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FEB 05 2025

DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS

DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION

APPLICATION FOR APPEAL

Jurisdiction: (Check One)

Delaware County

City of Muncie

Submitted: Feb. 14, 2025

Case No.: BZA 09-25

(1) Applicant: Patrick Moone - Wawa Inc.

Address: 260 West Baltimore Pike, Wawa, PA 190063 Phone: 217-663-4065

(2) Applicant's Status: (Check the appropriate response)

(a) The applicant's name is on the deed to the property.

(b) The applicant is the contract owner of the property.

(c) Other: Leaser of the property

(3) If Item (2)(c) is checked, please complete the following:

Owner of the property involved: Martin Schelling - TXCRE Muncie, LLC

Owner's address: 2665 N. White Chapel Blvd. Southlake, TX 76092

(4) Record of Ownership:

Deed Book No.: 2010R00122

Page: 1 of 3

Purchase Date: 10/10/2024

Legal Description: (From the Deed or Abstract)

A part of the Southeast Quarter of Section 12, Township 20 North, Range 10 East and a part of the Northeast Quarter of Section 13, Township 20 North, Range 10 East in the City of Muncie, Delaware County, Indiana

(5) Common Address of the Property Involved: (Give full street address. If no address, give geographic location such as s. side of CR 400S, 500' west of SR 3).

4801 East Jackson Street Muncie, IN 47303

(6) Type of Appeal: (Check the appropriate response)

(a) Request for an Appeal from the Decision of the Administrative Zoning Officer according to Article XXXII, Section 5-B-1. (Attach a copy of said decision/ruling).

(b) Request for a Special Use according to Article XXXII, Section 5-B-2.

(c) Request for a Variance according to Article XXXII, Section 5-B-3.

(7) State explanation of requested Appeal: (State what you want to do and cite the Article and Section of the Ordinance which applies and/or creates the need for this Appeal.)

Request for a variance from the City of Muncie Comprehensive Zoning Ordinance, Article XXX, Sections 3.E and 7.J, to allow a 23'-3" tall sign rather than an 8' tall ground sign for a variance of 15'-3" for a new gasoline fueling station and convenience store.

(8) State reasons supporting the Appeal: (If filing for a variance, refer to the attached sheet entitled "Hardship Variance" for explanation/guidance.)

Article XXX, Section 3E - "A ground sign shall not at any point be over three (3) feet in height above grade level when such sign is located within five (5) feet of the right-of-way line. When located five (5) or more feet from the right-of-way line, no ground sign shall at any point be over eight (8) feet in height above ground level." Wawa is requesting a twenty-three foot three inch (23'-3") foot sign for the access point off of E Jackson St. This height sign will allow for visibility from Highway 35.

(9) Present Zoning of the property: (Give exact classification)

BV - Variety Business Zone

(10) Present use of the property:

Undeveloped Wooded Area

(11) Describe the proposed use of the property:

Wawa Food Market & Fueling Station

(12) Is the property:

Owner Occupied

Renter Occupied

Other: Leaser Occupied

- (13) Has the Applicant provided stamped, addressed envelopes to send notices of this Appeal to all property owners within 300 feet? Yes
Has the Applicant discussed this Appeal with these owners personally? No
If answer is "YES", give their attitudes toward the proposal.

- (14) Are there any restrictions, laws, covenants, governing the property which would prohibit its use for the purpose specified in this application? If answer is "YES", attach a copy.

None

- (15) Has work for which this application is being filed already started? If answer is "YES", give details.

No (basic site prep has begun)

- (16) Has there been any previous appeal filed in connection with this property? If answer is "YES", give the date and the decision of the appeal.

None related to this project

- (17) If the Appeal is granted, when will work commence?

Construction Scheduled Spring 2025

When will it be completed?

Construction Completion Scheduled 2025

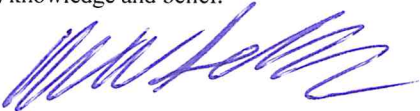
- (18) If the Appeal is granted, who will operate and/or use the proposed improvement for which this application has been filed?

Wawa Inc.

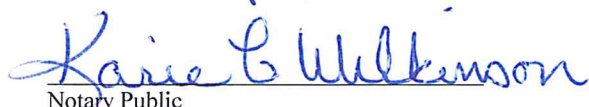
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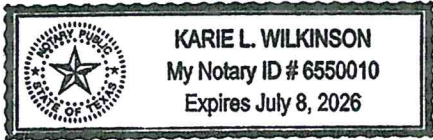
(I or We) Martin Schelling
TYPE NAME(S) OF SIGNATORIES

being duly sworn depose and say that (I or We) (am or are) the (owner[s]) (contract owner[s]) of property involved in this application and that the foregoing signatures, statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my or our) knowledge and belief.

SIGNATURES: 

Subscribed and sworn to before me this 1st day of February, 2025


Notary Public



07/08/26
Commission Expires

Resident of Tarrant County

State of Texas

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was filed with the office of the Delaware-Muncie Metropolitan Board of Zoning Appeals in accordance with all the formal requirements and procedures.

If properly advertised by the applicant, the application will be heard in public hearing on the 27 day of March, 2025.

Signed: 

Date: 2-20-2025

INTITLE
40
ICR Survey

2024R14840
JAN SMOOT
DELAWARE COUNTY RECORDER
RECORDED ON
10/30/2024 02:24 PM
REC FEE 25.00
PAGES: 4
RECORDED AS PRESENTED

File No.: 20240001
Parcel Number: 18-11-12-477-001.000-003; 18-11-13-226-013.000-003

WARRANTY DEED

This Indenture Witnesseth, That Jay E. Allardt, Christopher A. Long, and Leon A. Mudd, as tenants in common (Grantor) **Convey and Warrant** to TXCRE Muncie, LLC, a Texas limited liability company (Grantee) for the sum of One & 00/100 Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Delaware County, in the State of Indiana:

SEE EXHIBIT "A" ATTACHED HERETO

Restrictive Covenant. Each Grantor covenants not to permit any property that Grantor or any Grantor Affiliate (as defined herein) may now own or hereafter acquire within a three (3) mile radius of the Premises herein conveyed (the "Restricted Area") to be occupied or used for a convenience food store, fuel dispensing facility, or any combination of such uses (the "Restrictions"). The term "convenience food store" means any store generally recognized by the retail food industry as being a convenience food store, including but not limited to, the type of store operated by Tenant, Sheetz, 7-Eleven, Turkey Hill, Hess, Speedway, Cumberland Farms, QuickChek, Royal Farms, Circle K, Exxon-Mobil (On the Run), Race Trac, Gate, Thorntons, Hess Express, Murphy USA, Murphy Express or Sunoco A-Plus. The term "fuel dispensing facility" means any facility or station that dispenses fuel, whether self-service and/or full-service. Grantor covenants not to permit any property that Grantor or any Grantor Affiliate (as defined herein) may now own or hereafter acquire within a one (1) mile radius of the Premises herein conveyed (the "Limited Restricted Area") to be occupied or used for a coffee store, doughnut store, sandwich store, smoothie store, McDonald's, Walgreens, or any combination of such uses (the "Limited Restrictions"). The term "coffee store" means a store primarily engaged in the sale of coffee and related coffee drinks, including without limitation, Starbucks, Seattle's Best, Einstein's, Caribou Café, Bucks County Coffee or Barnie's Coffee and Tea Company. The term "doughnut store" means a store primarily engaged in the sale of doughnuts or pastries, including, without limitation, Dunkin' Donuts or Krispy Kreme. The term "sandwich store" means a store that is primarily engaged in the sale of hot or cold sandwiches for on-site or off-site consumption, including, without limitation, Subway, Blimpie's, Quizno's, Panera, Cosi, Pita Pit, Jimmy John's or Firehouse Subs. The term "smoothie store" means a store primarily engaged in the sale of smoothies, including, without limitation, Smoothie King, Planet Smoothie, Tropical Smoothie Café or Jamba Juice. The Restrictions shall not prohibit Grantor from permitting any property within the Restricted Area to be occupied or used for a quick-service restaurant. The term "quick-service restaurant" means any establishment generally recognized by the retail food industry as being a quick-service restaurant, including, but not limited to, Burger King, Sonic, KFC, Taco Bell, Chick-fil-A, Salad Gallery, Saladworks or Wendy's, but specifically excluding McDonald's. Notwithstanding anything contained herein, none of the foregoing Restrictions shall be interpreted to preclude the Grantee, the Grantee's tenant or its affiliates from operating within the Restricted Area in violation of such restrictions.

The restrictions above shall be valid for a period of fifteen (15) years and (a) run with the land and be binding upon Grantor and any Grantor Affiliate's heirs, personal representatives, grantees, successors and assigns and shall be incorporated in any deed covering the sale or other disposition of any real property within the Restricted Area owned by Grantor or any Grantor Affiliate; and (b) bind any land within the restricted areas owned or hereafter acquired by Grantor, any parent corporation, subsidiary corporation or affiliate corporation, any individual or individuals directly or indirectly in control of Grantor, individual members of any partnership which may be the Grantor, and any corporation or partnership directly or indirectly controlled by such individual, partnership, or member thereof and any spouse, parent or child of the foregoing (each, a "Grantor Affiliate" and collectively, the "Grantor Affiliates").

Subject To any and all easements, assessments, agreements, and restrictions of record.

In Witness Whereof, Grantor has executed this deed this 29th day of October, 2024.

Duly Entered for Taxation
Transfer Fees \$ 20.00
OCT 30 2024 ERP
DELAWARE CO. AUDITOR



[Signature]
Jay E. Allardt

[Signature]
Leon A. Mudd

[Signature]
Christopher A. Long

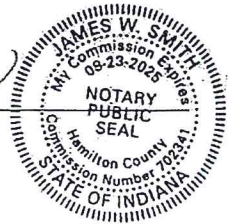
State of Indiana, County of Delaware SS: ACKNOWLEDGMENT

Before me, a Notary Public in and for the said County and State, personally appeared Jay E. Allardt who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 28th day of October, 2024.

My Commission Expires: August 23, 2025

[Signature]
James W. Smith, Notary Public
Residing in Hamilton County



State of Indiana, County of Delaware SS: ACKNOWLEDGMENT

Before me, a Notary Public in and for the said County and State, personally appeared Christopher A. Long who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 28th day of October, 2024.

My Commission Expires: August 23, 2025

[Signature]
James W. Smith, Notary Public
Residing in Hamilton County



State of Indiana, County of Delaware SS: ACKNOWLEDGMENT

Before me, a Notary Public in and for the said County and State, personally appeared Leon A. Mudd who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 29th day of October, 2024.

My Commission Expires: August 23, 2025

[Signature]
James W. Smith, Notary Public
Residing in Hamilton County



Send tax bills to and Grantee's street or rural route address is: 2665 N White Chapel Blvd; Southlake TX
76092-2417

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. James W. Smith, Attorney-at-Law

This instrument prepared by: James W. Smith, Attorney-at-Law

EXHIBIT "A"
LEGAL DESCRIPTION

A part of the Southeast Quarter of Section 12, Township 20 North, Range 10 East and a part of the Northeast Quarter of Section 13, Township 20 North, Range 10 East in the City of Muncie, Delaware County, Indiana, described as follows: Commencing at a one inch pipe marking the Northeast corner of the Northeast Quarter of Section 13, Township 20 North, Range 10 East; thence South 00 degrees 00 minutes 00 seconds East 140.00 feet (assumed bearing) along the East line of said Quarter Section; thence North 89 degrees 31 minutes 39 seconds West 53.63 feet parallel with the North line of said Quarter Section to the point of beginning; thence South 00 degrees 49 minutes 40 seconds West 50.00 feet along the Westerly line of Country Club Road; thence North 89 degrees 31 minutes 39 seconds West 195.65 feet; thence South 00 degrees 00 minutes 00 seconds East 203.82 feet; thence North 88 degrees 31 minutes 39 seconds West 467.88 feet along the Northerly line of a state highway access road; thence North 00 degrees 00 minutes 00 seconds West 380.77 feet to a point on the Southerly right-of-way line of State Highway #32, said point being on a curve and being South 06 degrees 55 minutes 12 seconds East 7236.97 feet from the radius point of said curve; thence Easterly 59.58 feet along said curved right-of-way line to a point that is South 07 degrees 23 minutes 30 seconds East 7236.97 feet from said radius point; thence North 82 degrees 22 minutes 05 seconds East 60.62 feet along said right-of-way line to the beginning of the United access right-of-way line; thence North 82 degrees 01 minute 13 seconds East 27.23 feet along said right-of-way line; thence North 81 degrees 54 minutes 45 seconds East 87.23 feet along said right-of-way line to the point of beginning of a curve, said point being North 08 degrees 15 minutes 06 seconds West 7086.97 feet from the radius point of said curve; thence Easterly 236.97 feet along said curved right-of-way line to a point that is North 06 degrees 10 minutes 19 seconds West 7086.97 feet from said radius point; thence South 00 degrees 00 minutes 00 seconds East 199.90 feet; thence South 89 degrees 31 minutes 39 seconds East 196.37 feet to the point of beginning, containing 4.71 acres, more or less.

EXCEPTING: A part of the Northeast Quarter of Section 13, Township 20 North, Range 10 East, Center Township, Delaware County Indiana, and being more particularly described as follows: Commencing at the northeast corner of said Section 13; thence along the east line of said Section 13, south 00 degrees 14 minutes 30 seconds east (assumed bearing) a distance of 190.00 feet; thence leaving the east line of said Section 13; north 89 degrees 46 minutes 09 seconds west a distance of 275.00 feet; thence south 00 degrees 14 minutes 30 seconds east a distance of 128.36 feet to the point of beginning of this description; thence south 01 degree 13 minutes 51 seconds west a distance of 75.00 feet; thence north 88 degrees 46 minutes 09 seconds west a distance of 50.0 feet; thence north 01 degree 13 minutes 51 seconds east a distance of 75.00 feet; thence south 88 degrees 46 minutes 09 seconds east a distance of 50.0 feet to the point of beginning and containing 3750.0 square feet (0.086 Acres), more or less.

The above is now more particularly described as follows:

Situated in the northeast quarter of Section 13 and southeast quarter of Section 12, Township 20 North, Range 10 East, City of Muncie, County of Delaware, State of Indiana, being all of that 4.625-acre tract of land conveyed to TXCRE Muncie, LLC, of record in Instrument 2024R14838, and being more particularly described as follows:

Beginning, for reference, at the northeast corner of said Section 13, being witnessed by a found bent iron pin South
89°57'29" West, 0.98 feet from said corner;

Thence along the east line of said Section 13, South 00°12'29" East, a distance of 140.00 feet to a point;

Thence North 89°44'08" West, a distance of 53.63 feet to a set iron pin in the west right-of-way line of South Country Club Road (width varies) at the southeast corner of a tract of land conveyed to First Merchants Bank, said point also being the
True Point of Beginning for this description;

Thence along the west right-of-way line of said South Country Club Road, **South 00°37'11" West**, a distance of **50.00 feet** to a set iron pin at the northeast corner of a tract of land conveyed to Roll Boiler, LLC;

Thence along the north line of said tract of land conveyed to Roll Boiler, LLC, **North 89°44'08" West**, a distance of **195.65**

feet to a found 5/8" iron pin with an "Ashton Land Corner" cap at the northwest corner of said tract;

Thence along the west line of said tract of land conveyed to Roll Boiler, LLC, **South 00°12'29" East**, a distance of **203.82 feet** to a found 5/8" iron pin with an "Ashton Land Corner" cap in the north line of a tract of land conveyed to the **State of Indiana**;

Thence along the north line of said tract of land conveyed to State of Indiana, **North 88°44'08" West**, a distance of **27.02 feet** to a set iron pin at the southeast corner of a tract of land conveyed to SBA Towers VII, LLC;

Thence with the lines of said tract of land conveyed to SBA Towers VII, LLC, the following courses:

- **North 01°15'59" East**, a distance of **75.00 feet** to a set iron pin;
- **North 88°44'01" West**, a distance of **50.00 feet** to a set iron pin;
- **South 01°15'59" West**, a distance of **75.00 feet** to a set iron pin in the aforesaid north line of a tract of land conveyed to State of Indiana;

Thence along the north line of said tract of land conveyed to State of Indiana, **North 88°44'08" West**, a distance of **390.86 feet** to a found 5/8" iron pin with a "W.W. LS21800024" cap at the southeast corner of a tract of land conveyed to Staylock Storage IN, LLC;

Thence along the east line of said tract of land conveyed to Staylock Storage IN, LLC, **North 00°12'29" West**, a distance of **380.77 feet** to a set iron pin in the south limited-access right-of-way line of East Jackson Street (State Route 32) (width varies);

Thence along said south limited-access right-of-way of East Jackson Street, along an arc deflecting to the right, having a radius of **7236.97 feet**, an arc length of **59.58 feet**, an interior angle of **0°28'18"**, the chord of said arc bears **North 82°43'14" East**, a chord distance of **59.58 feet** to a set iron pin at a point of tangency also marking the end of the limited access portion of said south right-of-way line;

Thence along said south right-of-way line, **North 82°14'40" East**, a distance of **60.62 feet** to a set iron pin at an angle point, said point also marking the beginning of a limited-access portion of the said south right-of-way line;

Thence along said south limited-access right-of-way line, the following courses:

- **North 81°53'48" East**, a distance of **27.23 feet** to a set iron pin at an angle point;
- **North 81°47'20" East**, a distance of **87.23 feet** to a set iron pin at a point of curvature;
- Along an arc deflecting to the right, having a radius of **7086.97 feet**, an arc length of **237.04 feet**, an interior angle of **1°54'59"**, the chord of said arc bears **North 82°34'59" East**, a chord distance of **237.03 feet** to a set iron pin at the aforesaid northwest corner of a tract of land conveyed to First Merchants Bank;

Thence with the west line of said tract of land conveyed to First Merchants Bank, **South 00°12'29" East**, a distance of **199.90 feet** to a found 5/8" iron pin;

Thence with the south line of said tract of land conveyed to First Merchants Bank, **South 89°44'08" East**, a distance of **196.37 feet** to the **True Point of Beginning**.

Containing **4.625 acres**, more or less.

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300



**Certificate of Formation
Limited Liability Company**

Filed in the Office of the
Secretary of State of Texas
Filing #: 805376150 01/12/2024
Document #: 1322129840002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

TXCRE Muncie, LLC

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Martin Schelling

C. The business address of the registered agent and the registered office address is:

Street Address:

2665 N White Chapel Blvd Southlake TX 76092-2417

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Governing Authority

A. The limited liability company is to be managed by managers.

OR

B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Manager 1: **Martin Schelling**

Title: **Manager**

Address: **2665 N White Chapel Blvd Southlake TX, USA 76092-2417**

Article 4 - Purpose

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Initial Mailing Address

Address to be used by the Comptroller of Public Accounts for purposes of sending tax information.

The initial mailing address of the filing entity is:

**2665 N White Chapel Blvd
Southlake, TX 76092-2417
USA**

Organizer

The name and address of the organizer are set forth below.

Martin Schelling 2665 N White Chapel Blvd, Southlake, TX 76092

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is: **January 16, 2024**

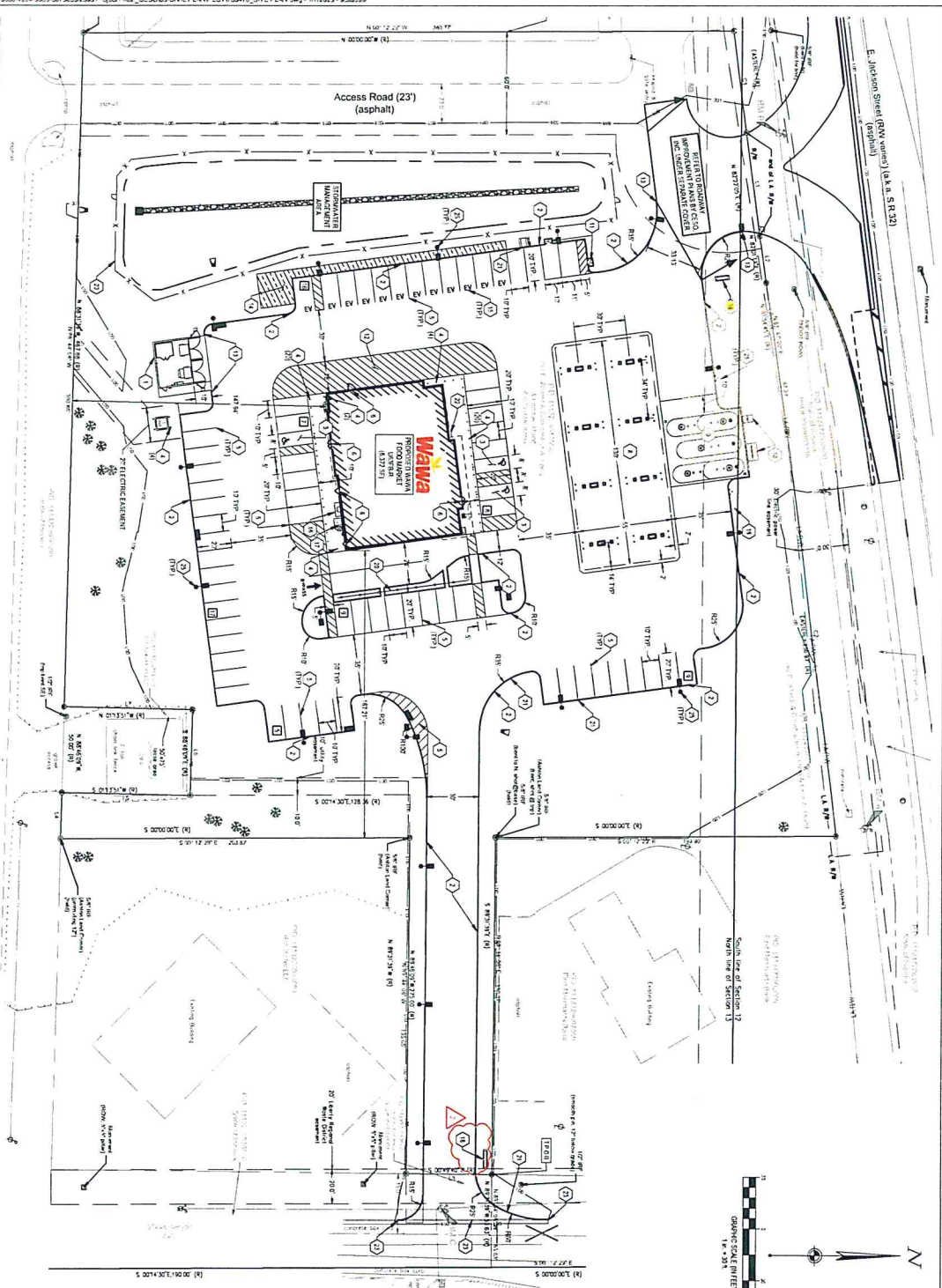
Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Martin Schelling

Signature of Organizer

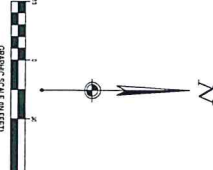
FILING OFFICE COPY



SITE REQUIREMENTS:

BUILDING SETBACKS	FRONT YARD: 25' PER MHD 29 SIDE YARD: 10' PER MHD 29 REAR YARD: 10' PER MHD 29
PARKING SETBACKS	FRONT YARD: 10' PER MHD 29 SIDE YARD: 10' PER MHD 29 REAR YARD: 10' PER MHD 29
DRIVEWAY CANOPY SETBACKS	FRONT YARD: 10' PER MHD 29 SIDE YARD: 10' PER MHD 29 REAR YARD: 10' PER MHD 29
STANDARD PARKING DIMENSIONS	FRONT YARD: 10' PER MHD 29 SIDE YARD: 10' PER MHD 29 REAR YARD: 10' PER MHD 29
STANDARD PARKING DIMENSIONS	FRONT YARD: 10' PER MHD 29 SIDE YARD: 10' PER MHD 29 REAR YARD: 10' PER MHD 29

- SITE NOTES:**
- ALL WORK AND MATERIAL SHALL COMPLY WITH ALL APPLICABLE ENGINEERING, THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND INSURE AS NECESSARY PRIOR TO CONSTRUCTION.
 - ALL DIMENSIONS AND COORDINATES REFER TO CENTER OF MAINLINE ALCOA.
 - ALL DIMENSIONS SHALL BE TO CENTER UNLESS OTHERWISE NOTED.
 - REFER TO ARCHITECTURAL DRAWINGS FOR BUILDING AND DIMENSIONS.
 - REFER TO GENERAL NOTES SHEET 1 OF SITE PER STANDARD SITE NOTES AND PROJECT REQUIREMENTS.
 - REFER TO DIVISION OF WORK AND SHEET 1 OF SITE PER STANDARD SITE NOTES AND PROJECT REQUIREMENTS.
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SITE LEGEND

REFERS TO DIVISION OF WORK SHEET
EXISTING
PROPOSED
ROADWAY
STREET
EXISTING
EXISTING
PAVEMENT
CONCRETE CURB
SEWAGE
SEWER
CURB AND GUTTER
PAVEMENT
CONCRETE CURB
SEWAGE
SEWER
CURB AND GUTTER

- CODED NOTES:**
- REFER TO SHEET 19 IN OTHER PROPOSED PLANS FOR FURTHER DETAILS.
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DRAWING TITLE: SITE PLAN

Project Number:	735476
Scale:	1" = 30'
Drawn By:	CDR
Checked By:	JMK
Date:	09/11/2024
Issue:	PERMIT

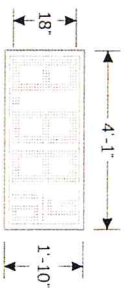
DESIGNED BY: **WAWA**
 STORE #7421
 4701 BLK E JACKSON STREET
 MUNCIE, IN 47303

CESO
 CIVIL ENGINEERING & SURVEYING
 INC.

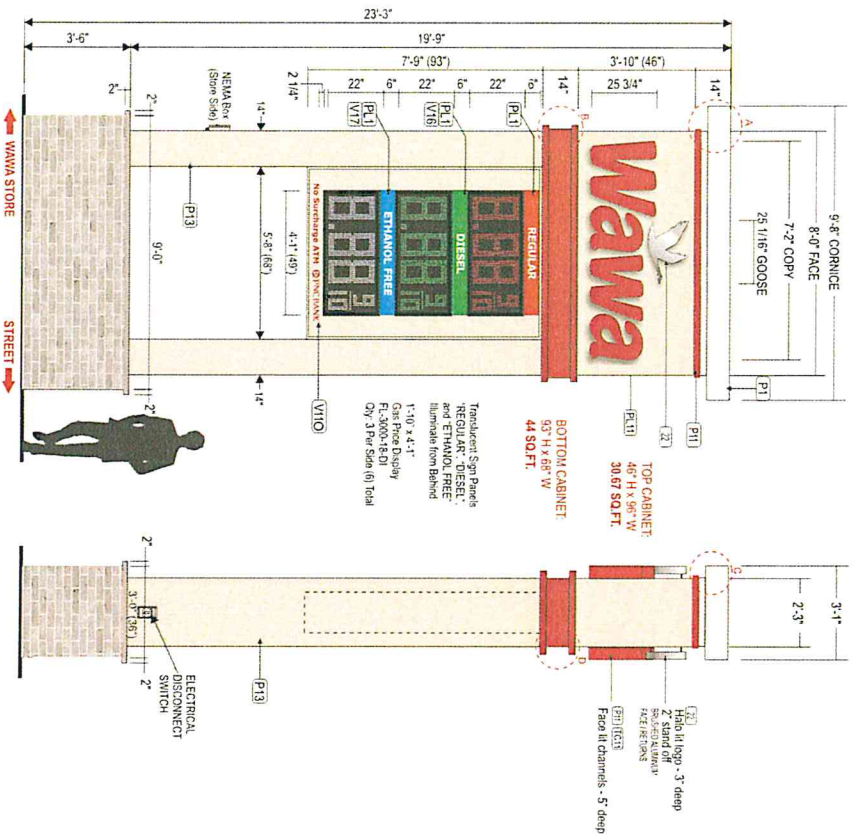
Wawa

INDIANA 811

QTY: 1



18" LED DETAILS
 1'-10" x 4'-1"
 Gas Price Display
 FL-5000-18-DI



18" / 3 PRODUCT
P-75 DIF ILLUMINATED PYLON SIGN (74.67 SQ. FT.)
 STANDARD SPECS - SEE COLOR SPECIFICATION LIBRARY

SCALE: 1/4" = 1'-0"

COLOR REFERENCE

P11	Paint to Match PMS 186 C	LC11	Jewelle Red Trim Cap	RL11	#2793 Red Acrylic	V11	3M 3630-63 "Regal Red" Translucent	V16	3M 3630-153 "Vivid Green" Translucent	V17	3M 3630-57 "Olympic Blue" Translucent	P13	RAL #1013 OYSTER WHITE	P1	Painted Smooth Stone	20	Limestone Cap By Others	21	Stone/Masonry to Match Building Elevators	22	Burnished Aluminum Metal Finish w/ Powder Coat Clear Coat	V10	3M 7726-263 "Peridot Amber Red" Signage
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Wawa
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STORE #
 7421

Issue Date: 12/31/2024
 Drawn By: Mike C

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