

ORDINANCE NUMBER 16-12

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AMENDMENTS TO THE HARMONY PLANNED UNIT DEVELOPMENT DISTRICT AND THE UNIFIED DEVELOPMENT ORDINANCE

This is an Ordinance to amend the Unified Development Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Unified Development Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 et seq., as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Unified Development Ordinance;

WHEREAS, the Common Council enacted Ordinance No. 12-14, The Harmony Planned Unit Development District (the "Harmony PUD Ordinance") on January 14, 2013;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1606-PUD-07**), requesting an amendment to the Harmony PUD Ordinance with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1606-PUD-07** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a favorable recommendation in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on September 14, 2016;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code §36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action on this request; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Harmony PUD Ordinance and Unified Development Ordinance (the "UDO") are hereby amended as follows:

Section 1. Applicability of Ordinance.

- 1.1 This Ordinance shall amend the Harmony PUD Ordinance, as applicable to the Real Estate. Development of the Real Estate shall be governed by (i) the provisions of this Ordinance and its exhibits, (ii) the Harmony PUD Ordinance; and (iii) the provisions of the UDO, as amended and applicable to the Underlying Zoning District or a Planned Unit Development District, except as

modified, revised, supplemented or expressly made inapplicable by this Ordinance or the Harmony PUD Ordinance, as amended.

- 1.2 Chapter (“Chapter”) and Article (“Article”) cross-references of this Ordinance shall hereafter refer to the section as specified and referenced in the UDO.
- 1.3 All provisions and representations of (i) the UDO or (ii) The Harmony PUD Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. **Definitions.** Capitalized terms not otherwise defined in this Ordinance or The Harmony PUD Ordinance shall have the meanings ascribed to them in the UDO.

- 2.1 Illustrative Character Exhibit - GetGo: The architectural building elevations, attached hereto as **Exhibit C.**
- 2.2 Illustrative Character Exhibit - CVS: The architectural building elevations, attached hereto as **Exhibit D.**
- 2.3 Concept Plan, Area C (GetGo): The plan for the development of Area C of the Mixed Use District of the Harmony PUD Ordinance, including but not limited to landscaping, sidewalks and amenities to enhance pedestrian comfort, attached hereto as **Exhibit B.**

Section 3. **Concept Plan.** The Area C (GetGo) Concept Plan is hereby incorporated in accordance with Article 10.9(F)(2) Planned Unit Development Districts; PUD District Ordinance Requirements; Concept Plan with respect to Area C of the Mixed Use District of the Harmony PUD Ordinance. If developed for a Gasoline Service Station, then Area C shall be developed in substantial compliance with the Area C (GetGo) Concept Plan.

Section 4. **Development Standards.** The standards applicable to the Mixed Use District of the Harmony PUD Ordinance shall apply to the development of the Real Estate, except as otherwise modified below.

- 4.1 Permitted Uses: Section 2.2 of the Harmony PUD Ordinance shall apply to the Real Estate, except as otherwise modified below.
 - A. Fast Food Restaurants shall be prohibited on the Real Estate.
 - B. The provisions of Section 2.2.B of the Harmony PUD Ordinance shall be deleted.
 - C. One (1) Gasoline Service Station shall be permitted within Area C. Said Gasoline Service Station shall only be open and operating between the hours of 5:00 A.M. and twelve midnight. In the event a Gasoline Service Station is in operation on the property zone under Ordinance 12-24 (the “Town

West Station”) with hours between twelve midnight and 5:00 A.M. the limitation of hours in this Section 4.1(C) shall be reduced and operation shall be permitted at the same hours as the hours permitted for the Towne West Station.

4.2 **Minimum Building Setback Lines:** Section 2.3(B)(3) of the Harmony PUD Ordinance shall apply to the Real Estate, except as otherwise modified below.

A. Front Yard:

- i. Mixed Use District Interior Streets: 20 feet (10 feet setback from Private Street connecting Ditch Road and Waterleaf Drive)
- ii. Area C South Property Line: 10 feet

B. Side and Rear Yards (Interior to Mixed Use District): 0 feet

Section 5. Landscaping Standards. Article 5 (Landscaping Standards) of the Harmony PUD Ordinance shall apply to the Real Estate, except as otherwise modified below.

A. The Mixed-Use District shall comply with the UDO’s External Street Frontage Landscaping Requirements (Article 6.8(M)(2)) along Ditch Road and 146th Street (old and new), which shall replace and supersede the Landscape Buffer A and Landscape Buffer B requirements of the Harmony PUD Ordinance.

- i. Sidewalks and drive aisles may encroach into External Street Frontage Landscaping in Area C and landscape materials may be provided within the adjacent right-of-way subject to approval by the County Highway Department, provided the site is developed in substantial compliance with the Area C (GetGo) Concept Plan and the required plantings are otherwise provided.
- ii. The screen wall adjacent to the drive aisle, as illustrated on the Area C (GetGo) Concept Plan, shall meet the applicable Street Frontage Plantings required across the segment of the screen wall adjacent to the drive aisle.

B. Amendments to a landscape plan approved as part of an Overall Development Plan for the Real Estate may be approved as part of a Lot or Block’s Detailed Development Plan.

Section 6. Sign Standards. The standards of the Harmony PUD Ordinance shall apply to the development of the Real Estate, except as otherwise modified below.

A. **Gasoline Service Station Use:**

- i. A Gasoline Service Station shall be permitted signs in

accordance with the UDO for an Individual Non-Residential Use.

- ii. Signage shall be prohibited on the Gasoline Service Station canopy.

- B. Wall Signs: All wall signs shall only be externally lit with decorative lighting (e.g., gooseneck style fixtures).

Section 7. Architectural Design Standards. Section 2.3(A)(1) of the Harmony PUD Ordinance shall apply to the development of the Real Estate. In addition, Buildings shall utilize a “Village Design Theme”, as follows:

- 7.1 Defined Architectural Design: A Village Design Theme shall be consistent with a Defined Architectural Design applicable to the single family homes within the Harmony PUD District, as set forth in Section 3.4(3) Architectural Standards; Defined Architectural Designs. The Defined Architectural Designs include Adam (Colonial), Georgian, Italianate, Shingle, Folk Victorian, Colonial Revival, Tudor, Craftsman. Significant architectural elements to determine consistency with a Defined Architectural Design include:

- A. Window design (e.g., enhanced trim, pane size and type) and alignment/location;
- B. Building massing (pedestrian scaled with façade projections and recessions);
- C. Roof type and pitch (inclusion of shed roofs, dormers with faux windows and/or decorative gables when architecturally appropriate);
- D. Large roof overhangs that are primarily pitched and not flat;
- E. Enhanced cornice treatment;
- F. Enhanced and inviting entryways with pedestrian cover and “porch like” treatment (e.g., inclusion of columns with masonry bases);
- G. Variety of building materials, patterns and colors;
- H. Emphasized trim at corner breaks, around windows and within gables; and
- I. Enhanced foundation plantings and planters to soften building facades.

- 7.2 Established Benchmark Exhibits: The Character Exhibit – CVS and Character Exhibit – GetGo comply with and hereby establish benchmark examples of the Village Design Theme.

- 7.3 Conflicting Standards: It is hereby acknowledged that design elements that embody a Village Design Theme may be in conflict with the architectural standards set forth

in Section 2.3(A)(1) of the Harmony PUD Ordinance. If a proposed building elevation embodies a Defined Architectural Design, as set forth above, and is an architectural style that complements the Established Benchmark Exhibits, then the Plan Commission has the authority to approve a building elevation that doesn't comply with Section 2.3(A)(1) of the Harmony PUD Ordinance.

Section 8. **Additional Standards.** The following additional standards shall apply to Area C.

- 8.1 **Right-of-Way Tree Preservation:** The existing trees in the right-of-way abutting the south property line of Area C, located west of the building, shall not be disturbed by the development of Area C, except as otherwise required by a government agency, utility agency or to accommodate ingress/egress into Area C. The following shall apply to meet this standard:
- A. **Tree Inventory:** A tree inventory and tree preservation plan shall be required and approved as part of the Detailed Development Plan for Area C, in accordance with Article 6.8(E) Landscaping Standards; Preservation and Replacement of Trees of the UDO.
 - B. **Tree Protection:** During the site development of Area C, tree protection in accordance with Article 6.8(E)(7) Landscaping Standards; Preservation and Replacement of Trees; Tree Protection of the UDO shall be required.
 - C. **Replacement:** If any tree designated on the tree inventory dies as a result of the site development, then the property owner shall replace such tree with a tree(s) of equal tree preservation value within one hundred and eighty (180) days, and subject to approval by the Hamilton County Highway Department.
- 8.2 **Outdoor Audio Systems:** An outdoor audio system for a Gasoline Service Station shall be restricted to communication between the attendee and patrons at the pump, and emergency situations.

[Remainder of page intentionally left blank, signature page follows]

ALL OF WHICH IS ORDAINED/RESOLVED THIS __ DAY OF _____, 2016.

WESTFIELD CITY COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

James J. Edwards

James J. Edwards

James J. Edwards

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Mark F. Keen

Mark F. Keen

Mark F. Keen

Charles Lehman

Charles Lehman

Charles Lehman

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

ATTEST:

Cindy Gossard, Clerk Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Jon C. Dobosiewicz

I hereby certify that **ORDINANCE 16-12** was delivered to the Mayor of Westfield
on the _____ day of _____, 2016, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE **ORDINANCE 16-12**
this _____ day of _____, 2016.

J. Andrew Cook, Mayor

I hereby VETO **ORDINANCE 16-12**
this _____ day of _____, 2016.

J. Andrew Cook, Mayor

This document prepared by: James E. Shinaver and Jon C. Dobosiewicz, Nelson & Frankenberger
550 Congressional Blvd, Suite 210, Carmel, IN 46032 (317) 844-0106

Harmony PUD - 2016 Mixed Use District TA 7 092916

SCHEDULE OF EXHIBITS

- Exhibit A Real Estate (Legal Description)
- Exhibit B Concept Plan – Area C (GetGo)
- Exhibit C Illustrative Character Exhibit – GetGo
- Exhibit D Illustrative Character Exhibit - CVS

EXHIBIT A
REAL ESTATE
(Page 1 of 2)

A part of the Southeast Quarter and Southeast Quarter of Section 16, Township 18 North, Range 3 East of the Second Principal Meridian, in Washington Township, Hamilton County, Indiana, more particularly described as follows:

TRACT 1:

Commencing at the southeast Corner of said Southeast Quarter; thence South 89 degrees 25 minutes 04 seconds West (basis of bearing = ALTA/ACSM land title survey by The Schneider Corporation, Job No. 4934.001, dated March 10, 2004) along the South line of said Southeast Quarter a distance of 1,352.44 feet to the southwest corner of said Quarter Quarter Section; thence North 00 degrees 18 minutes 09 seconds West along the West line of said Quarter Quarter a distance of 179.67 feet to the POINT OF BEGINNING, said point also being the northwest corner of Parcel 1 as described in Instrument No. 2013064140 in the Office of the Recorder of Hamilton County, Indiana, (the following eight (8) courses being along the northerly and westerly lines of said Parcel 1); (1) North 89 degrees 25 minutes 36 seconds East 78.48 feet to a point on a tangent curve to the left having a radius of 925.00 feet, the radius point of which bears North 00 degrees 34 minutes 24 seconds West; (2) easterly along said curve an arc distance of 300.26 feet to a point which bears South 19 degrees 10 minutes 18 seconds East from said radius point; (3) North 70 degrees 49 minutes 42 seconds East 299.12 feet to a point on a tangent curve to the right having a radius of 1,075.00 feet, the radius point of which bears South 19 degrees 10 minutes 18 seconds East; (4) easterly along said curve an arc distance of 340.96 feet to a point which bears North 00 degrees 59 minutes 58 seconds West from said radius point; (5) North 89 degrees 00 minutes 02 seconds East 134.39 feet; (6) North 60 degrees 22 minutes 18 seconds East 175.44 feet; (7) North 00 degrees 12 minutes 08 seconds West 615.00 feet; (8) North 89 degrees 47 minutes 52 seconds East 75.00 feet to the East line of said Southeast Quarter; thence North 00 degrees 12 minutes 08 seconds West a distance of 238.05 feet to the northeast corner of said Quarter Quarter Section; Quarter Section; thence South 89 degrees 21 minutes 22 seconds West along the North line of said Quarter Quarter a distance of 1,354.74 feet to the northwest corner of said Quarter Quarter; thence South 00 degrees 18 minutes 09 seconds East along the West line of said Quarter Quarter a distance of 1,136.91 feet to the POINT OF BEGINNING, containing 30.21 acres of land, more or Quarter a distance of 1,136.91 feet to the POINT OF BEGINNING, containing 30.21 acres of land, more or less.

TRACT 2:

Commencing at the southeast corner of said Southeast Quarter; thence South 89 degrees 25 minutes 04 seconds West (basis of bearing = ALTA/ACSM land title survey by The Schneider Corporation, Job No. 4934.001, dated March 10, 2004) along the South line of said Southeast Quarter a distance of 1,109.75 feet to the POINT OF BEGINNING, said point also being on the southwest corner of Parcel 1A as described in Instrument No. 2013064140 in the Office of the Recorder of Hamilton County, Indiana; thence continuing South 89 degrees 25 minutes 04 seconds West along said South line a distance of 242.69 feet to the southwest corner of said Quarter Quarter Section; thence North 00 degrees 18 minutes 09 seconds West Quarter Section; thence North 00 degrees 18 minutes 09 seconds West along the West line of said Quarter Quarter a distance of 29.67 feet to the southwest corner of Parcel 1 as described in Quarter a distance of 29.67 feet to the southwest corner of Parcel 1 as described in said Instrument No. 2013064140, (the following five (5) courses being along the southerly lines of said Parcel 1); (1) North 89 degrees 25 minutes 36 seconds East 79.18 feet to a point on a tangent curve to the left having a radius of 1,075.00 feet, the radius point of which bears North 00 degrees 34 minutes 24 seconds West; (2) easterly along said curve an arc distance of 348.95 feet to a point which bears South 19 degrees 10 minutes 18 seconds East from said radius point; (3) North 70 degrees 49 minutes 42 seconds East 299.12 feet to a point on a tangent curve to the right having a radius of 925.00 feet, the radius point of which bears South 19 degrees 10 minutes 18 seconds East; (4) easterly along said curve an arc distance of 293.38 feet to a point which bears North 00 degrees 59 minutes 58 seconds West from said radius point; (5) North 89 degrees 00 minutes 02 seconds East 132.11 feet to the westerly line of said Parcel 1A, (the following four (4) courses being along the westerly and northerly lines of said Parcel 1A); (1) South 21 degrees 01 minute 23 seconds West 128.61 feet; (2) South 12 degrees 10 minutes 30 seconds East 77.30 feet; (3) South 89 degrees 25 minutes 04 seconds West 729.61 feet; (4) South 73 degrees 23 minutes 28 seconds West 126.77 feet to the Point of Beginning, containing 2.61 acres of land, more or less.

EXHIBIT B
CONCEPT PLAN – AREA C (GETGO)
(Page 1 of 1)



EXHIBIT C

ILLUSTRATIVE CHARACTER EXHIBIT - GETGO

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Giant Eagle GetGo - Harmony, IN

27 September, 2016



Giant Eagle GetGo - Harmony, IN

27 September, 2016

EXHIBIT C
ILLUSTRATIVE CHARACTER EXHIBIT - GETGO
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Giant Eagle GetGo - Harmony, IN

PERSPECTIVE 1

27 September, 2016



Giant Eagle GetGo - Harmony, IN

PERSPECTIVE 2

27 September, 2016

EXHIBIT C
ILLUSTRATIVE CHARACTER EXHIBIT - GETGO
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Giant Eagle GetGo - Harmony, IN

PERSPECTIVE 3

27 September, 2016



Giant Eagle GetGo - Harmony, IN

PERSPECTIVE 4

27 September, 2016

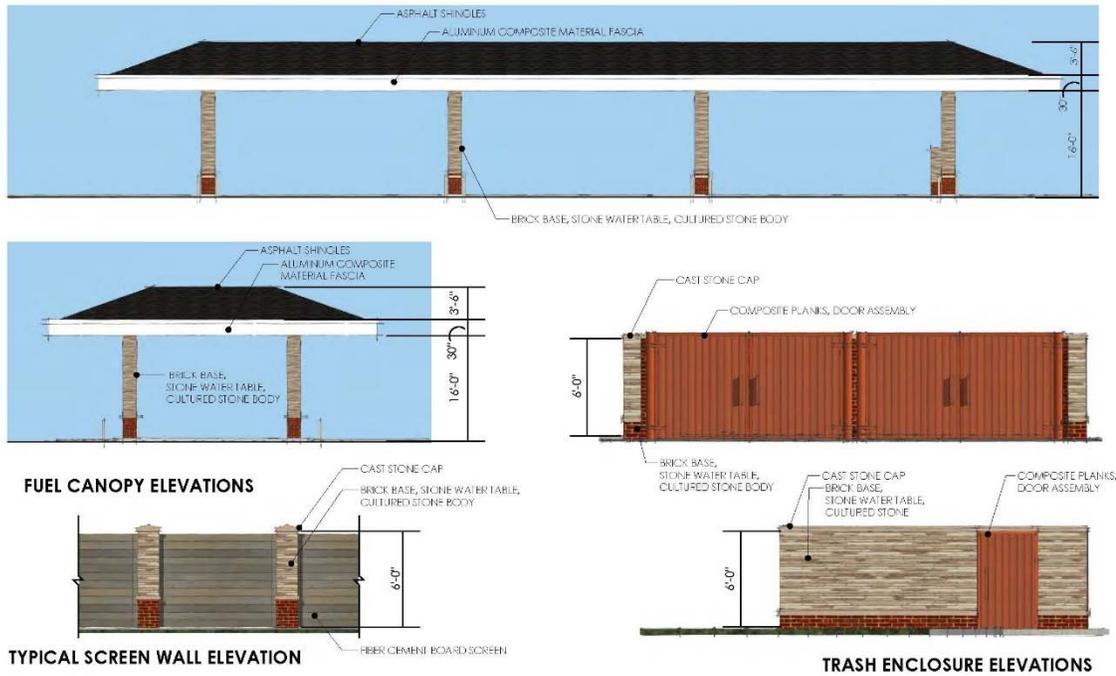
EXHIBIT C
ILLUSTRATIVE CHARACTER EXHIBIT - GETGO
(Page 4 of 4)



Giant Eagle GetGo - Harmony, IN

PERSPECTIVE 5

27 September, 2016



Giant Eagle GetGo - Harmony, IN

27 September, 2016

EXHIBIT D
ILLUSTRATIVE CHARACTER EXHIBIT - CVS
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FRONT ELEVATION (STREET FRONTAGE)
SCALE: 1/8" = 1'-0"



RIGHT ELEVATION (STREET FRONTAGE)
SCALE: 1/8" = 1'-0"



REAR ELEVATION (BACK)
SCALE: 1/8" = 1'-0"



LEFT ELEVATION (3RD SIDE ARCHITECTURE)
SCALE: 1/8" = 1'-0"

EXHIBIT D
ILLUSTRATIVE CHARACTER EXHIBIT - CVS
(Page 2 of 3)



BUILDING PERSPECTIVE
VIEW FROM NORTH EAST CORNER OF SITE. LOOKING SOUTH WEST

EXHIBIT D
ILLUSTRATIVE CHARACTER EXHIBIT - CVS
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BUILDING PERSPECTIVE
VIEW FROM INTERSECTION OF DITCH RD. & 146TH ST.