



BOARD OF ZONING APPEALS STAFF REPORT

To: Members of the Board of Zoning Appeals

From: Tom Vander Woude, Planning Director

Meeting Date: June 8, 2021

Agenda Item: BZA Docket No. 21-008

Hearing: **PRELIMINARY HEARING**

Application Type: Conditional Use Permit

Summary: Parth Patel requesting approval of a conditional use permit for an outdoor dining patio at a proposed Smoothie King at 830-8138 Calumet Avenue.

Applicant: Parth Patel

Property Address: 8130-8138 Calumet Avenue

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

Adjacent Zoning: North: CD-4.A
South: CN Railroad
East: CD-4.A
West: CD-3.R2

Action Requested: Schedule public hearing

Additional Actions Required: Recommendation to the Town Council
Findings of Fact
Town Council Approval

Staff Recommendation: **Schedule public hearing**

Attachments: BZA 21-008 Conditional Use Permit Application application
ALTA Survey Plan prepared by Landmark Engineering LLC dated 03-12-2021
Smoothie King, Munster, IN Site Plan prepared by Landmark Engineering LLC dated 05-28-2021
Conceptual renderings of Smoothie King prepared by domenella Architects ltd. dated 05-27-21

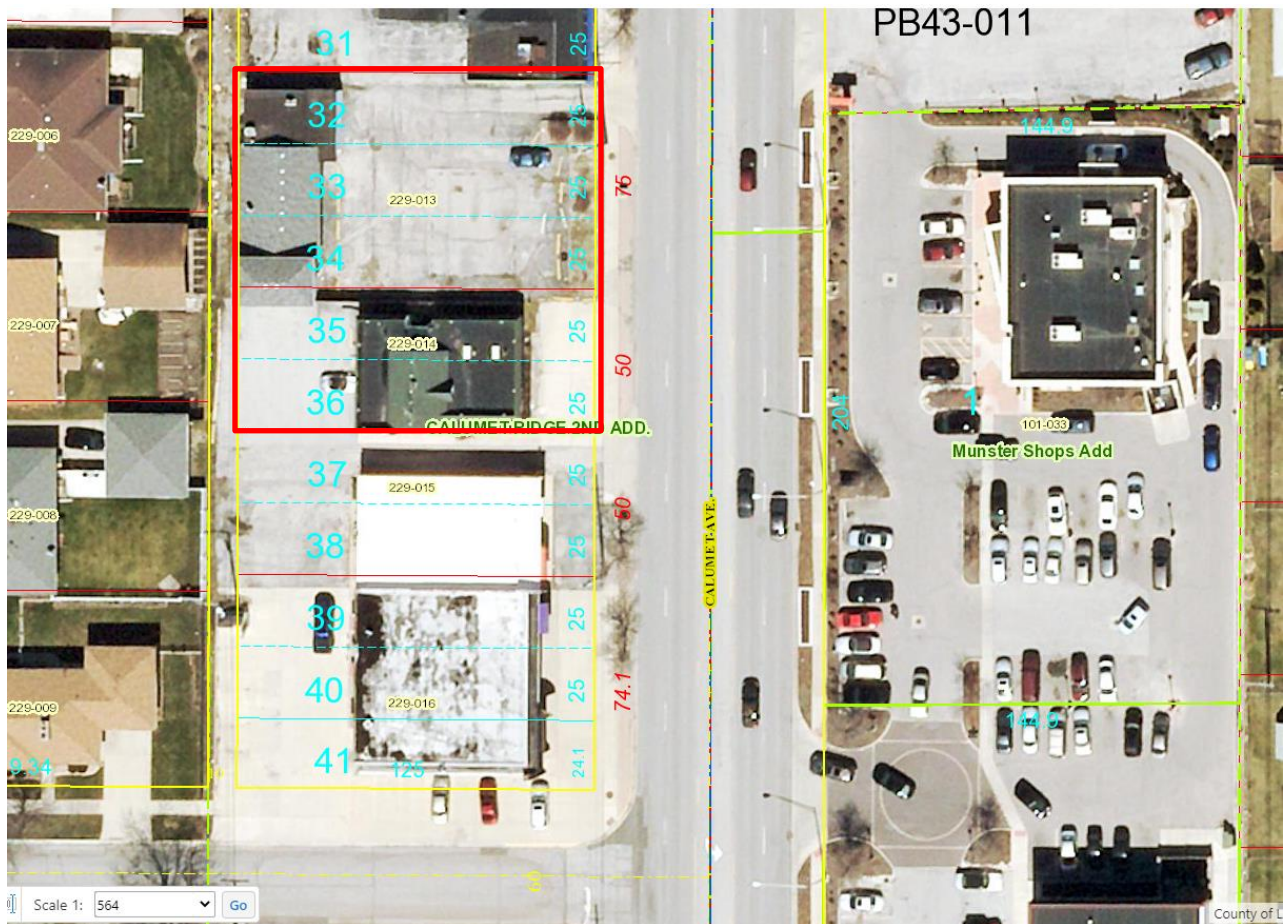


Figure 1: Subject property outlined in red

BACKGROUND

Parth Patel is seeking to acquire two parcels located at 8130 and 8138 Calumet Avenue to redevelop as a Smoothie King drive-through. The subject parcels are currently owned by Bruce Boyer. The proposed development includes a 1,483 square foot building with an attached roofed patio and a drive-through. The developer has presented a draft site plan and is seeking a conditional use permit for a proposed 300 square foot outdoor dining patio along Calumet Avenue. The patio has been added to the site plan primarily to widen the building façade to meet the minimum 60% frontage buildout requirement of the CD.4-A zoning district.

The applicant has applied for parking and curb cut variances and for a conditional use permit for a drive through. The project will also require Plan Commission approval of a development plan and Plan Commission approval of a subdivision consolidating the two parcels.

DISCUSSION

Table 26-6.405.A-6 classifies outdoor dining as a Conditional Use in the CD-4.A district.

The outdoor dining area is proposed to be only 9 feet in depth and has been added to the plan primarily as an architectural feature to satisfy the zoning code standards for frontage buildout. The applicant has stated that he expects this Smoothie King to serve about 80 customers per day and approximately 80% of that business will be drive-through. Overall, 95% of the orders will be carry out (drive through and pick up and go), leaving only 5% as dine-in.

The patio will not be served by waitstaff and will have minimal furniture. The patio will be roofed and protected by limestone knee walls and brick columns.

Conditional Use Criteria for Approval

Sec. 26-6.405.L.g of the Munster Municipal Code states that no conditional use shall be granted by the board of zoning appeals unless the conditional use:

- i. It is in fact a Conditional Use ("CU") listed for the applicable Zoning District involved;
- ii. It will be harmonious with and in accordance with the general and specific intent, purposes and objectives of this Article as stated in Section 26-6.105 and the Town's Comprehensive Plan;
- iii. It will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
- iv. It will not be hazardous or disturbing to existing neighboring uses;
- v. It will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- vi. It will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;
- vii. It will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- viii. It will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- ix. It will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

The following additional conditions apply to an outdoor dining use.

A Restaurant with Outdoor Dining must meet the following requirements when visible from the public right-of-way

I. The Outdoor Dining area may encroach the public right of way only if it leaves clear at least a 4' clear walkway.

II. Outdoor dining furniture must be made of aluminum, stainless steel, painted metal, or durable finished wood.

III. Any umbrellas or sunshades must be made of canvas.

RECOMMENDATION

A public hearing is required for consideration of a conditional use request. The granting of a hearing is required upon submittal of a complete application.

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

Motion to schedule a public hearing for BZA Docket No. 21-008.



Petition BZA _____ - _____

Date: _____

Application Fee: \$ _____

Sign Fee: \$ _____

Town of Munster Board of Zoning Appeals Petition Application

OWNER INFORMATION:

Bruce Boyer of MC-8130 LLC

Name of Owner

219-924-9922

Phone Number

9901 Express Dr., Highland, IN, 46322

Street address, City, ST, ZIP Code

bruce@boyerconstruction.com

Email address

APPLICANT OR PETITIONER INFORMATION (if different than above):

Parth Patel

Name of Applicant/Petitioner

708-299-8427

Phone Number

12821 Division St Blue Island IL 60406

Street address, City, ST, ZIP Code

parth7436@yahoo.com

Email address

PROPERTY INFORMATION:

Drive Thru Smoothie King Munster

Business or Development Name (if applicable)

8130-38 Calumet Ave, Munster IN

Address of Property or Legal Description

CD-4A

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):

Outdoor Patio- a covered seating area for guests to enjoy their Smoothies

Brad Hensley of LandMark Engineering LLC

Name of Registered Engineer, Architect or Land Surveyor

708-599-3737

Phone Number

7808 West 103RD Street ,Palos Hills, IL 60465

Street address, City, ST, ZIP Code

bhensley@landmark80.com

Email address

CONDITIONAL USE CONDITIONS OF APPROVAL (PAGE 1 of 2)

The Munster Board of Zoning Appeals is authorized to hear petitions for conditional uses and to forward the petition to the Munster Town Council with a recommendation to approve, a recommendation to deny, or no recommendation. The Board of Zoning Appeals may also recommend reasonable conditions and restrictions. Sec. 26-6.405.L.4 of the Munster Zoning Code states that no conditional use shall be granted by the Munster Town Council unless the special use meets the conditions listed below.

Please explain how the proposed use meets these conditions.

1. It will be harmonious with and in accordance with the general and specific intent, purposes and objectives of Section 26-6.105, that is, it promotes and is necessary to the health, safety, general welfare, comfort, and convenience of the Town and its residents, and the Town's Comprehensive Plan.

Outdoor Patio will give curb appeal and also screen the parking lot from Calumet Ave. The outdoor area gives pedestrians and families an area to enjoy their Smoothies while being outdoors

2. It will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area.

Materials will match the building and will add an appealing architectural element to the site.

3. It will not be hazardous or disturbing to existing neighboring uses.

Patio is in the center front of the redeveloped property and will not cause any disturbance

4. It will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Patio is accesible from the public sidewalk

CONDITIONAL USE CONDITIONS OF APPROVAL (PAGE 2 of 2)

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-
-
5. It will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.

No additional public services will be needed as all existing should be able to be used

6. It will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

none of the above apply

7. It will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

will be to code and approved by the village engineer

8. It will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance

No natural, historic, or scenic features currently exist at the property

Attach additional pages if necessary



RULE THE DAY.

May 20, 2021

Drive Thru Smoothie King Munster Project

The proposed project will be located at the sites commonly known as 8130 Calumet Ave, the former Seoul Spa that has been closed and vacant for over 3 years, and 8138 Calumet Ave, the former Community Pet Hospital that has also been closed and vacant for over 3 years. We plan to demolish the existing two buildings and erect the first Free Standing Drive Thru Smoothie King in Northwest Indiana and the first Smoothie King with a Double Drive Thru in the Chicago DMA. The Munster community values Health and Wellness and this concept caters that to the residents by providing a new convenient Healthy alternative to the typical fast-food choices for the on-the-go resident and their children. The concept already has Indiana locations in Schererville, St. John, Crown Point and Merrillville. Pedestrians and curb appeal are prioritized by creating an attached covered outdoor seating area for guests with screened landscaping that is accessible from the public sidewalk. The site will feature two 12' curb cuts creating one directional circulation greatly improving traffic flow while increasing the safety of both vehicles and pedestrians; by creating an entrance only and exit only, a pedestrian is safer as they only need to check for traffic in one direction, the setback of the building gives exiting vehicles ample visibility to see oncoming traffic along Calumet Ave. but still allowing pedestrian traffic to cross along public sidewalks. Instore guests will be able to exit at the rear of the property via a 20' cross access easement that is in line with the Towns 2010 Comprehensive Plan. Typically, a Smoothie King is 95% carryout of which 80% is Drive Thru and 20% is a mix of online order pickups and instore ordering. For this reason, we have added the additional Menu board to allow guests to be served quickly and efficiently. We also are proposing 14 total parking spaces for this concept as most orders are carryout and to keep in line with the future plan of more pedestrian traffic. We do not see the need for more parking than this based on other Smoothie King Drive Thru sites across the nation. The expected completion of the project is before the end of 2021 depending on permitting and weather restrictions if any.

Sincerely,

Parth Patel

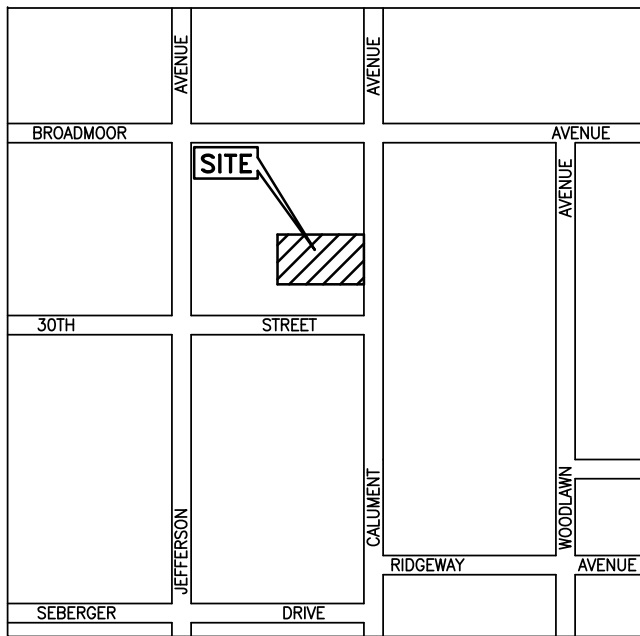
A.L.T.A./N.S.P.S. TOPOGRAPHIC LAND TITLE SURVEY

PARCEL 1:
LOTS 32 TO 34, BOTH INCLUSIVE, IN CALUMET RIDGE 2ND ADDITION TO MUNSTER, INDIANA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 20, PAGE 14, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

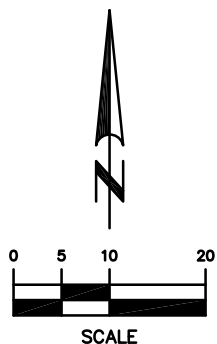
PARCEL 2:
LOTS 35 AND 36 IN CALUMET RIDGE 2ND ADDITION TO MUNSTER, INDIANA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 20, PAGE 14, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

LAKE COUNTY TAX PARCEL NUMBERS	
PARCEL 1	45-06-24-229-013.000-027 (LOTS 32-34)
PARCEL 2	45-06-24-229-014.000-027 (LOTS 35-36)

PROPERTY ADDRESS
8130-8138 CALUMET AVENUE
MUNSTER, IN



VICINITY MAP



SURVEYOR'S REPORT

THEORY OF LOCATION

THIS SURVEY IS A RETRACTMENT BOUNDARY OF FIVE LOTS IN CALUMET RIDGE 2ND ADDITION TO MUNSTER, INDIANA (Bk 20/Pg 14) THAT RUN ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 24-36-10. A PREVIOUS APRIL 12, 2012, ALTA/ACSM LAND TITLE SURVEY, PREPARED BY JOHN STUART ALLEN (IPLS No. 29900011) FOR TORRENGA SURVEYING, LLC, AND PROVIDED BY CLIENT, WAS COMPARED FOR ACCURACY AND MATCHED QUITE WELL WITH THIS SURVEY.

AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS

THE NORTHEAST CORNER OF SECTION 24-36-10 HAS STATE PLANE COORDINATES RECORDED AT THE LAKE COUNTY SURVEYOR'S OFFICE THAT FIT FIELD MEASUREMENTS. NO RECORDED EAST QUARTER-CORNER COORDINATES WERE FOUND. THE AVAILABILITY AND UNCERTAINTIES IN FOUND MONUMENTS ARE SHOWN HEREON. UNLESS OTHERWISE NOTED, SAID MONUMENTS WERE FOUND UNDISTURBED, OF UNKNOWN ORIGIN AND AT OR NEAR GRADE. LOT CORNERS IN RIDGELAND PARK 2ND ADDITION (Bk 32/Pg 39) WERE ALSO USED TO DETERMINE LINES AND CORNERS.

OCCUPATION OF POSSESSION LINES

CALUMET AVENUE IS IMPROVED WITH ROADWAY AND LOCATED ALONG THE EAST LINE OF THE PROPERTY. A GRAVEL ALLEY LIES ALONG THE WEST LINE. NO FENCES OR OTHER EVIDENCES OF OCCUPATION WERE NOTED ALONG THE NORTH OR SOUTH PROPERTY LINES.

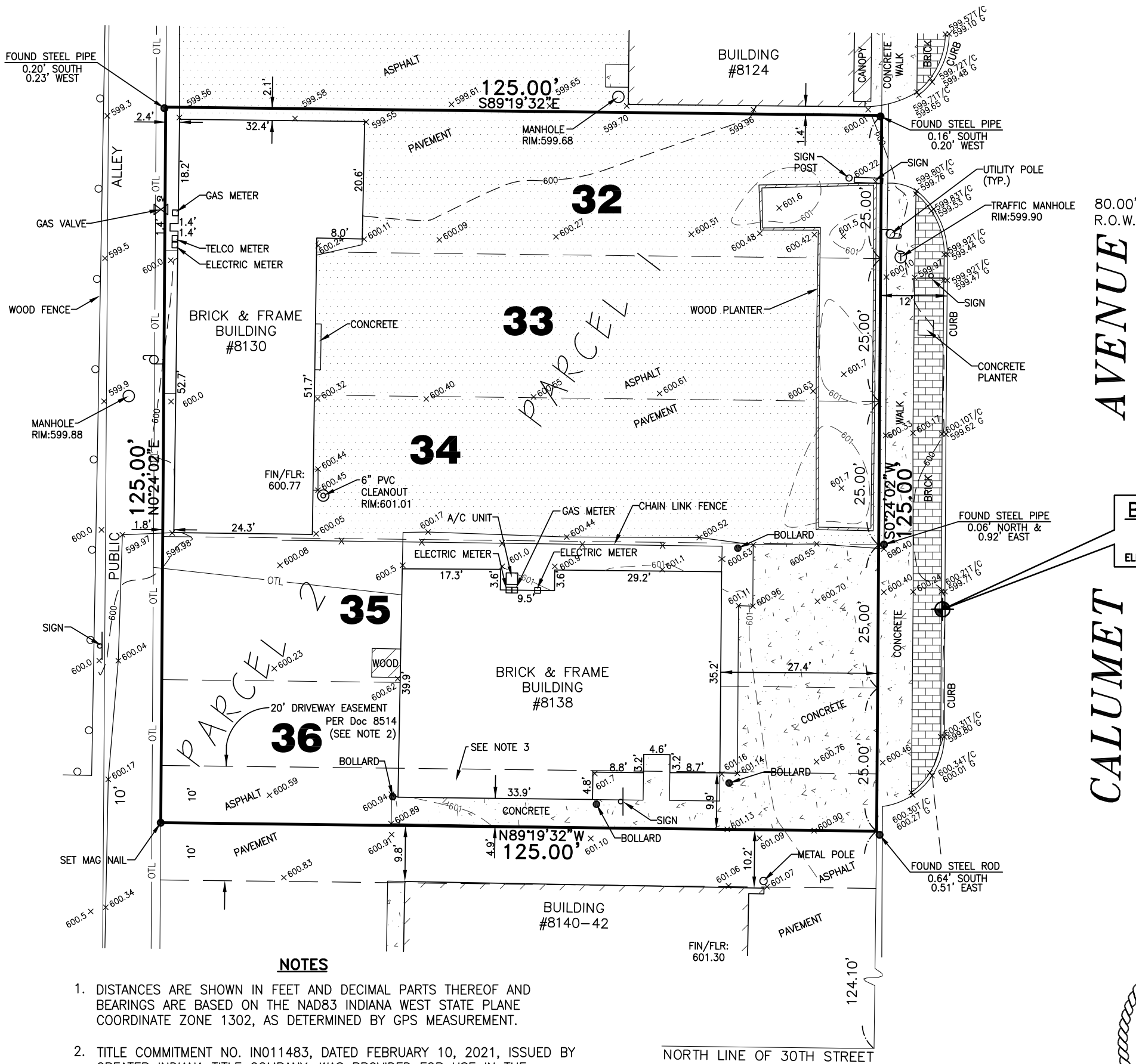
CLARITY OR AMBIGUITY OF THE RECORD LEGAL DESCRIPTION

THERE IS NO APPARENT AMBIGUITY IN THE RECORD DESCRIPTION, WHICH CONSIST OF LOTS IN A SUBDIVISION.

THEORETICAL UNCERTAINTY OF THE MEASUREMENTS

PER INDIANA STATUTE 865 IAC 1-12-7: MEASUREMENTS FOR RETRACEMENT SURVEYS, THIS SURVEY IS CLASSIFIED AS AN URBAN SURVEY AND THE RELATIVE POSITIONAL ACCURACIES FOR THIS SURVEY ARE WITHIN THE ACCEPTABLE 0.07 FEET PLUS 50 PARTS PER MILLION FOR THAT CLASSIFICATION.

LEGEND	
	EXISTING
OVERHEAD TRANSMISSION LINES	— OTL —
CHAIN LINK FENCE	— X —
WOOD FENCE	— W —
MANHOLE	⊙
CLEANOUT	⊗
GAS VALVE	⊕
TRAFFIC MANHOLE	⊙
UTILITY POLE	⊙
BOLLARD	•
SIGN	⊕
SPOT ELEVATION	x 670.20



NOTES

- DISTANCES ARE SHOWN IN FEET AND DECIMAL PARTS THEREOF AND BEARINGS ARE BASED ON THE NAD83 INDIANA WEST STATE PLANE COORDINATE ZONE 1302, AS DETERMINED BY GPS MEASUREMENT.
- TITLE COMMITMENT NO. IN011483, DATED FEBRUARY 10, 2021, ISSUED BY GREATER INDIANA TITLE COMPANY, WAS PROVIDED FOR USE IN THE PREPARATION OF THIS SURVEY. THE LEGAL DESCRIPTION SHOWN HEREON IS BASED ON EXHIBIT "A" IN ITEM 5 OF SCHEDULE A OF SAID COMMITMENT AND THE RECORDED PLAT OF SUBDIVISION. PART II OF SCHEDULE B IN SAID COMMITMENT NOTES A DRIVEWAY EASEMENT PER Doc 8514 THAT IS SHOWN HEREON, FOR BUILDING LINES, OTHER EASEMENTS AND RESTRICTIONS NOT SHOWN HEREON, REFER TO DEEDS, ABSTRACTS, TITLE POLICIES, SEARCHES OR COMMITMENTS, CONTRACTS AND LOCAL BUILDING AND ZONING ORDINANCES.
- DRIVEWAY EASEMENT Doc 8514 NOTES AN EXCEPTION IN PARAGRAPH No. 2 FOR "THAT PART THEREOF AS MAY BE OCCUPIED BY A CERTAIN FRAME DWELLING NOW EXISTING ON SAID LOTS 35 AND 36". NO INFORMATION WAS FOUND OR PROVIDED FOR USE IN THE PREPARATION OF THIS SURVEY REGARDING WHETHER THE CURRENT BUILDING No. 8138 IS ENTIRELY THE SAME AS THE FRAME DWELLING REFERRED TO IN SAID EASEMENT.
- ELEVATION SHOWN ARE ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88). AS DETERMINED BY LOCAL C.O.R.S. OBSERVATIONS.
- LOCATIONS OF IMPROVEMENTS SHOWN ARE BASED ON FIELD MEASUREMENTS COMPLETED ON JANUARY 20, 2021, AT WHICH TIME SOME SNOW GROUND COVER EXISTED. UNDERGROUND UTILITIES SHOWN ARE BASED ON FIELD MEASUREMENTS, UTILITY COMPANY MARKINGS AND ATLASES AND INFORMATION PROVIDED BY THE VILLAGE OF GURNEE. NO IMPROVEMENTS SHOULD BE CONSTRUCTED ON THE BASIS OF THIS PLAT ALONE AND NO DIMENSIONS, LENGTHS OR WIDTHS SHOULD BE ASSUMED FROM SCALING. FIELD MONUMENTATION OF CRITICAL POINTS SHOULD BE ESTABLISHED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION.

BENCHMARK
SQUARE CUT ON
CONCRETE CURB
ELEVATION: 600.22 NAVD88

STATE OF ILLINOIS)
COUNTY OF COOK) S.S.

TO: PARTH PATEL
GREATER INDIANA TITLE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY AMERICAN LAND TITLE ASSOCIATION AND NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS, AND INCLUDES ITEMS 1, 2, 4, 5, 7(a), 8, 13 AND 14 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON JANUARY 27, 2021. I FURTHER AFFIRM UNDER THE PENALTIES OF PERJURY THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

DATED AT PALOS HILLS, ILLINOIS, THIS 12TH DAY OF MARCH, A.D. 2021.



MARK H. LANDSTROM
IPLS No. 29500004
LANDSTROM@LANDMARK80.COM

AREAS	
PARCEL 1	9375 SQ. FT. 0.215 AC
PARCEL 2	6250 SQ. FT. 0.143 AC
TOTAL	15,614 SQ. FT. 0.359 AC (more or less)

PREPARED FOR:
PARTH PATEL

PREPARED BY:

LANDMARK
ENGINEERING LLC
DESIGN FIRM REGISTRATION NO. 184-005577-0010
7808 WEST 103RD STREET
PALOS HILLS, ILLINOIS 60465-1529
Phone (708) 599-3737
SURVEY No. 21-01-038-ALTA-R

SMOOTHIE KING, MUNSTER, IN SITE PLAN

LOTS 32 TO 36, BOTH INCLUSIVE, IN CALUMET RIDGE 2ND ADDITION TO MUNSTER, INDIANA, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 24, 1926, IN PLAT BOOK 20, PAGE 14, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

PROPERTY ADDRESS

8130-8138 CALUMET AVENUE
MUNSTER, IN

LAKE COUNTY TAX PARCEL NUMBERS

45-06-24-229-013.000-027 (LOTS 32-34)
45-06-24-229-014.000-027 (LOTS 35-36)

LOT AREA

15,614 SQUARE FEET
0.359 ACRES
(more or less)

LANDSCAPE AREA

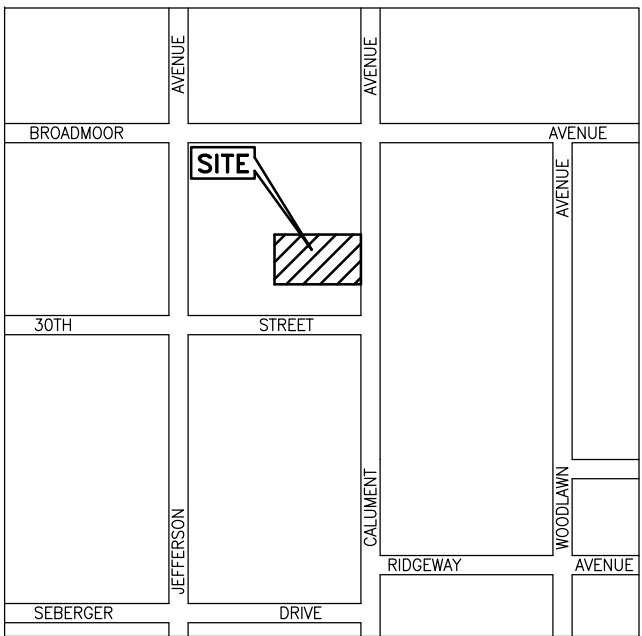
% LANDSCAPED AREA IN
1ST LOT LAYER

62%

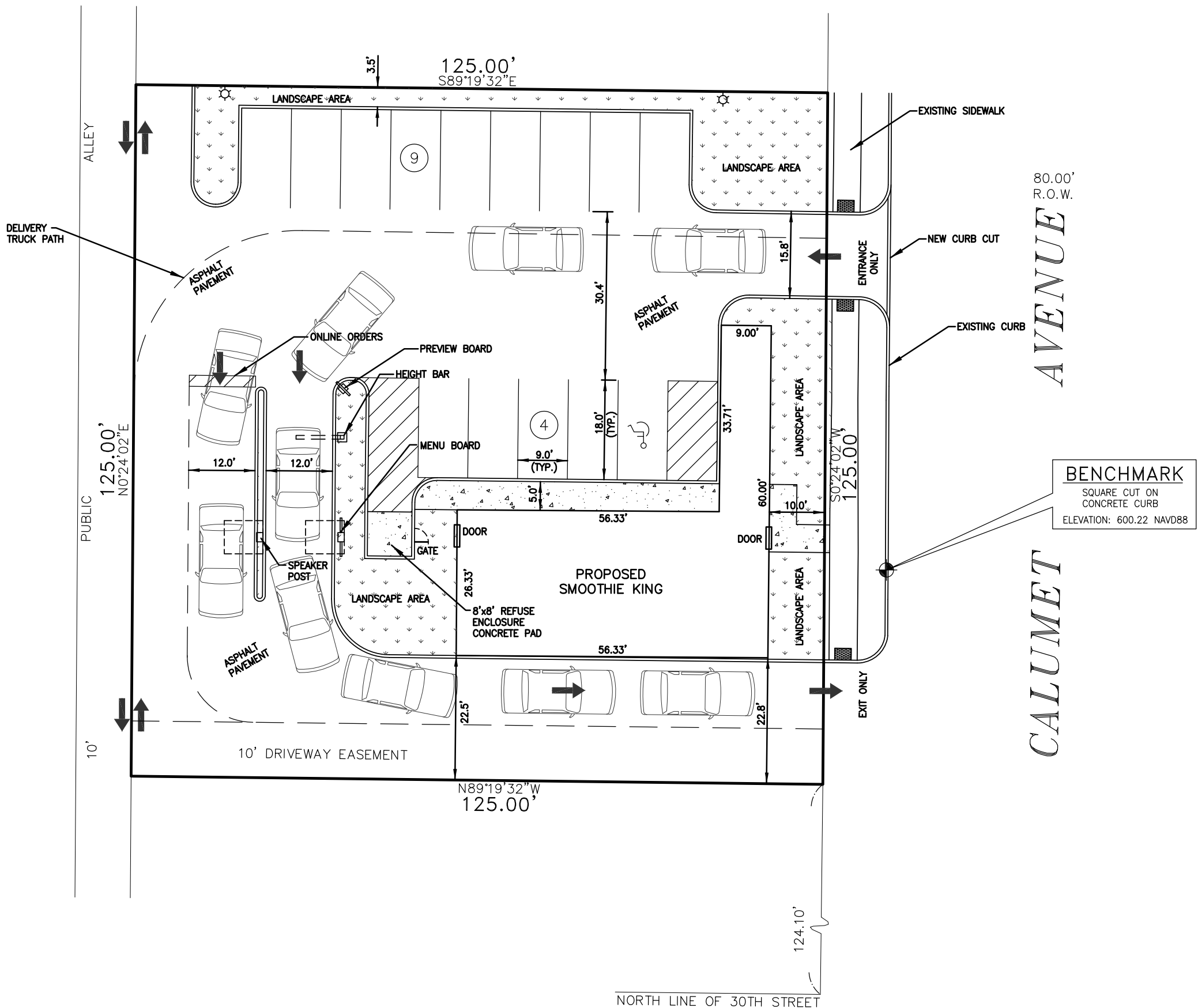
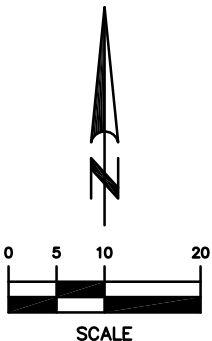
PARKING DATA

STANDARD STALLS = 13
ADA STALLS = 1
TOTAL STALLS = 14

NOTE: MUNICIPAL FIRE HYDRANT LOCATED
APPROXIMATELY 80' NORTH OF THE
PROPERTY.



VICINITY MAP



PREPARED FOR:
PARTH PATEL

PREPARED BY:

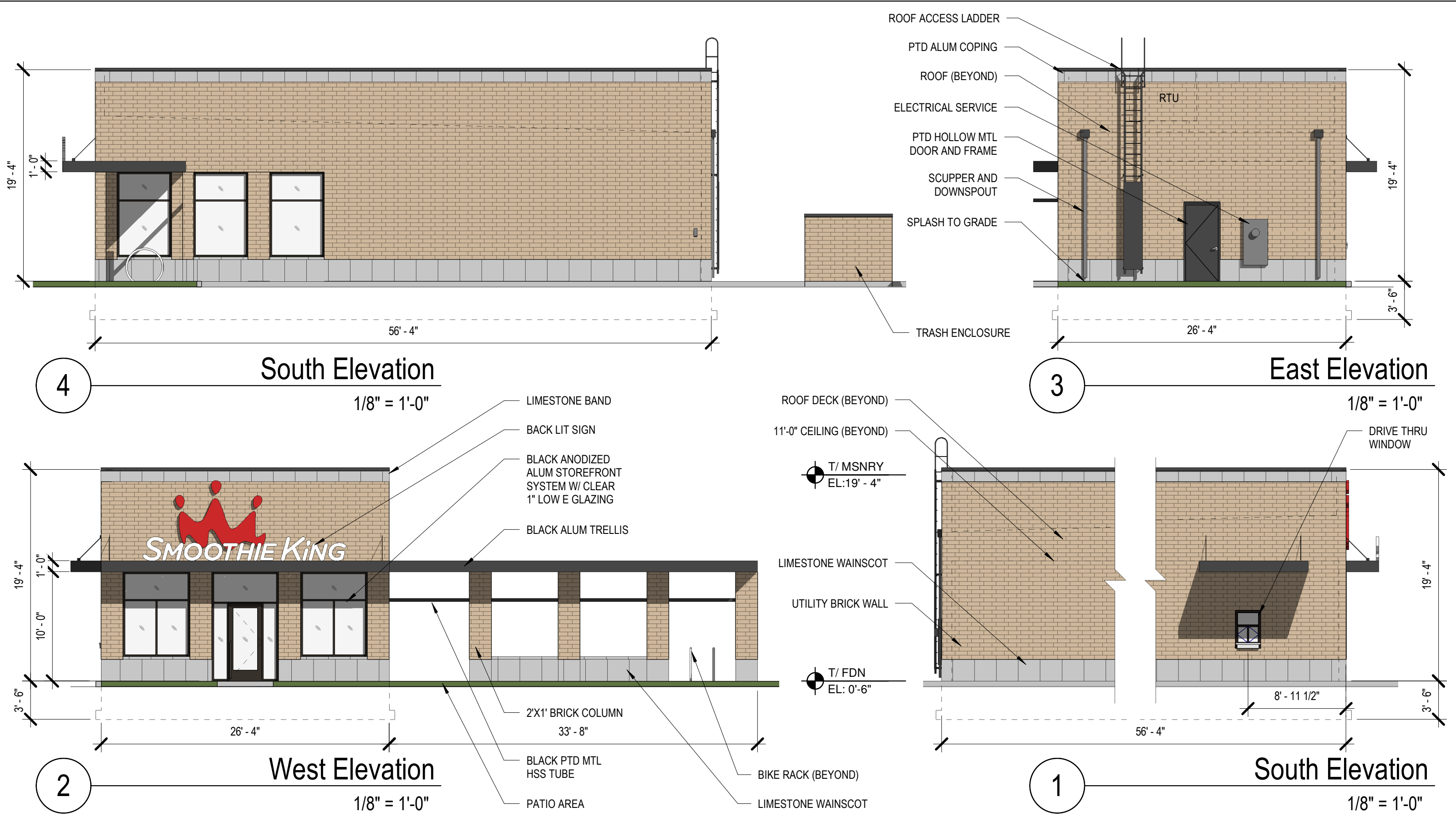
LANDMARK
ENGINEERING LLC

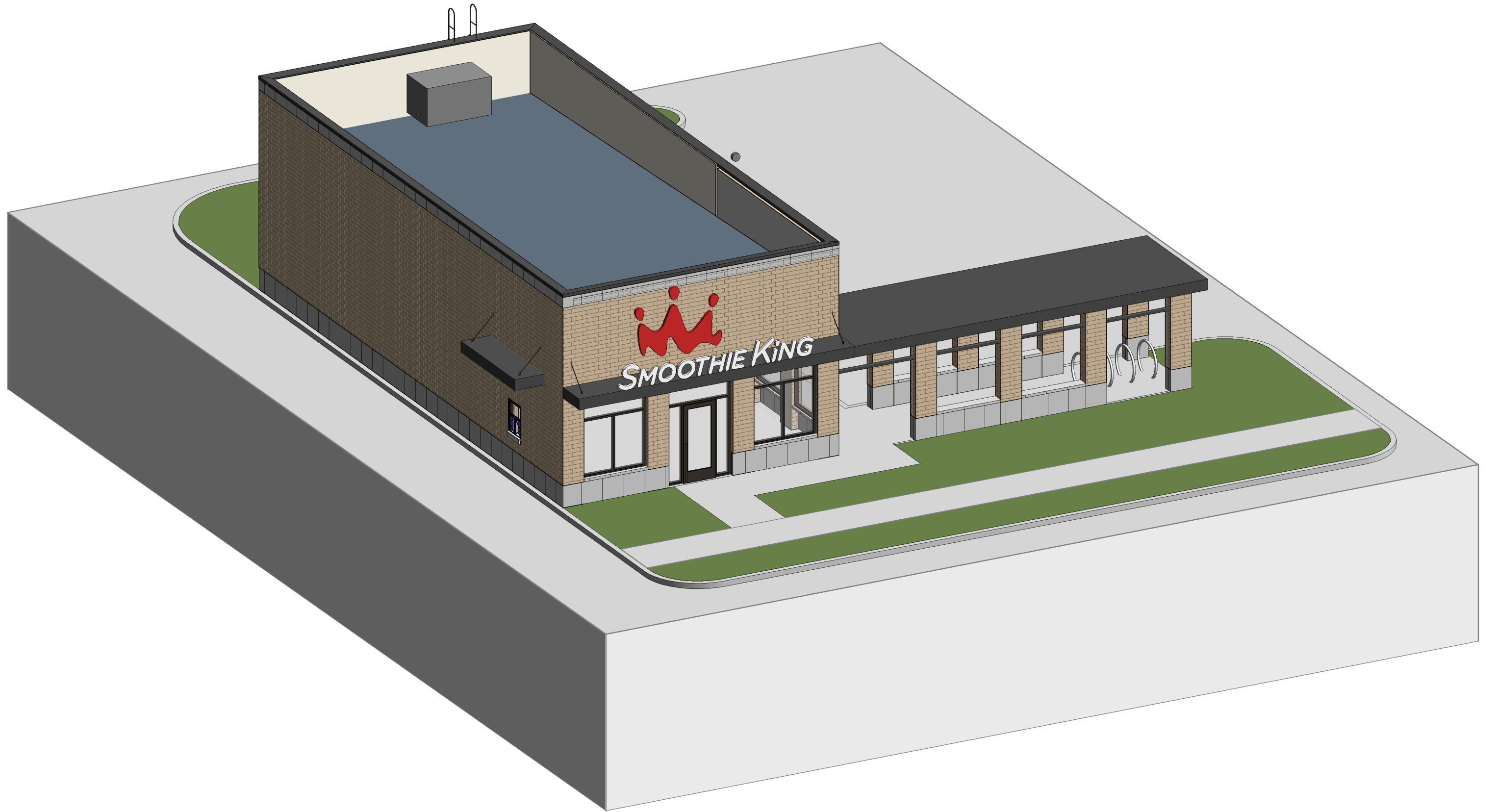
DESIGN FIRM REGISTRATION NO. 184-005577-0010

7808 WEST 103RD STREET
PALOS HILLS, ILLINOIS 60465-1529
Phone (708) 599-3737

SURVEY No. 21-01-038-CPT-R6

DATED: MAY 28, 2021





Perspective



2000 N. Racine Ave.
Suite 2290
Chicago, Illinois
60614.6756

v. 773.528.2191
f. 773.528.3510

Smoothie King
Retail Building
8130 Calumet Ave
Munster, IN 46321

Revisions

Sheet

Pg.2

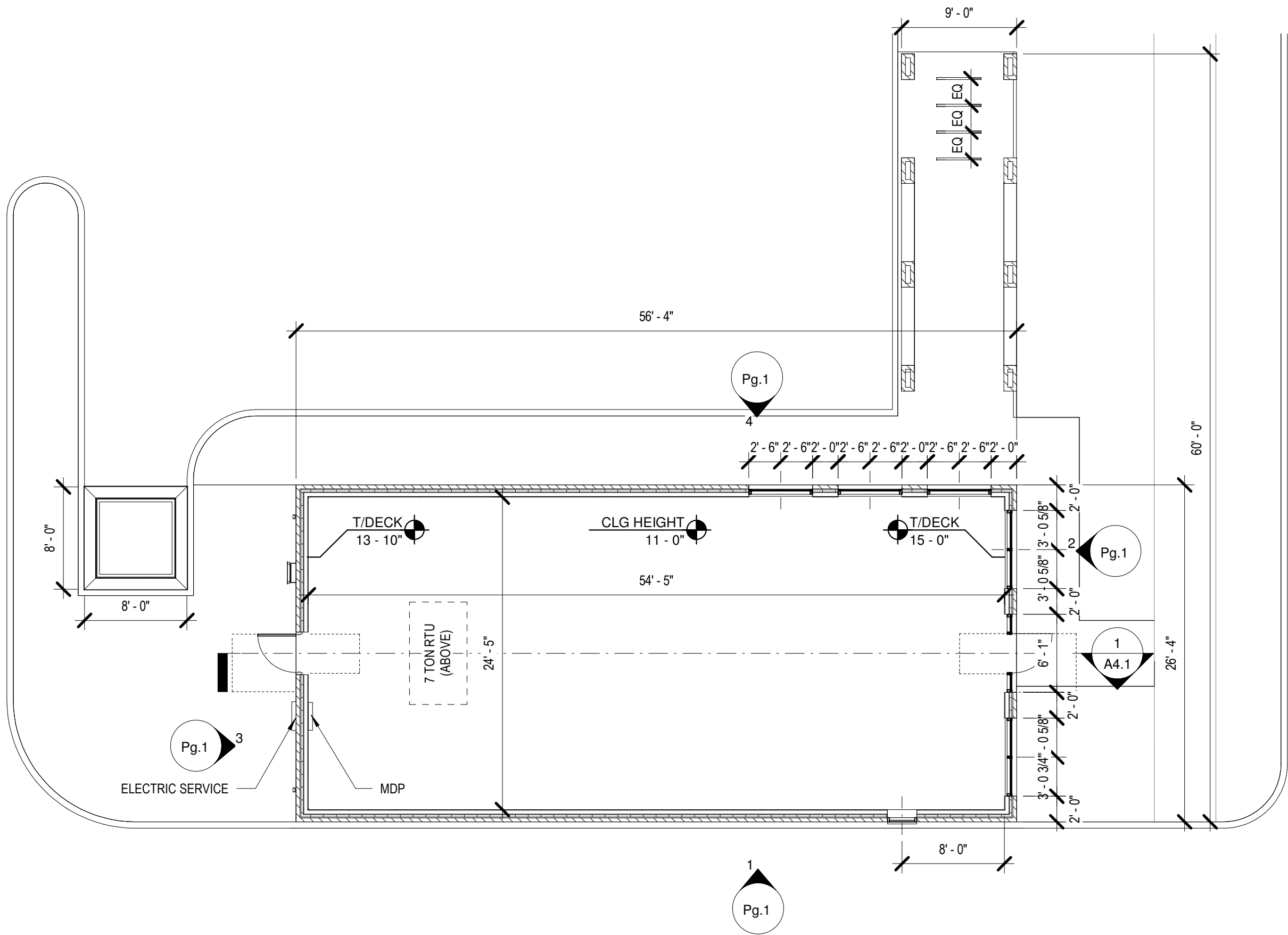
Project number 2021.05.00

Date 05/28/21

Drawn by XAJA

Checked by DLD

Scale

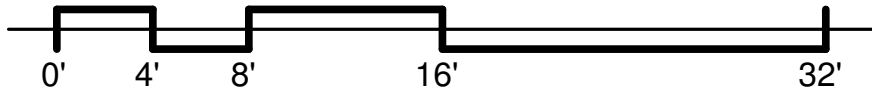
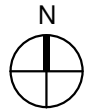


Smoothie King Plan



2000 N. Racine Ave.
Suite 2290
Chicago, Illinois
60614.6756
v. 773.528.2191
f. 773.528.3510

Smoothie King
Retail Building
8130 Calumet Ave
Munster, IN 46321



Revisions

Sheet

Pg.3

Project number 2021.05.00

Date 05/28/21

Drawn by XAJA

Checked by DLD

Scale 1/8" = 1'-0"