

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

No, the requested waiver will in no way adversely affect any adjacent property owners. As part of the overall development, adjacent property owners are of similar use and function.

2. Will the waiver violate the Comprehensive Plan?

No the requested waivers will not violate the Comprehensive Plan to the best of our knowledge.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

Yes, all efforts have been made to minimize the extent of the waiver requested. The waiver requested are necessary for the constructability and function of the proposed restaurant and associated parking areas.

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4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

A) The applicant is providing approximately 18% interior landscape area (I.L.A) which is well above the 7.5% required by code. (B) Due to the number and location of utility easements on the subject property, adhering to this requirement would greatly reduce the usable area of the lot.

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Yes, all efforts have been made to minimize the extent of the waiver requested. The waiver requested are necessary for the constructability and function of the proposed restaurant.

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(A) This particular building has been designed to maximize the patron areas visible from the outside of the building. Certain areas such as kitchen, equipment areas, bathrooms, and storage areas will remain shielded by the façade. (B) The strict application of the provisions of regulation would not allow for the business to function as intended. The façade facing the street shields the view from the interior kitchen and managerial areas. The building features a modern feel with glass and fenestration allowing for views into the dining room.

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District Development Plan Justification:

In order to justify approval of any district development plan, the Planning Commission considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

- 1. Are there any natural resources on the property, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites? And are these natural resources being preserved?**

Currently, the site would be considered in the flood plain per FEMA FIRM Map, 21111C0019E 12/05/06, however, attached to this application is a previously approved "SAFE ELEVATION". A recently graded slope exists on the western and southern boundary of the property. Immediately to the west of this site, exists a creek that is heavily vegetated. The creek nor the associated 100' buffer will not be encroached.

- 2. Is safe and efficient vehicular and pedestrian transportation provided both within the development and the community?**

Previously sidewalks had been built for pedestrian access along Westport Road and Indian Lake Drive. Additionally, this particular site features an existing driveway to Westport Road and access drive connecting this site to the ALDI Property.

- 3. Is sufficient open space (scenic and recreational) to meet the needs of the proposed development being provided?**

No scenic or recreational spaces are proposed on this lot. The adjacent tract to the south features green space with walking trails.

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- 4. Are provisions for adequate drainage facilities provided on the subject site in order to prevent drainage problems from occurring on the subject site or within the community?**

Existing facilities are provided on the subject site, which also serves the adjacent ALDI parcel. Proposed hydraulic conveyance pipes will connect to existing facilities.

- 5. Is the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses compatible with the existing and projected future development of the area?**

The east and west adjacent properties on Westport Road and also across Westport Road are all zoned Commercial, making this project congruent with the surroundings.

- 6. Is the proposal in conformance with the Comprehensive Plan and Land Development Code?**

Previously this site was approved for a quick-serve restaurant and to the best of our knowledge, the proposed site continues to conform to the comprehensive plan and land development code.

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