BOARD OF ZONING APPEALS
STAFF REPORT

To:	Members of the Board of Zoning Appeals
From:	Tom Vander Woude, Planning Director
Meeting Date:	July 13, 2021
Agenda Item:	BZA Docket No. 21-006
Hearing:	**PUBLIC HEARING**
Application Type:	Developmental Standards Variance
Summary:	Parth Patel requesting a variance from the minimum parking ratio to construct a 3-unit commercial building including a Smoothie King at 8130-8138 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:	Approval of Variance
Additional Actions Required:	Findings of Fact
Staff Recommendation:	**<u>Approval with conditions</u>**
Attachments:	ALTA Survey Plan prepared by Landmark Engineering LLC dated 03-12-2021 Smoothie King, Munster, IN Site Plan prepared by Landmark Engineering LLC dated 07.07.2021

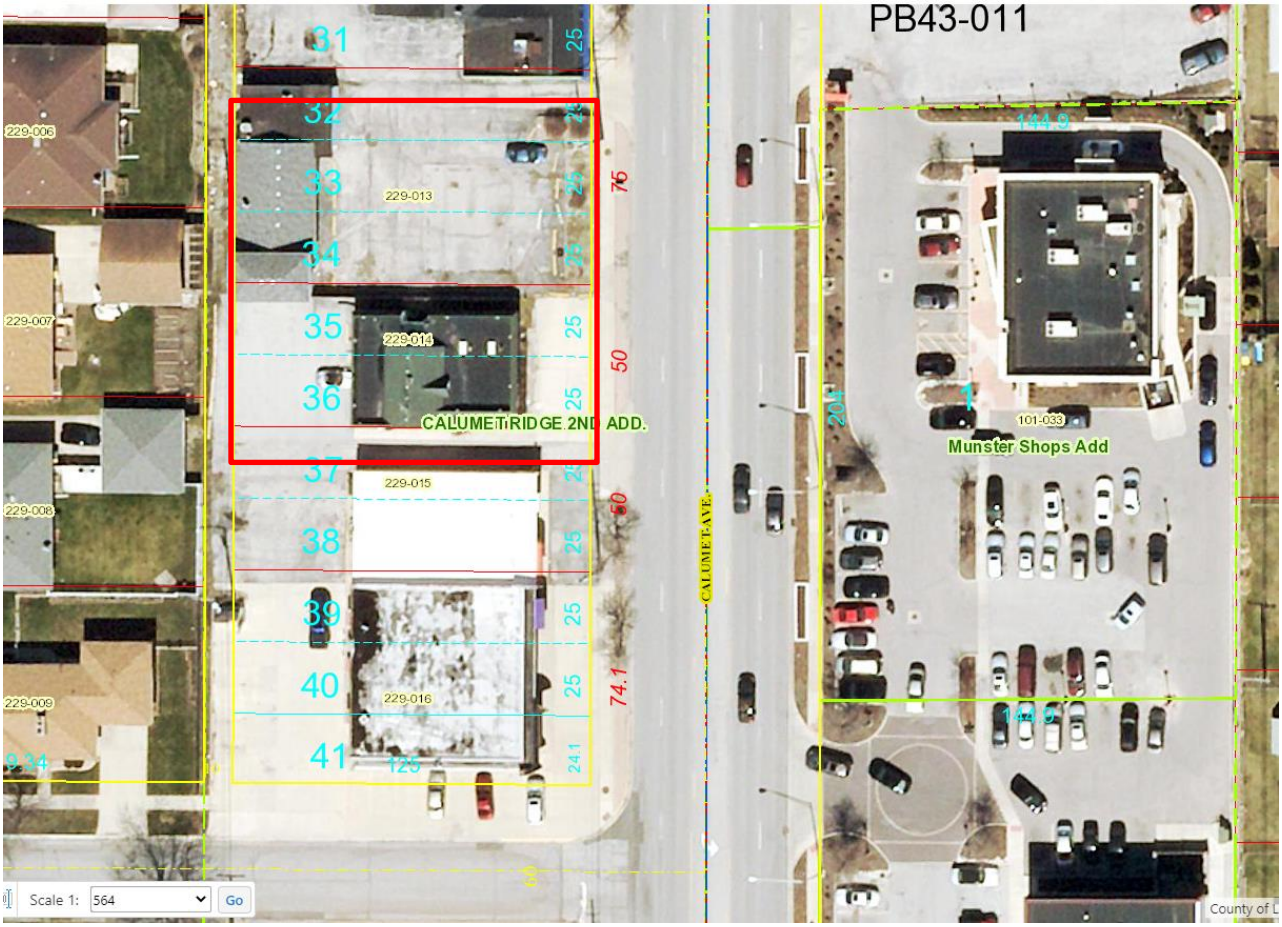


Figure 1: Subject property outlined in red

BACKGROUND

Parth Patel is seeking to acquire two parcels located at 8130 and 8138 Calumet Avenue to redevelop as a Smoothie King. The applicant presented a proposed site plan to the Board of Zoning Appeals at their June 8, 2021 meeting. At that time, the site plan included a 1,483 square foot building with an attached roofed patio and a drive-through. That plan required two variances: from the minimum parking ratio and from the maximum number of curb cuts, and two conditional use permits; for a drive-through and an outdoor dining area.

After receiving comments from the BZA at the preliminary hearing, the applicant revised the plans significantly and the request to the BZA has been modified. The revised plans show a 3,630 square foot, 3-unit commercial building with a Smoothie King in the south tenant space and a parking lot with 27 stalls. The north curb cut, the outdoor dining area, and the drive through have been eliminated, so the conditional use permit applications and one of the variance requests have been withdrawn. The applicant is now requesting a single variance to reduce the number of required parking spaces.

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.O-1 of the Munster Zoning Ordinance establishes the following off-street parking requirements:

- A restaurant dispensing food or beverages for consumption on premises, without Drive-Through or Drive-In Service: 1 space for each 2.5 seats or 5 spaces for each 300 SF of total gross floor area, whichever is greater.

- Other Office Use Not Listed Under Any Use Category: 3.3 spaces per 1,000 square feet of floor area.

- Other Retail, Personal Service, or Craftsman Use Not Listed Under any Use Category: 4.5 spaces per 1,000 SF of total gross floor area.

The plan presented has 27 parking spaces. The proposed Smoothie King requires 18 spaces. The two other tenant spaces will have different parking requirements depending on their final users. The remaining 9 spaces are sufficient for any combination of retail, personal service, or office uses. The requested variance would permit the following:

- Two retail uses, which requires 10 additional spaces
- One or two additional restaurant uses, each of which requires 21 spaces

The zoning code contains two calculations for restaurant parking, one of which is 1 parking space for every 2.5 seats. Based on this calculation, 27 spaces correspond to 67 seats. The applicant has requested a variance from the parking requirements to permit additional restaurants on the site provided that the number of seats within three tenant spaces does not exceed 67. A similar variance was recently granted to the owner of 407-411 Ridge Road.

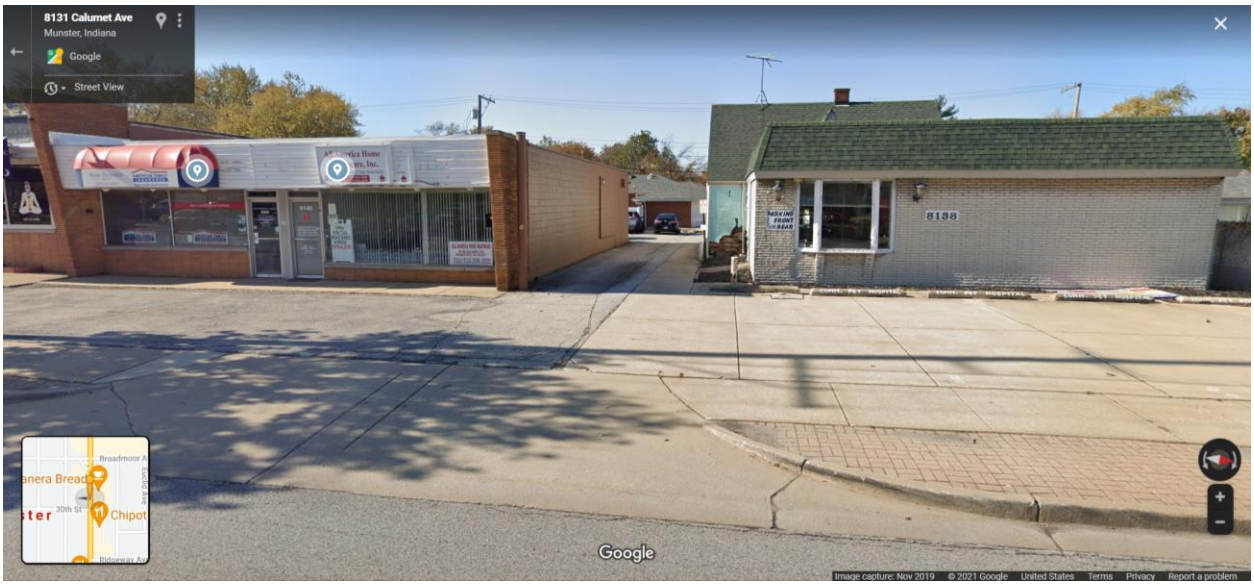


Figure 2: Shared driveway easement between existing buildings.

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.

RECOMMENDATION

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

Motion to approve BZA Docket No. 21-006 granting a variance from TABLE 26-6.405.O-1, reducing the required number of parking spaces to 27, at 8130-8138 Calumet Avenue.

Staff recommends the following conditions:

1. *The number of restaurant seats within the development is limited to 63, which corresponds to the alternative calculation for restaurant parking which is 1 parking space for every 2.5 seats.*

2. *Approval of a Subdivision and Development Plan for the subject property by the Munster Plan Commission.*

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.

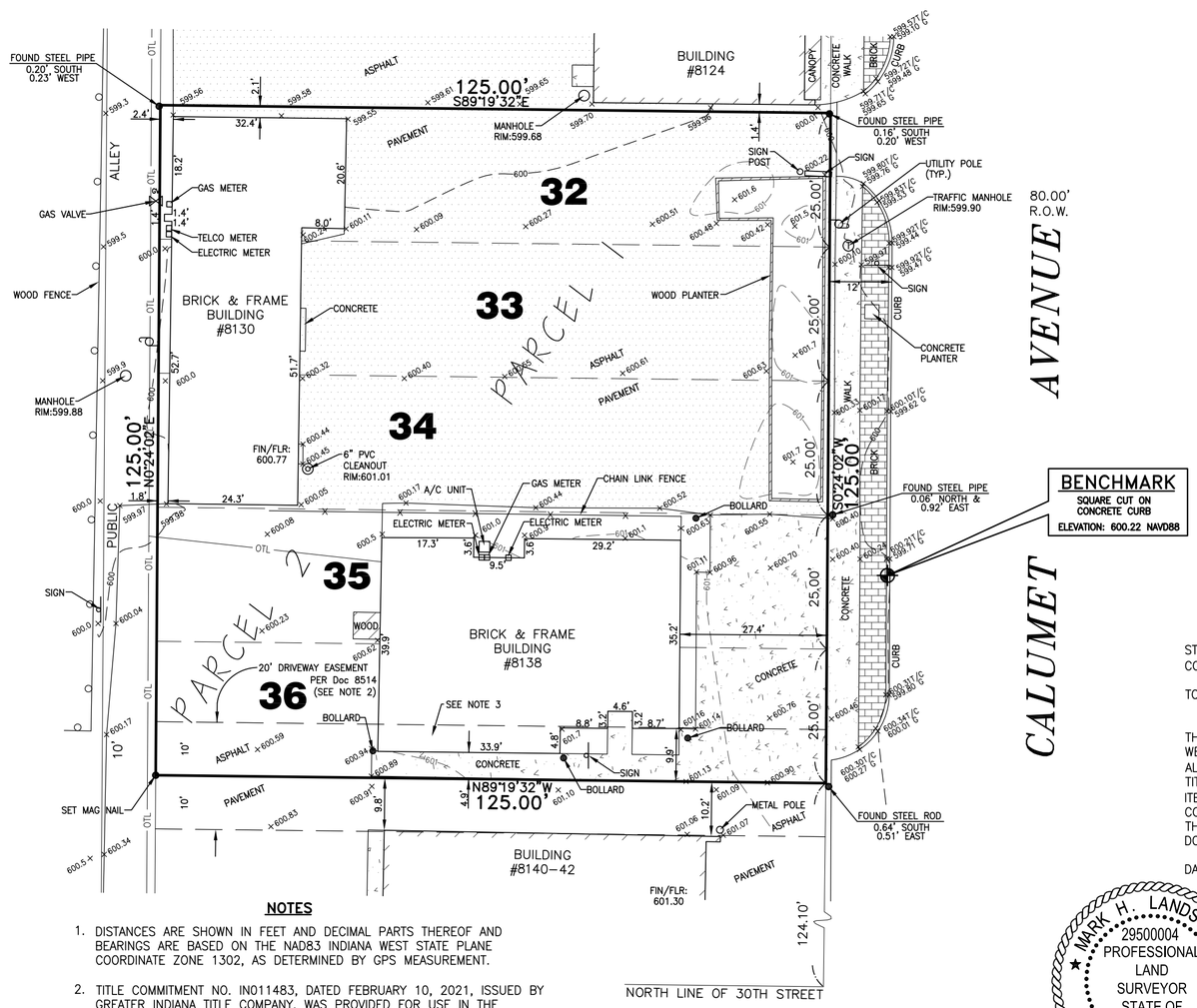
PROPERTY ADDRESS

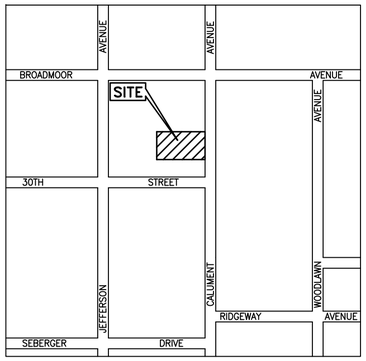
8130–8138 CALUMET AVENUE

MUNSTER, IN

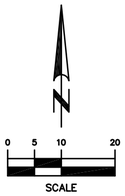
LAKE COUNTY
TAX PARCEL NUMBERS

PARCEL 1 45–06–24–229–013.000–027 (LOTS 32–34)
PARCEL 2 45–06–24–229–014.000–027 (LOTS 35–36)





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 UNKOWN 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.

NOTES

1. 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.
2. 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.
3. 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.
4. ELEVATION SHOWN ARE ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88). AS DETERMINED BY LOCAL C.O.R.S. OBSERVATIONS.
5. 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.

LEGEND

	EXISTING
OVERHEAD TRANSMISSION LINES	OTL
CHAIN LINK FENCE	X
WOOD FENCE	
MANHOLE	
CLEANOUT	
GAS VALVE	
TRAFFIC MANHOLE	T
UTILITY POLE	
BOLLARD	
SIGN	
SPOT ELEVATION	x 670.20

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)

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 RESONABLE 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
29500004
PROFESSIONAL LAND SURVEYOR
STATE OF INDIANA
PALOS HILLS, ILLINOIS

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

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.

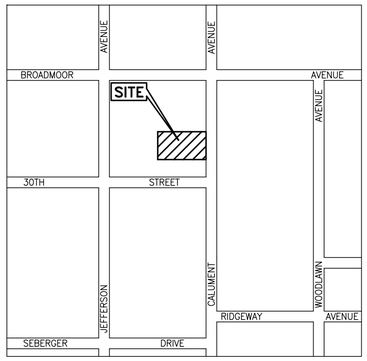
LAKE COUNTY
TAX PARCEL NUMBERS

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

PROPERTY ADDRESS

8130-8138 CALUMET AVENUE

MUNSTER, IN



VICINITY MAP

LOT AREA

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

SEATING DATA

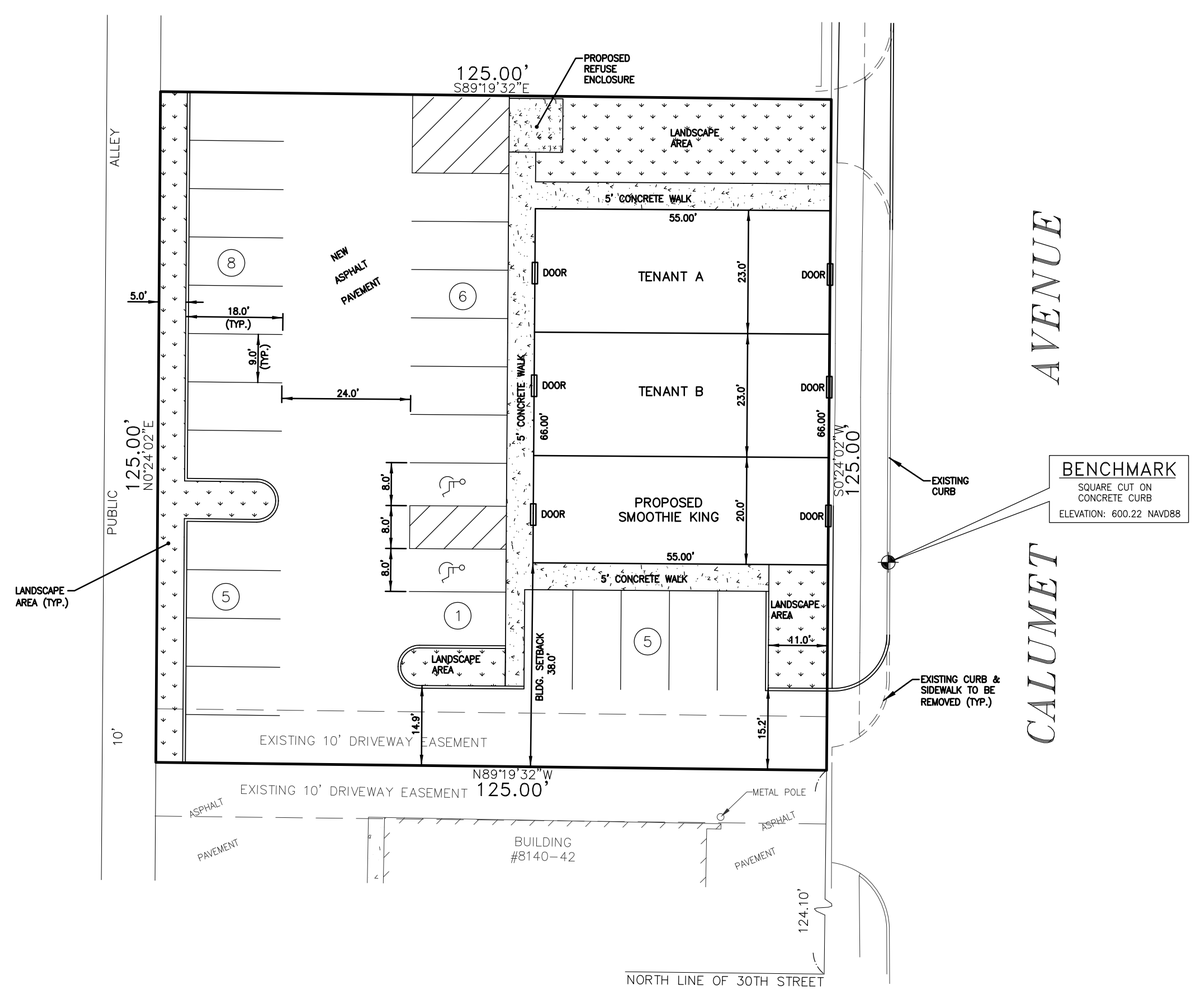
2.5 SEATS PER PARKING SPACE
2.5 X 27 = 67.5 SEATS

PARKING DATA

STANDARD STALLS = 25
ADA STALLS = 2

TOTAL STALLS = 27

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



BENCHMARK
SQUARE CUT ON CONCRETE CURB
ELEVATION: 600.22 NAVD88

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-R12

DATED: JULY 7, 2021