



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

August 15, 2024

Case Number: 2024-CAP-828 / 2024-CVR-828 / 2024-CVC-828
Property Address: 1013 West Morris Street
Location: Center Township, Council District #18
Petitioner: Indy Grille Family Restaurant, LLC, by Adam DeHart
Current Zoning: C-7 (FF)

Modification of Conditions and Site Plan related to 85-UV2-52 to delete Condition #3 which states that Morris Street shall be used for exit only and shall be properly identified as such and to modify the site plan related to 85-UV2-52 to provide for additions to the existing structure and additional surface parking area.

Request:

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 2.2-foot front setback from Morris Street, a 6.7-foot front setback from Bridge Street, a five-foot front setback from Drover Street (minimum 10-foot front setback required along all streets), no landscaping along Drover Street (landscaping required), and no interior landscaping within the proposed parking area (minimum 9% of all uncovered vehicle areas required).

Vacation of a portion of Drover Street (formerly a portion of Lot 85 in McCarty's Third West Side, an Addition to the City of Indianapolis), ranging from 31 to 33 feet (irregular) in width, from the south right-of-way line of Morris Street, south 109.2 feet to the first east-west alley south of Morris Street.

Current Land Use: Commercial uses (vacant)

Staff

Recommendations:

Approval of the modification and variance, subject to the commitment noted below.

Approval of the vacation request and waiver of benefits.

Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued these petitions from the July 25, 2024 hearing, to the August 15, 2024 hearing, at the request of the petitioner's representative to provide additional time to resolve the issues related to proposed the right-of-way vacation.



The petitioner's representative submitted amended documents that included adjustments to the right-of-way vacation and the site plan. Based on this updated information and approval from the Department of Public Works, staff now recommends approval of all three requests, subject to the commitment noted below

STAFF RECOMMENDATION

Approval of the modification and variances, subject to the following commitment being reduced to writing on the Commission's Exhibit "C" form at least three days prior to the MDC hearing:

The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.

Denial of the vacation request.

RECOMMENDED MOTION (Denial): That the Hearing Examiner finds that the proposed vacation is not in the public interest; that a hearing upon the assessment of benefits be waived.

RECOMMENDED MOTION (Approval): That the Hearing Examiner finds that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2024-CVC-828; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

PETITION OVERVIEW

MODIFICATION

This 0.330-acre site, zoned C-7 (FF), is developed with a commercial building that is currently vacant. It is surrounded by commercial uses to the north, across West Morris Street, zoned C-7 (FF); commercial uses to the east, across Drover Street, zoned C-7 (FF); and industrial uses to the south and west, zoned I-3 (FF).

Petition 85-UV2-52 provided for a building addition for restaurant uses, with insufficient parking. As proposed the modification would remove the condition that required an exit only drive on West Morris Street. See Exhibit A (site plan and letter of grant).

This request would modify the site plan and Condition Number 3 of the grant of the 1985 variance to provide for a building addition and reconfiguration of the parking and access drives. See Exhibit B for details.



Staff supports the modification request because the use would be consistent with the Comprehensive Plan recommendation of community commercial, and it would activate a vacant commercial property.

Environmental Public Nuisances

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

VARIANCE OF DEVELOPMENT STANDARDS

This request would provide for reduced setbacks along the three frontages (West Morris Street, Bridge Street and Drover Street), ranging from 2.2 feet to 6.7 feet when the Ordinance requires 10 feet. Because of the lot configuration and the three street frontages, staff believes there is a practical difficulty from which relief should be granted.



The variance request would also eliminate the required parking lot landscaping. It appears from the site plan notations that the required perimeter landscaping would be met, which would provide green space and buffering for surrounding land uses. Staff understands that this site presents challenges in redevelopment efforts and supports the reduced landscaping on this site.

VACATION

This request would vacate a portion of Drover Street ranging from 31 to 33 feet from the south right-of-way line of Morris Street, south 109.2 feet to the first east-west alley south of West Morris Street.

Staff and the petitioner’s representative consulted with the Department of Public Works (DPW) regarding the proposed vacation of a portion of Drover Street. DPW staff agreed to a maximum of a 22-foot-wide vacation, which would align with the right-of-way to the south of this site. However, this request exceeds what would be supported by staff between nine and 11 feet. Consequently, staff recommends denial of the vacation request.

The area of proposed vacation is unimproved. If the vacation would be approved, staff would not object to a waiver of benefits despite the lack of the request from the petitioner’s representative to waive the assessment of benefits.

Staff finds that the vacation, as requested, **would not be in the public interest**, and the vacation **should be denied**.

GENERAL INFORMATION

Existing Zoning	C-7 (FF)	
Existing Land Use	Commercial uses (vacant)	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Land Use
	North: C-7 (FF)	Commercial uses
	South: I-3 (FF)	Industrial uses
	East: C-7 (FF)	Commercial uses
	West: I-3 (FF)	Industrial uses
Thoroughfare Plan		
West Morris Street	Primary Arterial	Existing 88-foot right-of-way and proposed 78-foot right-of-way.
Drover Street	Primary Collector	Existing 100-foot right-of-way and proposed 56-foot right-of-way.
Bridge Street	Local Street	Existing 50-foot right-of-way and proposed 48-foot right-of-way.

Context Area	Compact
Floodway / Floodway Fringe	Yes – 500-year unregulated floodplain
Overlay	No
Wellfield Protection Area	No
Site Plan	June 2, 2024
Site Plan (Amended)	August 1, 2024
Elevations	June 2, 2024
Elevations (Amended)	N/A
Landscape Plan	June 2, 2024
Findings of Fact	June 2, 2024
Findings of Fact (Amended)	N/A
C-S/D-P Statement	June 2, 2024 (Project Narrative)

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Community Commercial and typology. The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describes the purpose, policies and tools:
 - Classify roadways based on their location, purpose in the overall network and what land use they serve.
 - Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
 - Set requirements for preserving the right-of-way (ROW)
 - Identify roadways for planned expansions or new terrain roadways
 - Coordinate modal plans into a single linear network through its GIS database

ZONING HISTORY

85-UV2-52; 1013 West Morris Street, requested a variance of development standards of the Commercial Zoning Ordinance to provide for a building addition within the required setbacks and to use the site for a restaurant without sufficient on-site parking, **granted**.

VICINITY

2006-ZON-011; 1306, 1312, 1314, 1315, 1318, 1319, 1321, 1322, 1324, 1328, 1329, 1332, 1333, 1334, 1339, 1349, 1340, 1342, 1343, 1346, 1347, 1348, 1349, 1350, 1353, 1357, 1361, 1365, 1367 and 1375 SILVER AVENUE AND 1233, 1235, 1239, 1241, 1242, 1245, 1249, 1250, 1251, 1301, 1303, 1305, 1307, 1309, 1315, 1317, 1321, 1327, 1335 and 1339 Bridge Street and 1102 York Street (west of site), requested rezoning of 8.692 acres, being in the C-1 and D-5 districts to the I-3-U classification to provide for the expansion of industrial uses, **approved**.

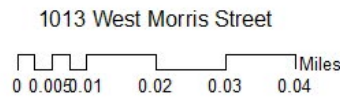
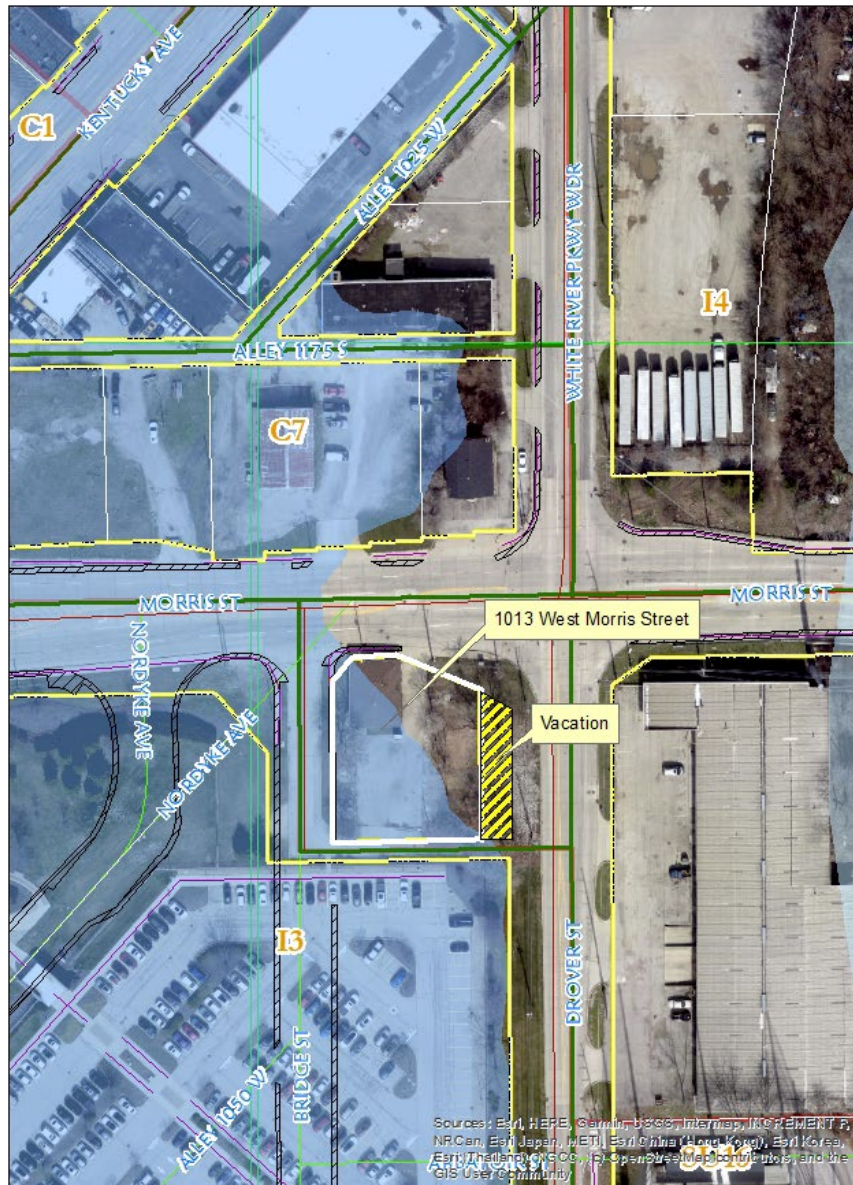
91-Z-103; 1312 Kentucky Avenue (west of site), requested the rezoning of 12.1 acres, being in the C-7 and D-5 districts, to the I-3 U classification to conform zoning to existing and future industrial use, **approved**.

88-UV2-144; 1301 Kentucky Avenue, (west of site), requested a variance of use and development standards to provide for a pedestrian bridge over Kentucky Avenue, with stair towers to the right-of-way, **granted**.

77-UV2-177; 1304-1330 Nordyke Avenue (west of site), requested a variance of use, setbacks of side, rear and transitional yards to provide for accessory off-street parking, **granted**.

77-Z-177; 1240 Nordyke Avenue (west of site), requested rezoning of 1.79 acres, being in the D-5 district to the C-7 classification to provide for commercial uses, **approved**.

EXHIBITS



Amended Site Plan - August 1, 2024

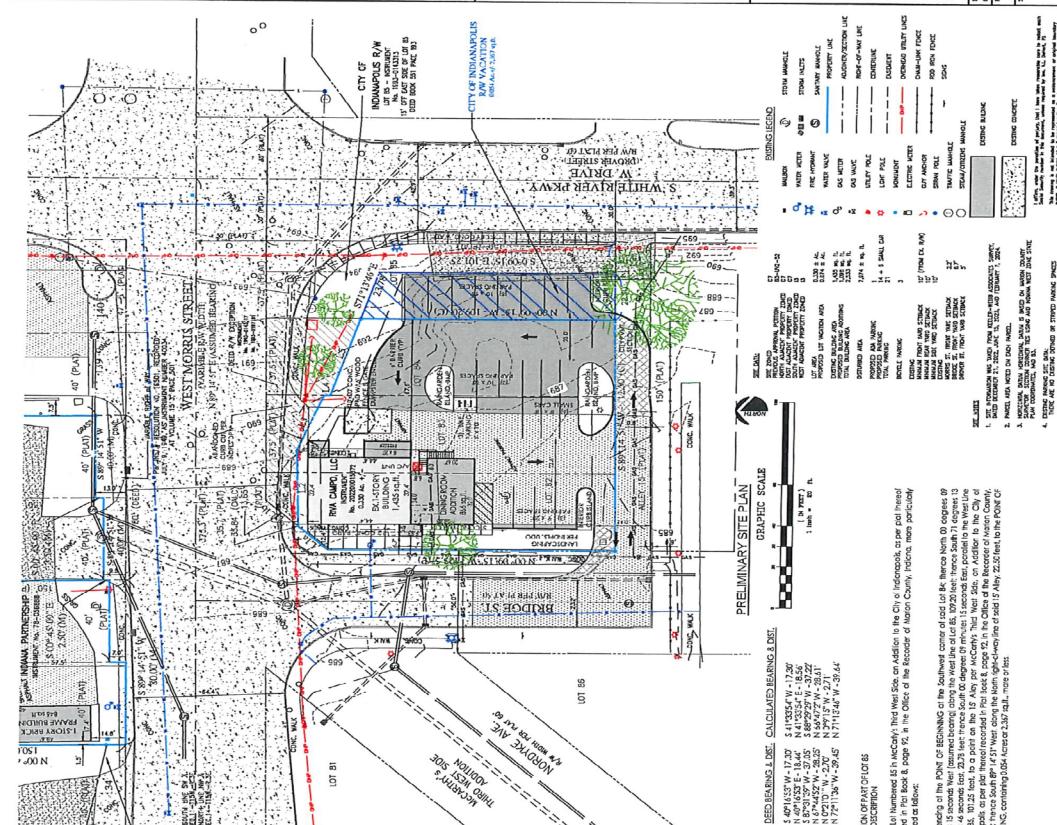
RIVA CAMPO, LLC
 100 South Indiana Street, Indianapolis, IN 46202
 317-941-0070

KEELER-WEBB ASSOCIATES
 Consulting Engineers - Planners - Surveyors
 317-941-0070
 100 South Indiana Street, Indianapolis, IN 46202
 Project: (217) 224-4043
 100 South Indiana Street, Indianapolis, IN 46202

PANCAKE HOUSE RESTAURANT
 100 South Indiana Street, Indianapolis, IN 46202

10171
 PROJECT NO.
 100 South Indiana Street, Indianapolis, IN 46202

DATE	DESCRIPTION
10/15/2023	ISSUED
10/15/2023	DATE REVISION
10/15/2023	NO. OF SHEETS
10/15/2023	VIA ARCHITECTURE
10/15/2023	NO. OF SHEETS
10/15/2023	NO. OF SHEETS
10/15/2023	NO. OF SHEETS



LINE BEGINNING LINE CALCULATED BEING LINE:

10	60°04'58.17" N	17.1382	N 41°33'51.4" E	18.56
11	84°07'15.23" E	18.56	N 41°33'51.4" E	18.56
12	84°07'15.23" E	18.56	N 41°33'51.4" E	18.56
13	84°07'15.23" E	18.56	N 41°33'51.4" E	18.56
14	84°07'15.23" E	18.56	N 41°33'51.4" E	18.56
15	84°07'15.23" E	18.56	N 41°33'51.4" E	18.56

ACCORDION OF PARTS OF LOTS

LEGAL DESCRIPTION

That of Lot 10 numbered 15 in McCarty's Third West Side, as Addition to the City of Indianapolis, Indiana, more particularly described as follows:

Commencing at the POINT OF BEGINNING of the Southwest corner of Lot 10, thence South 0° degrees 09' minutes 15 seconds true (bearing bearing along the west line of Lot 10, 107.25 feet; thence South 71° degrees 13' minutes 15 seconds true (bearing bearing along the east line of Lot 10, 107.25 feet; thence South 71° degrees 13' minutes 15 seconds true (bearing bearing along the east line of Lot 10, 107.25 feet; to a point on the 15' Alley per McCarty's Third West Side, as Addition to the City of Indianapolis, as per plat thereon recorded in this book, page 15, in the Office of the Recorder of Marion County, Indiana, containing 32.06 acres of said Alley, 22.00 feet to the POINT OF BEGINNING, containing 32.06 acres of said Alley, more or less.

PROPOSED CHANGES:

1. Change the location of the building footprint to better align with the proposed parking spaces and to better utilize the site area.

2. Change the location of the parking spaces to better utilize the site area and to better align with the proposed building footprint.

3. Change the location of the setbacks to better align with the proposed building footprint and parking spaces.

4. Change the location of the easements to better align with the proposed building footprint and parking spaces.

5. Change the location of the utility lines to better align with the proposed building footprint and parking spaces.

6. Change the location of the other site features to better align with the proposed building footprint and parking spaces.

PROPOSED CHANGES:

1. Change the location of the building footprint to better align with the proposed parking spaces and to better utilize the site area.

2. Change the location of the parking spaces to better utilize the site area and to better align with the proposed building footprint.

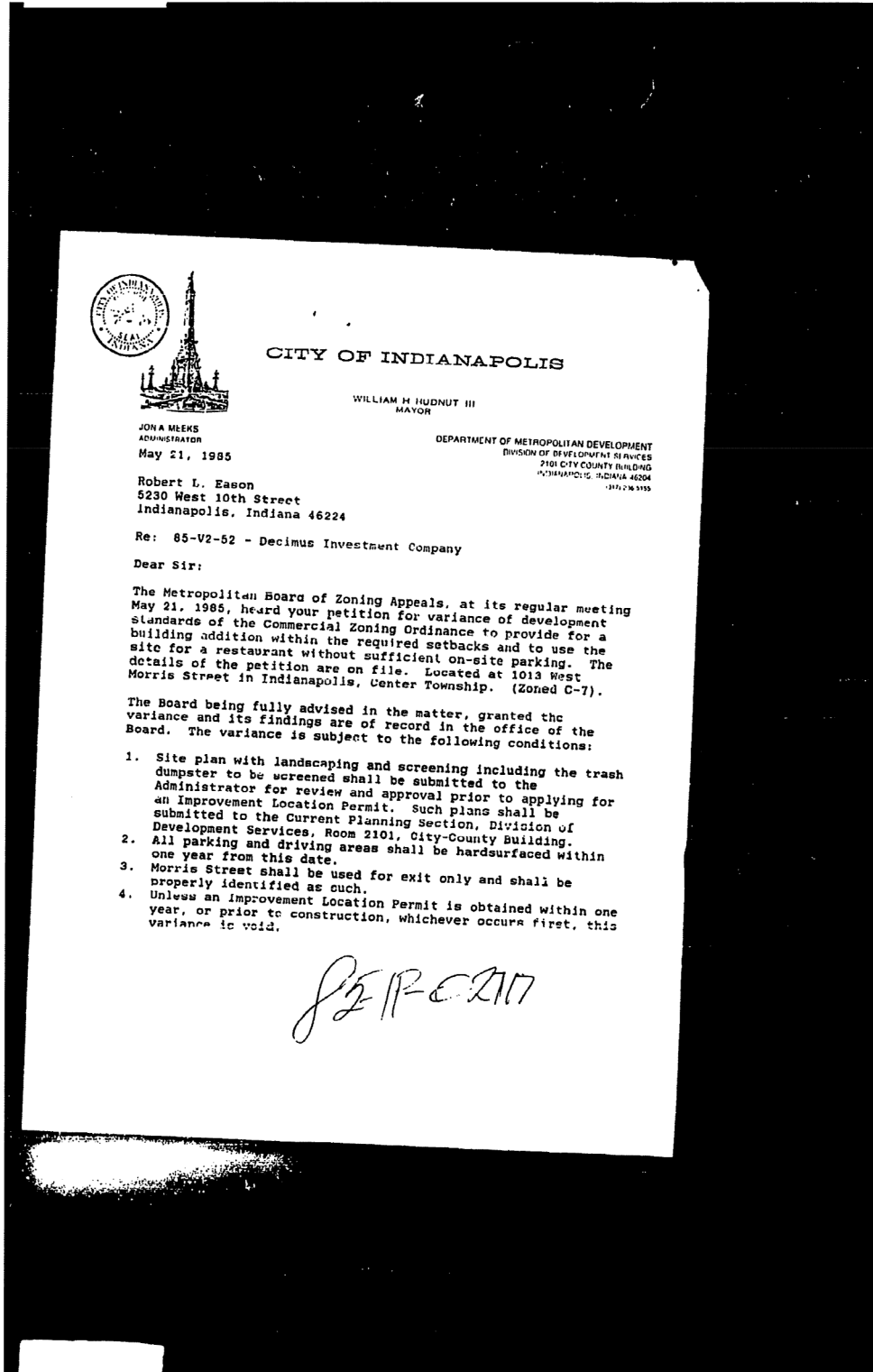
3. Change the location of the setbacks to better align with the proposed building footprint and parking spaces.

4. Change the location of the easements to better align with the proposed building footprint and parking spaces.

5. Change the location of the utility lines to better align with the proposed building footprint and parking spaces.

6. Change the location of the other site features to better align with the proposed building footprint and parking spaces.

EXHIBIT A



CITY OF INDIANAPOLIS

WILLIAM H HUDNUT III
MAYOR

JON A MEEKS
ADMINISTRATOR
May 21, 1985

DEPARTMENT OF METROPOLITAN DEVELOPMENT
DIVISION OF DEVELOPMENT SERVICES
2101 CITY COUNTY BUILDING
INDIANAPOLIS, INDIANA 46204
317-263155

Robert L. Eason
5230 West 10th Street
Indianapolis, Indiana 46224

Re: 85-V2-52 - Decimus Investment Company

Dear Sir:

The Metropolitan Board of Zoning Appeals, at its regular meeting May 21, 1985, heard your petition for variance of development standards of the Commercial Zoning Ordinance to provide for a building addition within the required setbacks and to use the site for a restaurant without sufficient on-site parking. The details of the petition are on file. Located at 1013 West Morris Street in Indianapolis, Center Township. (Zoned C-7).

The Board being fully advised in the matter, granted the variance and its findings are of record in the office of the Board. The variance is subject to the following conditions:

1. Site plan with landscaping and screening including the trash dumpster to be screened shall be submitted to the Administrator for review and approval prior to applying for an Improvement Location Permit. Such plans shall be submitted to the Current Planning Section, Division of Development Services, Room 2101, City-County Building.
2. All parking and driving areas shall be hardsurfaced within one year from this date.
3. Morris Street shall be used for exit only and shall be properly identified as such.
4. Unless an Improvement Location Permit is obtained within one year, or prior to construction, whichever occurs first, this variance is void.

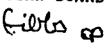
J. H. Eason

Robert F. Eason
May 21, 1985
Page 2

Under the Board's rules of procedure, a completion affidavit showing compliance with the approved plan is to be filed with the Board within thirty (30) days after completion.

Very truly yours,

METROPOLITAN BOARD OF ZONING APPEALS

Joan Gibbs 

Joan Gibbs, Secretary
JG:bg

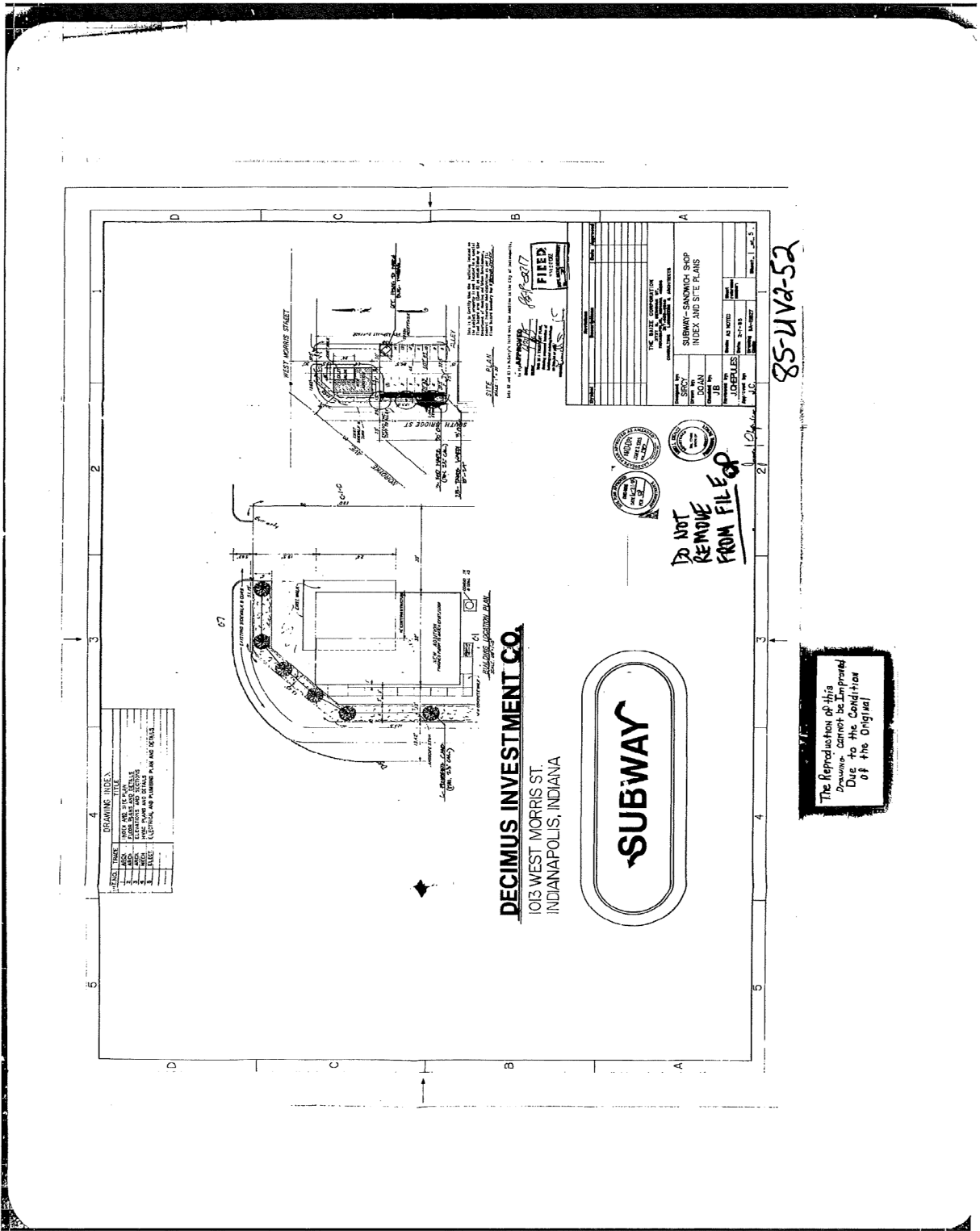


EXHIBIT B

KEELER-WEBB ASSOCIATES



Consulting Engineers · Planners · Surveyors
TELEPHONE (317) 574-0140 www.keelerwebb.com
486 Gradle Drive
Carmel, Indiana 46032

May 17, 2024

Attn: Plan Reviewer
City of Indianapolis Department of Metropolitan Development
200 East Market Street, Room 1842
Indianapolis, IN 46204

Re.: Pancake House Restaurant
1013 W. Morris Street, Indianapolis, Indiana
KWA Project No. 2401-010

PROJECT NARRATIVE

Keeler-Webb Associates is acting as agent surveyor/engineer for Mr. Steve Alexander AIA with Riva Campo, LLC, the owners of the above vacant property and petitioner Indy Grille Family Restaurant, LLC. We are proposing to completely remodel the existing old Subway restaurant containing (1,435 sq.ft.). We plan on four small building additions for the Pancake House to be able to bring the structure into compliance with IBC which will include the following: and new front entry vestibule 5.8'x9.83', an 8'x9' cooler, a 8'x20' freezer, and 866 Dining Room addition on the south side of the structure. The current site plan reflects several submittals and review of the site plans with Kathleen Blackham at DMD and Jill Palmer at DPW regarding the site access, previous approvals, development standards variances, and request for vacating part of Lot 85.

This property is affected by an approved zoning petition 85-UV2-52 for the previous Subway Restaurant. The variance was for a building addition which did not meet the required setbacks and sufficient on-site parking. Our plan is requesting a Modification of Site Plan and Modification the following Conditions:

3. Morris Street shall be used for exit only and shall be properly identified as such.

We are requesting the following development standards variances; *Chapter 742, Article 1, Section 4 Commercial Districts, F High Intensity Commercial (C7), 10-foot minimum depth of front yard (Compact)*:

1. The new entry building addition will be set back 6.7 feet from the Bridge Street right-of-way line.
2. The new cooler building addition will be set back 2.2 feet from the Morris Street right-of-way line.

Lastly, in order to maximize the redevelopment of the site we are requesting a partial vacation of Lot 85 in McCarty's Third West Side Addition. The last reconstruction of Morris Street in 1995 took all of Lot 85 along with the cross-hatched area of Lots 82-84 as shown on the Site plan for additional right-of-way. All utilities and public improvements have been located as a part of this plan. This proposed right-of-way vacation will not affect any known utilities or City of Indianapolis



Department of Metropolitan Development
Division of Planning
Current Planning

infrastructure. We are requesting the Western 31-33 feet of Lot 85 be vacated for parking once all approvals have been obtained.

Upon approval of this Development Standard Variance, Modification of Site Plan/Conditions, and Vacation, we will be submitting to BNS for ILP and Infrastructure/Drainage/Flood permit review and approval of the site. The overall disturbed area for the New Building Additions and parking improvements is 7,960 sq.ft. +/- . We plan to use green infrastructure rain gardens for stormwater quality treatment/detention, and the post developed site will have a very small increase of impervious area.

Construction is planned to begin immediately upon approval by all appropriate agencies with the intention of completing the addition by the end of 2024. The design of the building additions will meet requirements set in local and state building codes, and it will not be a fire hazard to the public. Strict application of the UDO is burdensome to this property due to the size and locations of the existing structure, existing parking, curb cuts, and proximity to the right-of-way lines on all four sides of the property. Compliance with the UDO would not allow for the construction of an updated restaurant on the property. There is sufficient capacity of all the utilities available to this site. No other off-site utility or road improvements will be necessary to construct or operate this facility. This project is being submitted for your review and comment. If there are any questions or concerns, please do not hesitate to contact us at any time.

Respectfully,
KEELER-WEBB ASSOCIATES

Adam DeHart, PS, EMT-P, CPESC, CESSWI
Project Manager



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA

PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE

FINDINGS OF FACT

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:
the subject real estate is not being used by City of Indianapolis nor any known utilities. The vacation of the land provides additional
space to the petitioner for increased parking and site circulation.

DECISION

IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20 ____



View looking east along West Morris Street



View looking west along West Morris Street



View looking south along Bridge Street



View of site looking east across Bridge Street



View of site looking east across Bridge Street



View of site looking east



View of site looking north



View of site looking north



View of vacation area looking northeast



View of vacation area looking east



View from site looking north across Bridge Street



View from site looking east



View from site looking southeast



View from site looking south



View from site looking north across West Morris Street