

Meeting Date: March 25, 2025

Item No. 6

PLAN COMMISSION REPORT

Proposal: Conditional Use Permit with Conditions and Restrictions Description: Review a request for a Conditional Use Permit with conditions and restrictions for a drive-through. Applicant(s): Nathan Schmidt, Harwood Engineering Consultants, Ltd 8767 S. Howell Avenue (6th Aldermanic District) Address(es): Suggested That the Plan Commission recommends that the Common Council approves a Motion: Conditional Use Permit for a drive-through on the property at 8767 S. Howell Ave. after a public hearing and subject to Conditions and Restrictions. Owner: ENDF3DK, LLC. 859-9046-000 Tax Key: Lot Size: 1.633 acres Current Zoning B-4, General Business District: Overlay District: N/A Wetlands: ⊠ No ☐ No Floodplain: ☐ Yes Commercial Comprehensive Plan:

Background: The applicant is requesting a recommendation for approval of a Conditional Use Permit for a drive-through on the property at 8767 S. Howell Avenue. The property is to be occupied by Buona Beef restaurant and Rainbow Cone ice cream shop. The property is zoned B-4 General Business, which allows drive-throughs as a Conditional Use.

The proposed building, according to the concept plan, will be approximately 4,772 square feet and includes a drive-through. The plan features two (2) drive-through lanes, each with its own menu board. The speakers or intercoms associated with the drive-through will be designed to ensure they are not audible beyond the boundaries of the property. Stacking spaces and lanes for the drive-through stations will not interfere with on- or off-street traffic, nor will they pass through off-street parking areas or drive aisles. These lanes will

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not obstruct pedestrian access to public building entrances. Additionally, the drive-through lanes will be separated from off-street parking areas, and each lane will be clearly striped, marked, or otherwise delineated. The drive-through lanes will have a capacity for 18 vehicles in the queue. There will also be four (4) food queuing spaces on the east side of the building for customers awaiting their orders. A bypass lane for the drive-through is proposed south of the drive-through lanes.

The proposed hours of operation are Sunday through Thursday from 10:30 AM to 10:30 PM, and Friday through Saturday from 10:30 AM to 11:00 PM. The estimated number of employees is 40, with a maximum of 20 employees on-site at any given time. The estimated number of customers per hour is 33, totaling 396 customers per day and 2,774 customers per week. The maximum number of customers during a one-hour time frame would be 95, meaning fewer customers would be in the building at any given time. The facility has 84 interior seats, and customers may also be waiting in line. The Applicant estimates that 39% of customers will be ordering via the drive-through.

The proposed restaurant requires three (3) parking spaces for every 250 square feet of gross floor area. Based on this requirement, a total of 57 parking spaces would be needed on-site. The Applicant is proposing 58 parking spaces, including three (3) handicapped accessible spaces.

If the Commission determines the proposed Conditional Use meets the requirements of the Municipal Code, a public hearing may be scheduled as early as May 6, 2025. Staff has also prepared Conditions and Restrictions for review (attached). An approval of the Conditional Use Permit, along with Conditions and Restrictions, does not constitute approval of a site plan and architectural review. A separate site plan and architectural review approval will be required.

Options/Alternatives: The Plan Commission has the discretion to recommend or not recommend Common Council approval of the Conditional Use Permit request. Should the request not be recommended for Council approval, Plan Commissioners must provide the Code Sections upon which the denial is based, and the Applicant may choose to request Council approval without recommendation. In that case, the Council would have the authority to approve the request, and remand the proposal back to the Plan Commission for Conditions and Restrictions.

Respectfully submitted & approved by:

Kristi Laine

Community Development Director

Kristin Saine

Prepared by:

Todd Roehl Senior Planner

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Draft Conditions and Restrictions (3 pages)

Location Map

Narrative (3 pages)

Site and Building Plans (8 pages)

City of Oak Creek – Conditional Use Permit (CUP) Conditions and Restrictions

Applicant: Nathan Schmidt, Harwood Engineering Consultants, Ltd

Property Address: 8767 S. Howell Avenue

Tax Key Number(s): 859-9046-000 Conditional Use(s): Drive Through **Recommended by Plan Commission: TBD**

Approved by Common Council: TBD

(Res. TBD)

1. REQUIRED PLANS, EASEMENTS, AGREEMENTS AND PUBLIC IMPROVEMENTS

- A. All requirements of the City of Oak Creek Municipal Code, as amended, are in effect.
- B. Any plans for new buildings, additions, exterior remodeling, site modifications, and landscaping shall be submitted to the Plan Commission for their review and approval prior to the issuance of any building permits. The approval of the Conditional Use, along with these Conditions and Restrictions, does not constitute approval of a site plan and architectural review. A separate site plan and architectural review approval will be required.
- C. For any new buildings, additions, structures, and site modifications, site grading and drainage, stormwater management, and erosion control plans shall be submitted to the City Engineer for approval, if required. The City Engineer's approval must be received prior to the issuance of any building permits.
- D. A Development Agreement shall be completed between the owner(s) and the City if deemed necessary by the City Engineer so as to ensure the construction or installation of public or other improvements required, and/or as specified by these Conditions and Restrictions.
- E. All new electric, telephone and cable TV service wires or cable shall be installed underground within the boundaries of this property.

A. SITE & USE RESTRICTIONS, MAINTENANCE & OPERATION REQUIREMENTS

- A. Only the uses approved in accordance with these Conditions and Restrictions is allowed. Other uses permitted by the zoning district, in accordance with other applicable Sections of the City of Oak Creek Municipal Code and these Conditions and Restrictions, are also allowed.
- B. The drive through use shall meet all drive-through accessory use standards and requirements as stated in Section 17.0414(g) (as amended) of the Municipal Code.
- C. Hours of operation must remain within the hours of 10:30 AM and 10:30 PM Sunday through Thursday, and 10:30 AM and 11:00 PM Friday through Saturday.
- D. The maximum number of vehicles allowed in que at the drive through must not exceed 18 at any given time.
- E. Any change to the occupancy of the site or building shall conform to all Building, Fire, and

Municipal Code requirements (as amended).

F. Removal of snow from off-street parking areas, walks, public sidewalks, private roads and access drives shall be the responsibility of the landowner(s).

3. <u>BULK AND DIMENSIONAL STANDARDS</u>

Bulk and dimensional standards shall comply with Chapter 17, Article III of City Municipal Code (as amended)

4. PARKING AND ACCESS

- A. Parking for this development shall be provided in accordance with Sections 17.0501, 17.0502, and 17.0503 of the Municipal Code (as amended).
- B. That the cross access and maintenance agreement dated March 10, 2025 between 8767 S. Howell Avenue and 8725 S. Howell Avenue be recorded by the Milwaukee County Register of Deeds and a copy be provided to the Community Development Department.

5. LIGHTING

Any plans for new or replacement outdoor lighting shall be reviewed and approved by the Plan Commission and Electrical Inspector in accordance with Section 17.0509 of the Municipal Code (as amended).

6. SIGNAGE

A permit shall be required prior to the display, construction, erection, or alteration of any proposed sign(s). All signs must comply with Chapter 17, Article VI of the City Code and applicable sections of the building code as adopted by the City. (as amended)

7. PERFORMANCE STANDARDS

The use must comply with performance standards as stated in Section 17.0510 of Municipal Code (as amended)

8. TIME OF COMPLIANCE

The operator of the Conditional Use shall commence work in accordance with these Conditions and Restrictions within twelve (12) months from the date of adoption of the resolution authorizing this Conditional Use. This Conditional Use approval shall expire within twelve (12) months after the date of adoption of the resolution if building or occupancy permits have not been issued for this use.

9. OTHER REGULATIONS

Compliance with all other applicable City, State, DNR and Federal regulations, laws, Code, ordinances, and orders, as amended, not heretofore stated or referenced, is mandatory.

10. VIOLATIONS & PENALTIES

Any violations of the terms of this Conditional Use Permit shall be subject to enforcement and the issuance of citations in accordance with Section 1.20 of the City of Oak Creek Code of Ordinances (as amended). If the owner, applicant or operator of the Conditional Use Permit is convicted of two or more violations of these Conditions and Restrictions or any other municipal ordinances within any 12-month period, the City shall have the right to revoke this Conditional Use Permit, subject to the provisions of Paragraph 11 herein. Nothing herein shall preclude the City from commencing an action in Milwaukee County Circuit Court to enforce the terms of this Conditional Use Permit or to seek an injunction regarding any violation of this Conditional Use Permit or any other City ordinances.

11. REVOCATION

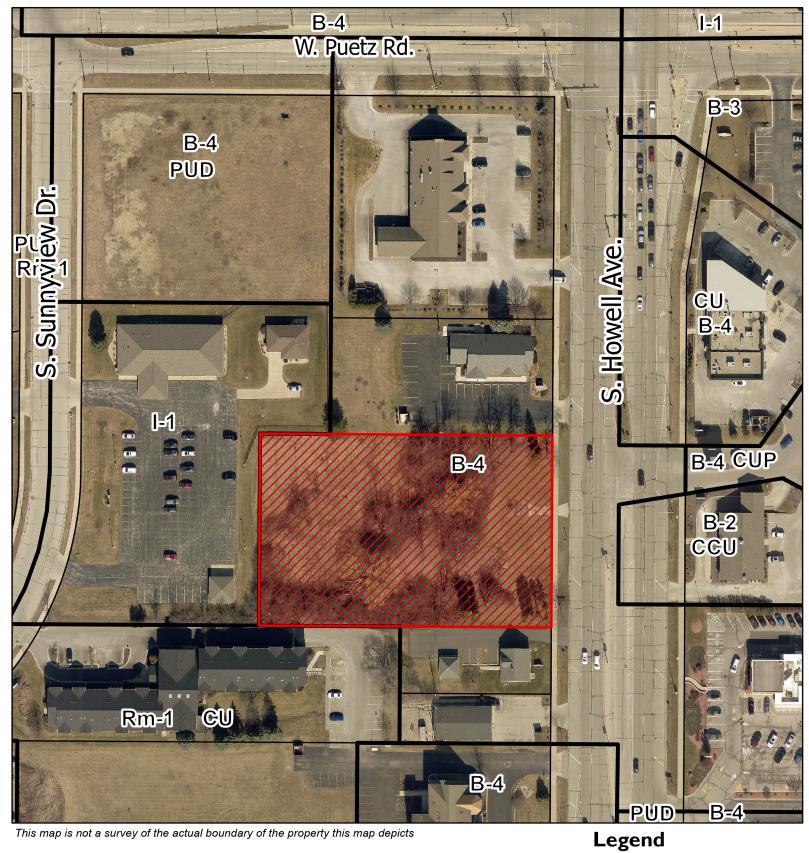
Should an applicant, their heirs, successors or assigns, fail to comply with the Conditions and Restrictions of the approval issued by the Common Council, the Conditional Use Permit approval may be revoked. The process for revoking an approval shall generally follow the procedures for approving Conditional Use Permit as set forth in Section 17.0804 of the Municipal Code (as amended).

12. ACKNOWLEDGEMENT

The approval and execution of these Conditions and Restrictions shall confirm acceptance of the terms and conditions hereof by the owner, and these Conditions and Restrictions shall run with the property unless revoked by the City, or terminated by mutual agreement of the City and the owner, and their subsidiaries, related entities, successors and assigns subject to Paragraph 11 above.

| Property Owner / Authorized Representative Signature | Date | |
|--|------|--|
| (please print name) | | |

Location Map 8767 S. Howell Ave.



This map is not a survey of the actual boundary of the property this map depicts



0.01 0.03 Miles 0

Zoning

FloodFringe2024

- - Official Street Map - Floodway2024

□ Parcels

Ν

22 8767 S. Howell Ave.







City Of Oak Creek

Project: Proposed Buona and Rainbow Cone restaurant with Drive Thru at 8751 S

Howell Ave.

Date: 3/6/25

RE: Conditional Use Permit

1. Business description/narrative

The proposed project is located at 8751 S Howell Ave. on 1.64 acres. Stormwater management facilities to serve the development will be provided on the north side of the site. We are requesting a conditional use permit for the drive through. Our use as well as the patio seating is permitted within the B4 zoning district. The proposed 4,772 square foot Buona Beef restaurant and Rainbow Cone Ice Cream shop with a drive-through facility (with two menu boards and capacity for 18 vehicles in the que) and outdoor dining (see number 9 below for additional information on customer mix). This building is designed to create a family environment dining experience and will provide for new dining options and employment opportunities for the community. The development will also contribute to the growth of the municipal tax base, through increased sales tax and increased real estate taxes. The development is proposed to begin construction in the Summer 2025 as soon as all approvals are received.

The site provides curb parking lot with 58 parking spaces (including 3 handicapped accessible parking spaces.) There are an additional 4 food que spaces on the east side of the building to wait to get your made to order food. Food is brought out the employee only door that is at the southeast corner of the building. The northeast door is the main door to the Buona order point and the door in the middle of the north side of the building leads customers to the order point for Rainbow Cone. Each has their own patio area that matches their brand colors. The doors on the west and southwest are to the mechanical rooms and employee use for taking out the trash and accepting deliveries. The enclosure on the west end of the building screens the freezer / cooler unit as well as the trash bins. This has been located behind the building screening it from view from Howell Avenue. Per WisDOT response we will be providing cross access with neighboring property to the north so we can obtain full access onto Howell Avenue. The driveway access will be coordinated with the neighbor and an operating easement agreement (OEA) will be put in place to cover things like cross access easement, maintenance, etc.

The majority of the building follows the Buona Beef branding that has a meat district feel with the dark brick, corrugated metal (less than 40%) and iron. The trim is either dark bronze or black. The area next to the Rainbow Cone entrance follows the branding colors for Rainbow Cone and has silver trim. There is a medium alamo brick between the two that helps blend the

building together. See material lists on the attached elevations and see attached renderings and pictures for better idea on the color pallet. Attached floor plan helps explain the flow of the building as well as all the articulations. Building has a flat roof with parapets that are high enough to block the view of the HVAC equipment. The parapets are raised at the two public entrances with the highest one on the corner towards the public road. There are canopies at the two public entrances as well as over the Rainbow Cone patio area.

2. Typical hours of operation

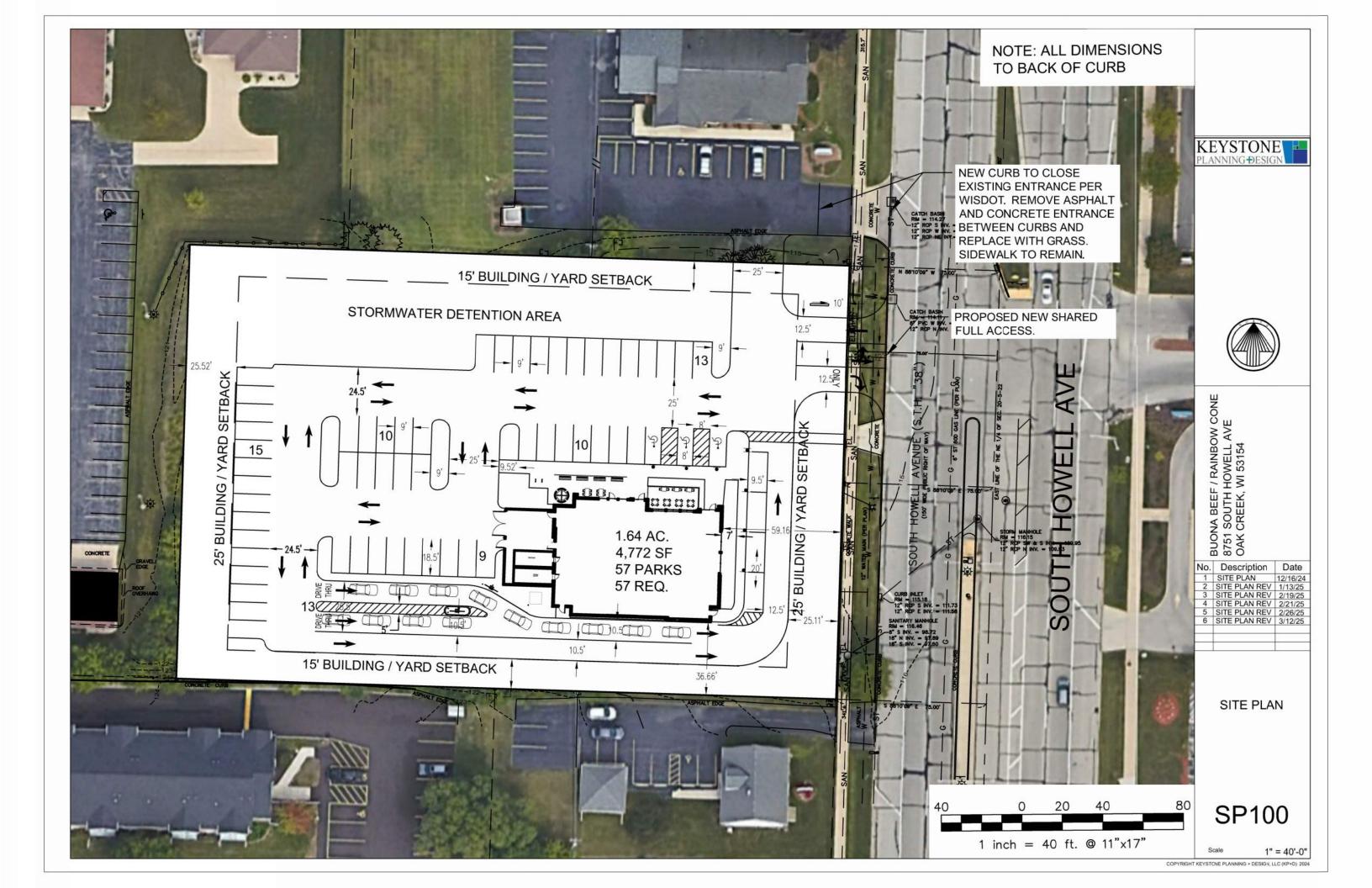
Monday10:30 AM-10:30 PMTuesday10:30 AM-10:30 PMWednesday10:30 AM-10:30 PMThursday10:30 AM-10:30 PMFriday10:30 AM-11 PMSaturday10:30 AM-11 PMSunday10:30 AM-10:30 PM

- 3. The estimated number of employees is 40, and max employees on site at any given time is 20
- 4. The estimated number of customers per hour 33, per day 396, per week 2,774, and the maximum we had at three example locations during a one hour time frame was 95 so at any given time less than this would be in the building. There are 84 interior seats and people could be waiting in line as well.
- 5. Parking calculations (required vs proposed) 4,772 sf /1000 x12 (12 spaces per 1,000 sf for restaurant) = 57.264 so 57 spaces required and 58 proposed.
- 6. See attached traffic study that provides the traffic volume. Also see attached response from WisDOT on our traffic submittal.
- 7. Please see attached exemption letter from the state and ADJ letter from USACE showing they do not have jurisdiction over the man-made wetlands on the site.
- 8. Visuals Please see attached site plan, building layout, elevations, renderings and picture of existing location interior and exterior.
- 9. Customer Mix:
 - a. Dine In 20%
 - b. Drive Thru 39%
 - 1. Typical stacking is 8 cars
 - 2. Typical Max number of cars is 10-12 (note within the first couple months of opening this can be more up to the max amount of 18 cars that can fit within the drive through, was able to efficiently layout drive through entrance at rear of property that would allow 6 additional stacking spaces north of the drive through entrance if necessary during busy first couple of months without impacting access to any of the 58 parking spaces, there are usually plenty of empty parking spaces as well with only 20% of the volume being dine in customers)
 - c. Takeout 20% (either orders place in store and eaten off premises or ordered online and picked up in the restaurant)

- d. Delivery 14%
- e. Catering 7% (either picked up in store or delivered)

Sincerely,

Eric Pedersen, PE, LEED AP Keystone Planning + Design





SHEET NAME COVER SHEET DRAWING INDEX, GRAPHIC SYMBOLS AND **ABBREVIATIONS** CLIENT RESPONSIBILITY MATRIX RENDERINGS RENDERINGS 1ST FLOOR EGRESS PLAN AND CODE SUMMARY 1ST FLOOR EGRESS PLAN AND CODE SUMMARY Copy 1 ARCHITECTURAL SITE PLAN TRASH ENCLOSURE MENUBOARD MONUMENT SIGN AND TYPICAL DETAILS ARCHITECTURAL FOUNDATION PLAN ARCHITECTURAL SHELL PLAN **ROOF PLAN** EXTERIOR ELEVATIONS + EXTERIOR MATERIALS EXTERIOR ELEVATIONS + EXTERIOR MATERIALS STOREFRONT ELEVATIONS BUONA 3D BUILDING SECTIONS **BUILDING SECTIONS** WALL SECTIONS WALL SECTIONS ENTRY CANOPY EXTERIOR SIGN PACKAGE EXTERIOR SIGN PACKAGE EXTERIOR SECTION DETAILS EXTERIOR PLAN DETAILS - FRAMING TYPICAL MANUFACTURER DETAILS ROOF DETAILS COLOR ELEVATIONS (FOR REFERENCE ONLY) ARCHITECTURAL FLOOR PLAN INTERIOR DIMENSION PLAN ARCHITECTURAL CENTERLINE PLAN REFLECTED CEILING PLAN FLOOR FINISH PLAN WALL FINISH PLAN INTERIOR ELEVATIONS INTERIOR ELEVATIONS INTERIOR ELEVATIONS ENLARGED BATHROOMS INTERIOR CEILING DETAILS POS MILLWORK DETAILS FINISH SCHEDULES DOOR SPECIFICATIONS LIGHT FIXTURE SCHEDULE xA104CA | FIELD FOUNDATION + PL LOCATIONS GENERAL NOTES FOUNDATION PLAN FRAMING PLAN S300-420 STRUCTURAL ELEVATIONS & SECTIONS M100-102 MECHANICAL NOTES M103-105 MECHANICAL DETAILS M106-111 MECHANICAL SCHEDULES & CAPTIVEAIRE REFERENCE M201-302 GAS PLANS & DETAILS E100-104 ELECTRICAL NOTES, SCHEDULES, DETAILS E300-302 | ELECTRICAL POWER PLANS E401-ES1 ELECTRICAL ROOF & SITE POWER PLANS

DRAWING INDEX

ARCHITECT OF RECORD



KEYSTONECONSTRUCTLLC.COM / DESIGN

KEYSTONE CONSTRUCT, LLC

GENERAL CONTRACTOR

418 CLINTON PL. RIVER FOREST 60305

ENGINEERS OF RECORD

| No | | |
|----|--------------|----------------|
| • | Description | Date |
| | ISSUE FOR XX | MM/DD/20 23 |
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| | G00 | \cap |

DRAWING INDEX

STOREFRONT AND EXTERIOR FINISH

TYPICAL ACCESSIBILITY DETAILS

DRIVE-THRU DETECTOR-LOOP &

TYPICAL ACCESSIBILITY NOTES AND

P100-107 PLUMBING NOTES, SCHEDULES, RISERS,

DETAILS

Unnamed

Unnamed

SCHEDULE

WALL SECTIONS

GENERAL NOTES

CLEARANCE-BAR

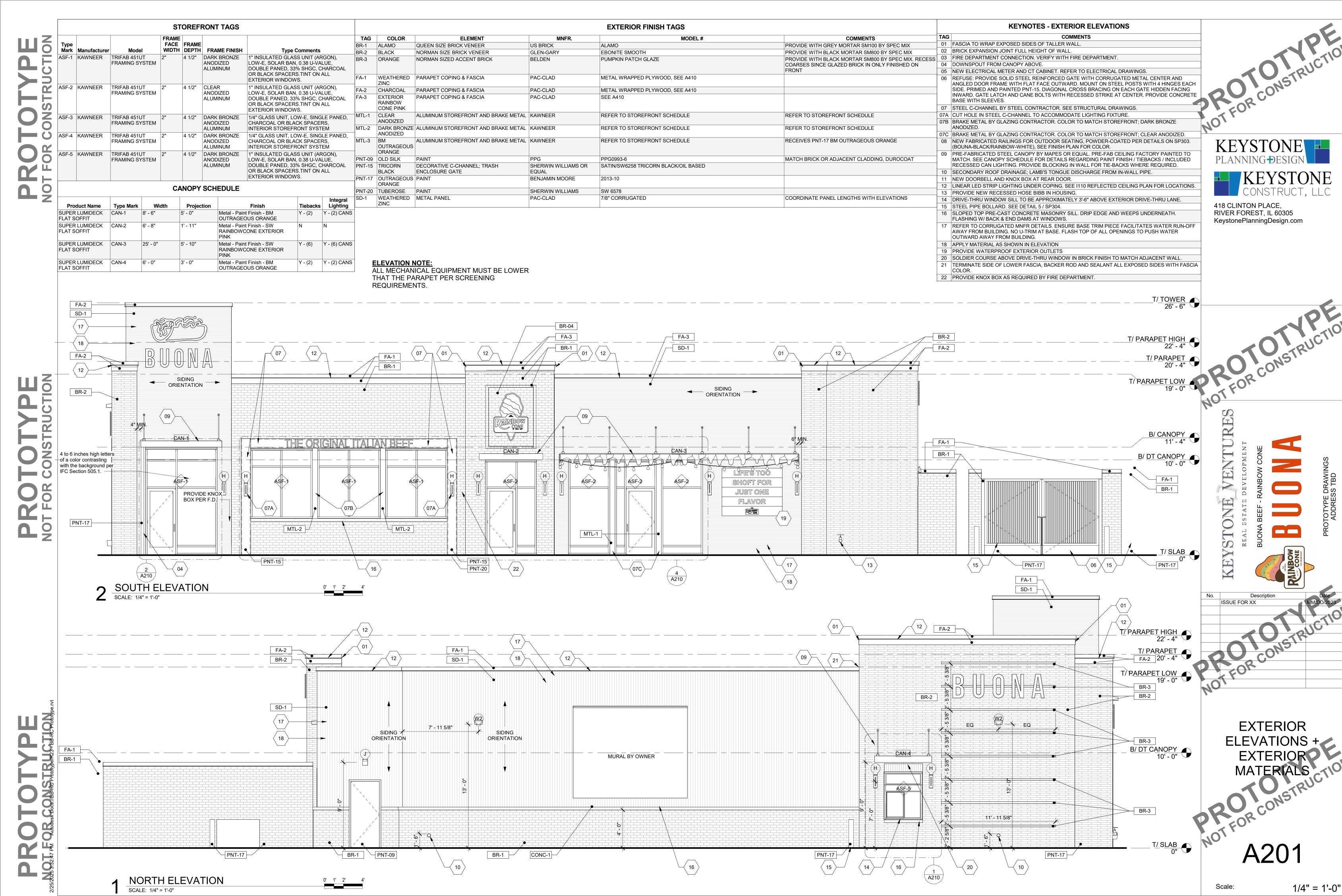
SP303 RAILINGS

INTERIOR ELEVATIONS

SHEET NAME

NO.

A105



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PROTOTYPE DRAV ADDRESS TBI

SUPER LUMIDECK | CAN-4

FLAT SOFFIT

Metal - Paint Finish - BM

OUTRAGEOUS ORANGE

2 WEST ELEVATION

SCALE: 1/4" = 1'-0"

EAST ELEVATION

SCALE: 1/4" = 1'-0"

Y - (2) Y - (2) CANS



T/ TOWER FA-2 SD-1 FA-2 FA-2 BR-2 BR-2 FA-2 3' - 0 3/8" 45' - 3 5/8" _2' - 11 5/8" BR-3 11' - 11 5/8" 6' - 11 5/8" B/ DT CANOPY PNT-17 BR-3 PNT-09 BR-1 T/ SLAB - MTL-2

ALL MECHANICAL EQUIPMENT MUST BE LOWER

THAT THE PARAPET PER SCREENING

REQUIREMENTS.

T/ PARAPET LOW 19' - 0" SIDING ORIENTATION SIDING ORIENTATION BR-2 KNOX BOX

FA-1

3 Elevation 2 - a

SCALE: 1/4" = 1'-0"

ANGLED DOOR FRAME WITH FLAT FACE OUTWARD. MOUNT ON STEEL POSTS WITH 4 HINGES EACH SIDE. PRIMED AND PAINTED PNT-15. DIAGONAL CROSS BRACING ON EACH GATE HIDDEN FACING INWARD. GATE LATCH AND CANE BOLTS WITH RECESSED STRIKE AT CENTER. PROVIDE CONCRETE

KEYNOTES - EXTERIOR ELEVATIONS

20 SOLDIER COURSE ABOVE DRIVE-THRU WINDOW IN BRICK FINISH TO MATCH ADJACENT WALL.

21 TERMINATE SIDE OF LOWER FASCIA, BACKER ROD AND SEALANT ALL EXPOSED SIDES WITH FASCIA

18 APPLY MATERIAL AS SHOWN IN ELEVATION

19 PROVIDE WATERPROOF EXTERIOR OUTLETS

22 PROVIDE KNOX BOX AS REQUIRED BY FIRE DEPARTMENT.

COMMENTS

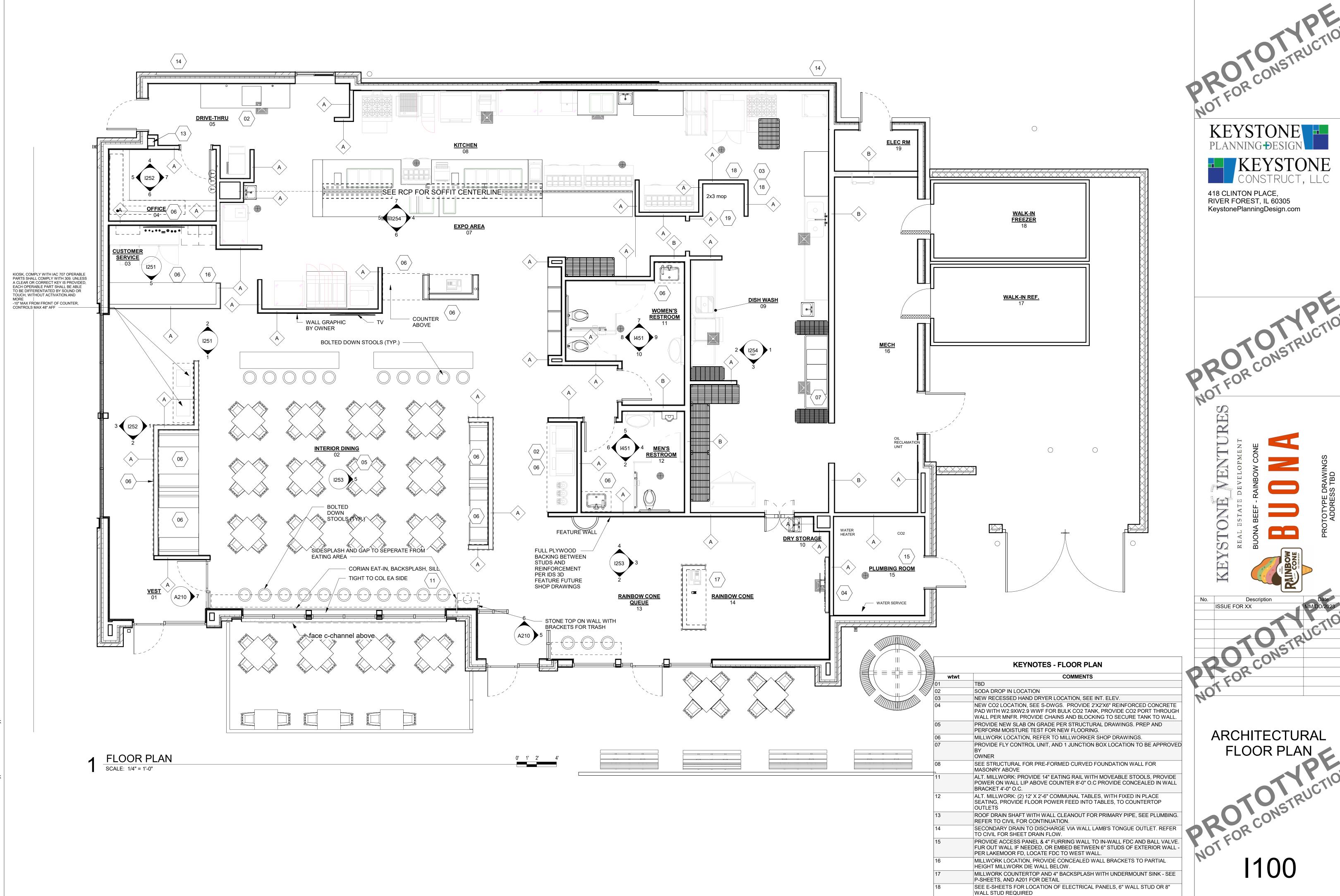
418 CLINTON PLACE, RIVER FOREST, IL 60305

KeystonePlanningDesign.com

EXTERIOR ELEVATIONS

A202

1/4" = 1'-0"



1/4" = 1'-0"

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MOB BASIN- MS-1 24"X48" MUSTEE 65M MOP BASIN



VIEW FROM NORTH WEST



VIEW FROM NORTH EAST



VIEW FROM WEST PARKING LOT



VIEW FROM WEST PARKING LOT



BUONA

ILAGO'S ODIGINAL ITALIAN DEED



REAL ESTATE DEVELOPMENT

PRESENTS

3UONA + RAINBOW CONE

PLEASANT PRAIRIE, WI

Description Date

IFZ 11/22/22

RENDERINGS

G050



EXAMPLE INTERIORS











