



BOARD OF ZONING APPEALS STAFF REPORT

To: Members of the Board of Zoning Appeals

From: Tom Vander Woude, Planning Director

Meeting Date: March 8, 2022

Agenda Item: BZA Docket No. 22-003

Hearing: **PRELIMINARY HEARING**

Summary: Feras Musleh of 821 Main Street LLC requesting approval of a variance from *Table 26-6.4050-1* to allow a reduction in the required parking spaces for a restaurant at 821 Main Street.

Applicant: Feras Musleh of 821 Main Street LLC

Property Address: 821 Main Street

Current Zoning: CD-4.A General Urban A Character District

Adjacent Zoning: North: CD-4.A
South: Town of Dyer
East: SD-PUD
West: CD-4.A

Action Requested: Schedule Public Hearing

Additional Actions Required: Hold Public Hearing
Findings of Fact

Staff Recommendation: **Schedule Public Hearing**

Attachments: BZA 22-003 variance application
821 Main Street Site Plan prepared by Torrenga Engineering LLC dated 01.26.2017
Dominos Munster 841 Main Street Site Plan prepared by Kenneth Munguia Arellano Architect dated 12.21.2021

BACKGROUND

Feras Musleh of 821 Main Street LLC has submitted an application for approval of a variance from Table 26-6.4050-1 to allow a reduction in the required parking spaces for a restaurant at 821 Main Street. The applicant is seeking to lease 1,390 square feet in the building at 821 Main Street to a Dominos Pizza restaurant. The address of the tenant space is 841 Main Street.

The proposed Dominos Pizza will have no tables. All business will be carry-out or delivery.

The other tenants in the building are the Anytime Fitness gym and Nutrition on Main, a health food store. The strip center contains 47 on-site parking spaces. The existing tenants are currently using 39 of the required spaces. The Munster zoning ordinance requires an additional 27 spaces for the proposed restaurant. The variance is requested to reduce the required parking by 19 spaces.



Figure 1: Subject property highlighted in blue.

DISCUSSION***On-Site Parking***

The following table shows the breakdown of parking requirements required by zoning ordinance *Table 26-6.405O-1*.

Tenant	Parking Ratio	Floor Area	Required Parking Spaces
Anytime Fitness	4.5 spaces per 1,000 SF of total gross floor area	8810	33
Nutrition on Main	4.5 spaces per 1,000 SF of total gross floor area	1390	6
Dominos Pizza	5 spaces for each 250 SF of total gross floor area	1390	27
Total Required			66
Total On-site			47
Required Variance			19

On-Street Parking

Munster zoning ordinance Section 26-6.405.O-1.c.2 permits on-street parking spaces adjacent to the frontage line on the same side of the Thoroughfare as the lot to be counted toward the minimum required parking. Staff notes that the subject property is accessed by Main Street and by a private internal road network. There is no public parking along Main Street. The internal roads are platted as ingress-egress easements. They are built to the width of a Munster residential street (29' from curb to curb), which can accommodate parallel parking on both sides. It is not clear though whether parking is permitted on these streets, but if on-street parking is permitted, another approximately 12 spaces would be available, reducing the variance request to 7 spaces.

Total Required	66
Total On-site	47
Approximate on-street	12
Required Variance	7

VARIANCE STANDARDS

The variance process is established to provide relief to a property owner when, due to unique circumstances, compliance with the zoning code imposes a hardship or practical difficulty on a property owner. The BZA is under no obligation to grant a variance. It is the petitioner's responsibility to prove a hardship or practical difficulty. The BZA should ask the petition to address the criteria listed below.

Sec. 26-6.804.I of the Munster Zoning Code states that the basis for a variance is as follows:

g. General Standards.

A Variance may be granted only if the Decision-Making Authority has made the following determinations for such Variance:

- i. the practical difficulties or unnecessary hardships that would be incurred by strict application of the Use or Development standard, as applicable, are unique and not shared by all properties in the vicinity and are not self-imposed;
- ii. such Variance is the minimum Variance that will relieve such practical difficulties or unnecessary hardships, as applicable;
- iii. such Variance is in the spirit of the general purposes and intent of this Article as stated in Division 1; and
- iv. such Variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood, District, or Civic Zone, the conservation of property values in the vicinity, and the guidance of Development in accordance with the Comprehensive Plan.

h. Specific to Development standards Variances:

A Variance from Development Standards may be approved or approved with conditions only if:

- i. it will not be injurious to the public health, safety, morals, and general welfare of the community;
- ii. the use and value of the area Adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- iii. the strict application of the Development standards will result in practical difficulties in the use of the property.

The applicant has addressed these criteria in the attached application.

RECOMMENDATION

The Board of Zoning Appeals may wish to consider the following motion:

Motion to schedule a public hearing for BZA Docket No. 22-003.



Petition BZA _____ - _____

Date: _____

Application Fee: \$ _____

Sign Fee: \$ _____

Town of Munster Board of Zoning Appeals Petition Application

OWNER INFORMATION:

821 Main Street LLC

219-746-1041

Name of Owner

Phone Number

584 N. Indiana Ave., Crown Point, IN 46307

ferasmusleh@yahoo.com

Street address, City, ST, ZIP Code

Email address

APPLICANT OR PETITIONER INFORMATION (if different than above):

Name of Applicant/Petitioner

Phone Number

Street address, City, ST, ZIP Code

Email address

PROPERTY INFORMATION:

821 Main Street LLC

Business or Development Name (if applicable)

821 Main Street, Munster, Indiana 46321

CD-4.A

Address of Property or Legal Description

Current Zoning

APPLICATION INFORMATION:

Please select what this Application is for:

☒ **Variance**

If yes, select one of the following:

☐ Use ☒ **Developmental Standards**

☐ **Conditional Use**

☐ **Administrative Appeal**

Brief Description of Project and List of Variances or Conditional Uses Being Requested (if applicable):

Dough Management, Inc. is a Dominos Pizza franchisee ("Dominos") and intends to rent an end unit (841 Main St.) from the property owner, 821 Main Street LLC. Dominos is famous for making pizza pies for pickup and delivery. Dominos will utilize a delivery driver and store to deliver pizzas to the public.

Presently, the parking does not conform to the Town of Munster's zoning ordinance for a restaurant. Dominos space is 1400 sq. ft. and therefore requires 23 spaces. Were it not a restaurant, only 6 spaces. That's an extra 17 spaces for pizza pickup and delivery.

Petitioner seeks a variance from that ordinance, specifically Table 26-6.405.O-1 and its accompanying text.

KENNETH ARELLANO (ARCHITECT)

219-331-5971

Name of Registered Engineer, Architect or Land Surveyor

Phone Number

5610 MULBERRY AVE, PORTAGE, IN 46368

kmunguiaa55@aol.com

Street address, City, ST, ZIP Code

Email address



Petition BZA _____ - _____

Town of Munster Board of Zoning Appeals Application Signature Page

I hereby authorize Feras Musleh to act on my behalf as my agent in this petition and to furnish, upon request, supplemental information in support of this petition application.

Feras Musleh 2/18/22
Signature of Owner Date

Feras Musleh 2/18/22
Signature of Applicant Date

DEVELOPMENTAL VARIANCE CONDITIONS OF APPROVAL

The Munster Board of Zoning Appeals is authorized to hear petitions for developmental standards variances and to approve or deny. The Board of Zoning Appeals may also impose reasonable conditions and restrictions. Indiana Code 36-7-4-918.5 lists the legal criteria for a developmental standards variance:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

821 Main Street in Munster is presently zoned to accommodate businesses that serve the local community, including the residences nearby. Presently there is a vitamin shop, and a fitness shop. It would benefit the neighborhood to have a Pizza Delivery place near that has a long history of serving communities across the country.

Dominos will serve the people of Munster delicious pizza. The nature of the business is such that people who want Dominos order it knowing it's for delivery or pick up. The parking needs of each Domino's customer is very short term. The facility suits a short term use of spots to pick-up a pizza. Too, pizza delivery customers do not require parking at all.

There will be no dine in tables at this Dominos, only pick up or delivery. It is expected that delivery will be 60% of the business. Delivery drivers are in and out quickly and most of their time is spent on the road. Pizza pick-up is expected to be 40% of the business. Most customers order online and prepay, so they are in and out of the store very quickly. Domino's actually has a 2 minute guarantee once they arrive to get the customer out quickly.

Allowing Dominos to serve pizza to people using what is currently available for short term parking from the existing 49 spaces will not harm the community in any way.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Explain why this statement is true in this case:

CVS is adjacent to this property. There is nothing that will affect the that property because the parking configuration will not change. CVS customers will not be affected by the Dominos customer traffic in any substantially adverse way. Again, the majority of customers for Dominos will come and go from the restaurant in a very short period of time.

Allowing Dominos to locate at this property utilizing the current parking configuration will not adversely affect the residences nearby. Residence traffic on the East is prevented from accessing the Dominos because there is a curb. Traffic will enter primarily from Main street.

For these reasons, allowing Dominos to serve people pizza using what is needed for short term parking from the existing 49 spaces will not adversely affect the neighbors.

-
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Explain why this statement is true in this case:

821 Main Street is a commercial property designed in line with the Town of Munster's plans for the area. The owner strives to provide businesses that serve the community in ways that are harmonious with a modern lifestyle. Providing pizza to the residents provides a good low cost food option to the area.

From a practical perspective, Dominos customers need parking for a far shorter period of time than a non-food establishment. Yet, the ordinance requires an extra 17 spaces which is not feasible for the lot size of the property.

Strictly requiring 5 parking spaces for every 300 sq ft of space will result in a practical difficulty for the property owner. Despite the property being zoned for commercial use, it cannot fully use the property for a take out pizza business.

Attach additional pages if necessary



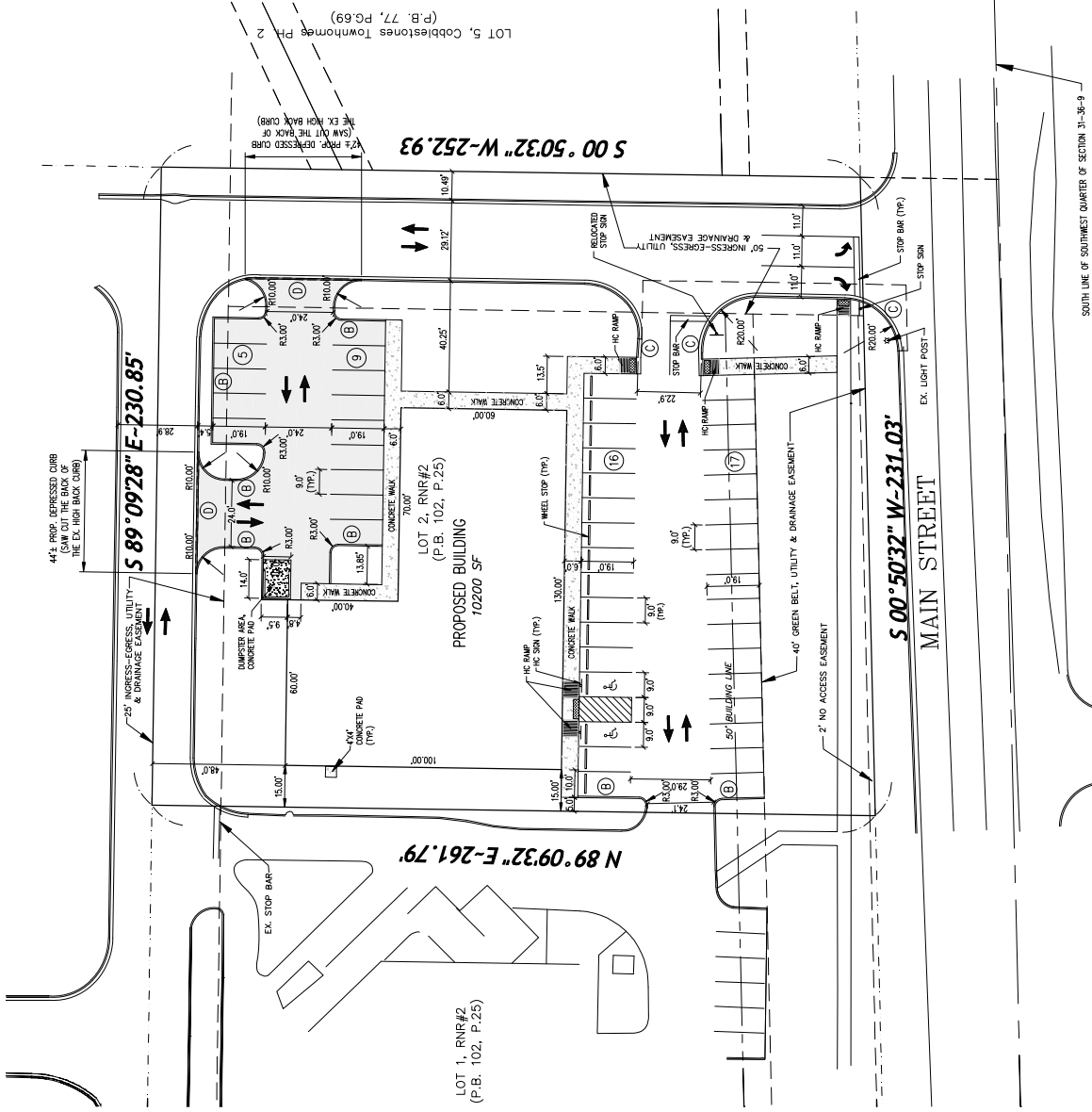
TORRENCE ENGINEERING, INC.
CONSULTING ENGINEERS & LAND SURVEYORS
907 RIDGE ROAD, MUNSTER, INDIANA 46321
Website: www.torrenge.com

821 MAIN STREET
TOWN OF MUNSTER, IN. 46321
SITE PLAN

DATE: 07-25-2016
REVISIONS:
09-13-2016
12-06-2016
12-28-2016
01-26-2017

CLIENT:
821 Main Street LLC
821 N. Hudson Avenue
Crown Point, Indiana 46307
Fras Muth

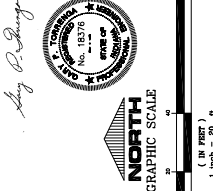
SHEET
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LEGEND:

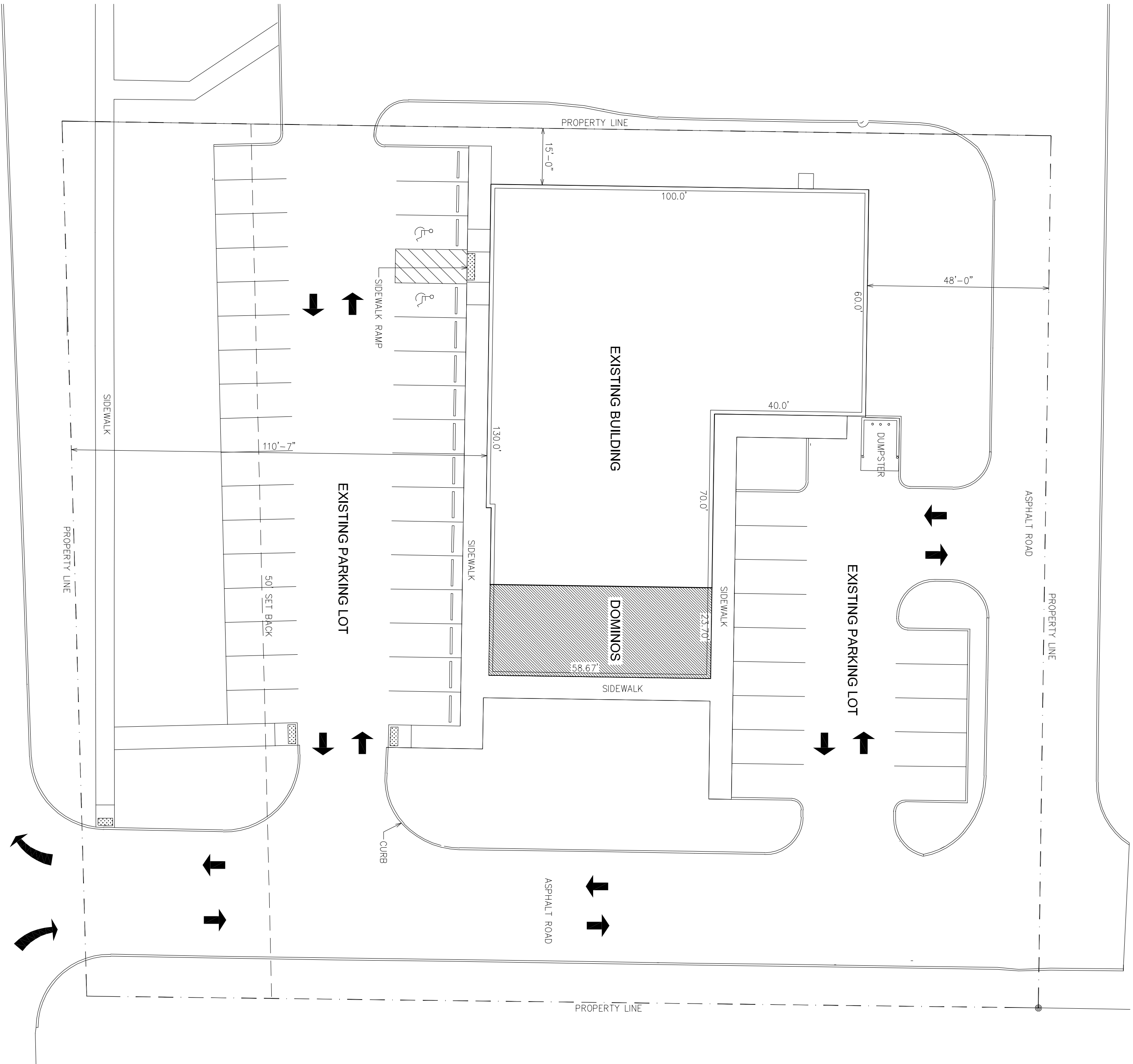
- PROPOSED
- TRAFFIC FLOW
 - CONCRETE
 - PAVEMENT
 - BARRIER CURB
 - HIGH BACK CURB & GUTTER
 - SAWCUT BACK OF EXISTING CURB

- NOTES:
- SEE ARCHITECTURAL PLANS FOR ACTUAL DETAILS & DIMENSIONS OF THE PROPOSED BUILDING.
 - CURRENT ZONING: C1 - COMMERCIAL
 - TOTAL SITE AREA = 1.364 AC.
 - REQUIRED PARKING: 4.5 SPACES FOR EACH 1000 SF OF FLOOR AREA
TOTAL FLOOR AREA = 102,000 SF
(102,000/1000) X 4.5 = 46 SPACES REQUIRED
PROPOSED PARKING:
REGULAR PARKING = 46 SPACES (9' X 19')
TOTAL = 46 SPACES
 - REQUIRED GREEN AREA: 7.15% OF 26,406 SQ. FT. = 1981 SQ. FT.
PROPOSED GREEN AREA = 5,533 SQ. FT.



DOMINOS MUNSTER

841 MAIN STREET, MUNSTER INDIANA 46321



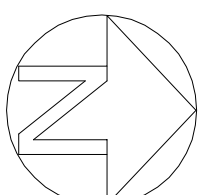
MAIN STREET

SITE PLAN

SCALE 1"=20'-0"

NOTES

- 1). DIMENSIONS ARE APPROXIMATE
- 2). TOTAL EXISTING BUILDING AREA = 10,141 SF

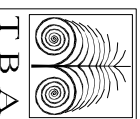


CODE INFORMATION

- 1- EXISTING CONSTRUCTION TYPE V.B. REM
- 2- OCCUPANCY B. (Section 303.303.1.1)
- 3- EXISTING TOTAL AREA "DOMINOS RESTAURANT" =1 286 SQUARE FEET
- 4- OCCUPANT LOAD 266 SQ.FT/ 15 SQ.FT/OCCUPANT=17 OCCUPANTS

GENERAL NOTES:

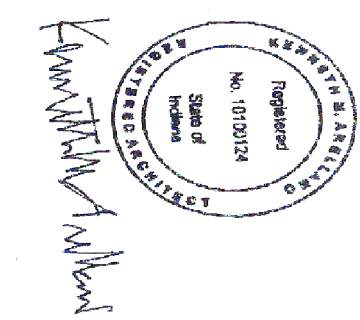
- 1). ALL LABOR AND MATERIALS SHALL CONFORM TO ALL FEDERAL, STATE AND LOCAL BUILDING CODES, INDUSTRY STANDARDS AND MANUFACTURERS SPECIFICATIONS.
- 2). CONTRACTOR TO BE RESPONSIBLE FOR MAINTAINING A SAFE AND CLEAN SITE TO AVOID INJURY OR DAMAGE TO PEOPLE, MATERIALS AND BUILDINGS.
- 3). CONTRACTOR TO PERFORM ALL WORK REQUIRED TO COMPLETE WORK AS AWARDED, TO FURNISH ALL LABOR, TOOLS, MATERIALS, EQUIPMENT, TRANSPORTATION, SERVICES, BOWLS, INSURANCE AND WARRANTIES REQUIRED TO COMPLY WITH ALL CITY, STATE AND FEDERAL REQUIREMENTS IN A WORKMAN-LIKE AND TIMELY MANNER.
- 4). CONTRACTOR SHALL EXAMINE SITE AND DRAWINGS AND BE RESPONSIBLE FOR EXISTING AND ON-GOING SITE CONDITIONS AND COORDINATION OF ABOVE.
- 5). ALL LABOR AND MATERIALS WILL BE SUBJECT TO ARCHITECT APPROVAL BASED ON PLANS, SPECIFICATIONS AND STANDARD CONSTRUCTION PRACTICES.
- 6). DRAWINGS ARE MEANT TO BE USED TO SELECT APPROXIMATE EXISTING CONDITIONS AND NOT SCALE DRAWINGS.
- 7). ALL DIMENSIONS ON STRUCTURAL DRAWINGS TO BE CHECKED AGAINST ALL EXISTING AND PROPOSED ARCHITECTURAL AND MECHANICAL CONDITIONS. ANY DISCREPANCIES ARE TO BE IMMEDIATELY REPORTED TO THE ARCHITECT.
- 8). ALL DETAILS, SECTIONS AND NOTES ON DRAWINGS ARE TYPICAL UNLESS NOTED AS OTHERWISE.
- 9). DRAWINGS ARE NOT INTENDED TO BE USED AS SHOP DRAWINGS, DETAILING OR CONSTRUCTION UNLESS OTHERWISE STAMPED.
- 10). WRITTEN ARCHITECT APPROVAL MUST BE OBTAINED FOR ALL CHANGES AND ADDITIONS.
- 11). ALL DRAWINGS REMAIN THE PROPERTY OF THE ARCHITECT.
- 12). INFORMATION CONTAINED IN THE STRUCTURAL DRAWINGS ARE INCOMPLETE AND VOID UNLESS USED IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS AND ALL SPECIFICATIONS, TRADE PRACTICES, ACCEPTABLE CODES AND STANDARDS, ETC. INCORPORATED THEREIN BY REFERENCES WHICH THE CONTRACTOR CERTIFIES TO HAVE READ AND UNDERSTOOD.
- 13). KNOWLEDGE OF BY SIGNING CONTRACT, THE CONTRACTOR CERTIFIES THAT HE OR SHE HAS READ AND UNDERSTOOD THE DRAWINGS, SPECIFICATIONS AND CONDITIONS AND SHALL NOT CONTINUE WITHOUT THE ARCHITECT WRITTEN APPROVAL.
- 14). THE CONTRACTOR SHALL PAY FOR ALL PERMITS, LICENSING, AND/OR LEGAL FEES INCURRED IN SECURING LOCAL PERMISSION TO START CONSTRUCTION.
- 15). ALL FLAT AND STRUCTURAL CONCRETE WORK TO BE 3500 PSI, 5 1/2 BAG MIX UNLESS OTHERWISE SPECIFIED.



KENNETH MUNGUIA ARELLANO
ARCHITECT

PROJECT TITLE
DOMINOS MUNSTER
821 MAIN STREET, MUNSTER INDIANA 46321

SCALE 1/4"=1'-0"	DRAWN KMA	TITLE SHEET
DATE 12/21/2021		



SHEET
A