

Staff Report – Board of Zoning Appeals

Docket #:	BZA2024-005 Development Standard Variance	Hearing Date:	March 25, 2024
Applicant:	Ultra Steak Inc., 13099 Parkside Drive, Fishers, 46038		
Owner:	Wal-Mart Real Estate Business Trust, PO Box 8050, Bentonville, AR 72712		
Subject Property:	1133 N. Emerson Avenue		
Staff Contact:	Gabe Nelson, nelsong@greenwood.in.gov, 317-887-5230		

Request:

Petitioner is requesting relief from the following sections of the Unified Development Ordinance:

1. Section 10-02-27 (A) Interstate Commerce District Development Standards, Impervious Lot Coverage, to increase the maximum allowed lot coverage from 70% to 80%
2. Section 10-03-14 (D) Commercial Building Design Standards, Side Elevation (1), to allow exterior materials other than the predominant front façade material on the side/rear façades
3. Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (2), to allow the transparency be reduced to from 30% to 15% on the west façade
4. Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (1), to allow mortared masonry be reduced from 50% to 25% on the west façade
5. Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (4), to allow wood as a permitted column material on west façade

Location:

The subject property is located at the southwest corner of Emerson Avenue and E. County Line Road. The proposed Aspen Creek Grill will be located in the northwest corner of this property. Parcel ID # 41-02-27-022-004.000-025

Exhibit A – Aerial Map and Exhibit C – Legal Description

Existing & Surrounding Zones/Land Uses:

Existing: Interstate Commercial (IC), Walmart
 North: Marion County – Community-Regional Commercial District (C-4), Cheddar's/Freddy's
 South: Interstate Commercial (IC), Medical Behavioral Hospital of Indianapolis
 East: Interstate Commercial (IC), Buffalo Wild Wings
 West: Interstate Commercial (IC), Commercial Strip Center

Exhibit B – Existing Zoning Map

Indiana Code Reference(s): Section 36-7-4-918.5 (Development Standards Variances)

Statutory Criteria:

- Indiana Code Section 36-7-4-918.5 Dimensional/Development Standard Variances may be approved only upon a determination in writing that:
 1. The approval will not 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 property included in the variance will not be affected in a substantially adverse manner;
 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.
- Indiana Code Section 8-21-10-3 No Hazard to Air Navigation (if applicable): The structure is regulated under Indiana Code 8-21-10-3 and the Board of Zoning Appeals has received a copy of the Determination of No

Hazard to Air Navigation issued by the Federal Aviation Administration and the Board of Aviation Commissioners has been delivered notice in accordance with Indiana Code 8-21-10-3 not less than sixty days before the proposal is considered.

VARIANCE #1: To increase the maximum allowed lot coverage from 70% to 80%

Greenwood Code References: Unified Development Ordinance, Section 10-02-27 (A) Interstate Commerce District Development Standards, Impervious Lot Coverage, Maximum 70% of Total Lot Area.

Petitioner's Detailed Statements of Reasons and Staff Comments:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

It allows for the redevelopment of the generally vacant parking lot. It decreases the existing impervious surface while allowing the proposed restaurant to achieve the minimum parking space requirements per Section 10-03-02.D. (50% Occupancy).

Staff Comment: Staff agrees with petitioner's statement. The development will be an overall increase in greenspace and landscaping, which will increase the general welfare of the area.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The proposed use of the site aligns with the surrounding uses. It allows for all vehicles to be parked on the proposed restaurant's site without encroaching on surrounding business's parking lots.

Staff Comment: Staff agrees with petitioner's statement. The current site is a parking lot.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

It will cause a reduction in the parking spaces to meet the maximum impervious area, which will then require a variance for the minimum number of parking spaces in Section 10-03-02.D or a parking agreement with the surrounding businesses.

Staff Comment: Staff acknowledges the space constraints. Another option would be to reduce the size of the building footprint. This may make the restaurant impracticable.

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

Not applicable

VARIANCE #2: To allow exterior materials other than the predominant front façade material on the side/rear façades

Staff Comment: Petitioner submitted one set of answers covering Variances 2-5.

Greenwood Code References: Unified Development Ordinance, Section 10-03-14 (D) Commercial Building Design Standards, Side Elevation (1), Side elevations shall be fully clad in the predominant material of the front elevation.

VARIANCE #3: To allow the transparency to be reduced to from 30% to 15% on the west façade

Greenwood Code References: Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (2), The front elevation shall comply with the minimum transparency requirements of 30 percent.

VARIANCE #4: To allow mortared masonry to be reduced from 50% to 25% on the west façade

Greenwood Code References: Unified Development Ordinance, Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (1), Front elevations shall be comprised of any one or any combination of the following materials: stone, brick, fiber cement siding, stucco, wood, engineered wood siding, pre-cast concrete, aluminum composite panels, or insulated metal panels provided that a minimum of 50% of the front elevation shall be clad in mortared masonry.

VARIANCE #5: To allow wood as a permitted column material on west façade

Greenwood Code References: Unified Development Ordinance, Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (4), All columns, pilasters, and pillars on the front elevation shall be clad in stone, brick, or stucco.

Petitioner’s Detailed Statements of Reasons and Staff Comments:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

The proposed stone and wood facade materials are of good quality and are designed to create a warm, welcoming appearance. The side and rear elevations are secondary to the front facade, but will match the colors and materials being used at the front for a holistic design so that no one side is of less quality than the others.

Staff Comment: Staff agrees with petitioner’s statement.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The design of the entire building and site is conducive to a high-quality commercial property that will attract patrons to the overall commercial development. The proposed multi-tone stone veneer and multi-tone wood siding vary the scale and texture of the building to the human scale and are designed to create a vibrant aesthetic for all to enjoy.

Staff Comment: Staff agrees with petitioner’s statement.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

Using stone veneer as the only material across the four faces of the building will create a pricing deficiency for the Owner/Developer that a blend of materials will not. The current design focuses attention to the front of the building which is the best seen from surrounding streets and Interstate 65. A monolithic material palette would discourage the emphasis on the front elevation.

Staff Comment: Staff agrees with petitioner’s statement aside from the financial difficulty.

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.
Not applicable

Recommendation and Proposed Conditions:

VARIANCE #1: To increase the maximum allowed lot coverage from 70% to 80%

Staff will be providing a favorable recommendation to decrease the required amount pervious surface. While the site may not meet current standards in terms of pervious space, it present a compelling case for approval due to

the net increase in pervious space, bring it closer to our requirements than its current condition. Due to the existing site conditions and limited area of parking Staff finds that this site has a practical.

VARIANCE #2: To allow exterior materials other than the predominant front façade material on the side/rear façades

Staff will be providing a favorable recommendation. This UDO requirement does little more than stifle the creativity of building designs and reduce each remaining side to a singular material with no variety. The petitioner is providing a much more interesting visual with the sides for each of these three buildings while using multiple materials that are also found on the front façade. Each of these three variances appear to meet the spirit of this poorly worded section of the UDO.

VARIANCE #3: To allow the transparency to be reduced to from 30% to 15% on the west façade

Staff will be providing a favorable recommendation. Due to the proposed location being on a corner lot, the site is surrounded by elevations that are treated like a front façade, due to this, staff finds that a restaurant with a kitchen area and restrooms has a practical difficulty in providing 30% transparency on the west elevation.

VARIANCE #4: To allow mortared masonry to be reduced from 50% to 25% on the west façade

Staff will be providing a favorable recommendation. The building still meets the spirit of the Greenwood UDO. The addition of mortared masonry to meet the 50% threshold would take away the proposed aesthetics and provide no actual benefit to the design.

VARIANCE #5: To allow wood as a permitted column material on west façade

The wood columns, although not explicitly permitted by code, do meet the spirit of the UDO.

Staff provides a **favorable recommendation** for all five (5) variances with the following proposed condition:

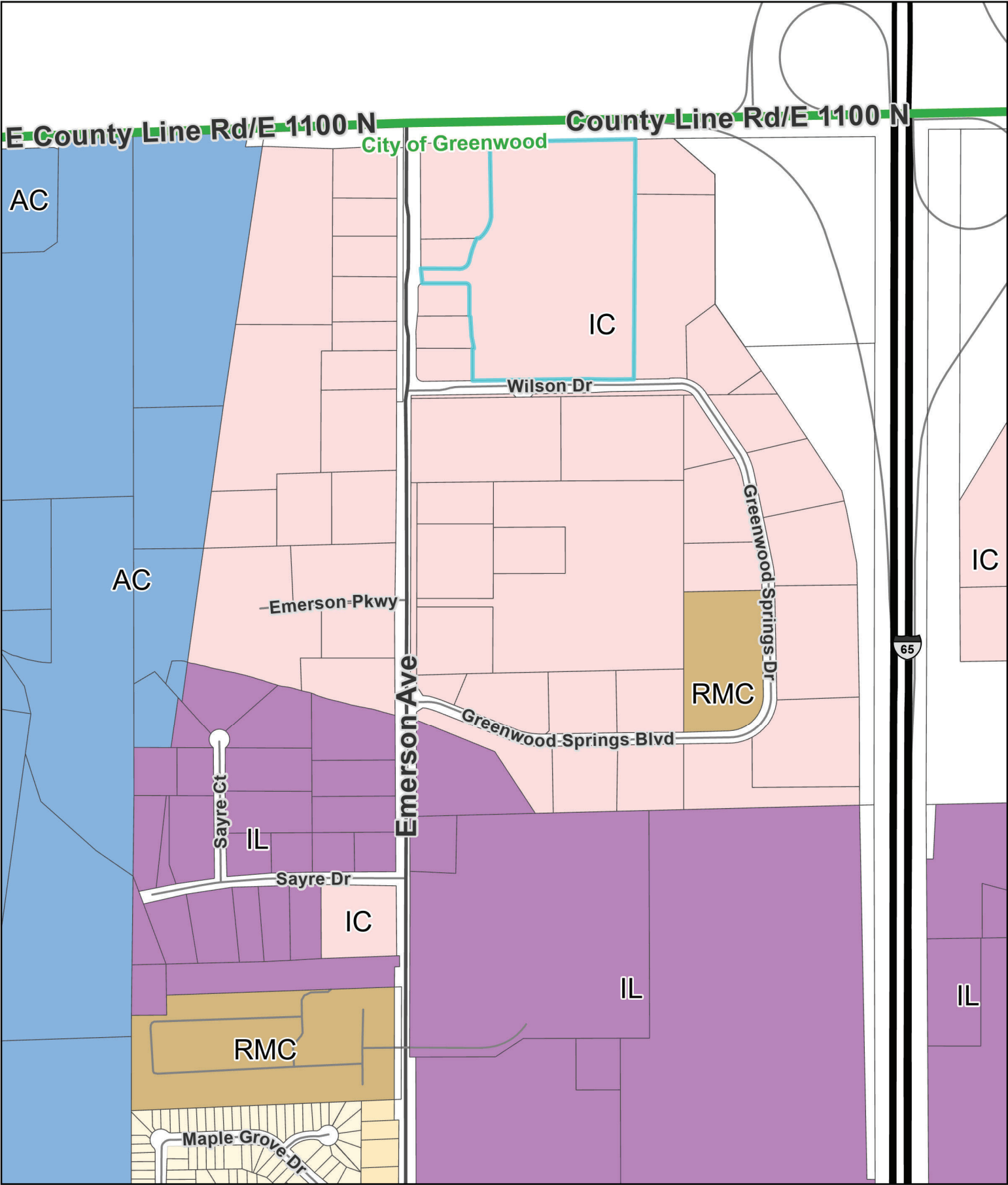
1. The final plans shall substantially conform to the elevations depicted in Exhibit D and the site plan depicted in Exhibit E

Attachments:

Exhibit A – Aerial Map
Exhibit B – Zoning Map
Exhibit C – Legal Description
Exhibit D – Exterior Elevations
Exhibit E – Site Plan



Existing Zoning Map

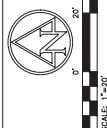


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|-------------------------|----------------------------|--------------------------------|---|
| Greenwood City Boundary | CS - Commercial Small | OTR - Old Town Residential | RA - Residential Attached Single-Family |
| AC - Airport | IC - Interstate Commercial | OS - Open Space | RMC - Residential Multi-Unit Complex |
| AG - Agriculture | IL - Industrial Large | PUD - Planned Unit Development | RMH - Residential Mobile Home |
| CL - Commercial Large | IM - Industrial Medium | RL - Residential Large Lot | |
| CM - Commercial Medium | OT - Old Town | RM - Residential Medium Lot | |



Legal Description

Lot 2 of the Greenwood Springs Secondary Re-Plat, Block One, per plat thereof recorded as Instrument Number 2005-001629, in the Office of the Recorder of Johnson County, Indiana.



ASPEN CREEK GRILL
PC2023-058

1287 N EMERSON AVE
GREENWOOD, INDIANA



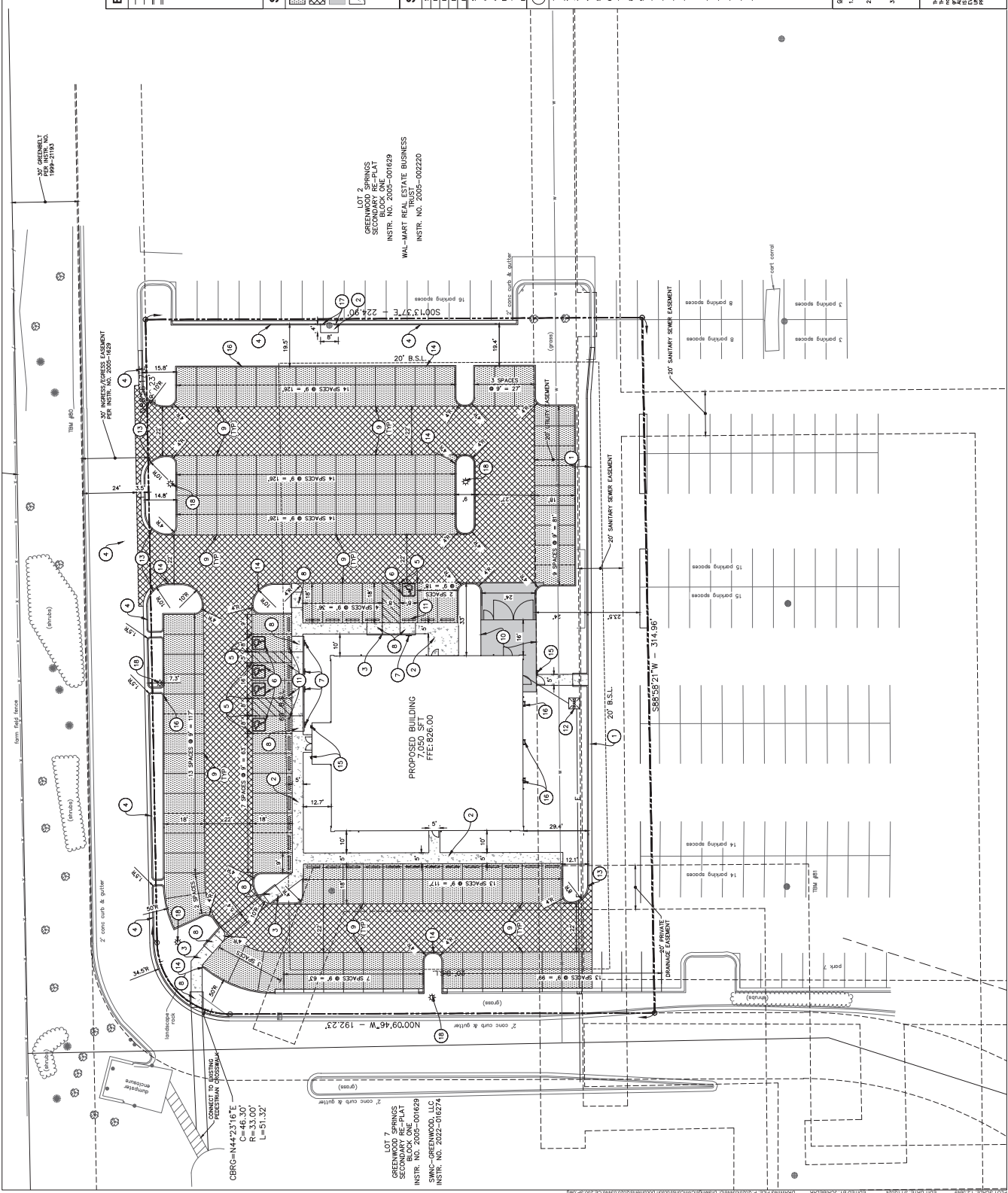
John H. Q. J. A.
CERTIFIED BY

[illegible]

















Project Number	2020.03446
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SITE PLAN





C200



EXISTING LEGEND

- | | |
|---|----------------------------|
|  | Buried Gas Line |
|  | Buried Water Line |
|  | Buried Sanitary Sewer Main |
|  | Buried Storm Sewer Pipe |
|  | Carb Inlet |
|  | Drainage Inlet |
|  | Guard Post |
|  | Sign |
|  | Light Pole |
|  | Telephone Marker |
|  | Pine Tree |
|  | Telephone Pedestal |
|  | Fire Hydrant |
|  | Water Valve |
|  | Sprinkler Control Valve |
|  | Temporary Bench Mark |

SITE | LEGEND

- | | |
|---|------------------------------|
|  | LIGHT DUTY ASPHALT PAVEMENT |
|  | HEAVY DUTY ASPHALT PAVEMENT |
|  | HEAVY DUTY CONCRETE PAVEMENT |
|  | CONCRETE WALK |

SITE DATA TABLE

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SITE ZONING	IC
PROJECT AREA	11.62 ACRES
BUILDING AREA	7260 SF
EXISTING SITE IMPROVEMENTS AREA:	11.47 ACRES (91%)
PROPOSED SITE IMPROVEMENTS AREA:	11.27 ACRES (78%)
STANDARD PARKING (9'x18'):	117
ADA PARKING (8'x18'):	2
ADA VAN ACCESSIBLE PARKING (8'x18'):	3
EXISTING STANDARD PARKING (10'x18'):	2
TOTAL PROPOSED PARKING:	124

KEYNOTES

1. 24" CONCRETE CURB WITHOUT GUTTER
2. CONCRETE SIDEWALK
3. 12" CONCRETE CURB & WALK
4. 24" CONCRETE CURB & GUTTER
5. ADA PARKING SPACE (4" BLUE PAINT STRIPS)
6. ADA PARKING SYMBOL
7. ADA ACCESSIBLE PARKING SIGN
8. ADA ACCESSIBLE RAMP
9. ADA PARKING SPACE (4" WHITE PAINT STRIPS)
10. DUMPSTER PAD (SEE ARCH PLANS)
11. RUBBER WHEEL STOP
12. TRANSFORMER PAD FOR UTILITY COMPANY STANDARDS
13. CONCRETE CURB & GUTTER ON 24" CONCRETE CURB WITHOUT GUTTER
14. 6" CONCRETE CURB
15. 6" CONCRETE CURB (W/4'-2" SEE MEP PLANS)
16. WALK PAD (W/4'-2" SEE MEP PLANS)
17. 6" CONCRETE CURB (W/4'-2" SEE MEP PLANS)
18. LIGHT POLE

GENERAL NOTES:

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

!! CAUTION !!

THE LOCATIONS OF ALL EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE BASED UPON ABOVE GROUND EVIDENCE (including, but not limited to, manholes, lifts, valves, and marks made upon the ground by owners) AND ARE SPECULATIVE IN NATURE. THESE MAY BE DIFFERENT FROM THE ACTUAL LOCATIONS OF ALL EXISTING UNDERGROUND UTILITIES FOR WHICH 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 1-800-392-5544
INDIANA UNDERGROUND