

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2022-00165**



REQUEST:

This is a request for an Administrative Interpretation regarding the proposed demolition and reconstruction of a financial institution and nonconforming drive-through facility located at 701 E 400 S and 373 S 700 E (subject property). The subject property is within the TSA-UN-T (Transit Station Urban Neighborhood Transition Area) zoning district. Financial Institutions are permitted within this zoning district; however, drive-through facilities are prohibited. Cecilia Uriburu of Prescott Muir Architects, representing the property owner, Zions First National Bank, has requested the following interpretation:

[Section 21A.38.040.H.5.c](#) of the Salt Lake City Zoning Ordinance states that if a property owner voluntarily demolishes “75% or more of the perimeter wall length and area dimensions of the exterior walls and/or total floor area of a structure, the structure shall not be restored.” The use of the subject property is a financial institution with an accessory drive-through facility. Would the proposed demolition (as part of the remodel plans included with Attachment A) maintain the existing drive-through use on the subject property?

DECISION:

The Zoning Administrator has made the following decisions pursuant to the findings below.

1. The financial institution and the associated drive-through facility must be considered two separate functions when determining the modifications that would be allowed per the nonconforming use regulations in the Salt Lake City Zoning Ordinance. A financial institution is permitted in the TSA-UN-T zoning district; therefore, demolition, new construction, or improvements to the existing building associated only with the financial institution use are not limited by the nonconforming use regulations.
2. The drive-through is a nonconforming use in the zoning district and accessory to the financial institution. Therefore, *complete demolition* of the financial institution (meaning a demolition of more than 75% of its total wall perimeter or floor area, [as defined in the Salt Lake City Zoning Ordinance](#)) would discontinue the legal-nonconforming status of the drive-through because the associated principal use would be voluntarily razed as described in section [21A.38.040.H.5.c](#)
3. Modifications to the drive-through to the accessory drive-through that are listed in Sections [21A.38.040.H.2](#) and [21A.38.040.H.5.c](#) of the Salt Lake City Zoning Ordinance could be permitted (as long all other relevant zoning standards are satisfied) if the principal structure containing the financial institution were not to undergo a *complete demolition as defined in the Salt Lake City Zoning Ordinance* and voluntarily razed (per [21A.38.040.H.5.c](#)).

FINDINGS:

Existing Conditions

A bank with a drive-through currently sits on the subject property. Constructed in 1964, the circular building (and the drive-through kiosk) was one of Zions Bank’s first locations that included an automated drive-through window—a use that continues today. The property is located within the TSA-UN-T (Urban Neighborhood Transitional Transit Station Area) Zoning

District. The [stated purpose of the Transit Station Area districts](#) is “to provide an environment for efficient and attractive transit and pedestrian oriented...development around transit stations. Redevelopment, infill development and increased development on underutilized parcels should include uses that allow them to function as part of a walkable, Mixed Use District.” Financial institutions (which includes banks, see the definition in [21A.62.040](#)) are permitted in all TSA districts. However, the Table of Permitted And Conditional Uses For Transit Station Area Districts (found in [21A.33.035](#)) explicitly prohibits financial institutions with drive-through facilities in the TSA-UN-T district—which aligns with the adopted purpose statement for TSA districts within the City. However, because it has remained in operation since before the property was placed within the TSA-UN-T district, the drive-through is allowed to continue as a [Nonconforming Use](#)—a use that legally existed before the current regulations were adopted.

Applicant’s Submittal and Proposal

As part of their submittal, the applicants provided plans that illustrate how they wish to redevelop the bank on the property and retain the drive-through. The submitted plans show that a new building would entirely replace the existing 2,543-square-foot principal structure and that 562 (or 74%) of the adjacent 760-square-foot drive-through canopy would be demolished and rebuilt.

The applicant has asked for an interpretation regarding the demolition of nonconforming uses. [Section 21A.38.040.H.5.c](#) of the Salt Lake City Zoning Ordinance states that a nonconforming use cannot continue if a property owner voluntarily demolishes “75% or more of the perimeter wall length and area dimensions of the exterior walls and/or total floor area of a structure.” The submitted memo assumes that the financial institution and drive-through are considered separate uses and proposes a partial demolition of the drive-through canopy in an attempt to maintain the nonconforming use. The applicants would like to know if they have correctly interpreted the above standard and if their proposal would preserve the nonconforming drive-through.

Identifying the Nonconforming Use

While the Table of Permitted and Conditional Uses for Transit Station Area Districts (Section [21A.33.035](#), Salt Lake City Zoning Ordinance) prohibits financial institutions with drive-throughs in the TSA-UN-T district, stand-alone financial institutions are permitted, and section [21A.40.060.B.2](#) of the Zoning Ordinance states, “*Drive-through facilities may be authorized as accessory uses to permitted uses or conditional uses as listed on the tables of permitted and conditional uses set forth in part III of this title*” (emphasis added). This implies that, even though a “Financial Institution with drive-through facility” is listed as a specific use in the land use tables, the drive-through facility is a separate use/function because it is defined as an accessory use in the Accessory Use chapter of the Zoning Ordinance. Therefore, the Financial Institution and the drive-through facility are considered separate uses/functions for the purpose of determining how much of the existing structures need to remain to maintain the drive-through facility.

Accessory and Principal Uses

Even though the drive-through is considered a separate use/function according to section [21A.40.060.B.2](#) (as discussed above), it is still accessory to the financial institution. An accessory use, [according to section 21A.62.040 of the zoning ordinance](#), is “a use that:

- A. *Is subordinate in area, extent and purpose to, and serves a principal use;*
- B. *Is customarily found as an incident to such principal use;*
- C. *Contributes to the comfort, convenience or necessity of those occupying, working at or being serviced by such principal use;*
- D. *Is, except as otherwise expressly authorized by the provisions of this title, located on the same zoning lot as such principal use; and*
- E. *Is under the same ownership or control as the principal use.”*

If the financial institution use were to be voluntarily razed (as described in section [21A.38.040.H.5.c](#)), the accessory drive-through use would be discontinued since it would no longer *serve, contribute to, or be located on the same zoning lot as a principal use*. Accessory uses must be associated with a principal use if they are to be permitted on a property. *Complete demolition* of the financial institution would discontinue the nonconforming drive-through.

Complete Demolition

The Salt Lake City Zoning Ordinance defines a complete demolition as “*Any act or process that destroys or removes seventy five percent (75%) or more of the exterior walls and/or total floor area of a structure, improvement or object*” (see [21A.62.040](#)). This means that the accessory drive-through use can only continue if at least 25% of the total floor area of the structure containing the principal use remains. “Total floor area” is not explicitly defined in the zoning ordinance, but “*gross floor area*” is used in the zoning regulations to determine the size of an establishment or building.

Gross Floor Area is the “...horizontal area of all floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area of a building shall include basement floor area, penthouses, attic space having headroom of seven feet (7') or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses” (see [21A.62.040](#)). Based on this definition, the floor area includes all building floors, including the basement. This means that 25% of the combined area of both the existing horizontal floor structure of the main story *and* the basement of the principal structure would need to be preserved to avoid a complete demolition. Simply constructing a new building over 25% of the original building’s footprint will not be enough to evade a complete demolition.

The nonconforming accessory drive-through use could only be preserved if the principal structure does not undergo a complete demolition. As proposed in the plans submitted by the applicant, the principal use would be *completely demolished* and voluntarily razed (per [21A.38.040.H.5.c](#)). Therefore, the accessory use (the drive-through) would not be able to continue. If the principal financial institution use did not undergo a complete demolition, then modifications to the facilities associated with the drive-through that are permitted in section [21A.38.040.H.5](#) would not discontinue the accessory use (as long as all other relevant zoning standards are satisfied).

If you have any questions regarding this interpretation, please contact Aaron Barlow at 801-535-6182 or email at aaron.barlow@slcgov.com.

APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning

Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <http://www.slcgov.com/planning/planning-applications>, along with information about the applicable fee. Appeals may be filed in person or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT	US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT, 84114-5417
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NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

Dated this 28th day of April, 2022 in Salt Lake City, Utah.



Aaron Barlow
Principal Planner

Attachments:

- A. Memo and Site Plan submitted by Applicant

cc: Nick Norris, Planning Director
Mayara Lima, Zoning Administrator
Casey Stewart, Development Review Supervisor
Posted to Web
East Central Community Council

MEMO

DATE: 04.17.22

PROJECT: Zions Bank
701 E 400 S
Salt Lake City, Utah 84101

TO: Department of Community and Neighborhoods
Salt Lake City Corporation

ATTN: Aaron Barlow, Principal Planner, Salt Lake City Corporation

CC: Nick Norris, Director, Salt Lake City Corporation
Paul Poorte, Zions Bank

FROM: Jay Lems

RE: Administrative Interpretation

Mr. Barlow,

We are writing concerning the property owned by Zions Bank (Owner) located at 701 East 400 South, Salt Lake City, UT (subject property). Our office is working on behalf of Zions Bank to assess remodel and new development improvement options permitted for this property.

The subject property is in the TSA-UN-T zoning district.

The subject property currently includes an existing Financial Institution Building with Drive-through Facility. Pursuant with 21A.33.035 Table of Permitted and Conditional Uses for Transit Station Area Districts, Financial Institution Buildings are a permitted use within this zoning district; however Financial Institution Buildings with Drive-through Facilities are not permitted in this district.

The existing Financial Institution Building consists of open and enclosed office areas, meeting rooms, teller line with customer service stations, work rooms, storage and filing areas. The existing non-conforming Drive-Through Facility consists of a stand-alone structure with steel columns, overhead canopy, and five drive-through service lanes located adjacent to the existing building. It should be noted that the drive-through facility is structurally independent and separate from the existing building. The existing building does include a drive-through service window utilized by the drive-through lane closest to the building.

As stated above, Financial Institution Buildings with Drive-through Facilities are not permitted in this district. Although 21A.40.060.B.2 states that "Drive-through facilities may be authorized as accessory uses to permitted uses or conditional uses as listed on the tables of permitted and conditional uses set forth in Part III of this title." Pursuant with 21A.33.035 Table of Permitted and Conditional Uses for Transit Station Area Districts, accessory uses are permitted within this zoning district. Whereas Financial Institution Buildings with Drive-through Facilities is listed as a specific land use in the land use tables, the drive-through facility is a separate use/function as it is defined as an accessory use in the Accessory Use Chapter 21A.40.

Consideration of the financial institution building and drive-through facility as two separate functions when determining allowable modifications pursuant with the nonconforming use regulations is consistent with prior Salt Lake City Administration Interpretation Decisions and Findings PLNZAD2017-00608, shared by Aaron Barlow.

As the existing building provides functions other than drive-through service and the existing building and drive-through facility are independent structures, the Owner is proposing to demolish the existing financial institutional building, which is a permitted use, and construct a new financial institution building located closer to the street corner, complying with current zoning district regulations. **Refer to request for administrative interpretation #1 below.**

While the Owner would prefer to also demolish the existing non-conforming drive-through facility and construct a new drive-through facility, we do not believe the current zoning district regulations under 21A.38.040.H.5 allow the non-conforming drive-through facility to be restored if demolished greater than 75%.

Alternatively, the Owner is proposing to remodel the existing non-confirming drive-through facility, which may include demolishing less-than 75% of the total floor area of the structure and restoring the structure pursuant with 21A.38.040.H.5.c; and possibly enlarging the existing drive-through facility up to 25% of the structure's gross floor area (or up to 1,000 gross square feet) pursuant with 21A.38.040.H.2.

The existing drive-through facility gross floor area as defined by the overhead canopy area, totals 760 square feet. Under the provisions of 21A.38.040.H.2, the drive-through facility may be increased in size as follows: $760 \text{ SF} \times 1.25 = 950 \text{ SF}$. **Refer to request for administrative interpretation #2 below.**

Request for administrative interpretations:

Interpretation #1:

Please confirm that Financial Institution Buildings and Drive-through Facilities may be considered two separate functions; thereby allowing demolition and construction of a new financial institution building to not be limited by the nonconforming use regulations.

Interpretation #2:

Please confirm that the existing drive-through facility may remain and be remodeled to include demolishing less-than 75% of the total floor area of the structure and restoring the structure pursuant with 21A.38.040.H.5.c; and enlarging the existing drive-through facility up to 25% of the structure's gross floor area (or up to 1,000 gross square feet) pursuant with 21A.38.040.H.2.

Proposed Improvements:

Existing Financial Institution and Drive-through Facility Areas:

Existing Financial Institution Building area:

2,543 SF Ground Floor
2,543 SF Basement

Existing Drive-through Facility Floor Area:

760 SF

Total Existing Financial Institution and Drive-through Facility Area: 5,846 SF

Areas proposed to be demolished:

Existing Financial Institution Building area to be demolished:

2,543 SF Ground Floor
2,543 SF Basement

Existing Drive-through Facility Floor Area to be demolished:

$760 \text{ SF} \times 74\% = 562 \text{ SF}$

Areas proposed to be constructed and restored:

New Financial Institution Building area to be constructed:

4,200 SF Ground Floor

Existing Drive-through Facility Floor Area to be restored and enlarged:

562 SF (74%) of the existing 760 SF to be restored

25% of the 760 existing SF to be expanded (760 SF x 25%) = 190 SF

760 SF + 190 SF = 950 SF Total Drive-through Facility Floor Area

Total Existing Financial Institution and Drive-through Facility Area: 5,150 SF

We request that you review our understanding of the zoning ordinance regulations described above, and confirm that the interpretations, and proposed demolition, restoration and new construction building areas are permitted within the current zoning district regulations for the subject property.

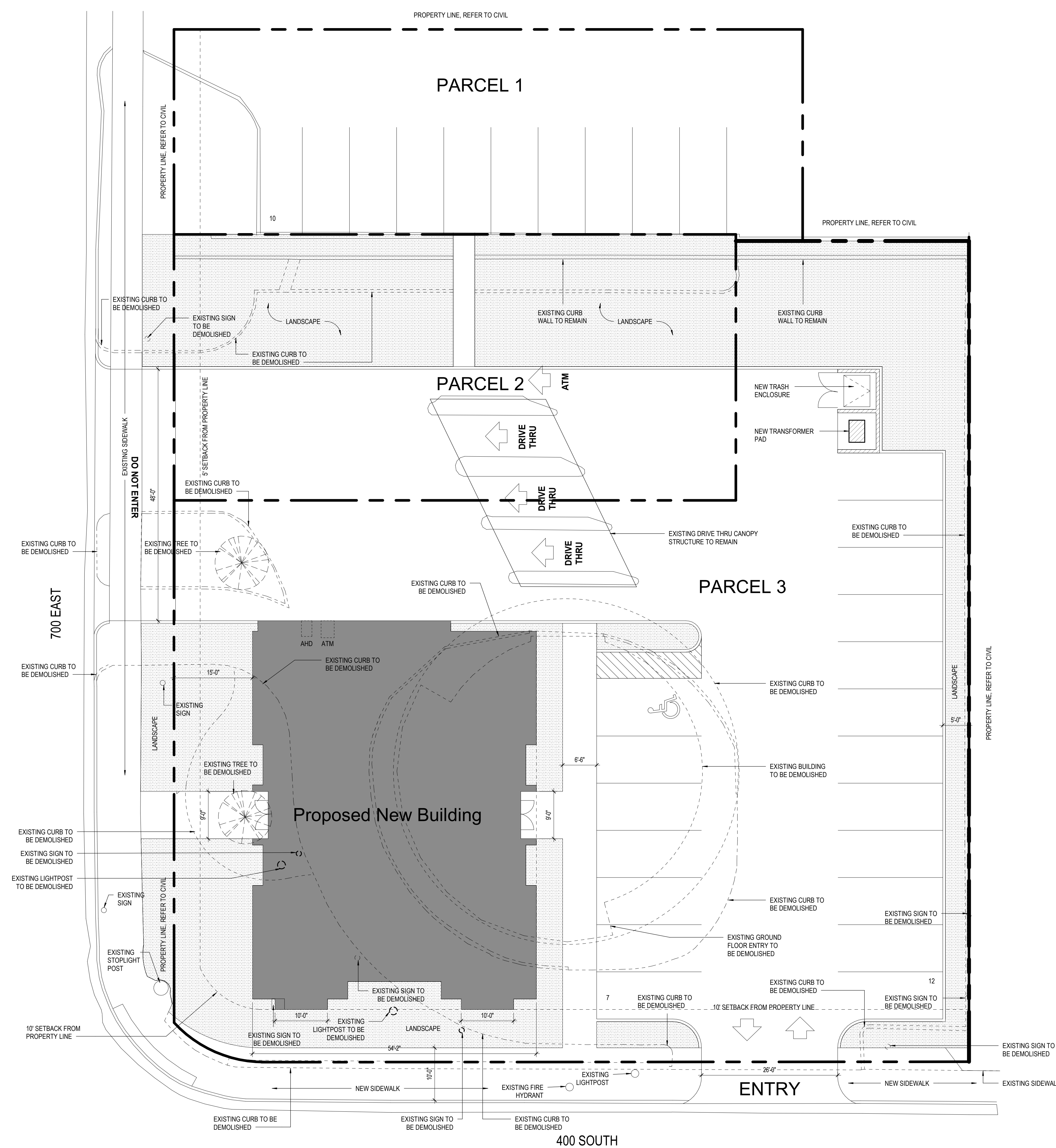
Sincerely,



Jay Lems
Prescott Muir Architects

Attachments:

- Architectural Site Plan Drawing dated 04.17.22.



ARCHITECTURAL SITE PLAN OPTION 1
 1" = 10'-0"

EXISTING BUILDING:	
GROUND FLOOR:	2,543 SF
BASEMENT:	2,543 SF
DRIVE THRU:	760 SF
TOTAL EXISTING FLOOR AREA:	5,846 SF
AREA PROPOSED TO BE DEMOLISHED:	
GROUND FLOOR	2,543 SF
BASEMENT	2,543 SF
EXISTING DRIVE-THROUGH FACILITY FLOOR AREA TO BE DEMOLISHED	760 SF X 74% = 562 SF
NEW FINANCIAL INSTITUTION BUILDING AREA TO BE CONSTRUCTED	4,200 SF
EXISTING DRIVE-THROUGH FACILITY FLOOR AREA TO BE RESTORED AND ENLARGED	
562 SF (74%) OF THE EXISTING 760 SF TO BE RESTORED	
25% OF THE 760 EXISTING SF TO BE EXPANDED (760 SF X 25%)= 190 SF	
760 SF + 190 SF =950 SF TOTAL DRIVE- THROUGH FACILITY FLOOR AREA	
TOTAL EXISTING FINANCIAL INSTITUTION AND DRIVE-THROUGH FACILITY AREAS	5,150 SF

SHEET NO. **A01.1**
 DATE: 04.16.22
 DRAWN BY: JF
 PROJECT NO.: 21088
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