

Minutes - Goshen Board of Zoning Appeals  
Tuesday, March 26, 2024, 4:00 p.m.  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

- I.** The meeting was called to order with the following members present: Lee Rohn, Tom Holtzinger, Hesston Lauver, Matthew Fisher, and James Loewen. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus.
- II.** Approval of Minutes from 2/27/24: Rohn/Lauver 5-0
- III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Fisher 5-0
- IV.** Postponements/Withdrawals - none
- V. Use & Developmental Variances** – public hearing items  
**24-05DV** – Keith & Kimberly Yoder request developmental variances to allow development of a lot 6,600 Sf in area where a minimum of 10,000 Sf is required and 50’ in width at the established front lot line where a minimum of 60’ is required for a duplex. The subject property is generally located at 412 & 414 N Riverside Blvd and is zoned Residential R-2 District.

*Staff Report*

Mr. Deegan explained that the property is located in the Riverdale neighborhood on Riverside Blvd. and surrounding properties are residential, largely single family and zoned R-2 which allows for single family homes and duplexes. He said the property is part of a larger zoning lot that includes a single family home on one half and mostly vacant space on the other half. He stated the petitioners are proposing to develop the south half of the property with a two-family home that has an approximately 1,074 SF footprint. He noted that parking spaces will be added to the rear of the property.

Mr. Deegan explained that the R-2 district allows two family homes, however the frontage of the property is at issue here where it is 50’ and 60’ is required, and the proposed lot size is 6,600 SF where a minimum 10,000 SF is required. He said staff recommends approval of the request as all other developmental requirements are met and those include minimum setbacks, maximum building coverage and minimum parking. He went on to say that the petitioners have met with staff from the Building Department and have been provided with thorough details on building code.

Mr. Deegan noted one important thing for the Board to remember was the consideration that this development is infill residential development increasing housing supply without the need to extend City infrastructure. He also said the request can be likened to many of the Board’s recent requests approved for single family homes that fell well short of the developmental requirements.

Mr. Deegan specifically noted several conditions that apply, namely:

- (6) All portions of sidewalk and parking surface encroaching in the vacated alley and south side yard as shown on the provided site plan should be removed as part of construction. He explained those improvements should be removed and removing them is part of what the Petitioner has proposed. Mr. Loewen asked for clarification of the vacated alley location. Mr. Deegan explained it was located on the south side of 416 and the north side of the proposed building.

Mr. Deegan also noted conditions:

(8) Two on-site parking spaces shall be provided for the home at 416 N. Riverside because that home currently uses a parking area on this vacant space.

(9) There is a detached garage at 416 N. Riverside with a south facing door and this condition states that that door shall be replaced by a wall so it cannot be accessed across that vacated alley and this new property.

Mr. Deegan said the Planning Office received an inquiry from Courtney Collins for more information about the petition and a call from Mildred Farrer of 1409 Elkhart Road, who had concerns that the zoning would change, which it won't, and that the development would increase her property taxes.

*Petitioner Presentation:*

Keith Yoder of 72803 CR 37, Syracuse, stated that he has spoken to some of the neighbors and heard their concerns about the duplex, the upkeep, the parking, and extra traffic. He said to resolve some of the concerns, the parking will be added for both properties and a duplex should not create additional traffic in comparison to a single family home. He also stated that in regards to upkeep, they have also owned the property next door at 416 Riverside for two years where their kids reside and maintain the property. He explained they have four kids in the area and are planning to rent to their children or parents.

Kimberly Yoder also explained why they bought the property and how they want to develop it for an affordable place to rent to their children, parents, friends or church members.

Mr. Rohn asked if they owned the outbuilding on the property? Ms. Yoder replied yes, it is part of 416 N. Riverside property. Mr. Rohn asked if they could comply with the recommendation? Mr. Yoder replied he was going to frame it in and put siding on it. Ms. Yoder said it will have an outside door that they can use to access it for storage. Mr. Rohn asked if it was going to be built on a slab? Mr. Yoder answered a basement.

Discussion followed on how the Yoder's will clean up the property to make it look nice for their children to stay there and how they want to take care of their investment. Mr. Fisher asked if they were to build a single family home there instead of a duplex would it have a similar footprint? Ms. Yoder said yes and explained why they are building a duplex - to help their four kids who need housing in the area and how a single family home will not meet the needs of her family.

*Audience Comments:*

Courtney Collins, 326 N Riverside Blvd., voiced his concerns about it being a rental property and about maintenance of the property after the Yoder's children move out in the future. He said he would rather see a single family owner-occupied household. He added he is not concerned about traffic and said he is a proponent of density and homeownership, but not a rental.

Luis Alonzo, 404 N Riverside, stated he lives in the house next door and his concern is the trees that will be cut down and also building a home on a small lot. He stated that the alley is not a "two way" alley due to it being so narrow. He also noted that there were some vacant homes in the area and wondered if the City could do something about getting those sold.

Mr. Holtzinger asked if people park in the alley? Mr. Alonzo replied that people do park in the alley as they do not really have anywhere to park and his main concern is how many trees will be cut down and how cramped a house will look on that lot.

Mike Landis, 1102 Prairie Ave, Goshen, has owned property in that neighborhood for 25 years at 415 Riverside, which is right across the street. He mentioned the following:

- A duplex on the site will change the character of the neighborhood.
- Closing off Riverside to traffic from US 33 was positive as it changed Riverside into a neighborhood that people could enjoy with their families.
- He is not in favor of duplexes and feels the 10,000 sq. ft. lot size requirement protects from putting duplexes on small lots. Argued that to go from 10,000 to 6,600 sq. ft. is a 1/3 reduction and should not be permitted.
- He said if the request was only to reduce frontage from 60' to 50', he could agree with that, but not the other.
- He stated he would be in favor of a single family home on the site, but not a duplex.
- Lastly, he feels the board will be setting a precedent if they approve this and that Planning should change the Ordinance regarding lot size because R-2 no longer means you need a 10,000 sq. ft lot that is 60' wide if this is approved and anyone else can come and apply to do the same thing in other R-2 neighborhoods which is why he feels it should be denied.

Rhonda Yoder, 418 N. Riverside, said she lives two doors down from where they are requesting to put the duplex in. Stated that she is opposed to it and does not think it is a good idea.

Mike Landis came to the podium again and stated he is the current property owner at 503 N Riverside and the home is on three 50' lots. He explained the middle lot has the home, one side lot has a detached garage and the other lot is deeded to his daughter so it will not get built on, which makes the neighborhood look nice when it is all spread out like that, but he made it that way to keep people from building on the small side lots.

Petitioner came up to respond. Mr. Yoder explained that in regards to the concern about setting a precedent with the size of the lot, the house to the north is the same sized lot and it has two houses on it, one of which is a rental, so that precedent has already been set in the neighborhood. Ms. Yoder explained that they have no intention of selling the home after the kids are no longer renting it and they are planning on keeping the home as a rental for a very long time.

*The public hearing was closed.*

#### *Staff Discussion*

Mr. Deegan addressed Mr. Alonzo's concerns about the trees and explained that there are a few trees that were planted in the City's right of way at the address and one condition that he had not pointed out was the owners will coordinate with the City Forester on the preservation of those trees. He added however, it does not address the trees that are located on private property, just right of way trees. He also explained that the Zoning Ordinance does not regulate rentals, the Building Department does.

Mr. Holtzinger asked for a motion of action. Mr. Loewen stated he appreciated the different points of view and expressed that he was inclined to approve the variance because of Goshen's dire need for housing and the reasonableness of the proposal with the general amendments from the staff.

#### *Action:*

A motion was made and seconded, Lauver/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-05DV with the 10 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**24-01UV & 24-09DV** – Goshen First Church, Inc. requests a use variance to allow an increase in height and area of an existing second freestanding sign to 8’1” in height and 34 Sf in area where churches are a conditional use permitting one freestanding sign not exceeding 5’ in height and where a previous variance (96-16DV) permitted an area not exceeding 32 Sf, and a developmental variance to add an electronic message center to the sign where electronic message centers are prohibited in the Historic Core. The subject property is generally located at 214 S 5<sup>th</sup> Street and is zoned Commercial B-2 HD District.

*Staff Report*

Mr. Deegan reported the property is on the corner of 5<sup>th</sup> and Jefferson, and is a church with parts of the building dating back to the 1870s. He said the property is zoned Commercial B-2 and located in the Historic District, which is an overlay district regulating signs in the downtown. He explained the Historic District has two zones within it, the Historic Core and the non-core area and this property is in the Historic Core. He stated it currently has two freestanding signs on the west side and both signs are located in the public right of way. He went on to say that the petitioners are proposing to make changes to the northern most of the two signs, adding an approximately 20 SF EMC and increasing its height to 8’1” with an overall area of 34 SF. He said the sign in question was approved in 1996 by the Board of Zoning Appeals and the Board of Public Works and they approved a sign not exceeding 32 SF so part of this request is to allow the increase in area from 32 SF to 34 SF. He noted current Zoning Ordinance standards allow church signs not exceeding 5’ in height, so the 8’1” request needs a use variance. Lastly, he said EMC signs are not permitted in the core of the Historic District therefore a developmental variance is needed for that.

Mr. Deegan explained that staff supports the request as the sign is located towards the less historic end of the building and with the increase in EMC installations in the area indicates that it is generally a reasonable use. He said the proposed 34 SF is generally negligible over the allowed 32 SF and the petitioners stated that the increase in the height is needed in order for the sign to be visible over the street parked vehicles. Mr. Deegan referenced that in findings of fact (4) although they did offer support for the sign, the church does have two existing freestanding signs for the display of content where churches are allowed only one sign, therefore the property does not lack signage to display content.

Mr. Deegan said comments were received from two neighboring property owners and copies were provided to the Board members before the meeting. He summarized the comments from these letters stating Sheldon and Ericka Troyer said they opposed the sign for “visual noise” and it having digital signage. He added that Justin Tarman of 312 S 5<sup>th</sup> St is concerned about the increased illumination in the area at night and a lack of specific model information about the message center. He quoted from the letter, “I think if the majority of the sign were black or off during night hours and the content was static (not scrolling), I would be happy.” Mr. Deegan said to comment on that concern the Zoning Ordinance does have requirements for EMCs and at night time they are supposed to be dimmer and have to have messages that display for a minimum of 3 seconds.

*Petitioner Presentation:*

Loraine Troyer, 56741 CR 35, Middlebury, Indiana, has been attending the church for 35 years. She stated they are interested in maintaining historical Goshen but also keeping their church active and filled. She explained the church was built in 1874 and they will be celebrating 150 years. She stated the portion of the building that the proposed sign is in front of was built in the late 60s or 70s and the frontage is brick. The petitioner agreed to follow the ordinance and dim the sign at night, explaining that there would not be a need for a lot of scrolling on the sign with the church, as they would only be

displaying service times or special events. Ms. Troyer noted that parked cars along 5<sup>th</sup> Street obscures the view of the current sign's messages, thus they are requesting to lift it up a few feet to resolve that.

Mr. Lauver asked what was the current height of the sign. Ms. Troyer responded that it was about 6', so the request is for 2' higher. Another petitioner representative, Steve Petit of 124 Front St, Syracuse, Indiana, explained that the actual sign area is not really changing, or changing minimally, the height is going up using brick that matches the building. He read from the Zoning Ordinance that 250 NITS were allowed during the day and half that at night which they are willing to do to work with the neighbors concerns on illumination at night.

Mr. Rohn asked if it would be more static messages vs. scrolling messages? Ms. Troyer stated they may scroll if the church is having more than one event. She explained the current sign is very time consuming and difficult to get the letters changed, which is even harder during rain, sleet, cold, etc. She said the new sign would be more efficient in that sense for the church and noted that the old sign has turned "yellow" due to age and it needed an upgrade. Mr. Petit added that the current sign messages do not change frequently as it is difficult to change it so a new sign can help them keep relevant information up.

Discussion followed on how the message portion of the sign will be the same size as the existing sign and examples of other electronic signs in the area that are similar. Ms. Troyer stated that the sign would not have "outrageous" colors, but would be more traditional like the church.

*Audience Comments:*

Nicole Boyd Lehman, 311 S 5<sup>th</sup> St., has lived in the area since 2010. She stated that along with their neighbors at 307 & 312 S 5<sup>th</sup> St., they all are opposed to the LED portion of the sign due to the "light noise/reflection" that will shine into and be seen from their living rooms and bedrooms at night. She also expressed they were worried that if the Board approves this sign that it will set a precedent and the other businesses in the area will also want LED signs.

Tony Akins, 212 E Jefferson St, has lived in this home for 23 years and is opposed to any electronic message center being allowed in the historic district. He stated he does astrophotography as a hobby and can measure light pollution and Goshen's level are already high for a smaller city and adding a sign like the proposal will increase it even more. He demonstrated how tall an 8' sign would be expressing that the height concerned him. He was asked by neighbors who could not be at the meeting to list their opposition for them on their behalf and proceeded to read their names.

Mr. Holtzinger asked if he would be opposed to an electronic sign at the current height? Mr. Akins replied that yes, he would be opposed as he thinks an electronic sign does not fit in the character of the Historic District. Discussion followed on the different types of illuminated and electronic signs. Mr. Akins explained he works with electronics and an LED sign would not fit in the neighborhood. Mr. Fisher asked how bright is the 250 NITS requirement referenced in the Zoning Ordinance? Mr. Akins said that it is equivalent to or a little brighter than a laptop turned up to its brightest setting.

Rebecca Akins, 212 E Jefferson St., stated she does not support the sign as she volunteers with the Historical Society doing research and promoting historic preservation and does not think an electronic sign should be approved in the historic district. She feels the denial should set precedent of what is not allowed in the Historic Core District and that in the absence of a Historic Preservation Commission it is the Board's job to uphold the ordinances set up for the Historic District.

Lillian Akens, 212 E Jefferson St., said she was there to read a letter on behalf of Lisa Jordan of 302 S 6<sup>th</sup> St. The letter stated that they love the view of the church, appreciate how they maintain the property, and want the church to flourish, however, they feel an electronic sign will detract from the beauty of the corridor.

Ida Short, 307 E Monroe St., explained that Mr. Akens named her earlier as someone who opposed the sign and stated her main reason for opposition was for the light pollution it would cause. She stated her church of 10 years in Goshen does not have a light up sign and does not feel that an illuminated sign is needed when this church has sufficient signage already to display messages.

Renee Miller, 212 S 6<sup>th</sup> St., said that she was married at the church and attended for many years, lives in the Historic District, and is opposed to an 8' LED sign. She suggested as an alternative the church use social media to promote events they are having.

Ms. Troyer, petitioner, stated she did not feel the church's sign would be visible to the homes that are a block or two away. Mr. Petit explained that the new sign would be a functional improvement and their existing sign needs updated and the church felt this option would be the best one for them. He said their intent is not to violate the ordinance or keep people awake and they are willing to work with people to make sure they are comfortable.

*The public hearing was closed.*

#### *Staff Discussion*

Mr. Holtzinger noted that he was on the board when they approved the electronic sign at the Catholic church and it was highly debated and just outside the Historic District, however, they did approve it. He noted that if they approve an 8' illuminated sign for the church it opens the door for other businesses in the area to apply for something similar. He stated that since there were so many neighbors opposed that he would vote "No" if he was making a motion.

Mr. Fisher stated his biggest concern is the integrity of the Historic Neighborhood, which was also one of the main concerns of the neighbors. Mr. Loewen stated he appreciates the petitioner's reasons for wanting a new sign, however he is inclined to go against it for the sake of the integrity of the visual quality of the neighborhood. He explained he also lives in this neighborhood and is concerned about the precedent it will set, therefore he is inclined to say "No" to this petition.

#### *Action:*

A motion was made and seconded, Loewen/Fisher, to deny the petition because the use and value of the area adjacent to the subject property will be affected in a substantially adverse manner. Mr. Holtzinger called the motion and the vote was unclear, so Mr. Holtzinger asked for a roll call vote. Mr. Kolbus reminded board members that the motion is for denial and if they voted "Yes", they are actually voting "No" and denying the petition. Roll was called. Holtzinger (Yes), Fisher (Yes), Rohn (Yes), Loewen (Yes), Lauver (No). Mr. Kolbus stated that the motion passes and the petition 24-01UV & 24-09DV was denied by a vote of 4 to 1.

**24-10DV** – Lamar & Natalia Rohrer request developmental variances to allow front building setbacks along Clinton Street of 28' for an approximately 336 SF porch addition and 17' for an approximately 120 Sf shed where a minimum of 35' is required. The subject property is generally located at 80 Greenway Drive and is zoned Residential R-1 District.

*Staff Report*

Mr. Deegan explained this is a single-family home on Greenway Drive which is a single family neighborhood surrounded by a mix of different residential zoning. He said since the property is at the entrance to Greenway and it also has frontage on Clinton Street. He stated the petitioner is proposing to add an approximately 336 SF porch to the back of the home and it will have a 28’ setback from Clinton Street where a minimum of 35’ is required. He added there is also an existing shed there with a setback of 17’ which is also included in this petition.

Mr. Deegan said staff recommends approval of the requests as like many other corner lots the board has reviewed, this lot faces practical difficulties to development because it has frontage in two yards. He added it would be fairly difficult to develop these properties without variances. He noted that Planning received a comment from Kenny Juday of 2104 Independence Dr, and he said Mr. Juday supported the request.

*Petitioner Presentation:*

Lamar Rohrer, 80 Greenway Drive, explained he wanted to put a covered porch on the back of his house next to an existing pool to have a place to get out of the sun. He also said that the shed is where he parks his lawn mower and he did not realize he placed it in a required setback area when he installed it years ago.

Discussion followed that due to the existing fencing around the yard, the work that Mr. Rohrer would be performing is virtually undetectable by neighbors.

*Audience Comments:*

None.

*The public hearing was closed.*

*Staff Discussion*

None.

*Action:*

A motion was made and seconded, Rohn/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-10DV with the 4 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**24-02UV & 24-11DV** - Goshen Community Schools and Commonwealth Engineers, Inc. request a use variance for an athletic facility (baseball/softball complex) to allow:

- Setbacks of 15’ along the east and south property lines and 51’ along the west property line where 100’ is required;
- Signs in addition to an existing monument sign that include one illuminated monument sign 6’ in height and 26 Sf in area, two non-illuminated archway freestanding signs 14’ in height and 36 Sf in area, two internally illuminated freestanding signs facing athletic fields 27’ in height and 552 Sf in area, and one non-illuminated wall sign 40 Sf in area where one monument style freestanding sign not exceeding 36 Sf in area and 5’ in height and one non-illuminated wall sign not exceeding 36 Sf in area are permitted; and

Developmental variances for an athletic facility (baseball/softball complex) to allow:

- Two batter eye fences 16’ in height where a maximum of 8’ is allowed;

- Twelve light poles 80' in height and four net posts 40' in height where a maximum of 30' is permitted;
- Use of a well where connection to City water is required;
- An alternative landscape plan where partial landscaping is required along the east, south, and southwest property lines and open landscaping is required along portions of the west property line, adjacent to residential use; and
- For the variance to be valid for one year

The subject property is generally located at 1730 Regent Street and is zoned Residential R-3 PUD District.

#### *Staff Report*

Mr. Deegan explained this is a 33-acre property on the southside of Regent St. and it is zoned Residential R-3 PUD and part of the Waterford Commons PUD. He said on the northernmost parcel is Prairieview Elementary, which includes its building with improvements and on the south parcel there is solar array and a large area of vacant farmland. He stated the proposed athletic facility will be located on the vacant farmland area.

Mr. Deegan asked the board to look at the 11 x 17 handout as a visual in their packet while he makes a few comments about the proposal. He said athletic facilities require a minimum 100' setback and you can see the emergency drive along the east property line gets as close as 15', as well as the south property line and the parking area on the west property line that has a 51' setback. He explained the school was looking at reductions from that 100' setback. He noted the sign requests that are part of the petition, such as: archway, monument, scoreboards, and wall signs require a variance. He said maximum height of a structure on the property is 30' and there are a number of athletic posts and poles needing a variance. He also stated that partial and open landscaping buffers are required around the facility and they have provided an alternative landscaping plan, which is shown on the last page of the packet. He said Goshen Utilities said it cannot provide water service to this facility so they are requesting use of a well.

Mr. Deegan went on to say that staff supports this request and pointed out that the light poles are 80' in height, which is significantly taller than what is permitted and explained it is in order to direct light down onto the field and not onto adjacent residential properties. He said the landscaping plan provided will buffer the property pretty well from adjacent properties and in Condition (7) staff asked that additional evergreen trees be added to the east and south property lines. He added another point to consider is that residential properties immediately adjacent to this proposed facility have not yet been developed at this point and they are going to be developed either simultaneously or after the development of this athletic facility so there is less of a developmental impact than there would be if it was going into an existing residential neighborhood.

Mr. Deegan explained there were two letters from adjacent property owners: one was included in the packet from Tonya Detweiler of the Cherry Creek Development in support of the application. He said the other was received today from Tim Hoogenboom on behalf of a number of entities that have ownership or interest in adjacent properties. At Mr. Hoogenboom's request, Mr. Deegan read the letter from Mr. Hoogenboom in its entirety which is attached Exhibit A - 24-02UV & 24-11DV.

#### *Petitioner Presentation:*

Chris Pottratz, Attorney for Warrick & Boyn, 861 Parkway Ave, in Elkhart, is representing Goshen Community Schools. He stated when he started 10 years ago one of the first cases he was ever given was a potential site for a baseball / softball field for Goshen Community Schools and they have looked at 3



other potential sites in addition to the one at Prairieview explaining this has been a long process finding the right place and this one is the best fit. He said about a year and a half ago GCS was the subject of a Title IX lawsuit saying that the softball facilities were so bad that it amounted to discrimination against the girls. He stated the Department of Education investigated that and found that the boys baseball fields were equally terrible so it was not discrimination. He said this situation highlights the dire need for a new softball and baseball complex.

Mr. Pottratz explained that one of the issues that came up both in their discussions with the City and neighboring property owners was light and he included in the petition a photometric survey that notes the number of foot candles all along the boundary. He said since not everyone is aware of what a foot candle is and what the numbers mean, a picture was put together to illustrate (Exhibit B - 24-02UV & 24-11DV), attached. Mr. Pottratz passed out photos to the Board showing what the lights would look like and to show how they can direct the lighting to only light up the fields.

He explained they are taking the neighbors into account and have had long meetings with Tonya Detweiler, who is the owner of the property to the south, and she intends to develop the property to the east as well. He said her personal property is being constructed outside the southwest corner of this property near the softball fields. He said she supports the project, has vested interest, and was here at the meeting but had to leave before the board got to this petition. He explained they worked with her to develop a landscaping plan and will have essentially more trees than is required, especially if they add the 12 trees that Mr. Deegan suggested, which will create a barrier to neighboring properties.

Mr. Pottratz said that the letter that was read by Mr. Deegan insinuated that this was a perceived secretive development; however, he wanted to point out that Goshen Community Schools is a public school corporation, and the project is being funded by bonds which require notices being published in the newspaper, public hearings, school board meetings that are open to the public. Finally, he noted that this is a beneficial project for Goshen schools and will operate during baseball season, March – May, with about 25 home games and in most cases the games will be over before the lights need to be turned on. He did not feel it was a “high intensity” use for the property as the letter alluded to.

Discussion followed on whether or not the City Parks Department was going to be sharing the facility with the school.

Andy Bearman, Commonwealth Engineers, 9604 Coldwater Rd., Ft. Wayne, Indiana, came to the podium to answer any design questions. Mr. Lauver asked what was a batter’s eye fence? Mr. Bearman explained the purpose of it. Mr. Lauver asked a question about the west end where the top soil mound ends before the parking lot, and if the parking lot is actually what is encroaching in the set back and asked if the berm could be carried on further down into the parking area? He said cars pulling into those spaces will have their headlights shining onto whatever is developed there. Mr. Bearman explained that mounding takes up more space than trees, but there might be enough space there for mounding to be done. Discussion followed on proposed landscaping with clusters of trees to offset each other specifically for the headlights. Mr. Bearman stated that he didn’t think topsoil mounding was a problem in that area in addition to the trees if that was the Board’s preference.

Next discussion was on parking and how there is not a minimum requirement on the number of parking spaces and the school determined they would have 251 spaces. They talked about signage and how the biggest signs are essentially scoreboards. They also discussed the lights and how late into the evening games would go.

Jim Pickard, Athletic Director Goshen High School, stated the latest a game would ever go would be 9:00 or 9:30 and that is even a late estimate. He explained lights will only be on when they are playing, and if there is a practice they will be done by 6:30 PM before lights even get turned on. He said games start at 5:30 and they don't do double headers. A discussion followed on when they will have games during the weekdays and Saturday mornings. He said there is not a partnership yet with the Parks Department.

Mr. Loewen asked about parking lot lighting and Mr. Bearman explained there was a sheet in their packet with the photometrics of the parking lot lighting which was actually at a much lower level.

Dustin Sailer, Public Works & Utilities, commented on the water service and said that since the facility is operating from March – May the reason Goshen Utilities asked them to operate with a well is because of water quality. He explained when water service is not used for several months out of the year it will lose its chlorine residual and therefore for public safety reasons they would prefer they use a well, otherwise they will have to shut off the water or waste water at about 1,400 gallons a day to keep up the water quality. Discussion followed with the Board about water quality, use of water, and who regulates the quality of water.

*Audience Comments:*

Jeff Roberts, 1814 Newberry Circle, lives in one of two homes in the new subdivision. He stated that from his backyard you can see the elementary school and voiced his concern about the setback going from 100' to 15' essentially bringing people closer to his backyard. He also voiced concerns about diminished property value, noise and light pollution, hours of operation, traffic congestion problems, vehicles driving near his backyard to gain access to the fields, security issues and the potential for nuisance activities.

Mr. Fisher asked the civil engineer to clarify where the setback begins. Mr. Beerman explained that nothing changes about the existing drive except it is scheduled to be paved in 2026 and that is what is being used here with no reduction of setback to that north property at all. He explained the reduction would start after the solar panels. He also stated on the east side is the access drive for emergency and maintenance vehicles which will be gated off so the setback is 50' until you get to the actual ball diamond. He said on the north it will stay the same with the only thing changing is increased mounding with the excess soil from the project to create a barrier.

Discussion followed on how they could increase the set back in the parking lot to diminish headlights shining into homes to be built in the area and how they would lose at least 30 spaces to gain about 20' taking the setback from 51' to 71'. Clarification was made that the parking lot area in question will be adjacent to a proposed apartment building, not single family homes. Mr. Deegan reiterated there would be landscaping there to block. Mr. Lauver asked that a mound be put there to protect the buildings from the lighting.

Mr. Bearman explained that the maintenance drive gate would be closed at all times and the gate going back to the ball diamonds would be closed when not in use. He said in addition, there would be security cameras in operation monitoring the property and if someone was back there who should not be, police would be called. He also stated to keep in mind that the fields are fenced off and people will not have access to the fields or buildings when they are not open. He explained this is a major investment for the community that they will care for and keep secure. He also addressed the traffic concern and explained that ball games will not be at peak times, like when the elementary school is dismissing, so it will not cause congestion in that sense.

Mr. Roberts reiterated that he was concerned about the minimized setback and worried that in the future they will expand and shorten it even more if this one is approved.

*The public hearing was closed.*

*Staff Discussion*

Discussion followed on whether or not the project should be tabled in order for the school to meet with area neighbors and property owners to work through concerns. It was also noted that the need was great for the school to have this athletic facility and a lot of thought and planning has gone into the project and proposed location. When the question was raised if the Board could put a time limit on the use of the property, Mr. Kolbus advised that the Board could put a time limit on the facility's use and could even restrict the use to solely Goshen Community Schools.

Discussion ensued on whether or not the petition should be tabled for Goshen Community Schools to work with neighbors to find solutions for their concerns. Mr. Deegan expressed his concerns with tabling and explained they would have to be very specific on the amount of time they would give the school to conduct these meetings, for example two weeks. He also stated that if the school met with the neighbors and made changes, then the BZA would have to re-advertise and hold another public hearing.

Discussion continued regarding whether or not tabling was the right option and what the purpose would be, i.e. for public input, for changes to the project, the ramifications for the board, and trying to figure out what purpose they were hoping it would accomplish if it was tabled.

Mr. Lauver suggested voting and going with the staff recommendations with an amended approval to add requirements to it that the berm gets extended down the west side and that the school board has a public meeting to explain the project since a lot of the requests do not fall under the guidance of the BZA.

Mr. Deegan reiterated that he was not sure what it would accomplish for the Board to table for the school to meet with the public because the board has advertised a very specific request based on a plan and if something changes, then it has to be re-advertised and re-heard. He explained they could deny the request, they could accept the request with the recommendations, or they could put together another list of commitments that we would then record that could encompass restrictions like public hours, etc. He stated he wasn't sure that tabling was the right recourse.

Mr. Kolbus advised them that it all depended on what the Board wanted and that if they thought it could be handled with commitments, someone could make that motion. He said if they thought there needed to be an additional meeting and public input and brought back to the Board with a discussion of that public input, then they should table it.

*Action:*

A motion was made and seconded, Lauver/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-02UV & 24-11 DV with the 7 conditions as listed in the Staff Report and add the following 4 commitments:

1. The reduced setback along the east property line shall apply to the south parcel and the portion of the proposed driveway on the north parcel that connects to the existing drive, as shown on "Site Development Plan (North) – Prairie View Elementary," dated 1/18/24, by Barton Coe Vilmaa/Commonwealth Engineers.

2. The berm as shown on “Site landscape plan – baseball/softball,” dated 1/18/24, by Barton Coe Vilamaa/Commonwealth Engineers shall be extended to the north end of the parking lot along the west property line, between the sidewalk and the parking lot.
3. All activities shall cease, and athletic facility lighting (excluding parking lot lighting) turned off, no later than 10pm.
4. Use of the athletic facility shall be limited to activities of Goshen Community Schools only.

The motion passed unanimously by a vote of 5 to 0.

**VI.** Audience Items

None

**VII.** Staff Board Items

None

**VIII.** Adjournment: 6:27 pm Fisher/Lauver

Respectfully Submitted:

/s/ Theresa Cummings

Theresa Cummings, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Hesston Lauver

Hesston Lauver, Secretary



**EXHIBIT**  
A for 24-02UV + 24-11DV

3314 Elkhart Road • Goshen, IN 46526 • Phone: (574) 533-1481 • FAX: (574) 534-8544 • www.rent-gtproperties.com

March 25, 2024

GT Properties of Goshen, LLC  
Waterford Commons Business Park, LLC  
M A Investments  
Terry Hoogenboom Builders, LLC  
Waterford Development Corp.  
1738 West Lincoln Avenue  
Goshen, IN 46526

Goshen City Board of Zoning Appeals  
204 East Jefferson Street, Suite 4  
Goshen, IN 46526

RE: Multiple Use and Developmental Variance Requests of  
Goshen Community Schools and Commonwealth Engineers, Inc.

Ladies/Gentlemen,

The above-referenced entities are owned by members of my extended family and/or key partners or associates. Waterford Development Corp (WDC) was the original designer, developer, and property owner of over 400 acres on the southeast side of Goshen of which Prairie View Elementary School is a part. The original zoning therefore started in 1988 and a major development ordinance adopted by the Goshen City Council in 1989 after DOZENS of public hearings and presentations, meetings with neighbors and governmental officials, and sharing and debating of development concepts, roadways, infrastructure, water and sewer, and school and other public needs. Scores of such endeavors and meetings have occurred in the years since. One or more of our companies has been involved with essentially all of such until the current petition.

M A Investments and Terry Hoogenboom Builders, LLC own residential lots along Carina Circle and Newbury Circle, on the north and south sides of Regent Street, and in several instances adjacent to the "site location" for the large athletic complex project proposed. GT Properties is the principal landowner to the immediate west where it operates, and intends to expand, Regent Square Apartments. Waterford Commons

east to Dierdorff Road and down to County Road 40 and the new bypass road constructed over property one time owned by WDC and its affiliates.

One-half of the "site" for the Prairie View Elementary School was dedicated/gifted by WDC or its affiliates to the City of Goshen and/or the Goshen School Corporation for its grade school project, as part of the multiple year rezoning and development endeavors. A large athletic complex for the full Goshen School System and other public uses negatively impacting adjoining properties affiliated with the donor was not part of the spirit of the gift/dedication.

To my knowledge, no one in our organizations has been contacted by the City, the School Corporation, the consultants, or any other group about the intense athletic complex at the Elementary School site. Our first "notice" was the typical mailing to property owners within 300 feet received during the week of March 18th.

It is difficult to speak against or truly oppose a community school project of any type, but we have many questions, concerns, critiques, and suggestions we hope you will consider before addressing/resolving so many deviations from erstwhile required development standards without prior consultation and sharing with impacted property owners.

Of the roughly 16 acres designated for the site, approximately the north 25% thereof is already in full use for solar panels. The remaining 12 acres site seems much too small for the high-intensity use and large-scale project desired by the petitioners, as shown by the THIRTY PLUS variances (use and developmental) proposed. By our quick count, the following are sought for the project to take place:

- a. A Use Variance for an athletic facility; this is a MAJOR request, equivalent basically to a rezoning. The existing school itself is a Conditional Use in the R-3 zoning of a PUD. Should a matter of this significance not proceed through the Plan Commission and the City Council as an amendment to the long-standing PUD?
- b. Some nine (9) developmental variances form a part of the Use Variance request, the most significant of such being to diminish the setbacks along the east and south property lines from 100 feet to 15 feet and to reduce the setbacks along the west property line from 100 feet to 51 feet. Additional signage of larger size than allowed by the Zoning Ordinance is being sought, being greater in height and measurably larger in square footage than permitted for a school project in any zone district in Goshen; some two (2) ACRES of would-be setback, protective property for neighboring uses to be on the land of the petitioners (not the NEIGHBORS), is being foregone if the setbacks desired are summarily granted.
- c. The developmental variances appear to total twenty-four (24), to include fences 16 feet in height where a maximum of 8 feet is allowed, 12 light poles 80 feet in height and 4 light poles 40 feet in height where a maximum of 30 feet is permitted; use of a well for water when connection to city water is required; and

an alternative minimalistic landscape plan instead of Ordinance defined and required landscaping along the east, south, and southwest property lines;

- d. The core development standards of the Goshen City Zoning Ordinance, designed to provide protection for neighbors and the community at large relative to noise, light, intensity of use, height of structures, set backs from activities, parking, landscaping, traffic, excessive signage, and utility needs, are collectively and meaningfully compromised or out and out abandoned by the requests at hand.

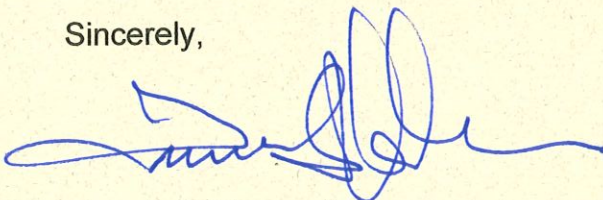
As long-term developers in the Goshen community, we question if any private development project would ever need/request, much less be granted, some THIRTY THREE (33) different variances to put a high-density, high-volume, use on an undersized lot, where the principal users of the new project will be different from the primary users of the existing development, with heavy traffic and transportation needs, large parking areas, over-sized fencing, meaningfully diminished set back and landscaping, and huge light-poles and signage needs.. **No limitations on time of operation of the site to include outside speakers, intense lighting, and multiple guests and users of the site are addressed.**

The details from the Staff report show cutouts from Northwood athletic facilities in Nappanee. The Northwood facilities are on a large campus, encompassing well over 100 acres, meeting all setbacks, lighting, parking, and screening requirements. Most significantly, the softball and baseball facilities for Northwood, to be used primarily by older students, are part of the high school complex for Northwood, NOT tagged onto the rear of an elementary school site, with limited size, and impacted, uninformed, neighbors in immediate proximity.

**In conclusion, it is our belief that the site is too small and poorly configured for the size and intensity of the project as proposed.** We ask that the BZA table the hearing on the many desired variances, and in particular the major USE variance, until the School Corporation and its consultants seek, receive, and hopefully act upon thoughts and concerns of impacted neighboring property owners, hopefully leading to an improved, less intense, revised project on the current site or an alternate or expanded location.

Thank you for your consideration.

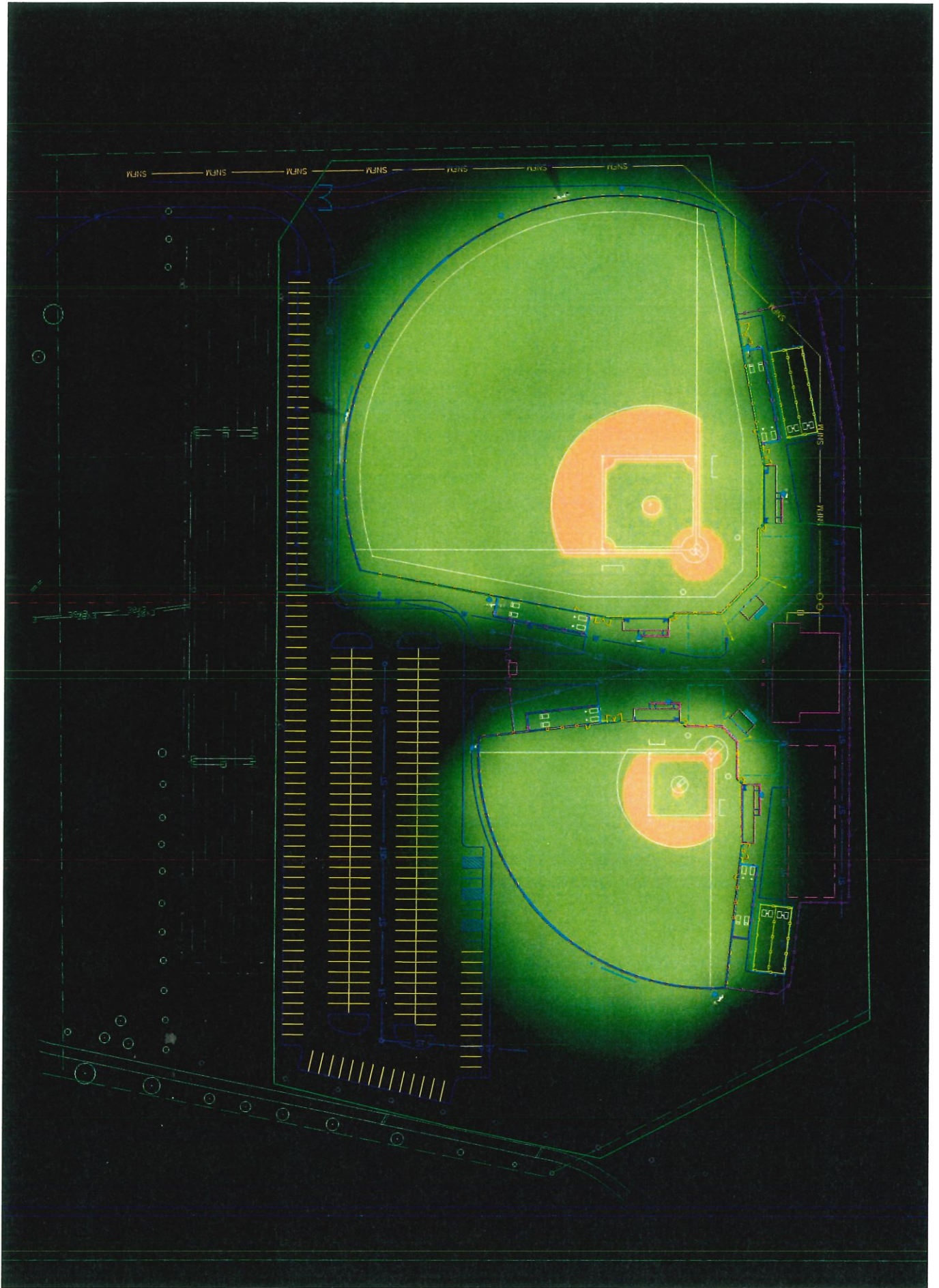
Sincerely,



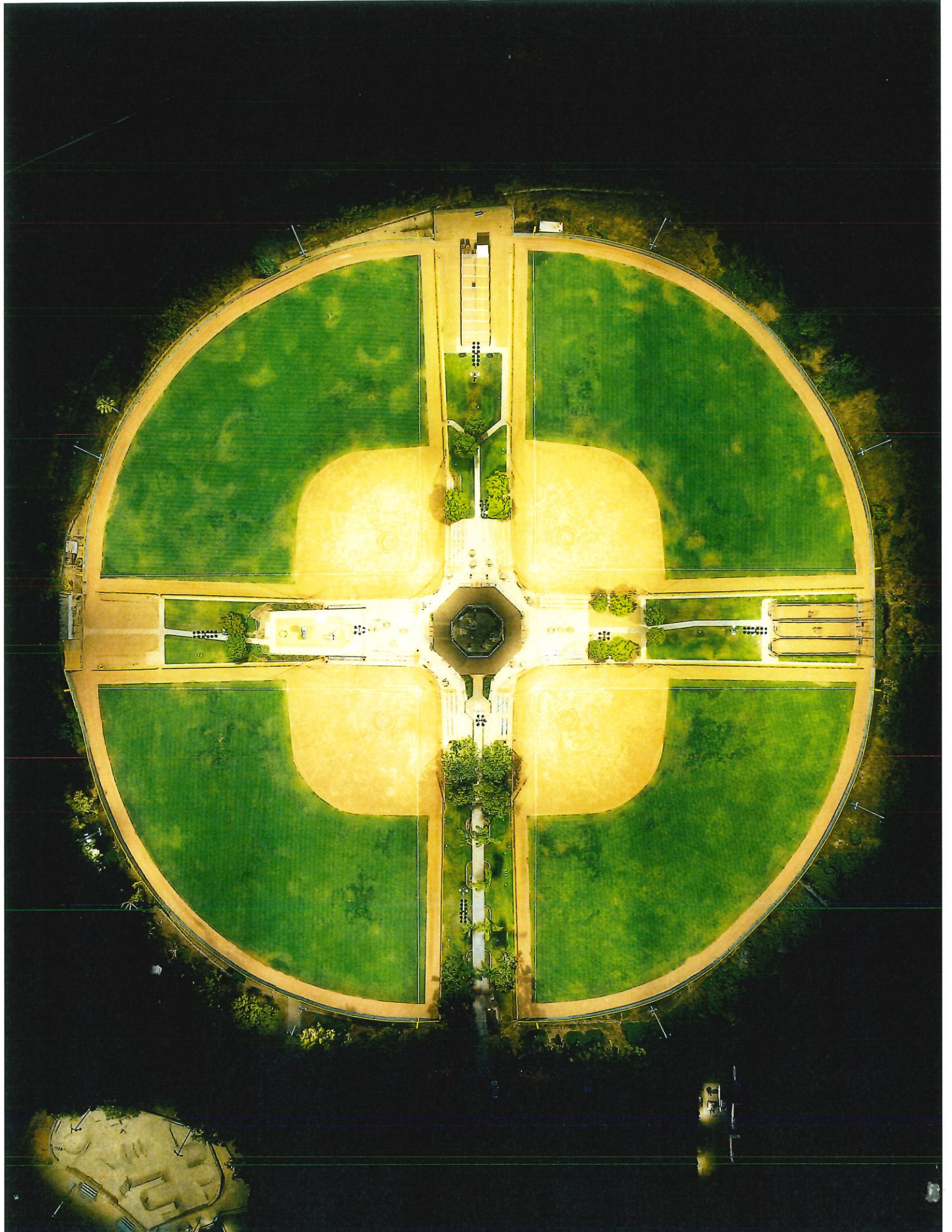
Timothy L Hoogenboom

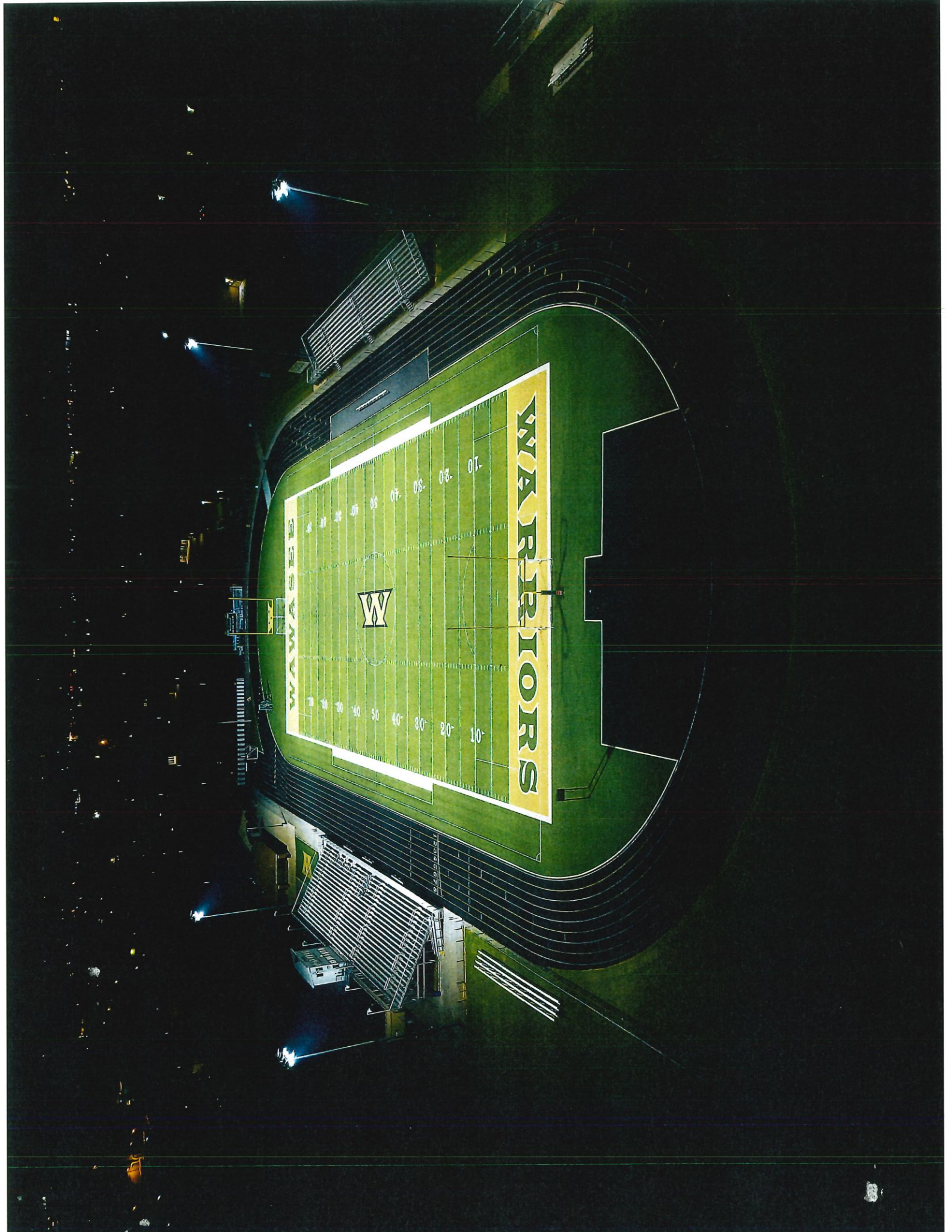
# EXHIBIT B

24-0244 # 24-116V









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