

CITY OF SHELBYVILLE

Adam M. Rude
Director



Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 10/13/2020

Case #:	BZA 2020-14: Zaxby's Pole Sign, Sign Standards DSV			
Petitioner's Name:	Gallus Shelbyville, LLC			
Owner's Name:	Indiana Land Trust			
Petitioner's Representative:	Jeff Furlin			
Address of Property:	1792 North Riley Highway, Shelbyville, Indiana			
Subject Property Zoning Classification:	BH – Business Highway			
Comprehensive Future Land use:	Gateway Mixed Use			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	BH - Business Highway	BH - Business Highway	BH - Business Highway	R1 – Single Family Residential
Surrounding Properties' Comprehensive Future Land Use	Gateway/ Mixed Use	Gateway/Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use
History:	The parcel has been a mix of retail throughout the years. In the recent past it operated as a Shell Gas Station, but has been vacant for 10+ years. The site has sat vacant from then until now. The existing building will be demolished for the next Zaxby's.			
Vicinity Map:				
Action Requested:	Approval of one development standards variance from UDO 5.58(Q)(3)(c), the Sign Standards for Pole Signs in the Interstate Corridor			

1. Within the BH – Business Highway zoning district, property owners are able to petition for Special Exception Use approval for a Pole Sign.
2. If approved a Special Exception Use, Pole Sign within 1,000 from the I-74 corridor are permitted to be up to 100 feet in height and 200 square feet in area.
3. The petitioner is requesting a variance to allow a total sign area of 698 square feet, rather than the 200 square feet prescribed by the UDO. The 400 square feet will be shared by multiple tenants.

Development Standard Variance UDO 5.58(Q)(3)(c) – Sign Standards for Pole and Pylon Signs

The City of Shelbyville’s Unified development Ordinance indicates that the Board of Zoning Appeals shall make findings of fact when deciding on a request for a Development Standard Variance. The decision criteria are as follows:

Finding of Fact #1 – That the approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.

The petitioner provided the following response to Findings of Fact #1: “Property is in Business Highway District south of I-74 on Riley Hwy and has been vacant for years. New development for a proposed Zaxby’s. All of the businesses in the area have highway signs and property has an old pole structure which will be removed for a new pole structure. Proposed sign will fit nicely with the area.”

The planning staff has determined that the requested development standards variances should not be injurious to the public health, safety, morals, and general welfare of the community. The Board of Zoning Appeals has reviewed and approved similar square footage increases – BZA 2019-17 for the Casey’s General Store.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – That the use and value of the area adjacent to the subject property seeking a Development Standards Variance will not be affected in a substantially adverse manner;

The petitioner provided the following response to Findings of Fact #2: “Adjacent properties are commercial including McDonalds, Casey’s General Store, and Waffle House. All of these businesses have a highway pole sign.”

The planning staff has determined that the requested variance should not have a substantially adverse impact on the use or value of the adjacent areas. This business highway zoning district is designed to service interstate travelers. Given the scale and travel speeds along the interstate, larger square footage signs are needed to advertise businesses at the interchanges.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – That the strict application of the terms of the ordinance will result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain;

The petitioner provided the following response to Findings of Fact #3: "The highway pole sign will not adversely alter the character of the zoning district because most all of the businesses on Riley Highway off of I-74 have a highway pole sign."

The planning staff has determined that the strict application of the terms of the ordinance will not result in practical difficulties in the use of the property. The Indiana Department of Transportation provides the Specific Services Sign program (Logo Signs) which permits eligible businesses to place their logos on interstate panels that identify key services at designated interstate exits. This would allow Zaxby's another opportunity to advertise their business to interstate travelers. The Logo Sign combined with a pole sign would be adequate to advertise the business.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2020-14: Zaxby's Pole Sign, Sign Standards DSV

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to approve the requested development standard variance from UDO 5.58(Q)(3)(c) to allow a pole sign with an area of up to _____ square feet, pursuant to the findings of fact presented in the planning staff's report.

- 1. The approval of the Development Standards Variance **will not** be injurious to the public health, safety, morals and general welfare of the community.
- The approval of the Development Standards Variance **will** be injurious to the public health, safety, morals and general welfare of the community.
- 2. The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will not** be affected in a substantially adverse manner.
- The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will** be affected in a substantially adverse manner.
- 3. The strict application of the terms of the ordinance **will** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.
- The strict application of the terms of the ordinance **will not** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

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



DEVELOPMENT STANDARDS VARIANCE 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 _____

1. Applicant
Applicant Name: Gallus Shelbyville, LLC
Address: 10142 Brooks School Rd, Suite 196
 Fishers, IN 46037
Phone Number: 317-509-0627
Fax Number: N/A
Email: furlinjl@aol.com

Property Owners Information (if different than Applicant)
Name: Indiana Land Trust Company, Trust No. 120728
Address: 9800 Connecticut Dr., Suite B2-900
 Crown Point, IN 46037
Phone Number: N/A
Fax Number: N/A
Email: N/A

2. Applicant's Attorney/Representative
Name: Jeff Furlin
Address: 10142 Brooks School Rd, Suite 196
 Fishers, IN 46037
Phone Number: 317-509-0627
Fax Number: N/A
Email: furlinjl@aol.com

Project Engineer
Name: American Structurepoint / Tyler Comstock
Address: 9025 River Road, Suite 200
 Indianapolis, IN 46240
Phone Number: 317-547-5580
Fax Number: N/A
Email: tcomstock@structurepoint.com

3. Project Information:
 General Location of Property (and address is applicable): 1792 N. Riley Hwy, Shelbyville, IN 46176

Current Zoning Classification: BH Existing Use: Vacant Lot - Former Gas Station
 Number of Requested Variances: 1 Proposed Use: Zaxby's

Section(s) of the Ordinance Requesting Variance(s) from; including Article, Section, Subsection, and Page Number: Article 5, 5.58, SI-01, Q.3.C (Pole Sign Area) / Pg. 5-69.

4. Attachments

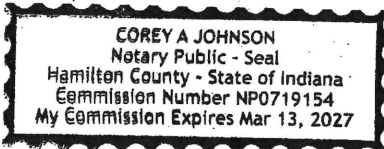
- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed, recent property card)
- Letter of Intent
- Supporting Documents and Exhibits (Optional)
- Vicinity Map
- Findings of Fact
- Application Fee

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

Applicant: [Signature] Date: 9/29/2020

State of IN
 County of Hamilton SS:

Subscribed and sworn to before me this 29 day of Sept, 2020
[Signature]
 Notary Public Printed
 Residing in Hamilton County. My Commission Expires: 3-13-2027



ZAXBY'S



BARRED ROCK, INC. d/b/a ZAXBY'S
10142 Brooks School Rd. ♦ Suite 196 ♦ Fishers, IN 46037
Phone: 317-284-1992

Letter of Intent

Board of Zoning Appeals

This project is for a new Zaxby's restaurant. Please see attached summary of Zaxby's. It will have 70 seats and a drive thru lane. The ownership of Gallus Shelbyville currently operates two Zaxby's Franchise restaurants in Greenwood, IN and is in the process of purchasing the land from the current owners. The proposed development will improve a corner that has sat vacant for approximately 10 years. The use will fit nicely with the surrounding properties of restaurants, gas stations, and hotels.

The property is in the Business Highway District and located within the Interstate Corridor which allows Pole Signs via special exception by the Shelbyville Board of Zoning Appeals. Attached is the proposed Pole Sign. It is in compliance of Article-05 requiring pole signs not to exceed 100 feet in height and not to exceed 200 square feet in area.


We are also requesting a variance to allow an additional 200 square foot sign to be placed below the Zaxby's sign which could be used by the current owners for a future use that has yet to be identified.

The proposed pole sign is important to the development of the Zaxby's to give the needed visibility to traffic exiting I-74 onto SR 9 (Riley Highway).

2020001325 WD \$25.00
03/09/2020 04:04:37P 3 PGS
Taunya J Williams
SHELBY County Recorder IN
Recorded as Presented

ENTER FOR TAXATION

MAR 09 2020


SHELBY COUNTY AUDITOR

WARRANTY DEED

This Indenture Witnesseth, that W. Taylor Sumerford ("Grantor") of Shelby County, State of Indiana, CONVEY(S) AND WARRANT(S) to **INDIANA LAND TRUST COMPANY, as trustee under the provisions of a Trust Agreement dated March 3, 2020 and known as Trust No. 120728** ("Grantee"), for the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following real estate in Shelby County, State of Indiana, commonly known as 1792 N Riley Hwy, Shelbyville, IN 46176, and more particularly described as:

See attached Exhibit "A"


The real estate described above constitutes the Relinquished Property held by Grantor and is being conveyed to Grantee pursuant to a Like-Kind Exchange Agreement dated February 27, 2020 between Grantor, as Exchangor, and Exchange Services Group, LLC, a Delaware limited liability company, the Intermediary in which the exchange of like-kind property qualifies under Section 1031 of the Internal Revenue Code of 1986, as amended and Regulations thereto. Said Exchange Agreement provides for direct deeding from the Grantor to Grantee. This conveyance is pursuant to a Purchase Agreement between Grantor and Grantee dated February 14, 2020.

Subject to taxes for 2019 payable 2020 and taxes for 2020 payable 2021, now a lien, not yet due and payable.

Subject to covenants, agreements, easements, restrictions and all rights of way of record.

In Witness Whereof, Grantor has caused this deed to be executed this 4 day of

March, 2020.


W. Taylor Sumerford

**SALES DISCLOSURE
APPROVED
SHELBY CO. ASSESSOR**

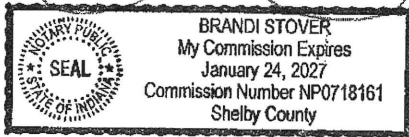
STATE OF INDIANA)
COUNTY OF Shelby)

Before me, a Notary Public in and for said County and State, personally appeared W. Taylor Sumerford, who acknowledged the execution of the foregoing document, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 4 day of March, 2020.

Signature [Handwritten Signature], Notary Public
Printed: Brandi Stover

My Commission Expires: 1/24/27
My County of Residence is: Shelby



IN1902580

Prepared by and return deed to:
Leslie A. Wagers, Esq.
Near North Title Group, 865 W. Carmel Drive, Suite 110, Carmel, IN 46032

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law, Leslie A. Wagers, Esq.

Grantee mailing address and please send tax statements/notices to:
9800 Connecticut Dr., Suite B2-900, Crown Point IN 46307

EXHIBIT "A"

PART OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 13 NORTH, RANGE 7 EAST OF THE SECOND PRINCIPAL MERIDIAN, IN SHELBY COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

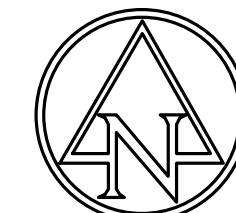
COMMENCING AT A POINT ON THE NORTH LINE OF SAID QUARTER SECTION 920.00 FEET NORTH 85 DEGREES 56 MINUTES 15 SECONDS WEST OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 02 DEGREES 15 MINUTES 13 SECONDS WEST AND PARALLEL WITH THE EAST LINE OF SAID QUARTER SECTION 9.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 02 DEGREES 15 MINUTES 13 SECONDS WEST AND PARALLEL WITH SAID EAST LINE 220.00 FEET TO A POINT; THENCE NORTH 85 DEGREES 56 MINUTES 15 SECONDS WEST AND PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION 335.53 FEET TO THE EAST RIGHT-OF-WAY LINE OF STATE ROAD NO. 9, AS NOW LOCATED AND ESTABLISHED, PER INDIANA STATE HIGHWAY PLANS FOR PROJECT 1-05-03 (18) SHEET NUMBER 7 DATED 1958; THENCE NORTH 02 DEGREES 18 MINUTES 50 SECONDS EAST UPON AND ALONG SAID EAST RIGHT-OF-WAY LINE 150.95 FEET TO A POINT; THENCE NORTH 26 DEGREES 04 MINUTES 48 SECONDS EAST 74.443 FEET TO A POINT (SAID POINT BEING 9.00 FEET SOUTH 04 DEGREES 03 MINUTES 45 SECONDS WEST OF THE NORTH LINE OF SAID QUARTER SECTION); THENCE SOUTH 85 DEGREES 56 MINUTES 15 SECONDS EAST AND PARALLEL WITH SAID NORTH LINE 305.284 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

PART OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 13 NORTH, RANGE 7 EAST OF THE SECOND PRINCIPAL MERIDIAN, SHELBY COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE SOUTH 85 DEGREES 24 MINUTES 18 SECONDS WEST 920.00 FEET ALONG THE NORTHERN LINE OF SAID QUARTER SECTION; THENCE SOUTH 06 DEGREES 24 MINUTES 14 SECONDS EAST 9.00 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHEAST CORNER OF THE OWNER'S LAND; THENCE SOUTH 06 DEGREES 24 MINUTES 14 SECONDS EAST 9.08 FEET PARALLEL TO THE EAST LINE OF SAID QUARTER SECTION, ALONG THE EASTERN LINE OF THE OWNER'S LAND; THENCE SOUTH 85 DEGREES 16 MINUTES 57 SECONDS WEST 50.04 FEET; THENCE SOUTH 04 DEGREES 43 MINUTES 03 SECONDS EAST 65.00 FEET; THENCE SOUTH 85 DEGREES 16 MINUTES 57 SECONDS WEST 20.00 FEET; THENCE NORTH 04 DEGREES 43 MINUTES 03 SECONDS WEST 65.00 FEET; THENCE SOUTH 85 DEGREES 16 MINUTES 57 SECONDS WEST 239.48 FEET TO THE WESTERN LINE OF THE OWNER'S LAND; THENCE NORTH 17 DEGREES 27 MINUTES 14 SECONDS EAST 10.51 FEET ALONG SAID WESTERN LINE TO THE NORTHERN LINE OF THE OWNER'S LAND; THENCE NORTH 85 DEGREES 24 MINUTES 18 SECONDS EAST 305.28 FEET TO THE POINT OF BEGINNING.

Parcel No.: 73-07-29-300-089.000-002



0' 20' 40'
SCALE: 1"=20'

Barred Rock, Inc.
d/b/a Zaxby's
Circle City Rentals, LLC
d/b/a Aaron's

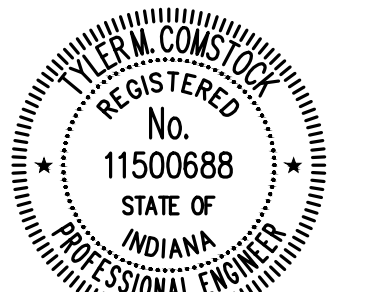
10142 Brooks School Road, Suite 196
Fishers, Indiana 46037
Contact: Jeff Furlin
(317) 509-0627
furlinj@aol.com



9025 River Road, Suite 200 | Indianapolis, Indiana 46240
TEL 317.547.5580 | FAX 317.543.0270
www.structurepoint.com

Zaxby's

1792 N. Riley Hwy
Shelbyville, IN 46176



Tyler M. Comstock
CERTIFIED BY

ISSUANCE INDEX

DATE:	09/16/2020
PROJECT PHASE:	CONSTRUCTION DOCUMENTS

REVISION SCHEDULE

NO.	DESCRIPTION	DATE

Project Number 2020.01229

SITE PLAN

C200

EXISTING LEGEND

- Project Benchmark
- Sign Location & Label
- Light Pole
- Abandoned Light Pole Base
- Power Pole
- Traffic Signal Post
- Fire Hydrant
- Water Meter Pit
- Sewer Manhole (Storm or Sanitary)
- Storm Water Manhole with Grate
- Street Curb Inlet

SITE LEGEND

- LIGHT DUTY ASPHALT PAVEMENT
- HEAVY DUTY ASPHALT PAVEMENT
- HEAVY DUTY CONCRETE PAVEMENT
- CONCRETE PAVEMENT
- RIGHT OF WAY ASPHALT PAVEMENT

SITE DATA TABLE

SITE ZONING:	BH-Business Highway
PROJECT AREA:	0.78± ACRES
BUILDING AREA:	3,852 SF
SITE IMPERVIOUS AREA:	0.03± ACRES
STANDARD PARKING (9'x18'):	36
ADA PARKING PROVIDED:	2
(INCLUDES 2 VAN ACCESSIBLE)	
TOTAL PROPOSED PARKING:	38

KEYNOTES

1. 24" CONCRETE CURB & GUTTER
2. 6" CONCRETE CURB
3. CONCRETE SIDEWALK
4. COMBINED CONCRETE CURB & WALK
5. CURB TAPER
6. TRUNCATED DOMES FOR SIDEWALK
7. ONE-WAY DIRECTIONAL PERPENDICULAR CURB RAMP (INDOT STANDARD DRAWING NO. E 604-SWCR-06)
8. ADA ACCESSIBLE RAMP TYPE "H"
9. DUMPSTER ENCLOSURE (COORDINATE WITH ARCHITECTURAL PLANS)
10. CONCRETE DUMPSTER PAD
11. CURB TURNOUT
12. TRANSFORMER PAD PER UTILITY COMPANY STANDARDS
13. ADA PARKING SPACE (4" BLUE PAINT STRIPE)
14. ADA PARKING SYMBOL
15. ADA ACCESSIBLE PARKING SIGN
16. PARKING SPACE (4" WHITE PAINT STRIPE)
17. DIRECTIONAL PAVEMENT MARKINGS, WHITE, THERMOPLASTIC
18. 24" STOP BAR, WHITE, THERMOPLASTIC
19. LANE MARKINGS, WHITE, THERMOPLASTIC
20. CONCRETE WHEEL STOP
21. STOP SIGN
22. MONUMENT SIGN (BY OTHERS)
23. ENTRANCE SIGN (BY OTHERS)
24. MENU BOARD (BY OTHERS)
25. ORDERING SIGN (BY OTHERS)

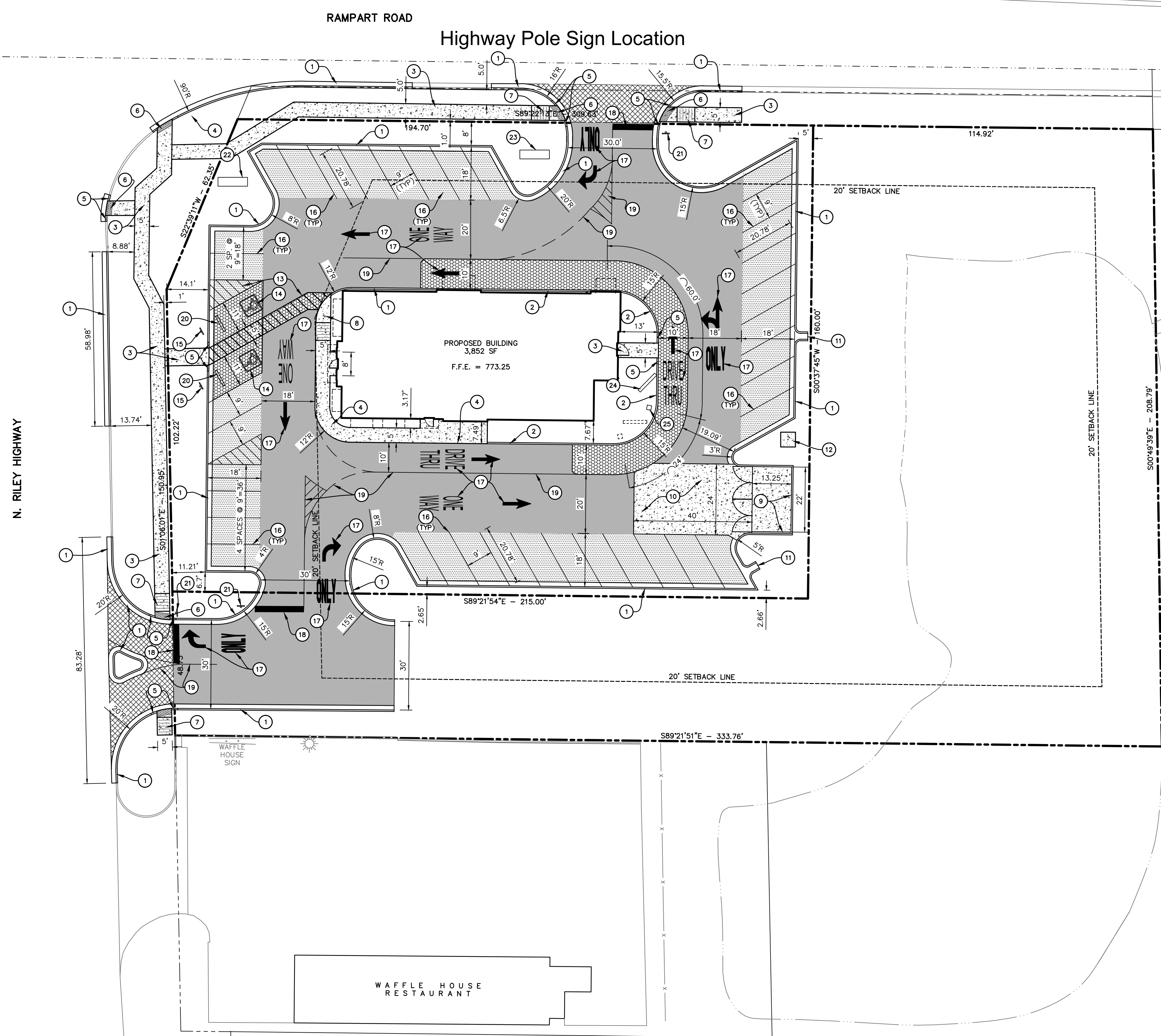
GENERAL NOTES:

1. CONTRACTOR SHALL PROTECT AND NOT DESTROY THE PROPERTY CORNER MONUMENTS DURING CONSTRUCTION.
2. CONTRACTOR TO VERIFY LOCATION, SIZE AND DEPTH OF EXISTING UTILITIES PRIOR TO COMMENCING ANY CONSTRUCTION. CONTACT ENGINEER IF VARIATION EXISTS.
3. SEE SHEET C002 GENERAL NOTES FOR MORE INFORMATION.

!! CAUTION !!

THE LOCATIONS OF ALL EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE BASED UPON ABOVE GROUND EVIDENCE (including, but not limited to, manholes, inlets, valves, and marks made upon the ground by others) AND ARE SPECULATIVE IN NATURE. THERE MAY ALSO BE OTHER EXISTING UNDERGROUND UTILITIES FOR WHICH THERE IS NO ABOVE GROUND EVIDENCE OR FOR WHICH NO ABOVE GROUND EVIDENCE WAS OBSERVED. THE EXACT LOCATIONS OF SAID EXISTING UNDERGROUND UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY AND ALL CONSTRUCTION.

CALL TOLL FREE
"811" OR 1-800-382-5544
- INDIANA UNDERGROUND -



DRAWING FILE: P:\02001229.D; Drawings\Civil\Construction Documents\2020.01229_CE_C200.SP.dwg
EDIT DATE: 9/16/2020
PLOT DATE: 9/16/2020 8:03 AM
PLOT SCALE: 1"=20'



H I R I S E P O L E S I G N