

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 2/11/2020

Case #:	BZA 2020-1 GetGo Café and Market Pole Sign, Special Exception Use			
Petitioner's Name:	Giant Eagle, Inc. d.b.a. GetGo Café and Market			
Owner's Name:	Exit 109, LLC			
Petitioner's Representative:	Bryan Sheward, Kimley Horn			
Address of Property:	3877-3977 North Michigan Road			
Subject Property Zoning Classification:	BH – Business Highway within the Race Track Overlay District (RT-OL)			
Comprehensive Future Land use:	Gateway Mixed Use			
	North	North	South	West
Surrounding Properties' Zoning Classifications:	BH – Business Highway	BH – Business Highway	BH - Business Highway	BH - Business Highway
Surrounding Properties' Future Land Use	Entertainment	Entertainment	Entertainment	Entertainment
History:	In both 2006, 2009, and 2016 development attempts were made on this property, neither were successful and ended before all required approvals from the Planning Commission were granted. In 2006 the driving development was a hotel, which initiated a preliminary plat of the land. Again in 2009 the driving development was a hotel, this again initiated a preliminary plat that was approved. Due to external concerns, the final plat was never submitted to the Planning Commission. In 2016 the driving development was a fast food restaurant, with additional possible out lots, the final plat was never filed with the Plan Commission.			
Vicinity Map:				
Action Requested:	Approval of one special exception use to allow for a sign pole.			

1. GetGo Café and Market would like to construct a pole sign in the business highway district. Pole signs are permitted via special exception by the Board of Zoning Appeals.
-

Special Exception Use Findings of Fact, for “Sign Pole”

General Welfare: Explain why granting the request for a special exception will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

Applicant provided the following response to Finding of Fact #1 “The proposed sign will not interfere with traffic on the nearby interstate, but rather will provide adequate identification of the site so that travelers can make a safe exiting decision.”

The planning staff has determined that a special exception will not be harmful to the public health, safety and general welfare of the City of Shelbyville. The location and intended purpose of the sign do not pose any safety concern for the general public.

Finding #1 has been satisfied by the petitioner

Compatibility and Impact: Explain why the special exception will be in harmony with the adjacent uses and will not substantially have an adverse impact on the adjacent properties and property values.

Applicant provided the following response to Finding of Fact #2 “The commercial and entertainment uses near the subject property also use larger signs to identify the uses of the properties.”

The planning staff has determined the special exception will be in harmony with the adjacent uses and will not substantially have an adverse impact on the adjacent properties and property values. The proposed location of the special use pole sign is in the Business Highway – BH district. This is the only district that allows pole signs. Given the proposed location of the sign and development site, adjacent to Interstate 74, there are several other pole signs in this area.

Finding #2 has been satisfied by the petitioner if staff recommended conditions are met

Character: Explain why the special exception will not adversely alter the character of the zoning district.

Applicant provided the following response to Finding of Fact #3 “The BH zoning district contemplates taller pole signs and the commercial/ entertainment uses in the BH district typically use taller signs as a means of identification.”

The planning staff has determined that the requested special exception use will not adversely alter the character of the zoning district. The site is immediately adjacent to Interstate 74 and the base zoning is Business Highway (BH). The Business Highway (BH) zoning is the only district that allows pole signs. Several adjacent businesses also have pole signs.

Finding #3 has been satisfied by the petitioner

Finding of Fact #4 – Comprehensive Plan: Explain why the special exception is consistent with the intent of the zoning district and the goals of the comprehensive plan. Use statements and Future Land Use map from the Comprehensive Plan and Article 2 of the Unified Development Ordinance.

Applicant provided the following response to Finding of Fact #4 “Taller signs to support highway oriented businesses are contemplated by the comprehensive plan and UDO.”

The planning staff has determined that the requested special exception use is consistent with the goals of the Comprehensive Plan and Article 2 of the Unified Development Ordinance. According to Article 2 in the Unified Development Ordinance, the Business Highway (BH) District is intended to provide areas for business that either services travelers or requires immediate access to high-volume streets for the delivery of goods and services. This district should be integrated into the community at its entrances and in centers along major transportation routes. GetGO Café and Market is a business that services travelers along Interstate 74. In addition, the Comprehensive Plan’s future land use map identifies this area as Gateway/Mixed Use.

Finding #4 has been satisfied by the petitioner

Finding of Fact #5 – Impact to Adjacent Area: The use and property value of the area adjacent to the subject property seeking a Special Exception will not be affected in a substantially adverse manner.

Applicant provided the following response to Finding of Fact #5 “There will be no lack of access to or visibility of adjoining uses by the placement of a taller sign on the subject property.”

The planning staff has determined the use and property value of the area adjacent to the subject property will not be affected in a substantially adverse manner. The proposed location is surrounded by similar businesses that service travelers on Interstate 74 and have a similar lot size and architecture to the subject property.

Finding #5 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL

SPECIAL EXCEPTION USE: BZA 2020-1 GetGo Café and Market Pole Sign, Special Exception Use

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion: (I) would like to make a motion to approve the requested special exception use to allow for a pole sign, pursuant to the findings of fact presented in the planning staff's report.

- 1. The proposed Special Exception Use **will not** be injurious to the public health, safety morals and general welfare of the community, pursuant to the planning staff's report.
 The proposed Special Exception **will** be injurious to the public health, safety morals, and general welfare of the community, pursuant to the planning staff's report.
- 2. The proposed Special Exception Use **is** in harmony with adjacent land use, pursuant to the planning staff's report.
 The proposed Special Exception Use **is not** in harmony with adjacent land use, pursuant to the planning staff's report.
- 3. The proposed Special Exception Use **will not** adversely alter the character of the zoning district, pursuant to the planning staff's report.
 The proposed special Exception Use **will** adversely alter the character of the district, pursuant to the planning staff's report.
- 4. The proposed special exception **is consistent** with the intent of the zoning district and goals objectives within the comprehensive plan, pursuant to the planning staff's report.
 The special exception **is not consistent** with the intent of the zoning district and goals objectives within the comprehensive plan, pursuant to the planning staff's report.
- 5. The use and property value of the area adjacent to the subject property seeking a special exception use **will not** be affected in a substantially adverse manner, pursuant to the planning staff's report.
 The Use and property value of the area adjacent to the subject property seeking a special exception **will** be affected in a substantially adverse manner, pursuant to the planning staff's report.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson / Presiding Officer

Attest: _____

Adam M. Rude, Secretary



SPECIAL EXCEPTION USE APPLICATION

Shelbyville Planning & Building Department
44 West Washington Street
Shelbyville, IN 46176
P: 317.392.5102

For Office Use Only:	
Case #: BZA _____ - _____	
Hearing Date: _____	
Fees Paid: \$ _____	
Final Decision:	
Approved	Denied

Special Exception Request for Pole Sign in BH Zoning District

1.

Applicant

Name: Giant Eagle, Inc. d/b/a GetGo Cafe & Market
Address: 101 Kappa Dr. RIDC Park, Pittsburgh, PA 15238

Phone Number: 412.327.6703
Fax Number: _____
Email: pat.avolio@gianteagle.com

Property Owners Information (if different than Applicant)

Name: Exit 109, LLC c/o Kulkarni Properties
Address: 400 Smith Rd., Suite 190, Cincinnati, OH 45209

Phone Number: 513.863.1400
Fax Number: _____
Email: shtree.kulkarni@kulkarniproperties.com

2.

Applicant's Attorney/Representative

Name: Joseph D. Calderon, Barnes & Thornburg, LLP
Address: 11 S. Meridian St., Indianapolis, IN 46204

Phone Number: 317.231.1313
Fax Number: _____
Email: jcalderon@btlaw.com

Project Engineer

Name: Bryan Sheward, Kimley-Horn and Associates, Inc.
Address: 250 E. 96th St., Suite 580, Indianapolis, IN 46240

Phone Number: 317.218.9563
Fax Number: _____
Email: bryan.sheward@kimley-horn.com

3. Project Information:

General Location of Property (and address is applicable): 3877-3977 N. Michigan Rd. (Southwest Corner of Michigan Rd. & 400 S. - Exit 109)

Current Zoning: BH* Existing Use of Property: Vacant
Proposed Zoning: BH* Proposed Use: Convenient Store with Fuel Sales

4. Attachments

- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed)
- Letter of Intent
- Vicinity Map
- Application Fee
- Findings of Fact

The undersigned states the above information is true and correct as s/he is informed and believes.

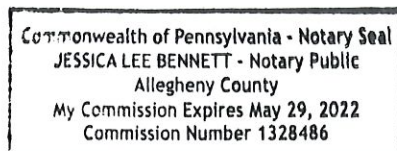
Applicant: *Joseph D Calderon* Date: 12/30/19

State of Pennsylvania
County of Allegheny SS:

Subscribed and sworn to before me this 30th day of December 2019.

Jessica Lee Bennett / Jessica Lee Bennett
Notary Public Printed

Residing in Allegheny County. My Commission Expires: May 29, 2022



CLT

200809183 WJ \$23.00
12/30/2008 04:41:12P 4 PGS
Mary Jo Phares
SHELBY County Recorder IN
Recorded as Presented

ENTER FOR TAXATION

DEC 30 2008

Ann M. Whitman
SHELBY COUNTY AUDITOR

C&I
CTIC# 412100 MS

WARRANTY DEED

THIS INDENTURE WITNESSETH, that RUMPKE OF INDIANA, INC., an Indiana corporation (f/k/a Rumpke of Indiana-Shelbyville, Inc.) ("Grantor") CONVEYS AND WARRANTS to EXIT 109, LLC, an Indiana limited liability company, for the sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the real estate located in Shelby County, in the State of Indiana, which is described in Exhibit "A", attached hereto and made a part hereof, together with all improvements located thereon, (the "Real Estate").

The foregoing conveyance shall be subject only to: (i) real estate taxes and assessments due and payable in 2008, and all subsequent taxes, and (ii) those easements, restrictions, agreements, covenants and encumbrances more particularly described on Exhibit "B" attached hereto and incorporated herein by reference.

TOGETHER WITH all rights, privileges, interests, easements, hereditaments, appurtenances and tenements thereunto belonging or pertaining to the Real Estate.

The undersigned person executing this Warranty Deed on behalf of Grantor represents and certifies that he is the duly authorized officer of Grantor and has been fully empowered and duly authorized by all necessary action of Grantor to execute and deliver this Warranty Deed; that Grantor has full capacity to convey the Real Estate; and that all necessary action for the making of such conveyance has been taken or done.

IN WITNESS WHEREOF, Grantor has caused this Warranty Deed to be executed as of the 14 day of October, 2008.


Rumpke of Indiana, Inc., an Indiana corporation

By: *William J. Rumpke*
William J. Rumpke, President

STATE OF ^{Ohio} INDIANA)
) SS:
COUNTY OF Hamilton)

Before me, a Notary Public in and for said County and State, personally appeared William J. Rumpke, the President of Grantor, and being first duly sworn, acknowledged the execution of the foregoing Warranty Deed for and on behalf of Grantor and stated that any representations therein contained are true.

Witness my hand and Seal this 16 day of October, 2008.

My Commission Expires _____
 **CYNTHIA SCHULTZ** Notary Public
Cynthia Schultzy
My County of Hamilton My Commission Expires 01-28-2012 Printed Name

Return and send tax statements to: ^{by email address} Exit 109, LLC, 3320 Tylersville Road, Suite K, Hamilton, Ohio 45011

This instrument prepared by Alexa L. Woods, TAFT STETTINIUS & HOLLISTER LLP, One Indiana Square, Suite 3500, Indianapolis, IN 46204.

I affirm, under penalty of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Alexa L. Woods

Exhibit "A"
Legal Description

A part of the Northeast quarter of Section 14, a part of the Southeast quarter of Section 11, and part of the Northwest quarter of Section 13, all in Township 13 North, Range 6 East, Shelby County, Indiana described as follows:

Commencing at the Northeast corner of said Section 14; thence North 88 degrees 43 minutes 49 seconds West along the North line of Section 14 a distance of 40.00 feet to a 5/8 inch rebar on the West line of County Road 200 West and the Point of Beginning; thence along said West Right-of-Way South 01 degree 15 minutes 43 seconds West a distance of 328.01 feet to a tangent curve having a radius of 756.17 feet and being concave to the Northeast; thence Southerly along said curve and Right-of-Way 628.76 feet; thence South 46 degrees 11 minutes 55 seconds East along said Right-of-Way a distance of 674.27 feet; thence North 88 degrees 33 minutes 34 seconds West a distance of 39.53 feet to the Northeasterly Right-of-Way of I-74; thence the next six (6) courses being along said Right-of-Way

1. North 45 degrees 20 minutes 25 seconds West a distance of 1022.77 feet
2. North 43 degrees 09 minutes 28 seconds West a distance of 270.72 feet
3. North 41 degrees 56 minutes 29 seconds West a distance of 245.62 feet
4. North 32 degrees 44 minutes 09 seconds West a distance of 276.94 feet
5. North 24 degrees 38 minutes 54 seconds West a distance of 203.84 feet
6. North 24 degrees 54 minutes 30 seconds East a distance of 62.87 feet to the South Right-of-Way of County Road 400 North; thence the next three (3) courses being along said Right-of-Way
 1. North 84 degrees 07 minutes 41 seconds East a distance 310.06 feet to a tangent curve concave to the South having a radius of 1105.92 feet
 2. Thence Easterly along said curve 265.40 feet
 3. Thence South 38 degrees 04 minutes 02 seconds East a distance of 77.79 feet to the West Right-of-Way of County Road 200 West; thence along said Right-of-Way South 01 degrees 15 minutes 43 seconds West a distance of 124.39 feet to the Point of Beginning containing 8.68 acres.

Exhibit "B"
Permitted Exceptions

1. Taxes for the year 2007 due and payable in 2008 are a lien not yet due and payable.
2. Taxes for the year 2008 due and payable in 2009 are a lien not yet due and payable.
3. Permanent extinguishment of all rights and easements of ingress and egress, to, from and across the limited access facility known as Interstate 74, to and from the land.
4. Sixteen (16) foot underground electric line easement and rights of way granted to Public Service Company of Indiana, Inc. as set forth in an electric underground line easement dated December 1, 1989 and recorded April 27, 1990 in Deed Record 304, pages 583-584 as instrument No. 01758. (Tract B)
5. Indiana Department of Environmental Management Certificate of Completion issued to Rumpke of Indiana, Inc., pursuant to IC 13-25-5, recorded April 30, 2002 as Instrument No. 0204240. (Tract B)
6. Overhead power lines as shown on the ALTA Survey prepared by Bledsoe Riggert Guerrettez as Project No. 3851 last revised on October 16, 2008.

LAND DESCRIPTION (PER TITLE REPORT)

A PART OF THE NORTHEAST QUARTER OF SECTION 14, A PART OF THE SOUTHEAST QUARTER SECTION 11, AND PART OF THE NORTHWEST QUARTER OF SECTION 13, ALL IN TOWNSHIP 13 NORTH, RANGE 6 EAST, SHELBY COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14; THENCE NORTH 88 DEGREES 43 MINUTES 49 SECONDS WEST ALONG THE NORTH LINE OF SECTION 14 A DISTANCE OF 40.00 FEET TO A 5/8 INCH REBAR ON THE WEST LINE OF COUNTY ROAD 200 WEST AND THE POINT OF BEGINNING; THENCE ALONG SAID WEST RIGHT OF WAY SOUTH 01 DEGREE 15 MINUTES 43 SECONDS WEST A DISTANCE OF 328.01 FEET TO A TANGENT CURVE HAVING A RADIUS OF 756.17 FEET AND BEING CONCAVE TO THE NORTHEAST; SOUTHERLY ALONG SAID CURVE AND RIGHT-OF-WAY 628.76 FEET; THENCE SOUTH 46 DEGREES 11 MINUTES 55 SECONDS EAST ALONG SAID RIGHT OF WAY A DISTANCE OF 674.27 FEET; THENCE NORTH 88 DEGREES 33 MINUTES 34 SECONDS WEST A DISTANCE OF 39.53 FEET TO THE NORTHEASTERLY RIGHT OF WAY OF I-74; THENCE THE NEXT SIX (6) COURSES BEING ALONG SAID RIGHT OF WAY: 1). NORTH 45 DEGREES 20 MINUTES 25 SECONDS WEST A DISTANCE OF 1022.77 FEET; 2). NORTH 43 DEGREES 09 MINUTES 28 SECONDS WEST A DISTANCE OF 270.72 FEET 3). NORTH 41 DEGREES 56 MINUTES 29 SECONDS WEST A DISTANCE OF 245.62 FEET 4). NORTH 32 DEGREES 44 MINUTES 09 SECONDS WEST A DISTANCE OF 276.94 FEET 5). NORTH 24 DEGREES 38 MINUTES 54 SECONDS WEST A DISTANCE OF 203.84 FEET 6). NORTH 24 DEGREES 54 MINUTES 30 SECONDS EAST A DISTANCE OF 62.87 FEET THE SOUTH RIGHT OF WAY OF COUNTY ROAD 400 NORTH; THENCE THE NEXT THREE (3) COURSES BEING ALONG SAID RIGHT OF WAY: 1). NORTH 84 DEGREES 07 MINUTES 41 SECONDS EAST A DISTANCE 310.06 FEET TO TANGENT CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 1105.92 FEET 2). THENCE EASTERLY ALONG SAID CURVE 265.40 FEET 3). THENCE SOUTH 38 DEGREES 04 MINUTES 02 SECONDS EAST A DISTANCE OF 77.9 FEET TO THE WEST RIGHT-OF-WAY OF COUNTY ROAD 200 WEST; THENCE ALONG SAID RIGHT OF WAY SOUTH 01 DEGREES 15 MINUTES 43 SECONDS WEST A DISTANCE OF 124.39 FEET TO THE POINT OF BEGINNING CONTAINING 8.68 ACRES.



SPECIAL EXCEPTION USE
FINDINGS OF FACT

Petitioner's Name: Giant Eagle, Inc. d/b/a GetGo Cafe + Market
Location: 3877-3977 N. Michigan Road
Special Exception for: Pole Sign

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. General Welfare: Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.
The proposed sign will not interfere with traffic on the nearby interstate, but rather will provide adequate identification of the site so that travelers can make a safe exiting decision.
2. Compatibility and Impact: Explain why the special exception will be in harmony with the adjacent uses and will not substantially have an adverse impact on the adjacent properties and property values.
The commercial and entertainment uses near the subject property also use larger signs to identify the uses of the properties.
3. Character: Explain why the special exception will not adversely alter the character of the zoning district.
The BH zoning district contemplates taller pole signs, and the commercial/ entertainment uses in the BH district typically use taller signs as a means of identification.
4. Comprehensive Plan: Explain why the special exception is consistent with the intent of the zoning district and the goals of the Comprehensive Plan. Use statements and future land use map from the Comprehensive Plan and Article 2 of the Unified Development Ordinance.
Taller signs to support highway oriented businesses are contemplated by the comprehensive plan and UDO.
5. Impact to Adjacent Area: The use and property value of the area adjacent to the subject property seeking a Special Exception will not be affected in a substantially adverse manner.
There will be no lack of access to or visibility of adjoining uses by the placement of a taller sign on the subject property.

GetGo #3565

VICINITY MAP

GETGO #3565 PROJECT SITE

N-150 W

Co Rd-125 W



S-2

HI-RISE PYLON - VARIANCE

QTY: 1

SQ FT: 353.67

Scale: 1/8" = 1'-0"

SERVICE AMPS:
50 AMP BREAKER
WITH 240 CIRCUIT

SIGN	SQUARE FEET
HEAD SIGN	209.27
PRICER	144.4
TOTAL SQFT	353.67

Note: Sign height to be adjusted to best visibility result per site conditions.

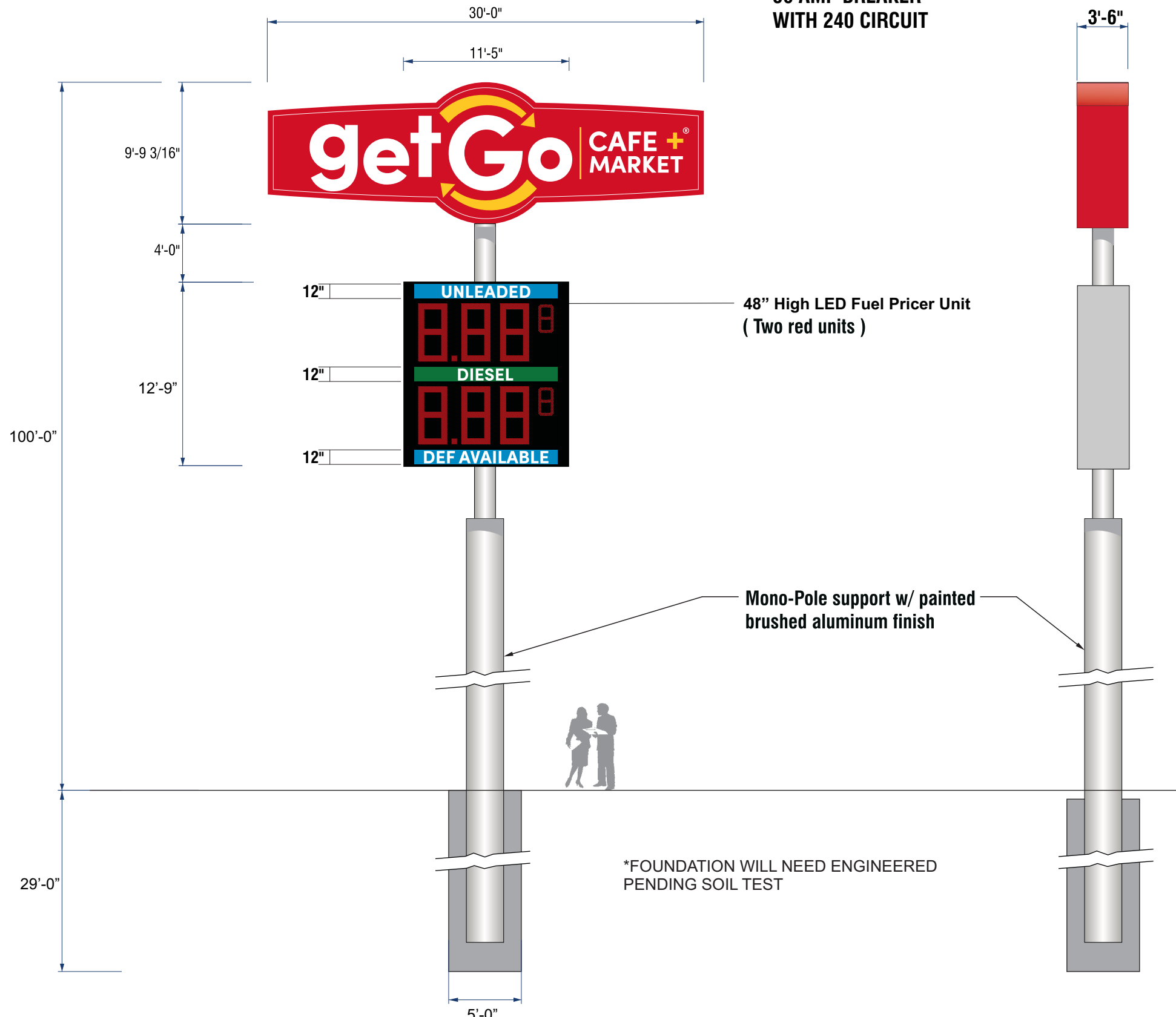
Note: If direct burial footers the support steel will need to be painted with galvanic paint to the portion of steel below grade.

Note: Get Go cabinet is a fabricated aluminum cabinet with gloss red finish, filler, & retainer.

Note: Get Go cabinet flex faces with first surface decoration internal white LEDs.

Note: Pricer cabinet is a fabricated aluminum cabinet with brushed aluminum finish on filler and black finish on faces. Internally illuminated product panels

Note: Blair digits for hi-rise sign will need engineering time. Please add extra lead time when ordering.



DOUBLE FACE HIGH RISE SIGN ELEVATION

SIDE VIEW

blair
IMAGE ELEMENTS™

5107 Kissell Ave.
Altoona, PA 16601

P: 814.949.8287

F: 814.949.8293

blaircompanies.com

PROJECT INFORMATION

CLIENT: Giant Eagle
ADDRESS: 3877-3977 N. Michigan Road
Shelbyville, IN 46176
M NUMBER: 88516
DATE: 11-05-19
RENDERED: RD
FILE NAME: AD-GNE88516
CATEGORY: APPROVAL

REVISION

- a. 01.15.2020;RD; Update Drawing
- b. 01.22.2020;KO; Update Building Elevation
- c. 01.24.20 EBD Create Variance package

Drawing will expire 90 days after date on cover. If production request is sent in after 90 days, 24 hours is required to review approval.



CUSTOMER INITIALS

Initials _____