

*Agenda*  
GOSHEN PLAN COMMISSION  
Tuesday, April 18, 2023, 4:00 pm  
Council Chambers, 111 E. Jefferson Street, Goshen, Indiana

**\*\*Please turn off all cell phones\*\***

- I. Roll Call
- II. Approval of Minutes from 3/21/23
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- IV. Postponements/Withdrawals
- V. **Primary Subdivision** (public hearing)  
**23-01SUB** – KPAAS LLC and Abonmarche Consultants request primary subdivision approval for a three-lot major commercial subdivision, Goshen Village Shoppes. The subject property is generally located at the southeast corner of Meijer Drive and Elkhart Road, with common addresses of 4536, 4542, 4568 and 4580 Elkhart Road, consisting of four tax parcels and containing ±6.53 acres, zoned Commercial B-3PUD (Planned Unit Development), part of Goshen Village Shoppes PUD.
- VI. **B-4 Minor Change** (not a public hearing)  
**23-04MI** – Wal-Mart Real Estate Business Trust and Carlson Consulting request a B-4 minor change to reduce the required parking space ratio from 4.82 spaces per 1,000 square feet of gross floor area to 4.34 spaces per 1,000 square feet of gross floor area. The subject property is generally located at 2304 Lincolnway East, zoned Commercial B-4 District (Planned Shopping Center).
- VII. Audience Items
- VIII. Staff/Board Items
  - *Plan Commission Rules of Procedure – Proposed Amendment Related to Rezoning Signs*
- IX. Adjournment

Minutes - Goshen Plan Commission  
Tuesday, March 21, 2023 - 4:00 pm  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

**I.** The meeting was called to order with the following members present: Rolando Ortiz, Richard Worsham, Josh Corwin, Tom Holtzinger, Hesston Lauver, Doug Nisley, Caleb Morris, and James Wellington. Also present were City Planner Rhonda Yoder and Assistant City Attorney James Kolbus. Absent: Aracelia Manriquez

**II.** Approval of minutes of 2/21/23 – Holtzinger/Morris 8-0

**III.** The Zoning/Subdivision Ordinances and Official Staff Reports were unanimously filed into the record: Nisley/Holtzinger 8-0

**IV.** Postponements/Withdrawals - None

*Ms. Manriquez joined the meeting at 4:02 pm.*

**V. Partial Plat Vacation (public hearing)**

**23-01V** – Bruce and Julie Bergdall and Kauffman Construction request a partial plat vacation to reduce 10' platted building setbacks to 5' on the north and south for detached accessory, 7.5' on the east for detached accessory, and 8' on the south for primary building. The owners propose to build a 52' x 26' detached garage at the northeast corner of the property, a 14' x 17' detached pergola on the south side of the property, and a 10' x 61' addition to the rear of the house, with the reduced accessory setbacks requested to allow adequate space between the new garage and house. The subject property is generally located at 2610 Violet Road, Lot 53 of Martin Manor Addition, zoned Residential R-1.

*Staff Report:*

Ms. Yoder explained Indiana code requires that a reduction or removal of a portion of a recorded plat be approved by the Plan Commission instead of the Board of Zoning Appeals. She provided background information on the Martin Manor Subdivision plat, noting that the required front building setback is 30' and side and rear building setbacks are 10'. This subdivision was annexed into the City in 1968 and is zoned Residential R-1. She went on to say current R-1 standards require an 8' side setback for a primary structure and 5' side and rear setbacks for detached structures, subject to easements or other restrictions. NIPSCO has confirmed there are two utility easements on the property, a 5' easement along the north property line, and a 7.5' easement along the east property line. She explained both of those areas also have overhead power lines, and are subject to NIPSCO's clearance requirements. She pointed out that the proposed setbacks meet the minimum R-1 requirements and could be approved if not for the platted setbacks. She noted the reduction does not authorize any encroachment into the required NIPSCO clearance area.

Ms. Yoder noted for the record that one email in support of the request was received by the Planning Office and a copy has been provided to Commission members.

Staff recommends the Plan Commission grant approval of the request.

*Petitioner Presentation:*

Nate Kauffman, 5593 Fir Road, Bremen, IN, spoke on behalf of the petitioner.

Mr. Nisley asked if this is a garage or pole barn and the height of the structure.

Mr. Kauffman stated this is a garage, 20' in height, which is less than the height of the house. He went on to say the garage will have vinyl siding and will match the house.

*Audience Comments:*

There was no one to speak to the petition.

*Close Public Hearing*

*Staff Discussion:*

Mr. Nisley asked if there was any neighbor opposition to this request.

Ms. Yoder remarked that the only communication was the email in support of the request. She also noted that for this type of application, the law requires that all property owners within the subdivision receive a notice.

*Action:*

A motion was made and seconded, Morris/Nisley, to approve 23-01V, based upon the Staff Analysis and with the conditions listed in the Staff Report. The motion passed unanimously by a vote of 9-0.

**VI.** Audience Items  
None

**VII.** Staff/Board Items  
None

**VIII.** Adjournment – 4:08 pm Nisley/Morris

Respectfully Submitted:

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Lori Lipscomb, Recording Secretary

Approved By:

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Richard Worsham, President

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Tom Holtzinger, Secretary

**To:** Goshen City Plan Commission  
**From:** Rhonda L. Yoder, Planning & Zoning Administrator  
**Subject:** 23-01SUB, Major Commercial Subdivision, Primary Approval  
*Goshen Village Shoppes Subdivision*  
**Date:** April 18, 2023

## **ANALYSIS**

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KPAAS LLC and Abonmarche Consultants request primary subdivision approval for a three-lot major commercial subdivision, Goshen Village Shoppes. The subject property is generally located at the southeast corner of Meijer Drive and Elkhart Road, with common addresses of 4536, 4542, 4568 and 4580 Elkhart Road, consisting of four tax parcels and containing  $\pm 6.53$  acres, zoned Commercial B-3PUD (Planned Unit Development), part of Goshen Village Shoppes PUD.

The area within Goshen Village Shoppes PUD was originally part of the Meijer PUD, with the Meijer PUD established in 1990 while under the jurisdiction of Elkhart County, and annexed into the City of Goshen in 1996. The Goshen Village Shoppes PUD was established in January 2004 by Ordinance 4189. The preliminary plan included one lot with four multi-tenant commercial buildings. Ordinance 4189 relaxed frontage requirements for each building, and general PUD regulations do not require minimum lot size and width standards. Access was approved by the PUD site plan. The PUD site plan referenced building setbacks of 120' from the centerline of Elkhart Road and 25' side/rear (along the Meijer access drive), and parking/aisle setbacks of 35' along Elkhart Road, 10' along the Meijer access drive, and 5' side/rear (adjacent to the interior bank site, for example). The interior side building setback adjacent to the bank site is shown at 10 feet.

Two PUD major changes were approved in August 2004 (Ordinance 4237) and January 2006 (Ordinance 4334). Ordinance 4334 approved a fifth building and added land to the PUD. Minor changes were approved in October 2005 (to change the location of and add a drive-through for building 3), and in July 2006 (to approve a sign for building 5). To date, four commercial buildings have been constructed.

Subsequent to the original PUD approvals, the property was divided into four tax parcels and has remained under single ownership. The current owner wishes to create three individual lots so individual lots may be sold to separate owners, and to facilitate possible development of the proposed Lot 3. Lot 1 would contain the existing Starbucks building, Lot 2 would contain the remaining three buildings, and Lot 3 would be vacant.

According to the Goshen Subdivision Ordinance (SO), a major subdivision involves two or more lots along with the establishment of a new street or easement of access, or substantial changes to existing drainage systems. Major subdivision approval occurs in two phases, primary and secondary subdivision. The primary subdivision is intended to show a total development plan, including physical features, proposed lot layout, proposed street/access patterns, land to be reserved for public use, sewer and water extensions, and drainage facilities.

The Plan Commission has exclusive control over primary and secondary subdivision approvals. Primary subdivision applications may be granted approval, granted approval with conditions, or disapproved (SO Section 530). Approval may be granted only if the conditions of the Goshen SO are met. The Plan Commission may waive only those conditions found exclusively in the Goshen SO, and may not waive any standards found in the Goshen Zoning Ordinance (ZO).

### *Subdivision Evaluation*

Based on review of the proposed subdivision and Goshen SO and ZO standards, the following conditions are required as part of primary approval:

1. Property line dimensions shall end at a lot corner, and shall not extend across a proposed lot corner.
2. All existing easements must be shown with dimensions.
3. The plat shall include references to existing easements, and as needed the plat shall include notes to clarify how existing easements will continue to benefit all lots in the subdivision.

4. The plat shall contain all new required easements, such as drainage easements for the storm water discharge to the Meijer site, sanitary sewer and water easements to serve Lot 3, and an access easement on Lot 2 to provide access to Lot 3.
5. Lot 3 shall have a 5' no access easement along the perimeter adjacent to the internal Meijer access drive, as access for Lot 3 shall be allowed only from the existing internal drive on the proposed Lot 2.
6. The plat shall include the following dimensioned PUD setbacks:
  - 120' building – Adjacent to Elkhart Road, measured from the centerline
  - 35' parking/aisle – Adjacent to Elkhart Road, measured from the property line
  - 25' building – Adjacent to Meijer Drive/internal Meijer access drive
  - 10' parking/aisle – Adjacent to Meijer Drive/internal Meijer access drive

Conditions to be met prior to secondary approval, and requirements to be completed before a zoning clearance/building permit is issued for new development, are outlined in the following section.

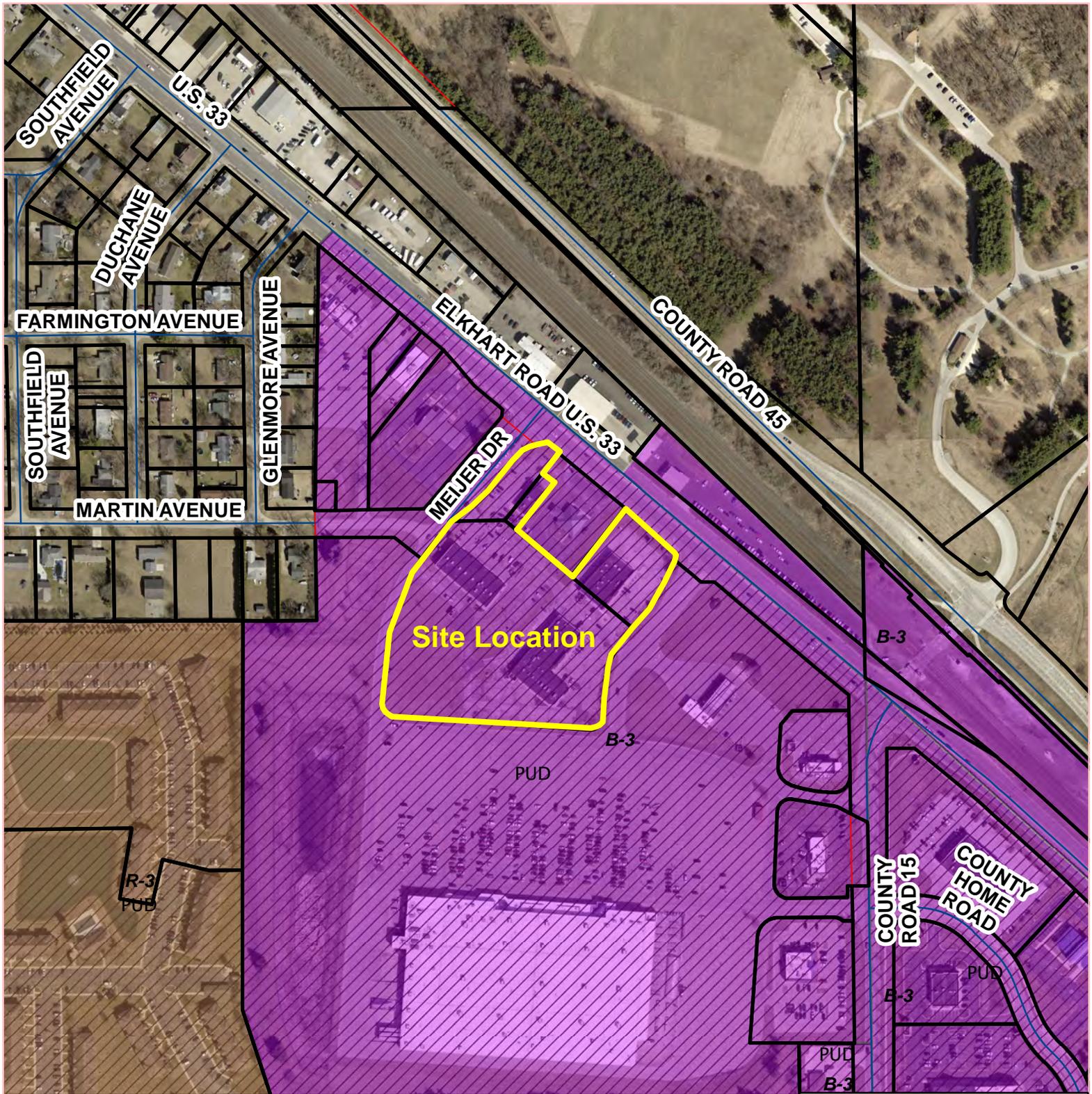
### **RECOMMENDATIONS**

Staff recommends the Plan Commission grant primary approval of the three-lot major commercial subdivision, Goshen Village Shoppes, based upon the following and including the following conditions, which shall be met before secondary approval is granted:

1. The B-3 and/or PUD requirements for minimum lot area and lot frontage are met.
2. The Goshen Village Shoppes PUD, Zoning Ordinance, and Subdivision Ordinance requirements are met.
3. The drawings, application and fee for the secondary subdivision shall be submitted to the Planning office, and Staff may review on behalf of the Plan Commission.
4. The secondary subdivision shall address the technical corrections identified in the above *Subdivision Evaluation* section and Technical Review comments provided by Engineering, Stormwater, and Fire.
5. Per SO Sections 511.6 and 571.10, the final plat shall include all easements dimensioned and identified to their specific use, including all existing easements and all required new easements, for access, drainage, and water/sewer for example.
6. Per SO Sections 512 and 812, an overall subdivision drainage plan shall be prepared and certified by a registered engineer or registered land surveyor, submitted to the City Engineer, and approved by the Board of Works before secondary approval is granted. Any required drainage easements for the shared drainage system must be added to the plat, with review/approval by Goshen Engineering before the plat is accepted.
7. Review of infrastructure status will be required to determine if any new/relocated infrastructure is required, to determine if a performance bond/surety is required as part of secondary approval.
8. Connection to City water and sewer is required, and utility extension plans shall be approved by the City Utility Engineer.
9. After all identified corrections are made, reviewed and approved, dedications and easements shall be accepted by the Board of Works per SO Section 820 before secondary approval is granted.
10. When secondary approval is granted, the signed plat will be provided to the applicant for recording, with two full size recorded copies provided to the City.

The following conditions shall be met before a zoning clearance/building permit is issued for new development on any individual lot:

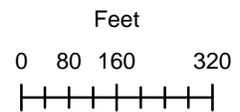
1. The secondary subdivision shall be reviewed and approved and a recorded plat on file before a zoning clearance/building permit is issued for any individual lot.
2. Site plan review/approval through Technical Review is required for each lot/building before a zoning clearance/building permit is issued.



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

## Goshen Village Shoppes

2021 Aerial  
Printed March 31, 2023



1 inch = 320 feet

### The City of Goshen

Department of  
Planning & Zoning  
204 East Jefferson Street, Goshen, Indiana 46528  
Phone: 574-534-3600 Fax: 574-533-8626

# GOSHEN VILLAGE SHOPPES PRIMARY SUBDIVISION

A PART OF LOT 1 IN MFB FINANCIAL MIDWAY PLANNED UNIT DEVELOPMENT, AS DESCRIBED AND RECORDED IN PLAT BOOK 27, PAGE 96 AND A PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 37 NORTH, RANGE 5 EAST, CITY OF GOSHEN, CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA.  
ADDRESS: 4580 & 4542-4568 ELKHART ROAD, ELKHART, IN 46517  
4536 U.S. 33, ELKHART, IN 46517  
TAX ID#: 20-06-26-426-027.000-013; 20-06-26-426-029.000-013;  
20-06-26-426-030.000-013; 20-06-26-476-005.000-013

**ABONMARCHÉ**  
Professional Land Surveyors  
303 River Plaza Drive, Unit 206  
Goshen, IN 46526  
Phone: 765.433.9113  
Fax: 765.433.9114  
www.abonmarche.com

## GOSHEN VILLAGE SHOPPES PRIMARY SUBDIVISION

## PRIMARY SUBDIVISION

PROJECT: GOSHEN VILLAGE SHOPPES  
SHEET TITLE: PRIMARY SUBDIVISION  
DRAWN BY: TRM  
DESIGNED BY:  
PM REVIEW: CMWE  
QA/QC REVIEW: BEM  
DATE: 03/22/2023  
SEAL: CRAIG S. BAYDORFF, REGISTERED LAND SURVEYOR, STATE OF INDIANA, LICENSE NO. LS21200006  
SIGNATURE:  
DATE:  
SCALE: HORIZ: 1" = 40'  
VERT:  
ACI JOB # 22-1919  
SHEET NO. 1 of 2

Curve Table

Curve #	Length	Radius	Delta	Chord Bearing	Chord
C1	47.77'	30.00'	91°13'54"	S40°29'17"E	42.88'
C2	47.13'	30.00'	90°00'35"	N48°53'33"E	42.43'
C3	99.21'	170.00'	33°26'16"	S20°36'48"W	97.81'
C4	37.77'	80921.14'	0°01'36"	S50°14'05"E	37.77'
C5	17.99'	64.02'	16°06'01"	N20°12'24"E	17.93'

Line Table

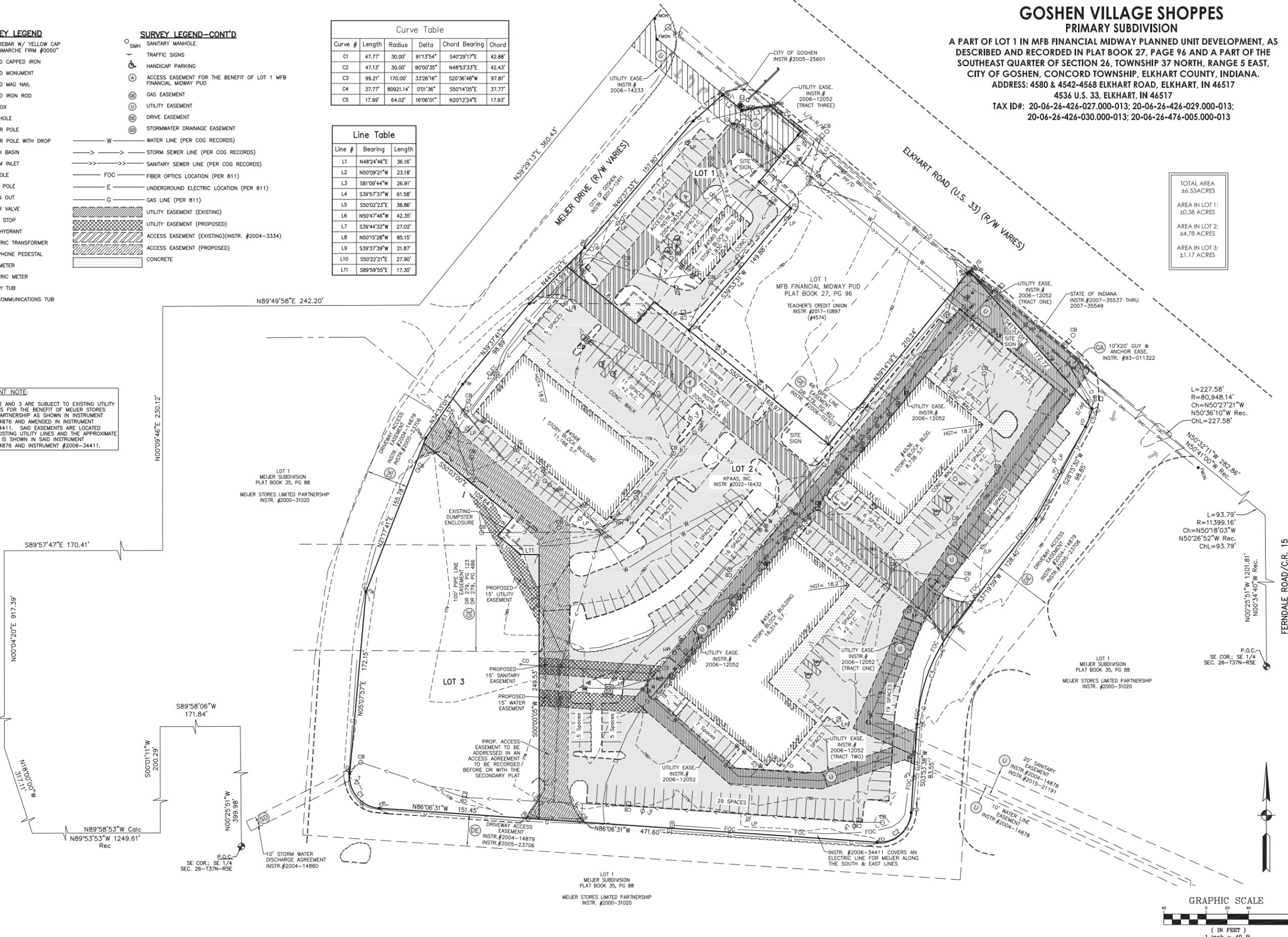
Line #	Bearing	Length
L1	N48°24'46"E	36.16'
L2	N50°09'21"W	23.16'
L3	S81°09'44"W	26.91'
L4	S39°57'37"W	61.58'
L5	S50°02'23"E	38.86'
L6	N50°47'46"W	42.35'
L7	S39°44'32"W	27.02'
L8	N50°15'28"W	85.15'
L9	S39°37'39"W	21.87'
L10	S50°22'21"E	27.90'
L11	S89°59'55"E	17.30'

- SURVEY LEGEND**
- SET REBAR W/ YELLOW CAP "ABONMARCHÉ FIRM #0050"
  - FCI FOUND CAPPED IRON
  - ⊕ FOUND MONUMENT
  - ⊙ FMAG FOUND MAG NAIL
  - FIR FOUND IRON ROD
  - ⊕ MAILBOX
  - ⊕ HH HANDHOLE
  - ⊕ PP POWER POLE
  - ⊕ PP/D POWER POLE WITH DROP
  - ⊕ CB CATCH BASIN
  - ⊕ CB STORM INLET
  - ⊕ MH MANHOLE
  - ⊕ CP LIGHT POLE
  - ⊕ CO CLEAN OUT
  - ⊕ W WATER VALVE
  - ⊕ CS CURB STOP
  - ⊕ ELEC FIRE HYDRANT
  - ⊕ ELEC ELECTRIC TRANSFORMER
  - ⊕ TELEPHONE PEDESTAL
  - ⊕ GAS METER
  - ⊕ ELECTRIC METER
  - ⊕ UTILITY TUB
  - ⊕ TELECOMMUNICATIONS TUB

- SURVEY LEGEND-CONT'D**
- SMH SANITARY MANHOLE
  - ⊕ TRAFFIC SIGNS
  - ⊕ HANDICAP PARKING
  - ⊕ ACCESS EASEMENT FOR THE BENEFIT OF LOT 1 MFB FINANCIAL MIDWAY PUD
  - ⊕ GAS EASEMENT
  - ⊕ UTILITY EASEMENT
  - ⊕ DRIVE EASEMENT
  - ⊕ STORMWATER DRAINAGE EASEMENT
  - W — WATER LINE (PER COG RECORDS)
  - S — STORM SEWER LINE (PER COG RECORDS)
  - SS — SANITARY SEWER LINE (PER COG RECORDS)
  - FOC — FIBER OPTICS LOCATION (PER 811)
  - E — UNDERGROUND ELECTRIC LOCATION (PER 811)
  - G — GAS LINE (PER 811)
  - ▨ UTILITY EASEMENT (EXISTING)
  - ▨ UTILITY EASEMENT (PROPOSED)
  - ▨ ACCESS EASEMENT (EXISTING)(INSTR. #2004-3334)
  - ▨ ACCESS EASEMENT (PROPOSED)
  - ▨ CONCRETE

**EASEMENT NOTE:**  
LOTS 1, 2 AND 3 ARE SUBJECT TO EXISTING UTILITY EASEMENTS FOR THE BENEFIT OF MEIJER STORES LIMITED PARTNERSHIP AS SHOWN IN INSTRUMENT #2004-14876 AND AMENDED IN INSTRUMENT #2006-34411. SAID EASEMENTS ARE LOCATED ALONG EXISTING UTILITY LINES AND THE APPROXIMATE LOCATION IS SHOWN IN SAID INSTRUMENT #2004-14876 AND INSTRUMENT #2006-34411.

TOTAL AREA ±6.53ACRES  
AREA IN LOT 1: ±0.58 ACRES  
AREA IN LOT 2: ±4.78 ACRES  
AREA IN LOT 3: ±1.17 ACRES

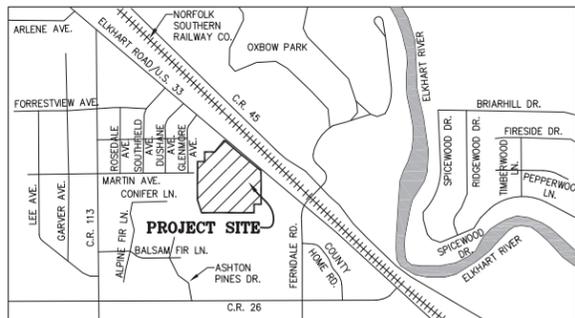


# GOSHEN VILLAGE SHOPPES PRIMARY SUBDIVISION

A PART OF LOT 1 IN MFB FINANCIAL MIDWAY PLANNED UNIT DEVELOPMENT, AS DESCRIBED AND RECORDED IN PLAT BOOK 27, PAGE 96 AND A PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 37 NORTH, RANGE 5 EAST, CITY OF GOSHEN, CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA.

ADDRESS: 4580 & 4542-4568 ELKHART ROAD, ELKHART, IN 46517  
4536 U.S. 33, ELKHART, IN 46517

TAX ID#: 20-06-26-426-027.000-013; 20-06-26-426-029.000-013;  
20-06-26-426-030.000-013; 20-06-26-476-005.000-013



LOCATION MAP  
N.T.S.

## GENERAL NOTES

### ZONING

THE ZONING FOR THIS SITE IS PUD B-3. MINIMUM LOT SIZE FOR B-3 IS 8,000 SF AND MINIMUM LOT WIDTH IS 80 FEET AT THE ESTABLISHED FRONT LOT LINE.

### DENSITY

TOTAL PROJECT AREA = ±6.53 ACRES

### SOILS

THIS SITE CONSISTS OF BANTER SANDY LOAM, 0 TO 1% SLOPES (B<sub>000A</sub>); B<sub>000A</sub> SOILS ARE A WELL DRAINED SOIL WITH A PERMEABILITY RATE OF 2.00-6.00 INCHES/HR AT A DEPTH OF 0-54 INCHES. SEASONAL HIGH WATER TABLE IS GREATER THAN 80 INCHES AND URBAN LAND-BRISTOL COMPLEX, 0-1% SLOPES (U<sub>00A</sub>). U<sub>00A</sub> SOILS ARE AN EXCESSIVELY DRAINED SOIL WITH A PERMEABILITY RATE OF 6.00-20.00 INCHES/HR AT A DEPTH OF 0-55 INCHES. SEASONAL HIGH WATER TABLE IS GREATER THAN 80 INCHES.

THIS INFORMATION IS OBTAINED FROM THE SOIL SURVEY OF ELKHART COUNTY, INDIANA.

### SANITARY SEWER AND WATER SUPPLY

EACH LOT TO HAVE SERVICE BY THE MUNICIPAL UTILITIES OF THE CITY OF GOSHEN.

### STREETS

NO NEW STREETS ARE PROPOSED.

### DRYWELLS

THIS PROJECT WILL NOT UTILIZE PROPOSED CLASS V INJECTIONS WELLS.

### RESTRICTIONS

ADDITIONAL RESTRICTIONS SHALL BE PREPARED AND RECORDED SEPARATELY BY THE OWNER.

### CONTOURS

CONTOURS ARE FROM PUBLIC SOURCES AND BASED ON NAVD83.

### WELLHEAD PROTECTION AREA

PROJECT SITE IS NOT WITHIN THE CITY OF GOSHEN WELLHEAD PROTECTION AREA.

### FLOOD NOTE

THE SUBJECT PARCEL DOES NOT LIE WITHIN 1% ANNUAL CHANCE FLOOD (SPECIAL FLOOD HAZARD AREA) AS SCALED AND DEPICTED ON THE FEMA/FIRM COMMUNITY PANEL NUMBER 18039C0143D, EFFECTIVE MAP DATE: AUGUST 2, 2011.

### SETBACK NOTE

FRONT SETBACK ALONG U.S. 33 - 35 FEET FROM THE RIGHT OF WAY

SIDE YARD SETBACK - 25 FEET

REAR YARD SETBACK - 25 FEET

### PARKING & DRIVE SETBACKS

FRONT/CORNER SIDE YARDS - 35 FEET ALONG U.S. HWY 33;

10' ALONG MEIJER ACCESS DRIVES

SIDE AND REAR YARDS - 5'

### PARKING CALCULATIONS-

PER GOSHEN CITY STAFF REPORT (6/15/2004), PARKING IS PROVIDED MEETING THE REQUIREMENTS OF THE B-3 DISTRICT, REQUIRING 2.5 TO 5 PER 1,000 SQUARE FEET OF RETAIL SPACE.

PROVIDED PARKING: 285 SPACES (INCLUDES 8 ADA SPACES)

### BLANKET EASEMENTS & RESTRICTIONS AND/OR ORDINANCES

EASEMENTS, DECLARATION OF RESTRICTIONS AND/OR ORDINANCES ASSOCIATED WITH THE SUBJECT PARCEL THAT ARE BLANKET IN NATURE ARE AS FOLLOWS:

- EASEMENT & ASSOCIATED RIGHTS GRANTED TO INDIANA & MICHIGAN ELECTRIC COMPANY BY MIDWAY MOTOR & AIRCRAFT, INC. IN DEED RECORD 198, PAGE 367.
- TERMS AND PROVISIONS OF THE MUNICIPAL SANITARY SEWER & WATER SERVICES AGREEMENT BY AND AMONG THE CITY OF GOSHEN, INDIANA AND ITS BOARD OF PUBLIC WORKS AND SAFETY; MEIJER REALTY COMPANY AND THE COUNTY OF ELKHART IN INSTRUMENT #91-012498.
- TERMS AND PROVISIONS OF DECLARATION OF RESTRICTIONS BY AND BETWEEN MEIJER STORES LIMITED PARTNERSHIP AND GOSHEN VILLAGE SHOPPES, LLC IN INSTRUMENT #2004-14877; AS AMENDED BY FIRST AMENDMENT OF DECLARATION OF RESTRICTIONS IN INSTRUMENT #2007-17870.
- TERMS AND PROVISIONS OF ORDINANCE NO. PC02-12 ADOPTED MARCH 18, 2002 BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA IN INSTRUMENT #2002-33140.
- USE RESTRICTIONS CONTAINED IN CORPORATE WARRANTY DEED FROM MFB FINANCIAL TO GOSHEN VILLAGE SHOPPES, LLC IN INSTRUMENT #2005-24766.
- RESTRICTIONS AND ANY OTHER TERMS, COVENANTS AND CONDITIONS DISCLOSED BY DECLARATION OF RESTRICTIONS IN INSTRUMENT #96-013338.
- TERMS AND PROVISIONS OF FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS IN INSTRUMENT #2007-22212.
- RESTRICTIONS AND ANY OTHER TERMS, COVENANTS AND CONDITIONS DISCLOSED BY DECLARATION OF RESTRICTIONS IN INSTRUMENT #2004-40699.
- TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE NO. 3677 ENTITLED (AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF GOSHEN, INDIANA) IN INSTRUMENT #96-002078.
- TERMS, PROVISIONS, CONDITIONS, RESTRICTIONS AND CONDITIONS CONTAINED IN WARRANTY DEED FROM MEIJER STORES LIMITED PARTNERSHIP (GRANTOR) TO GOSHEN VILLAGE SHOPPES, LLC (GRANTEE) IN INSTRUMENT #2004-14876 AND AMENDED BY FIRST AMENDMENT TO UTILITY EASEMENT IN INSTRUMENT #2006-34411.

### DRAINAGE AGREEMENT

DRAINAGE AGREEMENTS BETWEEN LOTS 1, 2 AND 3 TO BE RECORDED BEFORE THE SECONDARY PLAT IS RECORDED.

### ACCESS AGREEMENT

ACCESS EASEMENTS AND RESTRICTIONS AGREEMENTS BETWEEN LOTS 1, 2 AND 3 TO BE RECORDED BEFORE THE SECONDARY PLAT IS RECORDED.

### UTILITY AGREEMENT

UTILITY AGREEMENTS BETWEEN LOTS 1, 2 AND 3 TO BE RECORDED BEFORE THE SECONDARY PLAT IS RECORDED.

## LEGAL DESCRIPTION

A PART OF LOT 1 AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF MFB FINANCIAL MIDWAY PLANNED UNIT DEVELOPMENT, RECORDED IN PLAT BOOK 27, PAGE 96, RECORDS OF ELKHART COUNTY, INDIANA, AND A PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 37 NORTH, RANGE 5 EAST, CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 26; THENCE NORTH 0°25' 51" WEST ALONG THE EAST LINE OF SAID SECTION 399.98 FEET; THENCE SOUTH 89° 58' 06" WEST 171.84 FEET TO THE NORTHWEST CORNER OF LOT 1 OF MIDWAY AIRPORT SECOND SUBDIVISION, AS SHOWN IN P.B. 5, PG. 36; THENCE SOUTH 0° 01' 11" WEST 200.29 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 89° 58' 53" WEST ALONG THE NORTH LINE OF LOTS 3 THROUGH 11 OF SAID MIDWAY AIRPORT SECOND SUBDIVISION 1249.61 FEET; THENCE NORTH 18° 00' 00" WEST 317.11 FEET; THENCE NORTH 0° 04' 20" EAST 917.39 FEET TO THE SOUTHWEST CORNER OF LOT 2 OF MIDWAY AIRPORT SUBDIVISION, AS SHOWN IN P.B. 5, PG 30; THENCE SOUTH 89° 57' 47" EAST 170.41 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID MIDWAY AIRPORT SUBDIVISION; THENCE NORTH 0° 09' 46" EAST 230.12 FEET; THENCE NORTH 89° 49' 58" EAST 242.20 FEET; THENCE NORTH 39° 29' 13" EAST 360.43 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF US HIGHWAY 33 AS DESCRIBED IN DOC. NO. 93-07140; THENCE SOUTHEASTERLY 107.54 FEET ALONG SAID RIGHT OF WAY LINE, ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 80,948.05 FEET AND SUBTENDED BY A CHORD BEARING SOUTH 49° 47' 41" EAST 107.54 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTHEASTERLY ALONG SAID RIGHT OF WAY LINE 67.87 FEET ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 80,948.05 FEET AND SUBTENDED BY A LONG CHORD BEARING SOUTH 49° 51' 24" EAST 67.87 FEET; THENCE SOUTH 40° 06' 47" WEST 64.50 FEET TO A BAR AND CAP; THENCE SOUTH 49° 53' 13" EAST 38.86 FEET TO A BAR AND CAP; THENCE SOUTH 40° 02' 41" WEST 149.88 FEET TO A BAR AND CAP; THENCE SOUTH 50° 38' 36" EAST 169.93 FEET TO AN IRON PIPE; THENCE NORTH 39° 23' 29" EAST 212.30 FEET TO THE SAID SOUTHWESTERLY RIGHT OF WAY LINE OF US HIGHWAY 33; THENCE SOUTHEASTERLY ALONG SAID RIGHT OF WAY 144.52 FEET ALONG A NON-TANGENT ARC TO THE LEFT HAVING A RADIUS OF 80,948.16 FEET AND SUBTENDED BY A LONG CHORD BEARING SOUTH 50° 04' 41" EAST 144.52 FEET TO A POINT OF COMPOUND CURVATURE; THENCE 57.30 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 64.02 FEET AND SUBTENDED BY A LONG CHORD BEARING SOUTH 2° 46' 19" WEST 55.40 FEET; THENCE SOUTH 28° 24' 40" WEST 98.85 FEET; THENCE SOUTH 37° 29' 09" WEST 128.40 FEET; THENCE SOUTHWESTERLY 99.22 FEET ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 170.00 FEET AND SUBTENDED BY A LONG CHORD BEARING SOUTH 20° 45' 58" WEST 97.81 FEET; THENCE SOUTH 4° 02' 48" WEST 83.55 FEET; THENCE 47.12 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 30.00 FEET AND SUBTENDED BY A LONG CHORD BEARING SOUTH 49° 02' 43" WEST 42.43 FEET; THENCE NORTH 85° 57' 21" WEST 471.80 FEET; THENCE 47.77 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 30.00 FEET AND SUBTENDED BY A LONG CHORD BEARING NORTH 40° 20' 07" WEST 42.88 FEET; THENCE NORTH 5° 17' 07" EAST 172.15 FEET; THENCE NORTH 21° 26' 51" EAST 155.78 FEET; THENCE NORTH 34° 42' 11" EAST 61.32 FEET; THENCE NORTH 39° 46' 51" EAST 98.89 FEET; THENCE NORTH 45° 00' 31" EAST 73.99 FEET; THENCE NORTH 40° 46' 30" EAST 157.89 FEET; THENCE NORTH 48° 33' 56" EAST 36.16 FEET; THENCE NORTH 64° 52' 24" EAST 27.09 FEET TO THE PLACE OF BEGINNING, AND HAVING AN AREA OF 6.60 ACRES.

LESS AND EXCEPT, THAT PART OF THE ABOVE-DESCRIBED REAL ESTATE CONVEYED TO THE CITY OF GOSHEN, BY WARRANTY DEED DATED AUGUST 8, 2005 AND RECORDED AUGUST 12, 2005, AS INSTRUMENT NO. 2005-25601, DESCRIBED AS FOLLOWS: A PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 37 NORTH, RANGE 5 EAST, CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 26, THENCE N. 00° 25' 51"W. ALONG THE EAST LINE OF SAID SECTION, 399.98 FEET; THENCE S. 89° 58' 06" W., 171.84 FEET TO THE NORTHWEST CORNER OF LOT 1 OF MIDWAY AIRPORT SECOND SUBDIVISION, AS SHOWN IN PLAT BOOK 5, PAGE 36; THENCE S. 00° 01' 11" W., 200.29 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE N. 89° 58' 53" W. ALONG THE NORTH LINE OF LOTS 3 THROUGH 11 OF SAID MIDWAY AIRPORT SECOND SUBDIVISION, 1,249.61 FEET; THENCE N. 18° 00' 00" W., 317.11 FEET; THENCE N. 00° 04' 20" E., 917.39 FEET TO THE SOUTHWEST CORNER OF LOT 2 OF MIDWAY AIRPORT SUBDIVISION, AS SHOWN IN PLAT BOOK 5, PAGE 30; THENCE S. 89° 57' 47" E., 170.41 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID MIDWAY AIRPORT SUBDIVISION; THENCE N. 00° 09' 46" E., 230.12 FEET; THENCE N. 89° 49' 58" E., 242.20 FEET; THENCE N. 39° 29' 13" E., 360.43 FEET TO THE SOUTHWESTERLY BOUNDARY OF US HIGHWAY 33 AS DESCRIBED IN DOC. NO. 93-07140; THENCE SOUTHEASTERLY ALONG SAID BOUNDARY 107.54 FEET ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 80,948.05 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF S. 49° 47' 41" E. AND A LENGTH OF 107.54 TO THE NORTHWESTERLY LINE OF THE GRANTOR'S LAND AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTHEASTERLY 32.03 FEET ALONG SAID BOUNDARY, ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 80,948.05 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF S. 49° 50' 38" E. AND A LENGTH OF 32.03 FEET; THENCE S. 81° 40' 06" W., 31.26 FEET; THENCE N. 49° 56' 27" W., 22.10 FEET TO THE NORTHWESTERLY LINE OF THE GRANTOR'S LAND; THENCE N. 64° 52' 24" E., 25.81 FEET TO THE POINT OF BEGINNING AND CONTAINING 634 SQUARE FEET, MORE OR LESS.

FURTHER LESS AND EXCEPT, PART OF THE LAND OF INSTRUMENT NUMBER 2004-14876, LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE RIGHT OF WAY PARCEL PLAT ATTACHED THERETO AND MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION DESIGNATED AS POINT "2200" ON SAID PLAT; THENCE NORTH 0 DEGREES 34 MINUTES 40 SECONDS WEST (BEARINGS BASED ON THE LOCATION CONTROL ROUTE SURVEY PLAT, PROJECT NH-219-5(), RECORDED IN INSTRUMENT NUMBER 2002-09261 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY), 1,201.81 FEET ALONG THE EAST LINE OF SAID SECTION TO THE PROLONGATION OF THE SOUTHWESTERN BOUNDARY OF U.S.R. 33 PER PROJECT USR-33 (20), 1993, RECORDED IN INSTRUMENT NUMBER 93- 007140; THENCE ALONG THE PROLONGATION OF THE SOUTHWESTERN BOUNDARY OF SAID U.S.R. 33 AND THE SOUTHWESTERN BOUNDARY OF SAID U.S.R. 33 NORTHWESTERLY 93.79 FEET ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 11,399.16 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 50 DEGREES 26 MINUTES 52 SECONDS WEST AND A LENGTH OF 93.79 FEET; THENCE NORTH 50 DEGREES 41 MINUTES 00 SECONDS WEST 282.86 FEET ALONG SAID BOUNDARY; THENCE ALONG SAID BOUNDARY NORTHWESTERLY 227.58 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 80,948.14 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 50 DEGREES 36 MINUTES 10 SECONDS WEST AND A LENGTH OF 227.58 FEET TO A CORNER OF THE GRANTOR'S LAND BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG THE EASTERN LINE OF THE GRANTOR'S LAND SOUTHEASTERLY 35.23 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 64.02 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 4 DEGREES 34 MINUTES 48 SECONDS EAST AND A LENGTH OF 34.78 FEET TO THE POINT DESIGNATED AS "941" ON SAID PLAT; THENCE NORTH 42 DEGREES 10 MINUTES 40 SECONDS WEST 173.16 FEET TO A POINT ON THE SOUTHWESTERN BOUNDARY OF SAID U.S.R. 33 RECORDED IN INSTRUMENT NUMBER 93-007140 DESIGNATED AS POINT "2242" ON SAID PLAT; THENCE ALONG THE 19 SOUTHWESTERN BOUNDARY OF SAID U.S.R. 33 SOUTHEASTERLY 147.14 FEET (144.52 PER INSTRUMENT NUMBER 2004-14876) ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 80,948.14 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 50 DEGREES 28 MINUTES 13 SECONDS EAST AND A LENGTH OF 147.14 FEET (144.52 PER INSTRUMENT NUMBER 2004-14876) TO THE POINT OF BEGINNING AND CONTAINING 0.043 ACRE, MORE OR LESS.

TOGETHER WITH: NON-EXCLUSIVE DRIVEWAY ACCESS EASEMENT BY AND BETWEEN MEIJER STORES LIMITED PARTNERSHIP, AND GOSHEN VILLAGE SHOPPES, LLC, DATED APRIL 28, 2004 AND RECORDED MAY 5, 2004 AS DOCUMENT NUMBER 2004-14879 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA; AS AFFECTED BY FIRST AMENDMENT TO NON-EXCLUSIVE DRIVEWAY ACCESS EASEMENT, RECORDED JULY 29, 2005, AS INSTRUMENT NO. 2005-23706 IN SAID COUNTY RECORDS.

TOGETHER WITH: STORMWATER DISCHARGE AGREEMENT BY AND BETWEEN MEIJER STORES LIMITED PARTNERSHIP AND GOSHEN VILLAGE SHOPPES, LLC, DATED APRIL 28, 2004 AND RECORDED MAY 5, 2004 AS DOCUMENT NUMBER 2004-14880 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

TOGETHER WITH: EASEMENT RIGHTS AS SET FORTH IN ACCESS EASEMENT AND RESTRICTIONS AGREEMENT SET OUT IN AN INSTRUMENT BY AND BETWEEN MFB FINANCIAL, AN INDIANA CORPORATION AND GOSHEN VILLAGE SHOPPES, LLC, AN INDIANA LIMITED LIABILITY COMPANY, DATED OCTOBER 20, 2004 AND RECORDED NOVEMBER 16, 2004 NUMBER 2004-38334 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

PREPARED BY  
ABONMARCHÉ CONSULTANTS, INC.  
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GOSHEN, IN 46528  
PHONE: (574) 533-9913  
FAX: (574) 533-9911

DEVELOPER  
HARMONY PROPERTY MANAGEMENT  
ATTN: MR. ANKUR KISHORE  
135 W. OGDEN AVENUE  
WESTMONT, IL 60559  
PHONE: 630-242-3996  
EMAIL: hpmcinc@gmail.com

OWNER  
KPAAS, LLC  
ATTN: MR. ANKUR KISHORE  
135 W. OGDEN AVENUE  
WESTMONT, IL 60559



CALL 811 OR (800) 368-5844  
24 HOURS A DAY, SEVEN DAYS A WEEK



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Parlange  
Vandalia  
Grand Haven  
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Engineering / Architectural / Land Surveying

GOSHEN VILLAGE SHOPPES

PRIMARY SUBDIVISION

PROJECT:

SHEET TITLE:

DRAWN BY: TRM

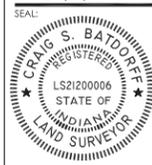
DESIGNED BY:

PM REVIEW: CMWE

QA/QC REVIEW: BEM

DATE: 03/22/2023

SCALE:



SIGNATURE:

DATE:

SCALE:

HORIZ:

VERT:

ACI JOB #

22-1919

SHEET NO.

2 of 2

**To:** Goshen City Plan Commission  
**From:** Rhonda L. Yoder, Planning & Zoning Administrator  
**Subject:** 23-04MI, B-4 Minor Change (*not a public hearing*)  
Walmart Parking Ratio Reduction, 2304 Lincolnway East  
**Date:** April 18, 2023

## **ANALYSIS**

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Wal-Mart Real Estate Business Trust and Carlson Consulting request a B-4 minor change to reduce the required parking space ratio from 4.82 spaces per 1,000 square feet of gross floor area to 4.34 spaces per 1,000 square feet of gross floor area. The subject property is generally located at 2304 Lincolnway East, zoned Commercial B-4 District (Planned Shopping Center).

The site at 2304 Lincolnway East was annexed in March 1997 by Ordinance 3763, which also established the Commercial B-4 zoning district. The existing Walmart store was constructed in June 1996, under the jurisdiction of the City of Goshen, following B-4 District standards. The intent of the Commercial B-4 District is to "encourage a planned approach to shopping center development," and it functions similar to a PUD (Planned Unit Development), requiring a site plan as part of the rezoning, and then requiring review of site plan changes, following the requirements in Section 6240.3 et seq. of the Zoning Ordinance.

As in PUD districts, the site plan is considered part of the zoning in the B-4 district, and Staff is authorized to review and approve final site plans and minor changes on behalf of the Plan Commission or refer them to the Plan Commission. Minor changes include enlargements or relocations of buildings. Major changes are defined as changes of use, and relocation of a street and/or right of way.

The current request is associated with an approximate 7,476 SF building addition and parking lot reconfiguration on the north side of the existing building to expand the online grocery pickup area. The project includes a reduction of parking spaces from 958 to 904 total spaces. A prior review had identified 964 total spaces, but based on an existing conditions plan, review of aerials and a site visit, it appears actual existing spaces total 958.

A minor change was granted by the Plan Commission on June 21, 2005, allowing a B-4 parking ratio of 4.82 spaces per 1,000 SF of gross floor area of the store. Based on submitted information, the existing store is 200,083 SF in area, and with the proposed addition would have 207,559 SF of floor area. The project will remove 54 parking spaces, leaving a total of 904 total parking spaces, including buggy parking. A ratio of 4.34 spaces per 1,000 square feet of floor area is required based on the new floor area and decreased parking.

This Walmart location is heavily used, has been receiving annual approvals from the Board of Zoning Appeals (BZA) for a three-week fireworks tent sale using 10 parking spaces, and is also using parking spaces for seasonal display of merchandise (see aerial and photos). The current seasonal display appears to be using approximately 44 parking spaces.

Because a further permanent reduction of the required parking ratio is being requested, Staff recommends the minor change include conditions for the temporary use of parking spaces, with a maximum number of parking spaces used at any one time for tent events and/or seasonal merchandise (50 spaces; temporarily reducing the parking ratio to 4.11 spaces), and that tent events and/or seasonal merchandise display be limited to a total of 8 weeks in one calendar year.

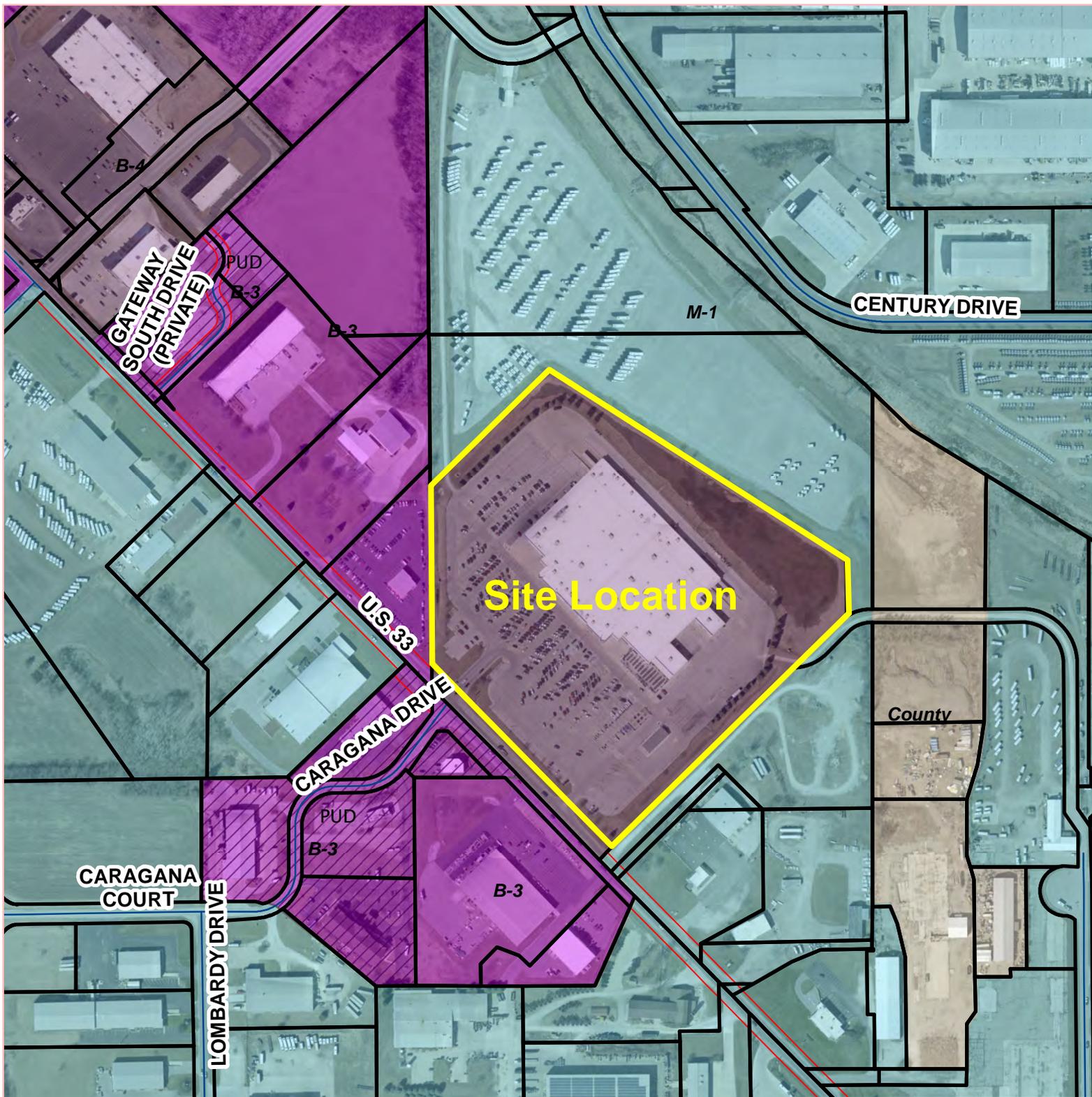
As part of the approval, the Plan Commission should confirm the parking ratio reduction is a minor change.

**RECOMMENDATIONS**

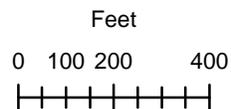
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Staff recommends the Plan Commission approve the B-4 minor change to reduce the required parking space ratio from 4.82 spaces per 1,000 square feet of gross floor area to 4.34 spaces per 1,000 square feet of gross floor area, based upon the following, and with the following conditions:

1. The Plan Commission confirms the parking ratio reduction is a minor change.
2. Designated parking spaces shall be clearly striped.
3. Designated parking spaces must remain available for parking, and cannot be used for items such as dumpsters, including the dumpsters located near each horse barn, which shall not be located in any parking space.
4. Total parking spaces used at any one time for seasonal merchandise display and/or temporary tent events shall be limited to a maximum of 50 spaces.
5. Seasonal merchandise displays and/or temporary tent events shall be limited to a total of 8 weeks in one calendar year.
6. With approval of this minor change, tent events and/or seasonal merchandise displays meeting the parking space and time limits designated above shall not require separate approval.
7. Any tent events and/or seasonal merchandise displays exceeding the parking space and/or time limits designated above shall require review by the Plan Commission with a B-4 site plan/minor change application.



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

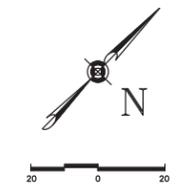


1 inch = 400 feet

2304 Lincolnway East

2021 Aerial  
Printed March 31, 2023

**The City of Goshen**  
Department of  
Planning & Zoning  
204 East Jefferson Street, Goshen, Indiana 46528  
Phone: 574-534-3600 Fax: 574-533-8626



**LEGEND**

- STRIPED AREA
- ARCHITECTURAL CONCRETE
- SEAL COAT
- BEAD BLASTING ON CONCRETE
- NEW SIGN AND BASE
- DOUBLE SOLID YELLOW LINE
- APPROXIMATE SAWCUT LIMITS
- PROPERTY LINE

**NOTICE TO CONTRACTOR**

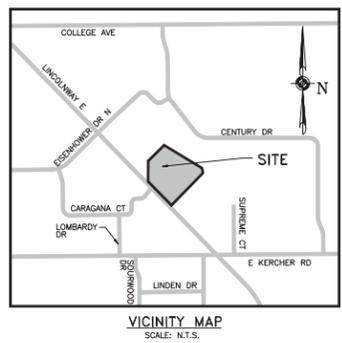
THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO ENSURE DAMAGE TO EXISTING ITEMS TO REMAIN DOES NOT OCCUR. THESE PRECAUTIONS SHALL INCLUDE, BUT ARE NOT LIMITED TO, USE OF LIGHTLY LOADED EQUIPMENT IN ORDER TO PREVENT DAMAGE TO EXISTING ROADWAYS AND INFRASTRUCTURE, UNLESS NOTED OTHERWISE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING ANY DAMAGE DONE TO ANY EXISTING ON-SITE OR OFF-SITE ITEMS INCLUDING RELATED APPEARANCES THAT WILL REMAIN IN PLACE AFTER CONSTRUCTION ACTIVITIES ARE COMPLETE. THESE ITEMS INCLUDE, BUT ARE NOT LIMITED TO, DRAINAGE SYSTEMS, UTILITIES, CURBING, PAVEMENT, LANDSCAPING, IRRIGATION SYSTEMS, FENCING, RETAINING WALLS, PUBLIC ROADWAYS, ETC. REPAIRS SHALL BE EQUAL TO OR BETTER THAN EXISTING CONDITIONS AND SHALL BE TO THE SATISFACTION OF THE OWNER OF THE REPAIRED ITEM. PRIOR TO MAKING ANY REPAIRS, THE CONTRACTOR SHALL SUBMIT DETAILED REPAIR METHODOLOGY TO THE CEC AND WALMART CM. REPAIRS SHALL NOT BEGIN UNTIL WRITTEN APPROVAL FROM THE CEC AND WALMART CM HAS BEEN ISSUED. CONTRACTOR SHALL DOCUMENT ANY EXISTING DAMAGE WITH PHOTOS, VIDEOS, ETC. AND NOTIFY THE WALMART CONSTRUCTION MANAGER PRIOR TO COMMENCING CONSTRUCTION IN THE AREA OF THE EXISTING DAMAGED ITEM.

- NOTES:**
- ALL SITEWORK SHALL MEET OR EXCEED THE "SITE SPECIFIC SPECIFICATIONS", WHERE CONFLICTS WITH REQUIREMENTS OF UTILITY COMPANY OR OTHER JURISDICTION OCCUR, THE MOST STRINGENT REQUIREMENTS SHALL APPLY.
  - ALL NECESSARY INSPECTIONS, APPROVALS, AND/OR CERTIFICATIONS REQUIRED BY CODES AND/OR AUTHORITIES SHALL BE COMPLETED PRIOR TO THE ACCEPTANCE BY OWNER AND THE FINAL CERTIFICATION OF SERVICES.
  - CONTRACTOR SHALL PROVIDE TEMPORARY FENCING AROUND CONSTRUCTION AREA AND CONTRACTOR'S TEMPORARY PARKING AND STORAGE AREA DURING CONSTRUCTION.
  - CONTRACTOR SHALL KEEP ALL EXISTING PARKING, SIDEWALKS, DRIVES, ETC. BEYOND THE PROTECTED WORK AREAS CLEAR AND FREE FROM ANY CONSTRUCTION ACTIVITY AND/OR MATERIAL, TO ENSURE EASY AND SAFE PEDESTRIAN AND VEHICULAR ACCESS TO AND FROM THE SITE. CONTRACTOR SHALL COORDINATE CONSTRUCTION ACTIVITY WITHIN THE PROXIMITY OF THE EXISTING STORE WITH THE WALMART CONSTRUCTION MANAGER AND WALMART STORE MANAGER TO MINIMIZE DISTURBANCE AND INCONVENIENCE TO WALMART STORE'S OPERATION AND WALMART CUSTOMERS.
  - IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROTECT THE PUBLIC, MAINTAIN SAFE CONSTRUCTION CONDITIONS, AND PROVIDE ADEQUATE TRAFFIC FLOW AT ALL TIMES. TEMPORARY TRAFFIC CONTROL DEVICES, SUCH AS SIGNAGE, STRIPING, FENCING, BARRICADES, ENCLOSURES, BARRELS, ETC. SHALL BE USED IN THE BEST POSSIBLE MANNER AND AS APPROVED BY THE WALMART CONSTRUCTION MANAGER. ALL TRAFFIC CONTROL DEVICES SHALL BE KEPT IN THEIR PROPER POSITION AT ALL TIMES, AND SHALL BE REPAIRED, REPLACED, OR CLEANED AS NECESSARY. ALL CONSTRUCTION WARNING SIGNS SHALL BE PROMPTLY REMOVED OR COVERED WHENEVER THE MESSAGE IS NOT APPLICABLE OR NOT IN USE. EXISTING TRAFFIC ARROWS, PAINTED END CAPS, STOP BARS AND OTHER PAVEMENT MARKINGS THAT CONFLICT WITH TEMPORARY TRAFFIC CONTROL PAVEMENT MARKINGS AND TRAFFIC PATTERNS SHALL BE BEAD BLASTED.
  - CONTRACTOR SHALL PROVIDE BMP'S SUCH AS, EROSION EELS, INLET FILTER SACKS, SILT DIKE ON PAVEMENT, ETC., DOWNGRADIENT OF ANY GROUND DISTURBING ACTIVITIES. ALL BMP'S SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH ALL STATE AND LOCAL REQUIREMENTS.
  - UNLESS NOTED OTHERWISE STRIPING DIMENSIONS SHOWN ARE TO THE CENTER OF THE STRIPE, EXCEPT FOR CROSSWALKS.
  - ALL NEW STRIPING SHALL BE PAINTED (TWO COATS) AS PER THE SPECIFICATIONS. UTILIZE TEMPLATES FOR ALL PAINTED PAVEMENT MARKINGS SUCH AS DIRECTIONAL ARROWS AND LETTERS.
  - ALL PICKUP WAY FINDING AND STALL SIGNS ARE WALMART SUPPLIED AND CONTRACTOR INSTALLED. CONTRACTOR TO PLACE SIGN ORDER AT LEAST 3 WEEKS IN ADVANCE. ORDER SHALL BE SENT VIA EMAIL TO GETTY THOMAS (getty.thomas@walmart.com) AND BRAD KEENER (brad.keener@walmart.com). REQUEST SHALL CONTAIN A DELIVERY ADDRESS, DESIRED DELIVERY DATE, AND ANY SITE SPECIFIC SIGN SIZE AND/OR COLORS BASED ON APPROVED PLANS.
  - ALL PAVEMENT MARKINGS SHOWN TO BE REMOVED OR ANY MARKINGS THAT CONFLICT WITH IMPROVEMENTS ARE TO BE REMOVED AS PART OF THE PICKUP PROJECT. CONTRACTOR SHALL REMOVE EXISTING PAVEMENT MARKINGS BY SODA BLASTING OR DUSTLESS BLASTING.
  - CONTRACTOR SHALL SEALCOAT AREAS TO RECEIVE NEW STRIPING AND AREAS WHERE STRIPING IS TO BE REMOVED PRIOR TO INSTALLING NEW STRIPING SHOWN ON THESE PLANS. CONTRACTOR SHALL COMPLETE ALL SITE IMPROVEMENTS THAT REQUIRE MODIFICATIONS TO EXISTING PAVEMENT AREAS, INCLUDING REMOVAL OF ANY EXISTING STRIPING, PRIOR TO ASPHALT SEAL COAT APPLICATION. CONTRACTOR SHALL ALLOW ASPHALT SEAL COAT ADEQUATE CURE TIME, IN ACCORDANCE WITH SITE SPECIFICATIONS, PRIOR TO OPENING AFFECTED AREAS TO TRAFFIC OR PERFORMING ANY STRIPING ACTIVITIES.
  - PAVEMENT MARKINGS AND ALL OTHER SITE WORK SHOWN ON THIS SHEET, SHALL BE IN ACCORDANCE WITH SPECIFICATION SECTION 02765.
  - REFER TO ARCHITECTURAL PLANS FOR LOCATIONS AND DETAILS OF PIPE BOLLARDS LOCATED IN THE BUILDING SIDEWALK.
  - REFER TO ARCHITECTURAL PLANS FOR BUILDING SIDEWALK, RAMPS, AND HANDRAIL DETAILS.
  - FINAL PAVEMENT ELEVATIONS SHALL BE CONSTRUCTED FLUSH WITH EXISTING TOPS OF MANHOLES, CLEANOUTS, UTILITY METER VAULTS, VALVES, GREASE/OIL TRAPS, PULL BOXES, INLETS, ETC. STRUCTURE TOPS SHALL BE ADJUSTED AS NECESSARY TO MATCH FINAL PAVEMENT GRADES WITHIN THE LIMITS OF CONSTRUCTION TO ENSURE THERE IS NO PONDING OF WATER ON NEW PAVEMENT AND TO ELIMINATE TRIP/FALL HAZARDS. WHERE THESE EXISTING FEATURES PROHIBIT THE NEW PAVEMENT FROM BEING CONSTRUCTED AT ELEVATIONS SHOWN, THE CONTRACTOR SHALL ADJUST THE TOPS OF THESE FEATURES TO MATCH FINAL PAVEMENT GRADES TO ENSURE POSITIVE DRAINAGE AND ELIMINATE TRIP/FALL HAZARDS.
  - ELEVATION OF NEW EDGE OF PAVEMENT/CONCRETE TO MATCH ADJACENT PAVEMENT ELEVATION.
  - CONTRACTOR TO ENSURE POSITIVE DRAINAGE IN ALL AREAS IMPACTED BY CONSTRUCTION.
  - CONTRACTOR SHALL SAWCUT EXISTING PAVEMENT, AS SHOWN, TO ALLOW FOR A CLEAN STRAIGHT JOINT BETWEEN OLD AND NEW SURFACES.
  - CONTRACTOR SHALL EXERCISE EXTREME CAUTION WHEN PERFORMING CONSTRUCTION ACTIVITIES IN THE VICINITY OF EXISTING UTILITIES. EXISTING UTILITIES THAT CONFLICT WITH THE PLANNED CONSTRUCTION ACTIVITIES SHALL BE RELOCATED OR LOWERED IN PLACE BY THE CONTRACTOR TO MEET THE SEPARATION AND MINIMUM REQUIREMENTS ESTABLISHED BY LOCAL CODE. CONTRACTOR SHALL PROVIDE WRITTEN NOTICE TO THE WALMART CONSTRUCTION MANAGER AND WALMART STORE MANAGER A MINIMUM OF 72 HOURS PRIOR TO ANY PLANNED DISRUPTION TO UTILITY SERVICES. TEMPORARY UTILITY SERVICES SHALL BE USED IF REQUIRED TO ALLOW FOR NORMAL STORE OPERATION. ANY COSTS ASSOCIATED WITH THIS WORK SHALL BE IN THE CONTRACTOR'S LUMP SUM PRICE FOR THE OVERALL PICKUP PROJECT.

**PARKING INFORMATION**

WALMART BUILDING INFO		PARKING REQUIRED	TOTAL PARKING PROVIDED	TOTAL PARKING RATIO
WALMART	GROSS FLOOR AREA <sup>1</sup>	SPACES	SPACES <sup>2,3</sup>	SPACES <sup>3</sup>
EXISTING	200,083 SF	964 SPACES 4.82/1,000 SF	964 SPACES	4.82/1,000 SF
PROPOSED	207,559 SF	1000 SPACES 4.82/1,000 SF	910 SPACES	4.38/1,000 SF

- PARKING INFORMATION NOTES**
- BUILDING SQUARE FOOTAGE IS PER INFORMATION SHOWN IN THE WALMART STORE PLANNING.
  - PROJECT MANAGEMENT APPLICATION SYSTEM (PMAS).
  - EXISTING PARKING COUNTS ARE BASED ON OLD CONSTRUCTION PLANS BY CARLSON CONSULTING ENGINEERS, INC AND A REVIEW OF AVAILABLE AERIAL PHOTOGRAPHS.
  - A VARIANCE IS BEING REQUESTED TO REDUCE THE REQUIRED PARKING RATIO FROM 4.82 SPACES PER 1,000 SF TO 4.38 SPACES PER 1,000 SF.



**PICKUP EXTERIOR SIGN SCHEDULE**

DESCRIPTION	DIMENSIONS	QUANTITY
RESERVED	18" X 18"	45
PHONE NUMBER	8" X 18"	45
VERTICAL PICKUP	18" X 36"	45
PICKUP BANNER AND MOUNTING HARDWARE	24" X 60"	1



# WALMART SUPERCENTER #1378-245

200,083± S.F. (EX.)  
207,559± S.F. (PROP.)  
F.F.E = 814.50±

EXPANSION AREA  
7,476± S.F. (PROP.)  
F.F.E = 814.50±  
HEIGHT = 24'-3"

Reserved  
1  
Add your parking details in the app to help the staff work.  
For further assistance call  
Pickup  
TYP. OF 45

THE CONTRACTOR IS RESPONSIBLE FOR KEEPING THE EXISTING STORM SEWER SYSTEM FREE OF SEDIMENT AND DEBRIS AT ALL TIMES UNTIL THE SITE IS STABILIZED. USE APPROPRIATE BMP'S TO PROTECT STORMWATER INLETS.

STIPULATION FOR REUSE  
THIS DRAWING AND THE AREA FOR WHICH IT WAS PREPARED ARE THE PROPERTY OF CARLSON CONSULTING ENGINEERS, INC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF CARLSON CONSULTING ENGINEERS, INC. ANY REUSE OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF CARLSON CONSULTING ENGINEERS, INC. MAY BE CONSIDERED TO BE A VIOLATION OF THE LAW.

CONSULTANTS  
CARLSON CONSULTING ENGINEERS, INC.  
10000 W. WINDYBROOK DRIVE  
INDIANAPOLIS, IN 46228  
TEL: 317.251.1000  
WWW.CARLSONENGINEERS.COM

Walmart  
GOSHEN, INDIANA  
STORE NO. 1378-245

ISSUE BLOCK


CHECKED BY: JSP  
DRAWN BY: MBN  
DOCUMENT DATE: 02/08/2023



SITE PLAN

SHEET: SD3

## PICKUP STRIPING AND SIGNAGE SITE PLAN



# WALMART SUPERCENTER

## #1378-245

200,083± S.F. (EX.)  
207,559± S.F. (PROP.)  
F.F.E = 814.50±

PARKING INFORMATION					
WALMART BUILDING INFO		PARKING REQUIRED	TOTAL PARKING PROVIDED	TOTAL PARKING RATIO	
WALMART	GROSS FLOOR AREA <sup>1</sup>	SPACES	SPACES <sup>2,3</sup>	SPACES <sup>3</sup>	
EXISTING	200,083 SF	964 SPACES 4.82/1,000 SF	964 SPACES <i>(958 actual)</i>	4.82/1,000 SF	
PROPOSED	207,559 SF	1000 SPACES 4.82/1,000 SF	910 SPACES <i>904</i>	4.38/1,000 SF <i>4.34</i>	

**PARKING INFORMATION NOTES**

1. BUILDING SQUARE FOOTAGE IS PER INFORMATION SHOWN IN THE WALMART STORE PLANNING. PROJECT MANAGEMENT APPLICATION SYSTEM (SPOCK).
2. EXISTING PARKING COUNTS ARE BASED ON OLD CONSTRUCTION PLANS BY CARLSON CONSULTING ENGINEERS, INC AND A REVIEW OF AVAILABLE AERIAL PHOTOGRAPHS.
3. A VARIANCE IS BEING REQUESTED TO REDUCE THE REQUIRED PARKING RATIO FROM 4.82 SPACES PER 1,000 SF TO 4.38 SPACES PER 1,000 SF.

3,31.23



Goshen Plan Commission  
204 E. Jefferson Street, Suite 4  
Goshen, Indiana 46528  
574-534-3600

TO: Patrick Turnbull and Wal-Mart Stores, INC.  
CESO, INC. 2001 S. E. 10th St.  
1700 Lyons Rd. Bentonville, AR 72716  
Dayton, OH 45458

RE: 04-12MA, Minor Change to Wal-Mart approved site plan

You are hereby notified that the petition for a minor change to the Wal-Mart approved site plan, to permit an enclosed garden center and to reduce the required on-site parking regulations. The subject property generally located at 2304. Lincolnway East and zoned commercial B-4, was heard and considered at the meeting of the Goshen Plan Commission on June 21, 2005, and was acted upon as follows:

DENIED \_\_\_ APPROVED XXX TABLED \_\_\_\_\_ WITHDRAWN \_\_\_\_\_

Approval is based upon the following:

1. The change does not involve a change in use or the location of a public way.
2. The use is identical to the previous use and simply encloses and covers the space.
3. The relaxation of the parking ratio is not substantial, only reducing the overall percentage by 2.5%.
4. The minor change is consistent with our plans of requiring only the necessary amount of parking.

**To:** Goshen City Plan Commission/Goshen Common Council  
**From:** Joseph E. Hauflaire  
**Subject:** 04-12MA  
Wal-Mart B-4 District; Change to the approved site plan  
**Date:** June 21, 2005

### **ANALYSIS**

Wal-Mart requests a change to the previously approved Wal-Mart Site plan. The change involves enclosing the open garden center. The overall area to be enclosed is approximately 5,600 square feet in area. Overall this is a relatively small addition to the existing 200,000 square foot building; however, it reduces the required parking ration from the required 5 spaces per 1,000 square feet of gross floor area to approximately 4.9 spaces.

The specific request before the Plan Commission is to determine whether the change is a major or minor change. The zoning ordinance provides us with criteria for determining whether a change is a major or minor change. For a change to be considered a major change it should involve a change in use or relocation of a public way. All other changes are to be considered minor. In this case we have a small addition to the garden center. The use has of the space will not change. It is currently used for the sale and display of garden plants and material, and will continue that use.

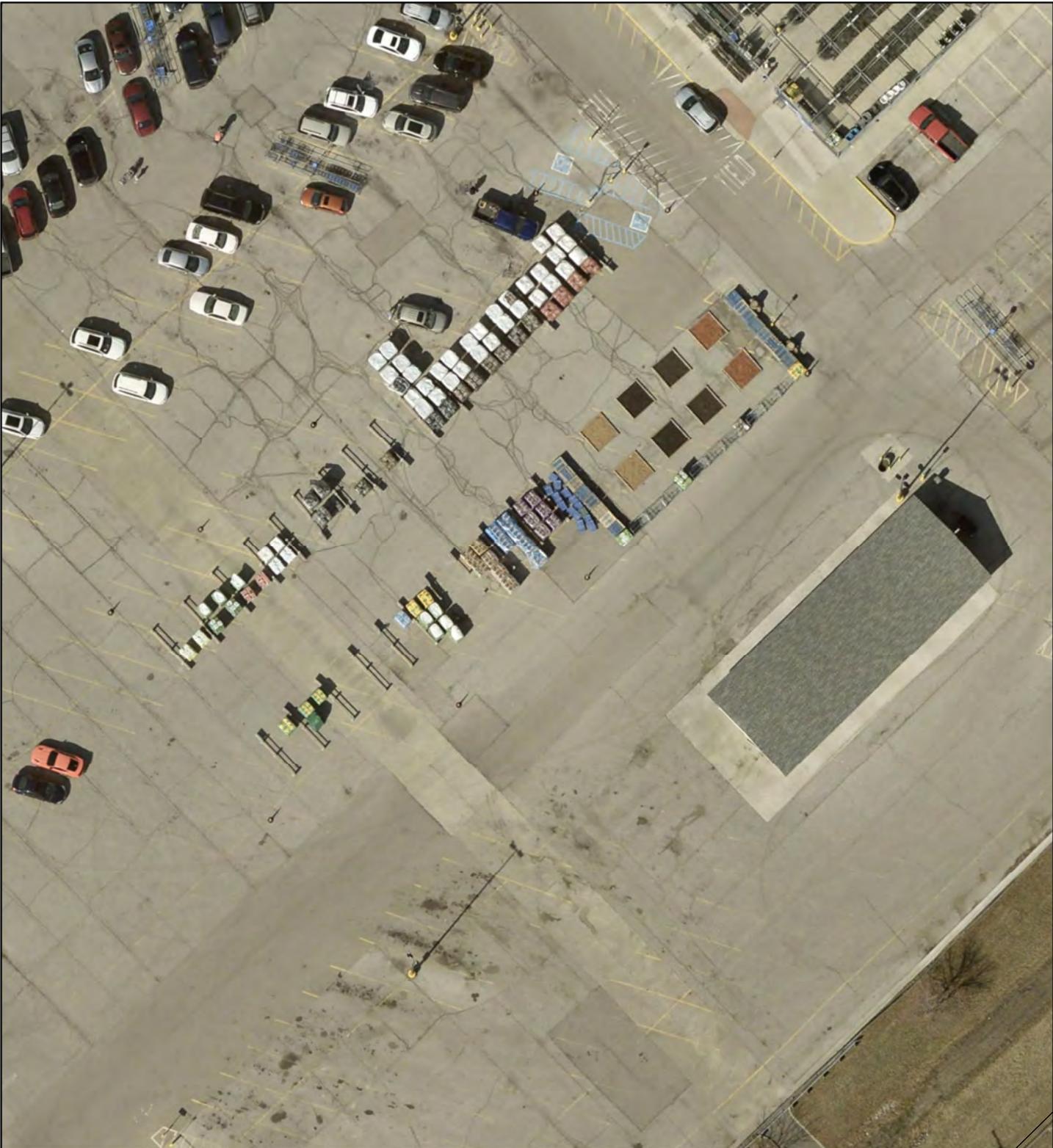
By covering and enclosing the garden center and adding additional roof area, it increases the square footage of the building. On-site parking is currently at 991 spaces at a ratio of 4.95 spaces per 1,000 square feet of gross floor area. With the additional building another 25 spaces would be required or a reduction in the parking ratio to 4.82 spaces per 1,000 square feet. The additional on-site parking required as a result of the additional floor area is not significant. Overall, it is a reduction in approximately 2.5%. It is only significant because the parking ratio is not at the current requirement and any additional improvements bring the levels below those allowed by ordinance.

In many instances, we as a Plan Commission have looked at ways to maximize parking and place caps on the number of required spaces. Allowing the parking ratio to fall slightly below the minimum standards is consistent with our current planning practices. We are generally interested in seeing more open space and less paved surface whenever practical and possible. In this case, the slight reduction in the parking ratio does little or no harm to the use of the property.

### **RECOMMENDATIONS**

The staff would recommend approval of the change to reduce the required on-site parking regulations. The staff would further consider this to be a minor change based upon the following:

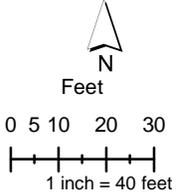
1. The change does not involve a change in use or the location of a public way.
2. The use is identical to the previous use and simply encloses and covers the space.
3. The relaxation of the parking ratio is not substantial, only reducing the overall percentage by 2.5%.
4. The minor change is consistent with our plans of requiring only the necessary amount of parking.



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

2304 Lincolnway East

2021 Aerial  
 Printed March 31, 2023



The City of Goshen  
 Department of  
 Planning & Zoning  
 204 East Jefferson Street, Goshen, Indiana 46528  
 Phone: 574-534-3600 Fax: 574-533-8626



Outside display near south horse barn





Rhonda L. Yoder, AICP  
PLANNING & ZONING DEPARTMENT, CITY OF GOSHEN  
204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405

Phone (574) 537-3815 • Fax (574) 533-8626 • TDD (574) 534-3185  
rhodayoder@goshencity.com • www.goshenindiana.org

## MEMORANDUM

TO: Plan Commission Members  
FROM: Rhonda Yoder, City Planner  
DATE: April 18, 2023  
RE: Proposed Amendment to Plan Commission Rules of Procedure Related to Rezoning Signs

Based on Planning staff discussions over the past year with Mayor Stutsman, Deputy Mayor Brinson, several Council members, and a Plan Commission member about rezoning signs provided by the Planning office to be placed on a property with a pending rezoning, Staff has explored a larger, more concise, two-sided sign to address concerns about visibility and awareness.

The new sign is more expensive than the current sign (~\$11 per new orange sign or ~\$9 per new white sign vs. \$3.50 per sign for the current sign) and Staff is recommending the following changes to the Plan Commission Rules of Procedure (Rules) associated with the new rezoning signs:

1. Include the cost paid by the City for each sign to be paid by the petitioner as part of a rezoning application; and
2. Specify placement standards to determine the number of signs to be placed on the property to be rezoned.

The proposed Rules amendment is shown below in red and is also provided in the attached full document.

### ARTICLE III. Notice - Interested Parties

1. Pursuant to the authority given under Indiana Code Section 36-7-4-604, interested parties, the means for notifying them and the responsibility for such notice shall be as follows:
  - C. Where the proposed zoning ordinance is a change in the zoning maps under IC 36-7-4-608, and initiated by a party other than the Commission or participating legislative body, interested parties shall be the owners of all real estate within a 300 foot radius of the perimeter of the real estate for which the zoning map is to be changed, as determined from the records of the Elkhart County Auditor or Assessor. Notice shall be given by the Commission to all such owners by First Class Mail at least ten (10) days prior to the hearing. Proof of such mailing shall be made by affidavit in the form provided by the Commission and filing thereof shall be a condition for such hearing. Additional notice by publication pursuant to IC 5-3-1 shall be given by and at the cost of the Petitioner. Notice shall also be placed on the subject property to be rezoned by the petitioner at least ten (10) days prior to the public hearing, with signs provided by the Planning office, and with the cost of the sign(s) paid for by the petitioner along with the filing fee. Signs shall be placed on the subject property to be rezoned a minimum of one (1) sign per street frontage, with at least one (1) sign every 700' of total street frontage.

**ARTICLE IV. Application Procedures**

1. All applications for zoning map changes and zoning ordinance amendments shall include:
  - A. A legal description of the same by metes and bounds or subdivision name and lot number.
  - B. Be accompanied by a site plan drawn to scale showing existing and planned improvements.
  - C. List the names and addresses of interested persons as defined in the above rules.
  - D. Be accompanied by the applicable filing fee.
  - E. Be accompanied by payment for the cost of the rezoning signs to be placed by the petitioner on the subject property to be rezoned. The cost paid by the petitioner shall be the cost paid by the City for each sign.

The changes to the Rules would be in addition to the current Zoning Ordinance standard, which will remain in place with no change, as follows:

**Section 6240.2 Procedure to Amend Zoning Maps.**

- B. A notice of a public hearing shall be advertised in a newspaper of general circulation and provided to interested parties by the staff of the Plan Commission at least ten (10) days prior to the public hearing before the Plan Commission. Additionally, public notice of the proposed zoning map amendment shall be posted in a conspicuous place on the property for which the zoning map amendment is sought at least ten (10) days prior to the public hearing. Such notice shall be on placards available in the Plan Commission office and shall include the existing zoning district and the proposed zoning district of the area involved, and the date of the public hearing before the Plan Commission.

## RULES OF THE GOSHEN CITY PLAN COMMISSION

### ARTICLE I. **Membership and Officers**

The Plan Commission shall consist of nine members, four of whom are ex-officio appointed as follows: One member appointed by the City Council from its membership; one member appointed by the Park Board from its membership; one member or designated representative appointed by the Board of Works; and the City Engineer by virtue of his/her office. There shall be five citizen members appointed by the Mayor of whom no more than three may be the same political party. A citizen member must be a resident of the incorporated areas of the City or a resident of Elkhart County and also own real property in whole or in part in the incorporated areas of the City; and at least three citizen members must be residents of incorporated areas of the City. Each citizen member shall confirm that he/she meets all applicable residency requirements for appointment by executing and filing with the Commission a certification of residency in the form set forth in Exhibit A of these rules and incorporated herein by reference. Each citizen member shall be appointed because of his/her knowledge and experience in community affairs, his/her awareness of the social, economic, agricultural, and industrial problems of the area. A citizen member may not hold other elected office or appointed office in municipal, county, or state government except as permitted by IC 36-7-4-216.

1. A President shall be elected at the first regular meeting of the Commission in each calendar year. He or she shall preside at all meetings; shall have the authority to call and preside at any special meeting; and have special duties as further prescribed herein. IC 36-7-4-303.
2. A Vice-President shall be elected in the manner prescribed for the President and shall have the authority to act as President during the absence or disability of the President. IC 36-7-4-303.
3. A Secretary of the Commission shall be elected in the manner prescribed for the President who shall be responsible for all records, shall conduct all correspondence of the Commission, and shall generally supervise the clerical work of the Commission. The Secretary shall keep in a volume the minutes of every meeting of the Commission and when approved sign the same. He or she shall serve notice of all public hearings and serve notification to all members of all meetings. IC 36-7-4-304.
4. A Recording Secretary, subject to the direction of the Zoning Administrator of the Commission, shall record all important facts pertaining to each meeting and hearing, every resolution acted upon by the Commission, and all votes of members of the Commission upon any resolution or upon the final determination of any questions, indicating the names of the members absent or failing to vote. The Recording Secretary if chosen from outside the membership of the Commission shall not be eligible to vote upon any matter. IC 36-7-4-401.
5. In the event of the absence or disability of the President or Vice-President, the presiding officer shall be a member of the Commission selected by the members present.
6. The Commission delegates to the Zoning Administrator and staff the authority to review and approve plans and specifications, and to grant Improvement Location Permits (Zoning Clearances), in accordance with the City of Goshen, Indiana, Subdivision Control Ordinance; Zoning Ordinance, City of Goshen, Indiana; Goshen BZA Rules of Procedure; and these Rules.

## ARTICLE II. **Terms of Office; Procedures for Filling Vacancies**

1. The term of office for the members chosen from the City Council, Park Board, and Board of Works is co-extensive with the member's term of office on that Body, Board, or Council, unless that Body, Board or Council appoints, at its first regular meeting in any year, another to serve as its representative. IC 36-7-4-217.
2. Citizen members shall be appointed for a term of four years. A member serves until his or her successor is appointed and qualified. A member is eligible for reappointment. IC 36-7-4-218.
3. In the case of vacancies, the appointing authority shall appoint a member for the unexpired term of the vacating member.
4. An appointed member who misses three consecutive regular meetings of the Commission may be treated as if the member had resigned, at the discretion of the respective appointing authority.
5. The respective appointing authority may appoint an alternate member to participate with the Commission in a hearing or decision if a regular member has a disqualification under IC 36-7-4-223(c); an alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

## ARTICLE III. **Notice - Interested Parties**

1. Pursuant to the authority given under Indiana Code Section 36-7-4-604, interested parties, the means for notifying them and the responsibility for such notice shall be as follows:
  - A. Where the proposed zoning ordinance is an initial zoning ordinance or replacement zoning ordinance after repealing the entire zoning ordinance under IC 36-7-4-606, the interested parties shall be all residents of the City of Goshen, Indiana, subject to the Goshen City Zoning Ordinance, and notice to them shall be given by publication pursuant to Indiana Code 5-3-1, and shall be given by and at the cost of the Commission.
  - B. Where the proposed zoning ordinance is an amendment to or a partial repeal of the zoning ordinance under IC 36-7-4-607, interested parties shall be all residents of the City of Goshen, Indiana, subject to the Goshen City Zoning Ordinance, and notice to them shall be given by publication pursuant to IC 5-3-1 and shall be given by and at the cost of the Commission.
  - C. Where the proposed zoning ordinance is a change in the zoning maps under IC 36-7-4-608, and initiated by a party other than the Commission or participating legislative body, interested parties shall be the owners of all real estate within a 300 foot radius of the perimeter of the real estate for which the zoning map is to be changed, as determined from the records of the Elkhart County Auditor or Assessor. Notice shall be given by the Commission to all such owners by First Class Mail at least ten (10) days prior to the hearing. Proof of such mailing shall be made by affidavit in the form provided by the Commission and filing thereof shall be a condition for such hearing. Additional notice by publication pursuant to IC 5-3-1 shall be given by and at the cost of the Petitioner. **Notice shall also be placed on the subject property to be rezoned by the petitioner at least ten (10) days prior to the public hearing, with signs provided by the Planning office, and with the cost of the sign(s) paid for by the petitioner along with the filing fee. Signs shall be placed on the subject property to be rezoned a minimum of one (1) sign per street frontage, with at least one (1) sign every 700' of total street frontage.**

- D. Where such change of zoning maps is proposed by the Commission or any participating legislative body, interested parties shall be all residents of the City of Goshen, Indiana, subject to the Goshen City Zoning Ordinance, and notice to them shall be given by publication pursuant to IC 5-3-1, and shall be given by and at the cost of the Commission. Notice shall be given to all such owners where such change is proposed by First Class Mail at least ten (10) days prior to the hearing. Proof of such mailing shall be made by affidavit in the form provided by the Commission and filing thereof shall be a condition for such hearing.
2. Notice - Interested Parties - Subdivision  
Interested parties for hearing on primary approval of a subdivision shall be those persons identified as such by the Goshen City Subdivision Ordinance. Notice shall be given by the Commission in the form provided by the Commission at the address as determined from the records of the Elkhart County Auditor or Assessor by First Class Mail at least ten (10) days prior to the hearing. Such mailing shall be made by filing an affidavit in a form provided by the Commission prior to the hearing, and filing thereof shall be a condition for such hearing.
3. Notice – Interested Parties – Plat Vacation  
For matters involving vacation of all or a part of a plat under IC 36-7-4-711, interested parties shall include every owner of land in the plat. Notice to them shall be given by publication pursuant to IC 5-3-1 and by the Commission in the form provided by the Commission at the address as determined from the records of the Elkhart County Auditor or Assessor by First Class Mail at least ten (10) days prior to the hearing. Such mailing shall be made by filing an affidavit in a form provided by the Commission prior to the hearing, and filing thereof shall be a condition for such hearing. The petitioner shall pay all expenses of providing the required notice.
4. Notice – Interested Parties – Minor Change PUD Final Plan  
For matters involving the minor modification of an approved PUD final plan, interested parties include the applicant and all owners of land in the subject PUD. Written notice of the decision shall be mailed to the applicant and interested parties within five (5) business days of the decision of the Zoning Administrator or Plan Commission, as applicable. No prior notice is required.

#### ARTICLE IV. **Application Procedures**

1. All applications for zoning map changes and zoning ordinance amendments shall include:
- A. A legal description of the same by metes and bounds or subdivision name and lot number.
  - B. Be accompanied by a site plan drawn to scale showing existing and planned improvements.
  - C. List the names and addresses of interested persons as defined in the above rules.
  - D. Be accompanied by the applicable filing fee.
  - E. Be accompanied by payment for the cost of the rezoning signs to be placed by the petitioner on the subject property to be rezoned. The cost paid by the petitioner shall be the cost paid by the City for each sign.

2. All applications for major primary subdivisions shall:
  - A. Be filed in accordance with the Goshen City Subdivision Ordinance.
  - B. List the names and addresses of the interested persons as defined in the above rules.
  - C. Be accompanied by the applicable filing fee.

#### ARTICLE V. **Tabling Policy**

1. **Tabling by Plan Commission Staff**
  - A. The Staff is permitted to accept a tabling request and approve such request only once if the following criteria are met:
    1. A letter requesting the tabling is received by the Staff, the Friday before the Plan Commission's hearing. This letter must contain the following:
      - (a) The request to table until the following hearing.
      - (b) A statement that the petitioner will send out at his/her cost the new notice of hearing and time, either using the form the Plan Commission uses or a form reviewed by and approved by the Staff.
    2. Petitioner shall submit with the request for tabling a copy of the letter to be sent by the petitioner to all persons who have received notice. The letter shall contain the following information:
      - (a) All information used to describe the petition from the original notice letter.
      - (b) A statement that the petition is tabled until the next hearing.
      - (c) A statement that new notices of hearing will be sent out 10 days prior to the next hearing giving date and time as prescribed by these rules.
2. **Tabling by the Plan Commission**
  - A. The Plan Commission at the beginning of every meeting or at the advertised time may consider a request by a petitioner to table an item set for public hearing. The Plan Commission at its discretion may grant the request.
  - B. The Plan Commission may accept public comment for the record even if a tabling has been granted and even when Petitioner/Representation is not present.
  - C. The Plan Commission can at its discretion deny the request for tabling which will require the hearing to take place as advertised or scheduled.
3. **Dismissal by the Plan Commission**
  - A. If no representative is present to demonstrate reasons to table, the Plan Commission may at its discretion, dismiss with resubmission only at the discretion of the Plan Commission within six (6) months. After six (6) months from the date of dismissal, the matter may be resubmitted without the Commission's approval.
  - B. The Plan Commission can accept public comment for the record prior to the action for dismissal.
4. **Withdrawal Acceptance by Plan Commission Staff**
  - A. The Staff is permitted to accept withdrawal and approve the withdrawal at its discretion only if the following items are complied with:
    1. Staff receives a letter requesting the withdrawal on or before the Friday before the Plan Commission hearing.

2. The petitioner must submit with the letter for withdrawal a copy of the letter to be sent by the petitioner to all persons who have received notice. The letter shall contain the following information:
  - (a) All information used to describe the petition from the original notice letter.
  - (b) A statement that the petition is withdrawn.
3. A separate statement that the letters (item 2) have been (or will be) sent with post marks of no later than the Friday (or: six calendar days) before the hearing.

**B. Withdrawal at the Public Hearing**

The Plan Commission can require at its discretion for failure to show, the resubmission be permitted only after six (6) months.

**ARTICLE VI. Meetings**

1. Regular meetings of the Plan Commission shall be held on the 3rd Tuesday of each month and/or such other date as shall be determined by the Commission. The meeting shall normally be devoted to the consideration of the routine business of administration and public hearings. Discussions of planning in general, the introduction of resolutions by the Plan Commission and policy determination shall also be considered as time permits. IC 36-7-4-306.
2. Special meetings of the Commission may be called by the President or by two members upon written request to the Secretary. Written notice of special meetings shall be given to all Commission members at least three days in advance and shall fix the time and place. Written notice is not required if:
  - A. The date, time and place of a special meeting are fixed in a regular meeting.
  - B. All members of the Commission are present at that regular meeting. IC 36-7-4-307.
3. A majority of the members shall constitute a quorum. No action shall be official unless authorized by a majority of the Commission at a regular or a properly called special meeting. IC 36-7-4-302.
4. If disqualified under Indiana Code 36-7-4-223, a member of the Commission may not participate in a hearing, decision, and/or recommendation concerning a “legislative act” or “zoning decision,” as applicable, as those terms are defined in Indiana Code 36-7-4-1016. A member shall declare his/her own disqualification. Questions as to whether such disqualification is appropriate may be determined by the President of the Commission or the Commission’s attorney. The Commission shall enter in its records the fact that its member has a disqualification. Nothing in this section shall prevent a member of the Commission from presenting a petition on his/her own behalf, but members may not directly or personally represent another person in a hearing before the Commission concerning a “zoning decision” or a “legislative act” as those terms are defined in Indiana Code 36-7-4-1016.
5. Public notice of the date, time and place of any meeting shall be given by the Plan Commission staff at least forty-eight hours before the meeting. Public notice shall be given by:
  - A. Posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held.

- B. Depositing in the U.S. Mail with postage prepaid or delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the Plan Commission. IC 5-14-1.5-5.
6. An agenda of all regular and special meetings shall be posted at the entrance to the location of the meeting prior to its commencement. IC 5-14-1.5-4.
  7. The order of business at the regular monthly meeting shall be:
    - A. Roll Call
    - B. Approval of the minutes of previous meeting
    - C. Introduction of zoning ordinance and subdivision ordinances and official staff reports as evidence.
    - D. Public hearings
    - E. Audience Items
    - F. Staff and Board items
    - G. Executive Session
    - H. Adjournment
  8. The order of business at special meetings:
    - A. Roll Call
    - B. Special Business
    - C. Adjournment
  9. In the conduct of public hearings the President shall:
    - A. Refuse to consider or present to the Commission for consideration any petition in support of or in opposition to any application or matter being considered by the Commission unless said petition shall conform to the following requirements:
      1. The name of the petition shall be stated therein.
      2. The petition shall state whether in favor or against the application.
      3. State the reasons therefore.
      4. It shall be signed by freeholders before a person carrying said petition who shall swear or affirm under oath before a Notary that the signature thereto was so made by the person signing.
      5. The signers shall state their address.
    - B. Require the Secretary of the Commission to read the application received.
    - C. Recognize and hear those who are appearing in behalf of the application (petitioners) and those appearing in opposition to the application (remonstrators).
    - D. Allow rebuttal by petitioners.
    - E. Ask Commission members if they have any questions pertaining to the application.
  10. In reaching a decision on any application for determination of a map or zoning ordinance amendment, the Commission shall recognize that zoning must first of all be based on the present and anticipated land use needs of the whole area as well as any part of it, and the relationship to the Comprehensive Plan. It shall recognize that the burden of proof for a change lies with the applicant and that such proof must be based on an

analysis of facts. It is recognized that the following factors shall be given complete consideration in any action on all rezoning petitions:

- A. Location
- B. Need
- C. Topography
- D. Increased demands on streets and utilities
- E. Effect on adjacent property
- F. Relationship to general land use pattern of neighborhood and community
- G. Relationship to the Comprehensive Plan
- H. Relationship to future land use plan
- I. That generally, the test is not one of size but of demonstrated community need
- J. That zoning is not a tool for special privilege for use of individuals, pressure groups or public officials
- K. Precedent

11. In reaching a decision on any application for a subdivision, the Commission may waive the standards fixed in the Goshen City Subdivision Ordinance as long as the subdivision plat still meets all applicable standards of the Goshen City Zoning Ordinance (unless varied by the Goshen City Board of Zoning Appeals).
12. All members of the Commission present and not disqualified shall vote on any motions made and duly seconded on the merits of an application presented to them. In the case of a tie or indecisive vote, the petition may be continued to the next regular meeting or passed to the City Council with no recommendation.
13. If a member is not present at the hearing on a matter, and that matter is continued or tabled to a subsequent date(s), reading the minutes and reviewing the evidence presented shall entitle the member to vote on the matter at the subsequent hearing.
14. As a condition to the:
  - A. adoption of a rezoning proposal;
  - B. primary approval of a proposed subdivision plat;
  - C. approval of a vacation of all or part of the plat; or
  - D. waiver of the standards fixed in the Goshen City Subdivision Ordinance;
 the owner of a parcel of real property may be required or allowed by the Commission to make a commitment to the Commission concerning the use or development of that parcel as permitted by Indiana Code 36-7-4-1015. This commitment document may be created by the Commission attorney/staff or by the owner and shall include the specific commitments set forth by the Commission and/or the owner in addition to the standard terms in the commitment form adopted by the Commission; the resulting commitment document shall be in substantially the form set forth in Exhibit B of these Rules and incorporated herein by reference. The completed commitment form shall be approved by the Commission staff and then signed by the owner in front of a notary public; the completed commitment form shall be recorded in the Office of the Elkhart County Recorder by the owner with a copy of the recorded commitment delivered to the Commission staff within ten (10) days after recording for placement in the proposal or application file. No zoning clearance shall be issued until the recorded commitment has been delivered to the Commission staff. The commitment

shall be effective immediately upon execution by the owner. The owner shall give notice of the commitment, whether recorded or unrecorded, to any subsequent owner and/or any person or persons acquiring an interest in any portion of the parcel of real property. The owner and any subsequent owner and/or any other person or person acquiring an interest in any portion of the parcel of real property shall be bound by the terms of the commitment. If any person fails to comply with the commitment, that person and the respective parcel of real property shall be considered to be in violation of the Goshen City Zoning Ordinance and the commitment itself, and the commitment shall be enforced in accordance with the provisions of the Goshen City Zoning Ordinance and/or IC 36-7-4-1015. The Commission and/or the Goshen City Zoning Administrator are authorized to enforce the terms of the commitment; also, any property owner adjacent to the parcel of real property or any specifically affected person listed in the commitment are entitled to enforce the terms of the commitment separately and independently from the Commission and/or Goshen City Zoning Administrator. A commitment may contain terms providing for its own expiration or terms providing for automatic termination. A commitment does not automatically terminate upon: (1) a legislative body's adoption of a zoning map amendment (a.k.a. rezoning) covering all or any portion of the parcel or real property, or (2) a change in the land use on the parcel of real property to which the commitment relates. Except as otherwise stated in the commitment, any commitment may be modified or terminated only by a decision of the Commission made at a public hearing after notice is given in accordance with Commission rules. Requiring or allowing a commitment to be made does not obligate the Commission to adopt, approve or favorably recommend the proposal or application to which the commitment relates.

15. After public hearing and final determination on any application, the Staff for the Plan Commission shall:
  - A. In the matters of rezoning any real estate, report and recommend or reject the same, with reference thereto the City Council in writing.
  - B. Upon adoption of any rezoning by the City Council and referral back to the Commission, the Recording Secretary shall obtain a copy of said rezoning ordinance and keep it as part of the Record of said matter.
  - C. In other matters cause a written notice of the finding of the Commission to be sent to the applicant and such other persons as the Commission sees fit.
16. When the Commission shall have made an adverse decision on any application considered by it, including but not limited to subdivision of land or for vacation of all or part of a plat, or when the City Council shall have made an adverse decision on any application referred by the Plan Commission, the Commission may not again hear or consider the same application within one year from the date of the decision rendered by the Commission or City Council except upon motion of a member of the Commission duly seconded and approved by the unanimous vote of all members present at the regular meeting at which said motion is presented.

#### **ARTICLE VII. Amendment**

The Commission at any time, may amend, supplement or change the rules of procedure as set forth above. Such change shall be made upon motion of any member of the Commission, duly seconded and receiving a majority vote of the total membership of the Commission.

Approved on: April XX, 2023

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Richard Worsham, President

Exhibit A

GOSHEN CITY ADVISORY PLAN COMMISSION  
CERTIFICATION OF RESIDENCY

My residence means the place where I have my true, fixed, and permanent home and principal establishment; and to which I have, whenever absent, the intention of returning to. With this understanding, I hereby affirm, under the pains and penalties for perjury, that the following representations are true to the best of my belief and knowledge:

\_\_\_\_\_ I am a resident of the incorporated area of the City of Goshen, Elkhart County, State of Indiana;  
or

\_\_\_\_\_ I am a resident of Elkhart County, State of Indiana and an owner of real property located in whole or in part in an incorporated area of the City of Goshen, Elkhart County, State of Indiana.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

**EXHIBIT B**

**WRITTEN COMMITMENT**

Date:

**Grantor:**

**Grantee:**

Goshen City Advisory Plan Commission

The following shall be referred to as “the Real Estate”:

Common Street Address:

Current Tax Code #:

Legal Description: See Attachment A

The Grantor, jointly and severally, agree to abide by these commitments concerning the use and/or development of the Real Estate:

- 1. .
- 2. .
- 3. .

Further, the Grantor, jointly and severally, agree to the following concerning the procedures associated with maintenance and enforcement of this Written Commitment:

- 1. That this Written Commitment shall be recorded in the Elkhart County Recorder’s Office.
- 2. That the Grantor shall give notice of this Written Commitment, whether recorded or unrecorded, to any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate.
- 3. That the Grantor and any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate shall be bound by the terms of this Written Commitment.
- 4. That the Goshen City Advisory Plan Commission and/or the Goshen City Zoning Administrator are authorized to enforce the terms of this Written Commitment.
- 5. That any property owner adjacent to the Real Estate or any specifically affected persons listed below are also entitled to enforce the terms of this Written Commitment separately and independently from the Goshen City Advisory Plan Commission and/or the Goshen City Zoning Administrator; specifically affected persons are:  
\_\_\_\_\_.
- 6. This Written Commitment does not automatically terminate upon a legislative body’s adoption of a zoning map amendment (a.k.a. rezoning) covering all or any portion of the Real Estate, or a change in the land use on the Real Estate to which this Written Commitment relates.
- 7. This Written Commitment may be modified or terminated only by a decision of the Goshen City Advisory Plan Commission after public hearing, except as otherwise stated herein.
- 8. That any and all signatories to this document as a Grantor warrant, jointly and severally, to the Goshen City Advisory Plan Commission that all persons having interest in the Real Estate have reviewed this Written Commitment and have signed this document.

- 9. This Written Commitment shall be effective immediately upon execution by the Grantor.
- 10. No zoning clearance shall be issued until the recorded Written Commitment has been delivered to the Goshen City Advisory Plan Commission staff.

Agreed this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by the following Grantor (collectively the owner(s) of the Real Estate):

Print Name & any title	Print Name & any title
Print Name & any title	Print Name & any title

STATE OF INDIANA        )  
   ) SS:  
 COUNTY OF ELKHART    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, and acknowledged the execution of the foregoing instrument this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

\_\_\_\_\_,  
 \_\_\_\_\_, Notary Public  
 Resident of Elkhart County, Indiana

I, \_\_\_\_\_, did prepare this document and do 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.

## Goshen Zoning Ordinance

- A. Amendment to the Text. An amendment to the text of the Zoning Ordinance may be proposed by the City Plan Commission or a member of the City Common Council. The procedure to amend the text shall be in accordance with the requirements of Indiana Code § 36-7-4-600 et seq., as applicable.
- B. Amendment to the Zoning Maps. An amendment to the zoning maps which are incorporated by reference in the Zoning Ordinance may be proposed by the City Plan Commission, a member of the City Common Council, or by a petition of the Owner or Owners of fifty (50) percent or more of the area involved in the petition. The procedure to amend the zoning maps shall be in accordance with the requirements of Indiana Code § 36-7-4-600 et seq. and sections 6240.1 through 6240.5 of this Article, as applicable.

### **Section 6240.1            Filing of Petition to Amend Zoning Maps.**

A petition to amend the zoning maps may be filed by the Property Owners who own at least fifty (50) percent of the area involved in the Plan Commission office on forms provided. The fee as prescribed in Appendix B of this ordinance shall accompany the filing of the petition.

### **Section 6240.2            Procedure to Amend Zoning Maps.**

- A. If the zoning map amendment originates with the City Common Council, then the City Common Council shall introduce the amendment and then forward it to the Plan Commission for a recommendation without voting on the amendment.
- B. A notice of a public hearing shall be advertised in a newspaper of general circulation and provided to interested parties by the staff of the Plan Commission at least ten (10) days prior to the public hearing before the Plan Commission. Additionally, public notice of the proposed zoning map amendment shall be posted in a conspicuous place on the property for which the zoning map amendment is sought at least ten (10) days prior to the public hearing. Such notice shall be on placards available in the Plan Commission office and shall include the existing zoning district and the proposed zoning district of the area involved, and the date of the public hearing before the Plan Commission.
- C. Following notice and public hearing before the Plan Commission, the Plan Commission shall take one (1) of the following actions on the zoning map amendment:
  - 1. Certify to the City Common Council with a favorable recommendation.
  - 2. Modify the amendment and certify as modified to the City Common Council with a favorable recommendation. Any such modification must be made with the agreement of the petitioner.
  - 3. Certify to the City Common Council with an unfavorable recommendation.
  - 4. Certify to the City Common Council with no recommendation.
  - 5. Table or continue consideration of the amendment in accordance with Plan Commission rules and procedures.
- D. If the Plan Commission recommendation includes a requirement for a modification, the modification must be made prior to the amendment being sent or returned to the City Common Council.