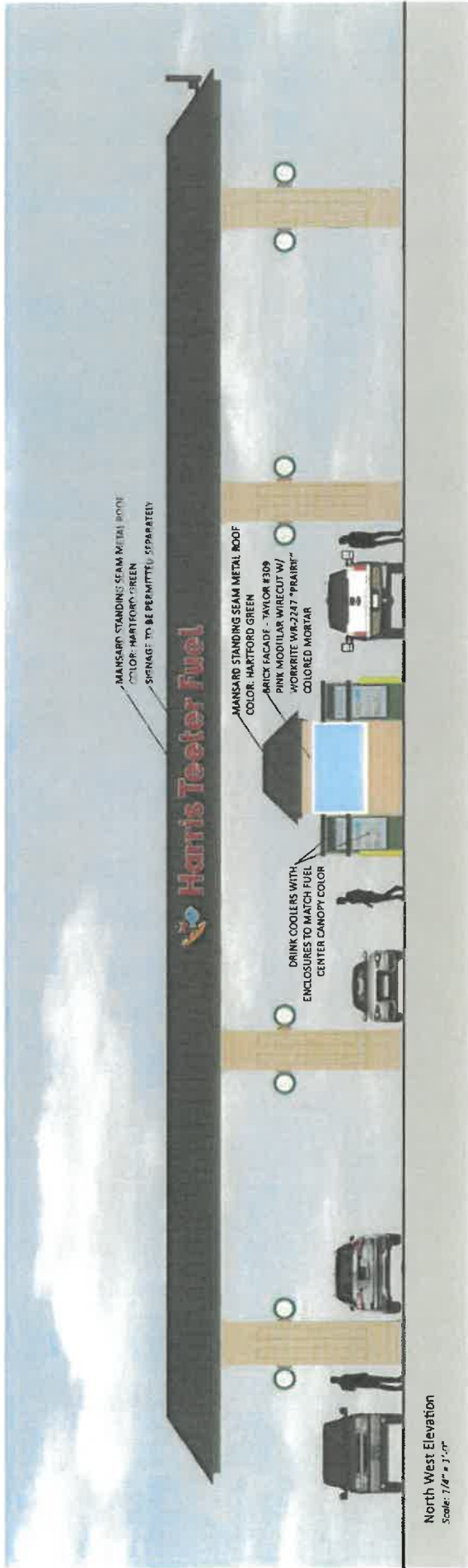
**Notes:** This design is the property of CASCO SIGNS, Inc. and remains our property until sign is purchased. Any attempt to reproduce this design or use by others for any purpose, without written consent is subject to prosecution to the fullest extent allowed by law.

All components & installations are approved & listed by **UL**

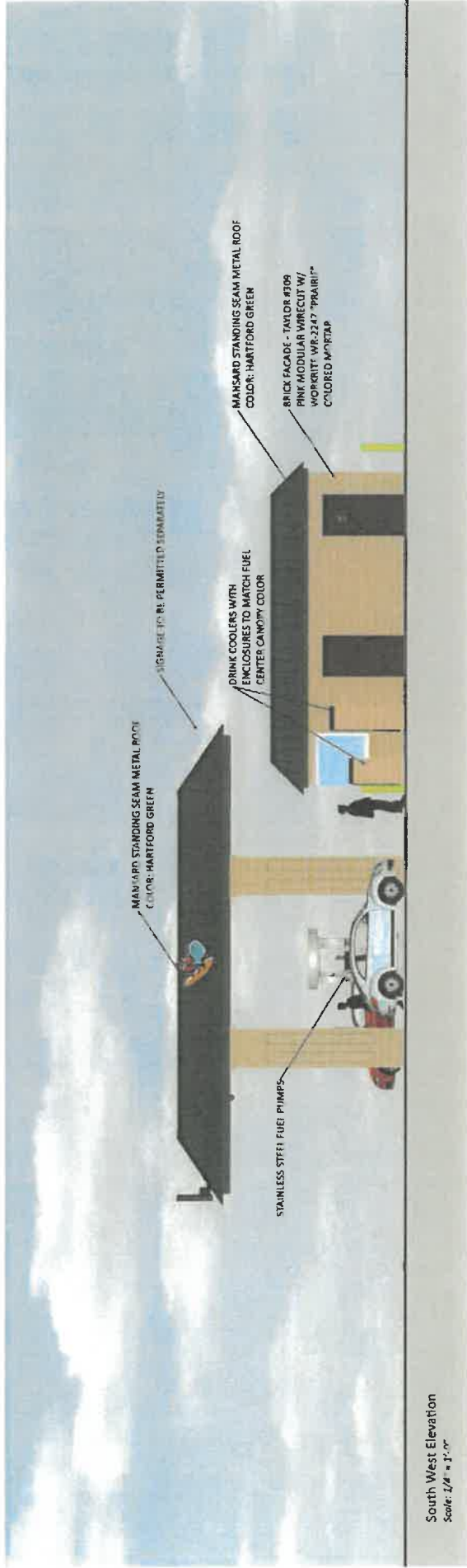
**Drawing Type:** Production

**casco SIGNS**  
INCORPORATED





North West Elevation  
Scale: 1/4" = 1'-0"

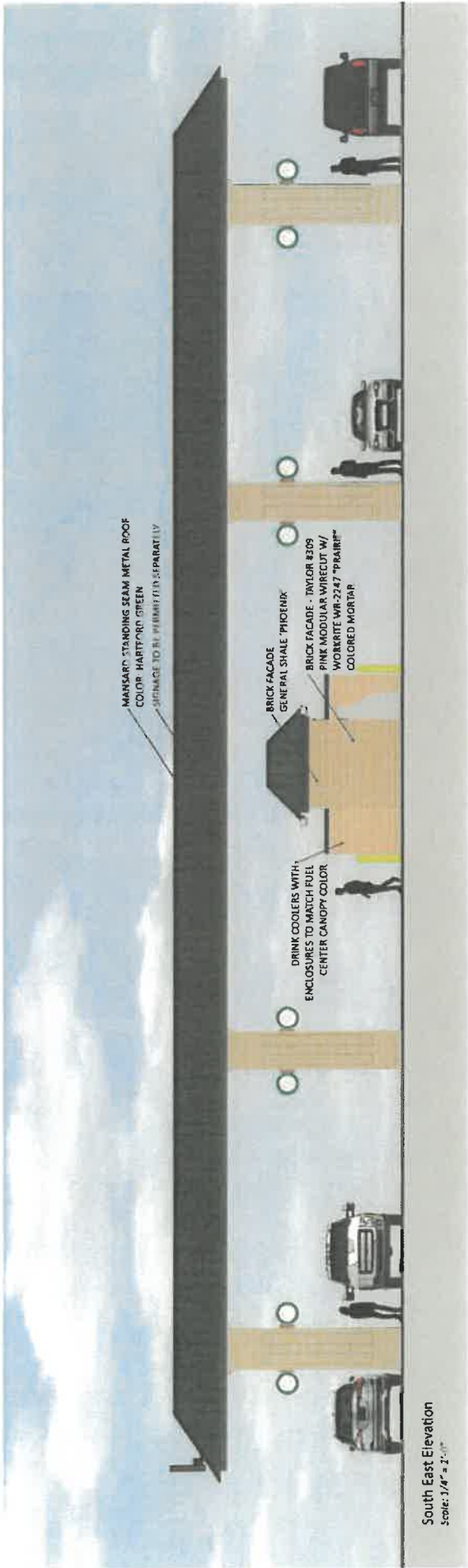


South West Elevation  
Scale: 1/4" = 1'-0"

## Harris Teeter Fuel Center - Newport News

Newport News, VA - Store #6





# Harris Teeter Fuel Center - Newport News

Newport News, VA - Store #6