

**Docket Number:** 1606-PUD-07 (Ordinance No. 16-12)

**Petitioner:** TMC Developers, LLC by Nelson & Frankenberger

**Request:** An amendment to the Mixed Use District of the Harmony Planned Unit Development (PUD) District.

**Current Zoning:** Harmony PUD District Ord. 12-14

**Current Land Use:** Vacant

**Property History:** 1205-PUD-05 Harmony PUD District (Ordinance 12-14) (01/16/13)  
1605-SPP-06 Mixed Use District Primary Plat (pending)  
1605-ODP-06 Mixed Use District Overall Development Plan (pending)  
1606-SFP-16 Mixed Use District Secondary Plat (pending)

**Exhibits:**

1. Staff Report
2. Location Map
3. Concept Plan
4. Harmony PUD Ord. 12-14
5. Proposed Amendment Ord. 16-12

**Staff Reviewer:** Jesse M. Pohlman, Senior Planner

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### PETITION HISTORY

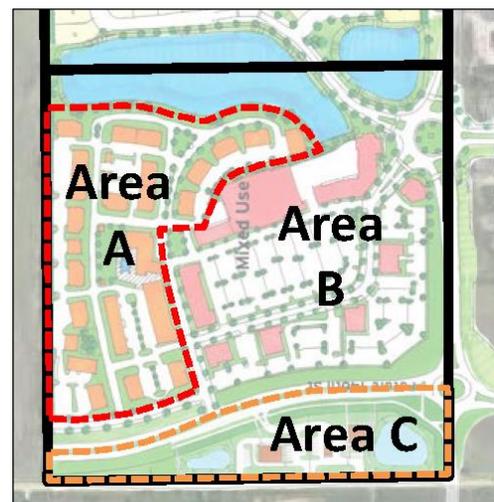
This petition was introduced at the May 9, 2016, City Council meeting. The petition will receive a public hearing at the June 6, 2016, Advisory Plan Commission (the “APC”) meeting.

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### PROJECT OVERVIEW

**Project Location:** The petitioner is requesting an amendment to the Harmony Planned Unit Development (PUD) District (the “PUD District”) for the thirty-three (33) acres+/- located on the northwest corner of 146th Street and Ditch Road (see [Exhibit 2](#)).

The subject property encompasses “Areas” A, B, and C of the PUD District, which collectively represent the “Mixed Use District”. The PUD Ordinance establishes the MF2: Multi-Family Medium Density District as the underlying zoning district for Area A, and the LB: Local and Neighborhood Business District as the underlying zoning district for Areas B and C.



Property History: The property is zoned the Harmony PUD District (Ord. 12-14) (the “PUD Ordinance”). The PUD Ordinance was adopted in 2013, and includes 278 acres. Since then, the detached single-family areas of the PUD District have been under development.

In March 2016, the petitioner filed a primary plat (1605-SPP-06) and overall development plan (1605-ODP-06) for the Mixed Use District, which is pending and being considered by the Plan Commission. The primary plat/overall development plan for the Mixed Use District establishes 11.38 acres +/- for the multi-family uses; 13.87 acres +/- for commercial uses; 4.11 acres +/- for common area (ponds); and then the remaining acreage is being dedicated for right-of-way. The petitioner’s updated Concept Plan is attached hereto as **Exhibit 3**.

In April 2016, the petitioner filed a secondary plat (1606-SFP-16) for the Mixed Use District, and a detailed development plan (1606-DDP-20) for a CVS directly on the northwest corner of 146<sup>th</sup> Street and Ditch Road. The detailed development plan for CVS is scheduled for a public hearing at the June 6, 2016, Plan Commission meeting.

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## **AMENDMENT REQUEST**

The petitioner requests this amendment to address the following:

**Permitted Uses:** The PUD Ordinance currently defaults to the LB District for permitted uses, and permits health, fitness, and exercise center, and multifamily residential uses.

In addition, within Area C, the PUD Ordinance currently permits, but then limits restaurants with drive through facilities to: Snack Restaurants<sup>1</sup>, Sandwich Restaurants<sup>2</sup>, Pizza/Pasta Restaurants<sup>3</sup>, Mexican Restaurants<sup>4</sup>, Chicken Restaurants<sup>5</sup>, and Asian Restaurants<sup>6</sup>. The PUD Ordinance specifically prohibits Burger Restaurants<sup>7</sup> and Seafood Restaurants<sup>8</sup>. The definitions for the above restaurant uses, as defined by the PUD Ordinance, are noted. In addition, the PUD Ordinance defines a “Quick Service Restaurant” as “an establishment primarily engaged in

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<sup>1</sup> PUD Ordinance defines “Restaurant, Snack” as “a Quick Service Restaurant specializing in (1) preparing and/or serving a specialty snack, such as ice cream, frozen yogurt, doughnuts, bagels, cookies, or popcorn or (2) serving nonalcoholic beverages, such as coffee, juices, or sodas for consumption on or near the premises. These establishments may carry and sell a combination of snack, nonalcoholic beverage, and other related products (e.g., coffee beans, mugs, coffee makers) but primarily promote and sell a unique snack or nonalcoholic beverage.”

<sup>2</sup> PUD Ordinance defines “Restaurant, Sandwich” as “a Quick Service Restaurant specializing in sandwiches as the primary menu feature.”

<sup>3</sup> PUD Ordinance defines “Restaurant, Pizza/Pasta” as “a Quick Service Restaurant specializing in pizza and pasta as the primary menu feature.”

<sup>4</sup> PUD Ordinance defines “Restaurant, Mexican” as “a Quick Service Restaurant specializing in Mexican cuisine.”

<sup>5</sup> PUD Ordinance defines “Restaurant, Chicken” as “a Quick Service Restaurant specializing in chicken as the primary menu feature.”

<sup>6</sup> PUD Ordinance defines “Restaurant, Asian” as “a Quick Service Restaurant specializing in cuisine from the Asian region.”

<sup>7</sup> PUD Ordinance defines “Restaurant, Burger” as “a Quick Service Restaurant specializing in hamburgers as the primary menu feature.”

<sup>8</sup> PUD Ordinance defines “Restaurant, Seafood” as “a Quick Service Restaurant specializing in seafood as the primary menu feature.”

providing food services where patrons order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer's location."

The proposed amendment permits:

1. Fast Food Restaurants<sup>9</sup> within the "Restaurant Area" (as generally depicted in the adjacent graphic). Fast Food Restaurants are not permitted in the underlying LB District. The current PUD Ordinance restricts similar restaurants, as noted above, to Area C.
2. A Gasoline Service Station<sup>10</sup> within Area C. A Gasoline Service Station is a Special Exception<sup>11</sup> use in the underlying LB District.



**Minimum Building Setbacks:** The proposed amendment modifies three minimum building setback standards as follows:

1. Reduces the front yard setback along internal streets from 60 feet (as set forth by the LB District) to 20 feet (10 feet along the private street north of the proposed CVS building). Twenty (20) feet is the same standard the PUD Ordinance establishes for the front yard setback along 146<sup>th</sup> Street and Ditch Road.
2. Reduces the side and rear yard setbacks from 15 feet and 20 feet, respectively, to zero (0) feet interior to the Mixed Use District.
3. Reduces the front yard setback along old 146<sup>th</sup> Street (south line of Area C for the proposed Gasoline Service Station) from twenty (20) feet to ten (10) feet.

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<sup>9</sup> Chapter 12 of the Unified Development Ordinance defines "Restaurant, Fast Food" as "[a]n establishment whose primary business is the sale of food prepared and available before an order is placed and typically includes most of the following characteristics: (i) the meal is paid for prior to consumption; (ii) patrons often order from a menu board, are served their food at a counter or in a motor vehicle in packages prepared to leave the premises or may be taken to a table or counter to be consumed; (iii) includes a high-volume drive-through facility. Example businesses include drive-in food and beverage establishments and restaurants or cafeterias having less than fifty percent (50%) of gross sales derived from food sales excluding drive-through."

<sup>10</sup> Chapter 12 of the Unified Development Ordinance defines "Gasoline Service Station" as "[a]ny building or land used for the retail sale of automobile fuels and lubricants and which typically includes fuel pumps and underground storage tanks."

<sup>11</sup> Chapter 12 of the Unified Development Ordinance defines "Special Exception" as "[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted."

**Landscape Buffer Yards:** With respect to the Mixed Use District, the PUD Ordinance defaults to the UDO’s landscaping standards with the exception of the External Street Frontage Landscaping Requirements.

The External Street Frontage Landscaping Requirements, which were adopted as part of the UDO after the Harmony PUD Ordinance was adopted, are superseded by the PUD Ordinance’s “Landscape Buffer A” and “Landscape Buffer B” as they apply to those areas shown on the adjacent graphic.



The proposed amendment now defaults to the UDO’s External Street Frontage Landscaping Requirements as noted below.

1. External Frontage Landscaping / Landscape Buffer A & Buffer B:

	PUD Ordinance Buffer A	PUD Ordinance Buffer B	Amendment Defaults to UDO’s External Street Frontage Landscaping <sup>12</sup>
Minimum Width	20 feet	10 feet	10 feet
Evergreen Trees	1.5 per 30 feet	1 per 30 feet	3 per 100 feet
Shade Trees	-	-	
Ornamental Trees	-	-	2 per 100 feet
Shrubs	5 evergreen per 30 feet	5 evergreen per 30 feet	25 per 100 feet

2. Multi-family Area: Reduces the buffer yard along the west property line of the proposed multi-family area (Area A). Article 6.8(N)(4) and (5) of the UDO provides that a buffer yard type “Buffer B (medium)” is required for multi-family uses abutting adjacent AG-SF1 District properties.

	UDO’s Buffer B	Proposed Amendment
Minimum Width	40 feet	20 feet
Shade Trees	4 per 100 feet	no change
Evergreen Trees	4 per 100 feet	
Shrubs	10 per 100 feet	
Mound	4’ tall undulating	

**Sign Standards:** The PUD Ordinance defaults to the UDO for the applicable sign standards. The proposed amendment addresses two unique scenarios:

1. Multi-Family Blade Sign: Due to the design of access along 146<sup>th</sup> Street and the general circulation patterns for the Mixed Use District, the proposed amendment permits a blade (or projecting) sign to be located on the proposed multi-family clubhouse along 146<sup>th</sup> Street (location as generally shown on the below graphic).

<sup>12</sup> Article 6.8(M)(2) of the UDO provides that this requirement may be credited when perimeter parking area landscaping requirements overlap external street frontage landscaping (located within 20 feet of the right-of-way).

2. Gasoline Service Station: By definition, Area C would qualify as an Outlot<sup>13</sup> thus would not be permitted to have individual ground signs. Due to the non-contiguous nature of Area C from the remainder of the Nonresidential Center<sup>14</sup>, the proposed amendment specifies that signage for Area C would be permitted and regulated as an Individual Nonresidential Use<sup>15</sup>.



**Architectural Standards:** The PUD Ordinance adopts the UDO’s Architectural Design Requirements of the State Highway 32 Overlay District to apply to the commercial uses of the Mixed Use District. The proposed amendment incorporates the CVS and GetGo franchised designs to replace and supersede the otherwise applicable architectural standards. The proposed amendment provides that those buildings “shall be constructed in substantial compliance with the elevations and materials illustrated on the Illustrative Character Exhibit”.

Illustrative Character Exhibit – CVS: The detailed development plan (1606-DDP-20) for the proposed CVS has been reviewed in accordance with the currently applicable architectural standards (see corresponding Department Report for 1606-DDP-20). The Illustrative Character Exhibit does not comply with, and would generally modify the standards for: building materials (Masonry Materials); building façade offsets; roofline modulation; and, cornice treatment.

Illustrative Character Exhibit – GetGo: The Illustrative Character Exhibit does not comply with, and appears to generally modify the standards for: Gasoline Service Station Canopies (design of roof and support structure materials, and location in proximity to the principal building); building façade offsets; four-sided architecture (specifically the proposed right and rear elevations); and, cornice treatment. Illustrative Character Exhibit depicts outdoor storage/display items; however, these would be subject to Article 6.12(C) Outside Storage and Display of the UDO, which requires screening.

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<sup>13</sup> Chapter 12 of the UDO defines “Outlot” as “[a] Lot within a Nonresidential Center that typically abuts a Street on one Lot Line and either a Street or other vehicular access (i.e. Private Street) shared with other Lots within the Nonresidential Center on another Lot Line.”

<sup>14</sup> Chapter 12 of the UDO defines “Nonresidential Center” as “[a] building or combination of buildings containing three (3) or more tenants, stores, service establishments, offices or other permitted uses which are planned, platted, organized, or managed to function as a unified whole and shares one or more of the following: (1) vehicular access; (2) Parking Areas; (3) signage; (4) landscaping; or (5) design theme; and/or is platted as part of a Subdivision or coordinated shopping center, which may include Outlots for lease or for sale.”

<sup>15</sup> Chapter 12 of the UDO defines “Nonresidential Use, Individual” as “[a]ny building or combination of buildings with a single tenant, store, service establishment, office or other permitted nonresidential use and not part of a Nonresidential Center.”

**Multi-family Garage Spaces:** The PUD Ordinance requires that a minimum of garage parking spaces shall be equal to 60% of the number of dwelling units. The amendment proposes to reduce that requirement to 50% (for example with 252 multi-family units, as shown on the Concept Plan at **Exhibit 3**, 151 garage spaces would be required; the amendment would require 126 garage spaces).

**Comprehensive Plan:** As summarized in the original zoning of the PUD District, the Future Land Use Map in the Westfield-Washington Township Comprehensive Plan (the “Comprehensive Plan”) identifies the property as “New Suburban”.

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## **PROCEDURAL**

**Public Hearing:** Amendments to a Planned Unit Development (PUD) District are required to be considered at a public hearing by the Plan Commission. The public hearing for this petition is scheduled for the June 6, 2016, Plan Commission meeting. Notice of the public hearing was provided in accordance with Indiana law and the Plan Commission’s Rules of Procedure.

**Statutory Considerations:**

Indiana Code 36-7-4-603 states that in the consideration of zoning ordinance amendments and zone map changes that reasonable regard shall be paid to:

1. The Comprehensive Plan.
2. Current conditions and the character of current structures and uses.
3. The most desirable use for which the land is adapted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible growth and development.

**Council Introduction:** At the May 9, 2016, Council introduction, the following comments were shared by Council members:

- Concern regarding permitting Fast Food Restaurants at this location, with suggestions to limit quantity and restrict location and visibility of drive-thrus;
- Concern with outdoor storage or display for proposed Gasoline Service Station;
- Concern that proposed uses changes the pedestrian scale and character of the neighborhood commercial design element characteristics requiring outdoor dining, opportunities to gather, and amenities to enhance pedestrian comfort;
- Question regarding the rationale in reducing the buffer yard widths;
- Concern with proposed architecture depicted in Illustrative Character Exhibits and inconsistency with applicable architectural requirements; and
- Clarification that changes to the permitted uses should be amendments to the PUD Ordinance considered by the Plan Commission and Council, rather than the Board of Zoning Appeals’ consideration of a Special Exception within a PUD District.

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**DEPARTMENT COMMENTS**

1. **Action: Hold a public hearing at the June 6, 2016, Plan Commission meeting.**
2. The petitioner will make any necessary revisions to the proposal based on Plan Commission comments, public comments and any additional Department comments, prior to the Plan Commission's further consideration of this petition.
3. If any Plan Commission member has questions prior to the public hearing, then please contact Jesse Pohlman at 317.402.4380 or [jpohlman@westfield.in.gov](mailto:jpohlman@westfield.in.gov).