

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 5/11/2021

Case #:	BZA 2021-03: Taco Bell, Development Standards Variance			
Petitioner's Name:	Bell American Group, LLC			
Owner's Name:	Indiana Land Trust Company			
Petitioner's Representative:	Austin Tracy; Hamilton Design, LLC			
Address of Property:	1806 North Riley Highway, Shelbyville, IN 46176			
Subject Property Zoning Classification:	BH – Business Highway			
Comprehensive Future Land use:	Gateway-Mixed Use			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	Business Highway	Business Highway	Business Highway	Business Highway/Single Family Residential
Surrounding Properties' Comprehensive Future Land Use	Gateway/ Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use
History:	The parcel was originally part of a larger parcel that had a mix of retail throughout the years. Part of the site was a hotel until it was demolished in 2013. And then a retail shop, the Rustic Cactus, sat on part of the site. Most recently, a Casey's General Store opened on the southern part of the site.			
Vicinity Map:				
Action Requested:	Approval of two development standard variances both from UDO 5.55 Setback Standards, one to allow for encroachment in both side yard setbacks and one to allow for encroachment in the rear yard setback.			

1. The petitioner is requesting to build a Taco Bell on a .73 acre lot on North Riley Highway. The lot roughly measures 125 feet by 250 feet. The footprint of the new building is 2,053 square feet and roughly 30 feet by 75 feet. The Unified Development Ordinance (UDO) sets forth standards for landscaping, parking drive widths, etc.
 2. The UDO 5.55 Setback Standards (I)(4)(b & c) allows for parking lots and drives to encroach into a side or rear yard setback by fifty percent (50%) of the minimum required setback.
 3. The petitioner has maximized the buildable square footage of the site resulting in 1) the parking lot on the south side of the building encroaching into the side yard setback by eight (8) feet, 2) the drive lane on the north side of the building encroaching into the side yard setback one-hundred (100%) percent, and 3) the drive on the east side of the building encroaching into the rear yard setback thirteen (13) feet.
-

BZA 2021-03-A: Variance from UDO 5.55(E) Setback Standards – Side Yard Setbacks

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.

Applicant provided the following response to Finding of Fact #1: This petition, if granted, would result in the improvement of a gravel lot. All improvements to this location are in an attempt to improve the property and provide for the local community. Approval of this petition will not be injurious to the public health, safety, and general welfare of the community.

The planning staff has determined that the requested variance should not be injurious to the public health, safety, morals, and general welfare of the community. The requested variance would allow the petitioner to fully utilize the site including parking and drive lanes to assist with the flow of traffic on the site. This is consistent with the development character and setbacks of similar types of drive-through restaurants.

Finding #1 has been satisfied.

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;

Applicant provided the following response to Finding of Fact #2: As indicated in the previous response, it is the full intent of this project to improve the property in a substantial manner, including the overall value. The proposed project will improve the existing lot from a dormant, under-utilized property to a substantially improved lot. As a result, the value of the subject property is anticipated to substantially improve and adjacent property values similarly.

The planning staff has determined that the requested reduction in side yard setback will not substantially affect the use and value of the area adjacent to the subject property. The surrounding properties are also zoned BH – Business Highway. The area has been zoned for drive through and restaurant development. The proposed development is in alignment with surrounding developments.

Finding #2 has been satisfied.

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;

Applicant provided the following response to Finding of Fact #3: The proposed project seeks to develop a quick-serve restaurant. The lot is too narrow to accommodate the building, parking, and drive-thru in a functional manner. Due to this, we are requesting a variance from the parking and drive aisle portion of the setback standards for the side and rear yards. The building and front yard will be compliant. If granted, the variance will allow the development of a new quick-serve restaurant on a vacant gravel lot that will also see the addition of landscaping that is currently absent from this land.

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty in the use of the property. Due to the size of the site and the requirements set forth in the UDO, there is practical difficulty in meeting the standards set forth in the UDO on the site.

Finding #3 has been satisfied by the petitioner

BZA 2019-09: STAFF RECOMMENDATION: APPROVAL.

BZA 2021-03-B: Variance From UDO 5.55(E) Setback Standards – Rear Yard Setbacks

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.

Applicant provided the following response to Finding of Fact #1: This petition, if granted, would result in the improvement of a gravel lot. All improvements to this location are in an attempt to improve the property and provide for the local community. Approval of this petition will not be injurious to the public health, safety, and general welfare of the community.

The planning staff has determined that the requested variance should not be injurious to the public health, safety, morals, and general welfare of the community. The requested variance would allow the petitioner to provide adequate drive lanes to help improve traffic flow on the site.

Finding #1 has been satisfied.

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;

Applicant provided the following response to Finding of Fact #2: As indicated in the previous response, it is the full intent of this project to improve the property in a substantial manner, including the overall value. The proposed project will improve the existing lot from a dormant, under-utilized property to a substantially improved lot. As a result, the value of the subject property is anticipated to substantially improve and adjacent property values similarly.

The planning staff has determined that the requested reduction in rear yard setback will not substantially affect the use and value of the area adjacent to the subject property. The surrounding properties are also zoned BH – Business Highway. The area has been zoned for drive through and restaurant development. The proposed development is in alignment with surrounding developments.

Finding #2 has been satisfied.

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;

Applicant provided the following response to Finding of Fact #3: The proposed project seeks to develop a quick-serve restaurant. The lot is too narrow to accommodate the building, parking, and drive-thru in a functional manner. Due to this, we are requesting a variance from the parking and drive aisle portion of the setback standards for the side and rear yards. The building and front yard will be compliant. If granted, the variance will allow the development of a new quick-serve restaurant on a vacant gravel lot that will also see the addition of landscaping that is currently absent from this land.

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty in the use of the property. Due to the size of the site and the requirements set forth in the UDO, there is practical difficulty in meeting the standards set forth in the UDO on the site.

Finding #3 has been satisfied by the petitioner

BZA 2021-03: STAFF RECOMMENDATION: APPROVAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2021-03-A: Taco Bell; DSV, Setback Standards – Side Yard

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to approve the requested variance from UDO 5.55 (E) setback standards to allow the parking lot of the south side of the property and the drive on the north side of the property to encroach into the side yard setback 100%, in accordance with the plans provided to this board, 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

Attest: _____

Secretary

DEVELOPMENT STANDARDS VARIANCE: BZA 2021-03-B: Taco Bell; DSV, Setback Standards – Rear Yard

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to approve the requested variance from UDO 5.55 (E) setback standards to allow the drive to encroach into the rear yard setback up to 10', in accordance with the plans provided to this board, 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

Attest: _____

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

Name: Bell Indiana, LLC
Address: 8930 Bash Street, Suite L
Indianapolis, Indiana 46256
Phone Number: 317-507-3881
Fax Number: _____
Email: blach@flynrg.com

Property Owners Information (if different than Applicant)

Name: Indiana Land Trust Company
Address: 9800 Connecticut Dr, Ste B2-900
Crown Pointe, IN 46307
Phone Number: N/A
Fax Number: N/A
Email: N/A

2.

Applicant's Attorney/Representative

Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
Email: _____

Project Engineer

Name: Austin Tracey
Address: 11 Municipal Drive, Suite 300
Fishers, IN 46038
Phone Number: 317-660-9162
Fax Number: _____
Email: atracey@hamilton-designs.com

3. Project Information:

General Location of Property (and address is applicable): 1806 North Riley Highway
Shelbyville, IN 46176

Current Zoning Classification: BH, Business Highway Existing Use: Vacant paved lot

Number of Requested Variances: BH, Business Highway Proposed Use: Taco Bell

Section(s) of the Ordinance Requesting Variance(s) from; including Article, Section, Subsection, and Page Number: _____
UDO 5.55 Setback Standards (pg. 5-61)

4. Attachments

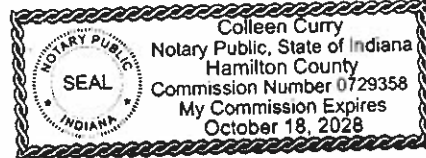
- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed, recent property card)
- Letter of Intent
- Supporting Documents and Exhibits (Optional)
- Vicinity Map
- Findings of Fact
- Application Fee

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

Applicant: [Signature] Date: 5-4-2021

State of Indiana
County of Hamilton SS:

Subscribed and sworn to before me this 4th day of May, 2021.



Colleen Curry Notary Public Colleen Curry Printed

Residing in Hamilton County. My Commission Expires: 10/18/2028

**AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBYVILLE BOARD OF ZONING APPEALS**

State of Indiana)
County of Shelby) SS:
Indiana Land Trust

I, Timothy J. Healey, Authorized Signer, AFTER BEING DULY SWORN, DEPOSE AND SAY
(Name of property owner)

THE FOLLOWING:

1. That I am the owner of real estate located at 1806 N Riley Highway ;
(Address of affected property)
2. That I have read and examined the Application made to the Shelbyville Board of Zoning Appeals by: Bell Indiana, LLC
(Name of applicant)
3. That I have no objections to and consent to the request(s) described in the Application made to the Shelbyville Board of Zoning Appeals.

Indiana Land Trust Company
Timothy J. Healey, Authorized Signer
Owner's Name (Please print)



Owner's Signature

State of Indiana)
County of Shelby) SS:

Subscribed and sworn to before me this 4 day of May, 2021


Notary Public

I, IRINA BILOKRYLYJ
Printed

Residing in Hillsborough County.

My Commission Expires: April 15, 2025



HAMILTON DESIGNS

11 Municipal Drive, Suite 300
Fishers, Indiana 46038

P. 317-570-8800

www.hamilton-designs.com

May 06, 2021

City of Shelbyville Board of Zoning Appeals

44 W Washington Street

Shelbyville, IN 46176

**Re: Taco Bell | Shelbyville, IN
Board of Zoning Appeals Filing
Letter of Intent**

Dear Shelbyville Board of Zoning Appeals:

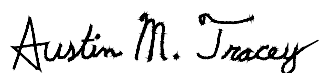
On behalf of the owner, Bell Indiana LLC, we are submitting this package for the Site Development Plan Application and the Final Plat Application.

It is our intent to develop this existing 0.73 acre vacant lot, located at 1806 N Riley Highway. Should we obtain all necessary approvals, a new quick-serve restaurant (Taco Bell) will be constructed on this property. The total disturbance for the site is being kept to a minimum and the proposed improvements would increase the amount of pervious area on the site.

The reason for the variance is the lot is too narrow to accommodate the building, parking, and drive-thru in a functional manner. Due to this, we are requesting a variance from the parking and drive aisle portion of the setback standards for the side and rear yards. The building and front yard will be compliant. If granted, the variance will allow the development of a new quick-serve restaurant on a vacant gravel lot that will also see the addition of landscaping that is currently absent from this land.

Should there be any questions, please reach out to us at (317) 570-8800 or by email, atracey@hamilton-designs.com.

Sincerely,



Austin Tracey

Hamilton Designs, LLC

11 Municipal Drive, Suite 300
Fishers, Indiana 46038

317-570-8800

www.hamilton-designs.com



First American

Commitment

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

COMMITMENT FOR TITLE INSURANCE

Issued By

FIRST AMERICAN TITLE INSURANCE COMPANY

NOTICE

IMPORTANT-READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, ***First American Title Insurance Company***, a Nebraska Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

First American Title Insurance Company

Dennis J. Gilmore, President

Greg L. Smith, Secretary

If this jacket was created electronically, it constitutes an original document.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First American Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions.

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COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I—Requirements; and
- (f) Schedule B, Part II—Exceptions.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I—Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
 - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

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6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

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First American

Schedule A

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

Transaction Identification Data for reference only:

Issuing Agent: First American Title Insurance Company National Commercial Services

Office Phone: (402)697-4699

Property Address: 1810 North Riley Highway, Shelbyville, IN 46176

Revision No.: Revised 2/16/21, pin # added

Revised 04/06/2021 - Changed to new insured legal description

Issuing Office: 4909 S 135th Street, Suite 207, Omaha, NE 68137

Issuing Office File No.: NCS-1048859-OMHA

Escrow Officer/Assistant: Cissy Jennings/

Phone: (402)697-4678/

Email: CJennings@firstam.com/

Title Officer/Assistant: Cissy Jennings/

Phone: (402)697-4678/

Email: CJennings@firstam.com/

SCHEDULE A

1. Commitment Date: January 21, 2021 at 7:30 AM
2. Policy to be issued:
 - (a) 2006 ALTA® Owners Policy
Proposed Insured: to be determined
Proposed Policy Amount: \$1,000.00
 - (b) 2006 ALTA® Loan Policy
Proposed Insured:None
Proposed Policy Amount: \$0.00
3. The estate or interest in the Land described or referred to in this Commitment is

Fee Simple

4. The Title is, at the Commitment Date, vested in:

Indiana Land Trust Company, as Trustee under the provisions of a Trust Agreement dated January 23, 2019 and known as Trust No. 120585 by virtue of deed recorded as Document No. [2019003431](#)
5. The Land is described as follows:

See Exhibit "A" attached hereto and made a part hereof

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First American Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions.

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First American

Schedule BI

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

Commitment No.: NCS-1048859-OMHA

SCHEDULE B, PART I

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amounts for the interest in the Land and/or the mortgage to be insured.
3. Pay us the premiums, fees and charges for the Policy.
4. Documents satisfactory to us creating the interest in the Land and/or the Mortgage to be insured must be signed.
5. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the Land or who will make a loan on the Land. We may then make additional requirements or exception.
6. You must file a Disclosure of Sales Information forms prescribed by the State Board of Tax Commissioners pursuant to I.C. 6-1.1-5.5. The disclosure form must be filed with the county auditor's office prior to recording.
7. You should contact the local municipality to obtain information regarding unpaid sewer and/or municipal assessments that are not a recorded lien against the land. We are not responsible for collecting at closing such unpaid assessments unless otherwise instructed.
8. This commitment is not effective until you provide us with the name of the Proposed Insured(s) and the Policy amount(s). We limit our liability to \$250.00 until you provide us with the Policy Amount(s).
9. Vendor's and/or Mortgagor's Affidavits to be executed at the closing.
10. NEW CONSTRUCTION : You must advise us if construction has taken place on the Land within the past ninety (90) days, or constructions is being contemplated or will occur on the property – additional information will be required before waiving or adding construction related coverages.

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First American

Schedule BI (Cont.)

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

Commitment No.: NCS-1048859-OMHA

SCHEDULE B, PART I (Continued)

Requirements (Continued)

11. Effective July 1, 2006, no document executed in the State of Indiana may be accepted for recording unless the document includes the following affirmative statement: "I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name)." See Indiana Code 36-2-11-15.
12. By virtue of I.C. 27-7-3.6, a fee of \$5.00 will be collected from the purchaser of the policy for each policy issued in conjunction with a closing occurring on or after July 1, 2006. The fee should be designated in the Closing Disclosure and/or Settlement Statement as TIEFF (Title Insurance Enforcement Fund Fee) Charge.
13. **Note:** Effective July 1, 2013 Senate Enrolled Act 370 (P.L. 80-2013) requires title insurance companies to charge a fee for closing protection letters in real estate transaction in which the title insurance company or its authorized agent acts as the settlement agent. In a residential transaction, the closing protection letters are mandatory and must be issued to each party. Insurance Company's fee for closing protection letters is \$25 for a seller's letter, \$25 for a buyer's or borrower's letter and \$25 for a lender's letter.
14. **Note:** Effective July 1, 2009, HEA 1374 (enacting Indiana Code 27-7-3.7) requires Good Funds for real estate transactions. Funds received from any party to the transaction in an amount of \$10,000 or more must be in the forms of an irrevocable wire transfer. Funds received from any party in an amount less than \$10,000 may be in the form irrevocable wire transfer, cashier's check, certified check, check drawn on the escrow account of another closing agent, or check drawn on the trust account of a licensed real estate broker or other forms of Good Funds as referenced in Indiana Code 27-7-3.7. Personal checks may be accepted as provided under Indiana Code 27-7-3.7.
15. You must supply the Company with the written approval from the Office of the County Auditor and from appropriate Planning/Zoning Department when the transaction being insured will create a split/change of the current tax parcel legal description. The approval must state if prior to the deed being accepted for recording and for transfer of tax ownership whether or not any other action must be completed to the satisfaction of the governmental entity. The Company reserves the right to make further requirements and/or exceptions based on examination of the same.
16. Documents satisfactory to the Company that convey the Title or create the interest to the insured, or both, must be properly authorized, executed, acknowledged, proved by a subscribing witness before a notarial officer pursuant to IC 32-21-2-3(a) effective July 1, 2020, and recorded in the Public Records.

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17. Submit to the Company a Resolution by the Board of Directors or Shareholders of Casey's Marketing Company, an Iowa corporation , authorizing the sale and directing the proper officers to execute the deed on behalf of the Corporation.
18. This item has been intentionally deleted.
19. This item has been intentionally deleted.
20. We find no outstanding voluntary liens of record affecting subject property. Disclosure should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any possible security interest in the subject property.
21. This item has been intentionally deleted.
22. The policy will not be issued until we are provided that portion of the Trust Agreement and any amendments thereto authorizing this transaction. Additional requirements, if deemed necessary, may be made after our review of the Trust Agreement(s).

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First American

Schedule BII

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

Commitment No.: NCS-1048859-OMHA

SCHEDULE B, PART II

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

Part One:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I-Requirements are met.
2. Any discrepancies or conflicts in boundary lines, any shortages in area, or any encroachment or overlapping in improvements.
3. Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an accurate survey of the Land or by making inquiry of persons in possession of the Land.
4. Easements, liens or encumbrances or claims thereof, which are not shown by the Public Records.
5. Any lien or right to a lien for services, labor, material or equipment, unless such lien is shown by the Public Records at Date of Policy and not otherwise excepted from coverage herein.
6. Taxes or special assessments which are not shown as existing liens by the Public Records.
7. Minerals or mineral rights or any other subsurface substances (including, without limitation, oil, gas and coal), and all rights incident thereto, now or previously leased, granted, excepted or reserved.

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First American

Schedule BII (Cont.)

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

Commitment No.: NCS-1048859-OMHA

SCHEDULE B, PART II (Continued)

Exceptions (Continued)

Part Two:

1. Real estate taxes assessed for the year 2019 are a lien and are due in two installments payable May 11 and November 10, 2020 :

Assessed in the name of: Indiana Land Trust Company as trustee
Parcel No.: 73-07-29-100-031.000-002 (affects part of the Land and other property)
Taxing Unit and Code: 002 Shelbyville City Addison Towns
Land: \$137,400.00
Improvements: \$0
Exemptions: \$0
First installment of: \$4,558.50 unpaid and delinquent
Second installment of: \$4,558.50 unpaid and delinquent

2. This item has been intentionally deleted.
3. This item has been intentionally deleted.
4. Real Estate Taxes for the year(s) 2021, (payable 2022) are a lien but not yet due and payable.
5. The subject Land does not appear to abut a public road, by reason thereof, this Commitment and our Policy if and when issued pursuant thereto should not be construed as insuring any right of access to and from the Land.
6. Terms and provisions of a restrictive covenant agreement made by and between Indiana Land Trust 120585 and Casey's Marketing Company recorded March 12, 2020 as document [2020001380](#).
7. Easement granted to Indiana Cities Water Corporation for a water main as created by Right of Way Easement and Grant recorded in [Book 261 page 792](#).
8. Easement for driveway purposes as reserved in deeds recorded in [Book 258, page 904](#), [Book 258, page 908](#) and in [Book 258 page 912](#) and the terms and provisions contained therein.

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9. Sewer easement recorded in [Book 48 page 842](#) and as shown on plat of Casey's of Shelbyville.
10. Driveway easement recorded in Dr [250 page 783](#).
11. Grant of easements contained in instrument recorded in DR [327 page 389](#).
12. Grant of easements contained in instrument recorded in DR [258 page 916](#) as shown on plat of Casey's of Shelbyville.
13. Rights of way for drainage ditches, feeders and laterals, if any.
14. Rights of the public, the State of Indiana and the municipality in and to that part of the land, if any, taken or used for roads.
15. This item has been intentionally deleted.
16. Days Inn Worldwide, Inc. Declaration of License Agreement recorded July 12, 2001 as Document No. [0105828](#).
17. Rights of way for drainage tiles, ditches, feeders and laterals, if any.
18. The acreage stated in the legal description of the land is for description purposes only. The quantity of the land is not insured.
19. Rights of the Public, the State of Indiana and the Municipality in and to that part of the land, if any, taken and used for road purposes, including utility rights of way.
20. Easements and Obligations set out in Reciprocal Grant of Easements recorded in [DR 250, Page 787](#), and the terms and conditions therein contained.
21. Matters as shown on Survey recorded as Document No. [2019006864](#).
22. Gas Line Easement recorded in [Book 259, Page 731](#) and the terms and conditions therein contained.
23. Gas Line Easement recorded as Document No. [1925](#), and the terms and conditions therein contained.
24. Terms, powers, provisions and limitations of the Trust under which title to said land is held.

End of Schedule B

CJ

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First American

Exhibit A

ISSUED BY

First American Title Insurance Company

File No: NCS-1048859-OMHA

File No.: NCS-1048859-OMHA

The Land referred to herein below is situated in the County of Shelby, State of Indiana, and is described as follows:

A PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 13 NORTH, RANGE 07 EAST, OF THE SECOND PRINCIPAL MERIDIAN, IN SHELBY COUNTY, INDIANA, BEING THAT 0.72+/- ACRE TRACT OF LAND SHOWN ON SURVEY CERTIFIED BY TERRY D. WRIGHT, INDIANA REGISTERED PROFESSIONAL LAND SURVEYOR LS#9700013 ON 02/23/21 BY HAMILTON DESIGNS, LLC PROJECT NUMBER 2020-0334 (ALL REFERENCES TO MONUMENTS AND COURSES HEREIN AS SHOWN ON SAID PLAT OF SURVEY) MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 29; THENCE NORTH 89 DEGREES 21 MINUTES 50 SECONDS WEST 1238.89 FEET ALONG THE SOUTH LINE OF SAID QUARTER SECTION (PER INSPCS EAST ZONE 1301); THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 64.31 FEET; THENCE NORTH 02 DEGREES 30 MINUTES 48 SECONDS WEST 195.06 FEET; THENCE NORTH 07 DEGREES 53 MINUTES 14 SECONDS WEST 57.46 FEET TO THE NORTH LINE OF CASEY'S GAS STATION PER INSTRUMENT #[2013000351](#) IN THE OFFICE OF THE RECORDER OF SHELBY COUNTY, INDIANA, THE EAST RIGHT OF WAY OF STATE ROAD 9 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 07 DEGREES 53 MINUTES 14 SECONDS WEST 43.25 FEET ALONG SAID RIGHT OF WAY; THENCE NORTH 01 DEGREES 48 MINUTES 08 SECONDS EAST 81.62 FEET ALONG SAID RIGHT OF WAY; THENCE SOUTH 89 DEGREES 27 MINUTES 09 SECONDS EAST 252.76 FEET; THENCE SOUTH 00 DEGREES 38 MINUTES 09 SECONDS EAST 125.00 FEET TO THE NORTH LINE OF SAID CASEY'S GAS STATION; THENCE NORTH 89 DEGREES 19 MINUTES 09 SECONDS WEST 250.79 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING, CONTAINING 0.73 ACRES MORE OR LESS.

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HAMILTON DESIGNS

11 Municipal Drive, Suite 300
Fishers, Indiana 46038

P. 317-570-8800 E. atracey@hamilton-designs.com

Taco Bell | Shelbyville, Indiana

Additional Information

1. **General Welfare:** *Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.:*

This petition, if granted, would result in the improvement of a gravel lot. All improvements to this location are in an attempt to improve the property and provide for the local community. Approval of this petition will not be injurious to the public health, safety, and general welfare of the community.

2. **Adjacent Property:** *Explain why the development standard variance request will not affect the use and the value of adjacent properties.*

As indicated in the previous response, it is the full intent of this project to improve the property in a substantial manner, including the overall value. The proposed project will improve the existing lot from a dormant, under-utilized property to a substantially improved lot. As a result, the value of the subject property is anticipated to substantially improve and adjacent property values similarly.

3. **Practical Difficulty:** *Please state the difficulties that will be faced if the project is not granted the requested development standard variance.*

The proposed project seeks to develop a quick-serve restaurant. The lot is too narrow to accommodate the building, parking, and drive-thru in a functional manner. Due to this, we are requesting a variance from the parking and drive aisle portion of the setback standards for the side and rear yards. The building and front yard will be compliant. If granted, the variance will allow the development of a new quick-serve restaurant on a vacant gravel lot that will also see the addition of landscaping that is currently absent from this land.

SITE INFORMATION

PARCEL NUMBER: 73-07-29-100-047.000-002
 ZONING DISTRICT: BH, BUSINESS HIGHWAY
 LOT AREA: 0.727 ACRES
 BUILDING AREA: 2,053 FT²
 ADJOINER ZONING:
 NORTH BH, BUSINESS HIGHWAY
 SOUTH BH, BUSINESS HIGHWAY
 EAST BH, BUSINESS HIGHWAY
 WEST BH, BUSINESS HIGHWAY
 PROPOSED USE: NEW QUICK-SERVE RESTAURANT (TACO BELL)
 BUILDING SETBACKS
 FRONT 50' REQUIRED | 73' PROVIDED
 SIDE 10' REQUIRED | 85' PROVIDED
 REAR 20' REQUIRED | 24' PROVIDED
 PARKING DATA
 REQUIRED SPACES (1) SPACE FOR EVERY (4) SEATS (40) SEATS 10 SPACES
 PROVIDED SPACES 28 SPACES

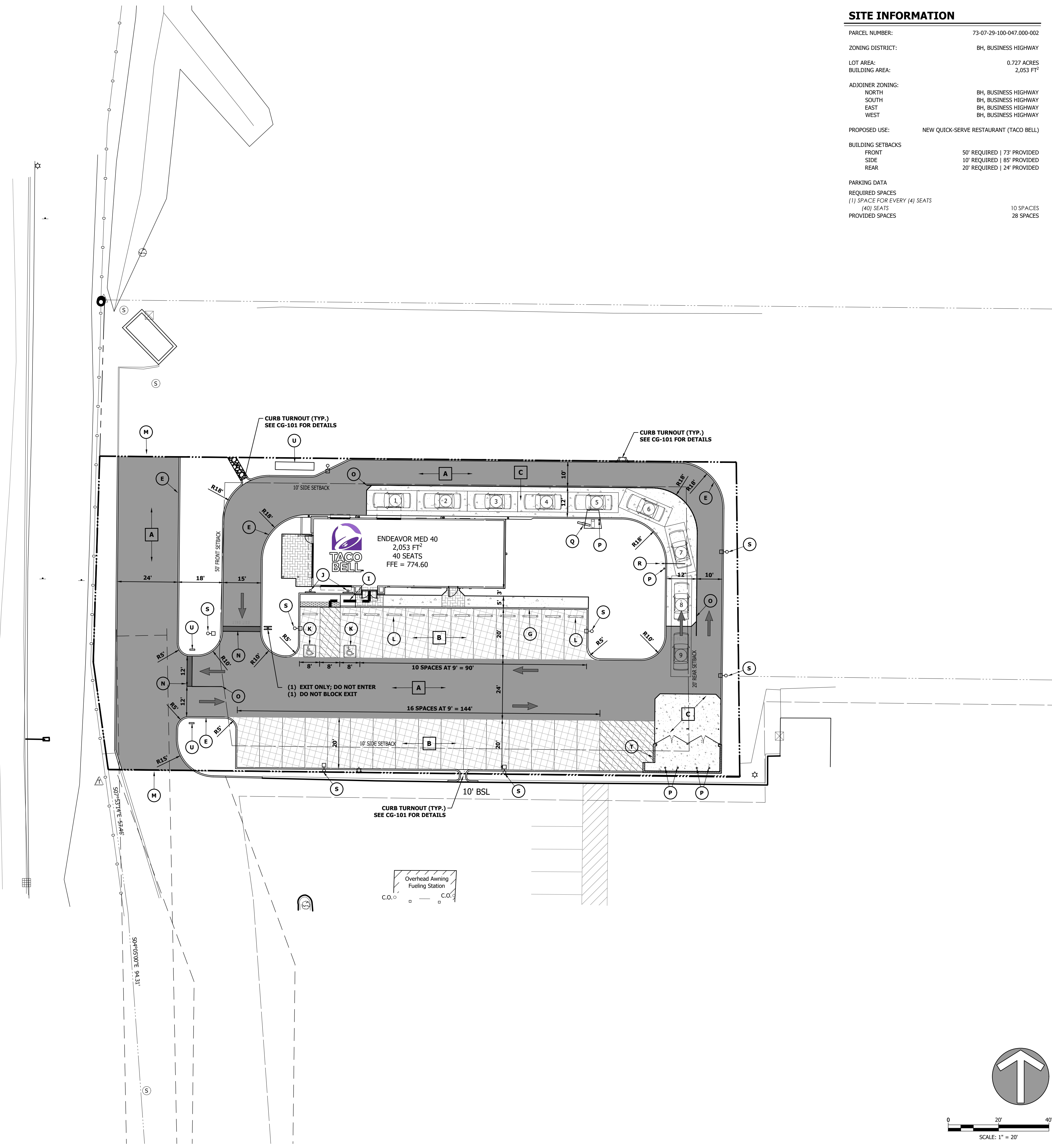
LEGEND OF EXISTING FEATURES

---	PROPERTY LINE	⊕	BENCHMARK
---	RIGHT-OF-WAY LINE	○ RBC	MONUMENT
---	SETBACK LINE	△	SECTION CORNER
---	EASEMENT	⊠ HC	TRANSFORMER
---	SECTION LINE	⊠ E	ELECTRIC METER
---	CENTERLINE	⊠ E	ELECTRIC MANHOLE
---	799 INTERMEDIATE CONTOUR	⊠ E	POWER POLE GUY WIRE
---	800 INDEX CONTOUR	⊠ T	LIGHT POLE
---	[T] TELEPHONE UNDER GR.	⊠ T	TELEPHONE PEDESTAL
---	[OH-T] TELEPHONE OVERHEAD	⊠ T	TELEPHONE MANHOLE
---	[FO] FIBER OPTIC SERVICE	⊠ T	GAS MARKER
---	[G] GAS SERVICE	⊠ T	ELECTRIC MARKER
---	[E] POWER UNDERGROUND	⊠ T	TRAFFIC POLE
---	[OH-E] POWER OVERHEAD	⊠ T	TRAFFIC MANHOLE
---	[W] WATER SERVICE	⊠ T	GAS METER
---	[S] SANITARY SEWER	⊠ T	GAS VALVE
---	[ST] STORM SEWER	⊠ T	STORM MANHOLE
---	[NP] POND NORMAL POOL	⊠ T	SANITARY MANHOLE
---	000 EX. FLOWLINE	⊠ T	STORM INLETS
---	CHAIN LINK FENCE	⊠ T	CLEAN-OUT
---	FARM FENCE	⊠ T	DOWNSPOUT
---	WOOD FENCE	⊠ T	FIRE HYDRANTS
---	IRON FENCE RAILING	⊠ T	WATER METER
---	BUILDING STRUCTURE	⊠ T	WATER VALVES
---	EX. BUILDING OVERHEAD	⊠ T	POST INDICATOR VALVE
---	RIM	⊠ T	FIRE DEPARTMENT CONN.
---	INV.	⊠ T	SIGNS
---	FFE	⊠ T	MAILBOX
		⊠ T	ADA PARKING
		⊠ T	PARKING COUNT
		⊠ T	TREES
		⊠ T	SHRUB
		⊠ T	SPOT GRADE

SITE PLAN LEGEND - PROPOSED

A	STANDARD DUTY ASPHALT PAVEMENT	CS-501
B	HEAVY DUTY ASPHALT PAVEMENT	CS-501
C	CONCRETE PAVEMENT	CS-501
D	NOT USED	
E	6" CONCRETE CURB	CS-501
F	NOT USED	
G	CONCRETE CURB AND WALK	CS-501
H	CONCRETE SIDEWALK	CS-503
I	ACCESSIBLE CURB RAMP	CS-501
J	ACCESSIBLE PARKING SIGNAGE	CS-501
K	ACCESSIBLE PARKING PAVEMENT MARKINGS	CS-501
L	PRECAST CONCRETE WHEELSTOP	CS-501
M	SAWCUT, REMOVE, AND REPAIR	
N	PAVEMENT STRIPING, 24" STOP BAR	CS-501
O	PAVEMENT STRIPING, 4" SOLID	CS-501
P	BOLLARD	CS-501
Q	MENU BOARD, ORDER CONFIRMATION, AND CANOPY	CS-503 CS-504
R	CLEARANCE BAR	CS-503
S	LIGHT POLE	CS-503
T	DUMPSTER ENCLOSURE	CS-502
U	PROPOSED SIGNAGE	
V	TRANSFORMER PAD	
W	NOT USED	
X	NOT USED	
Y	NOT USED	
Z	NOT USED	
---	ACCESSIBLE ROUTE	

N RILEY HWY (SR 9)



REVISION BLOCK



DATE: 04/13/2021
 DRAWN BY: HYC
 CHECKED BY: AMT

HAMILTON DESIGNS
 A LIMITED LIABILITY COMPANY

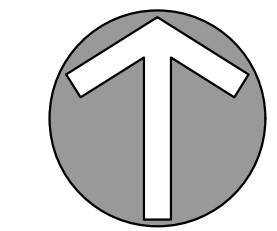
11 Municipal Drive, Suite 300
 Fishers, Indiana 46038
 P. (317) 570-9800
 www.hamilton-designs.com

CONSTRUCTION PLANS FOR:
TACO BELL | SHELBYVILLE
 1806 North Riley Highway
 Shelbyville, Indiana, 46176
BELL INDIANA, LLC
 6200 Oak Tree Boulevard, Suite 250
 Independence, Ohio, 44131

PROJECT NO. 2020-0334
 DATE 04/13/2021
 SCALE 1" = 20'
 SHEET NAME **SITE PLAN**
 SHEET NO. **CS-101**



Know what's below.
 Call before you dig.



SCALE: 1" = 20'

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